

AMENDED IN ASSEMBLY JUNE 24, 2010
AMENDED IN ASSEMBLY SEPTEMBER 4, 2009
AMENDED IN ASSEMBLY JULY 6, 2009
AMENDED IN ASSEMBLY JUNE 22, 2009
AMENDED IN SENATE MAY 6, 2009
AMENDED IN SENATE APRIL 30, 2009
AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 535

Introduced by Senator Yee

February 27, 2009

An act to amend Sections 5205.5, 21655.9, and 40000.13 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as amended, Yee. Vehicles: high-occupancy vehicle lanes.

(1) Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles (HOVs), which lanes may also be used, until January 1, 2011, or until the Secretary of State receives a specified notice, by certain low-emission, hybrid, or alternative fuel vehicles not carrying the requisite number of passengers otherwise required for the use of an HOV lane, if the vehicle displays a valid identifier. A violation of provisions relating to HOV lane use by vehicles with those identifiers is a crime.

This bill would revise that provision to provide that it shall remain in effect only until *January 1, 2015, or until* the Secretary of State

receives that specified notice, with respect to a vehicle that meets California's super ultra-low exhaust emission standard and the federal inherently low-emission evaporative emission (ILEV) standard and a vehicle produced during the 2004 model-year or earlier that meets the California ultra-low emission vehicle standard and the ILEV standard. With respect to all other vehicles described above, this provision shall be operative only until ~~January~~ July 1, 2011, or only until the Secretary of State receives that specified notice, whichever occurs first.

Existing law requires the Department of Transportation to remove individual HOV lanes, or portions of those lanes, during periods of peak congestion, after making certain findings, including, among other things, a finding that the department demonstrate the infeasibility of alleviating the congestion by other means, including, but not limited to, reducing the use of the lane by noneligible vehicles or further increasing vehicle occupancy.

This bill would delete this required finding.

The bill, between January 1, ~~2011~~ 2012, and January 1, ~~2014~~ 2015, would require the Department of Motor Vehicles to issue up to ~~65,000~~ 40,000 identifiers, *that are distinguishable from the identifiers issued for low-emission, hybrid, and alternative fuel vehicles*, to vehicles that meet California's enhanced advanced technology partial zero-emission vehicle (enhanced AT PZEV) standard ~~and have a 65 miles per gallon or greater combined fuel economy rating~~, except the department's authorization to do so would end if the secretary receives the specified notice before then. The bill would authorize vehicles with that identifier to use HOV lanes until January 1, ~~2014~~ 2015, or until the Secretary of State receives a specified notice, whichever occurs first.

By extending and changing the definition of a crime, the bill would impose a state-mandated local program.

The bill would make technical and conforming changes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5205.5 of the Vehicle Code is amended
2 to read:

3 5205.5. (a) For the purposes of implementing Section 21655.9,
4 the department shall make available for issuance, for a fee
5 determined by the department to be sufficient to reimburse the
6 department for the actual costs incurred pursuant to this section,
7 distinctive decals, labels, and other identifiers that clearly
8 distinguish the following vehicles from other vehicles:

9 (1) A vehicle that meets California's super ultra-low emission
10 vehicle (SULEV) standard for exhaust emissions and the federal
11 inherently low-emission vehicle (ILEV) evaporative emission
12 standard, as defined in Part 88 (commencing with Section
13 88.101-94) of Title 40 of the Code of Federal Regulations.

14 (2) A vehicle that was produced during the 2004 model-year or
15 earlier and meets California ultra-low emission vehicle (ULEV)
16 standard for exhaust emissions and the federal ILEV standard.

17 (3) A hybrid vehicle or an alternative fuel vehicle that meets
18 California's advanced technology partial zero-emission vehicle
19 (AT PZEV) standard for criteria pollutant emissions and has a 45
20 miles per gallon or greater fuel economy highway rating.

21 (4) A hybrid vehicle that was produced during the 2004
22 model-year or earlier and has a 45 miles per gallon or greater fuel
23 economy highway rating, and meets California's ULEV, SULEV,
24 or partial zero-emission vehicle (PZEV) standards.

25 (5) A vehicle that meets California's enhanced advanced
26 technology partial zero-emission vehicle (enhanced AT PZEV)
27 ~~standard and has a 65 miles per gallon or greater combined fuel~~
28 ~~economy rating.~~ *standard.*

29 (b) Neither an owner of a hybrid vehicle that meets the AT
30 PZEV standard, with the exception of a vehicle that meets the
31 federal ILEV standard, nor an owner of a hybrid vehicle described
32 in paragraph (4) of subdivision (a), is entitled to a decal, label, or
33 other identifier pursuant to this section unless, and until, the federal
34 government acts to approve the use of high-occupancy vehicle
35 (HOV) lanes by vehicles of the types identified in paragraph (3)
36 or (4) of subdivision (a), regardless of the number of occupants.

37 (c) The department shall include a summary of the provisions
38 of this section on each motor vehicle registration renewal notice,

1 or on a separate insert, if space is available and the summary can
2 be included without incurring additional printing or postage costs.

3 (d) The Department of Transportation shall remove individual
4 HOV lanes, or portions of those lanes, during periods of peak
5 congestion from the access provisions provided in subdivision (a),
6 following a finding by the Department of Transportation as follows:

7 (1) The lane, or portion thereof, exceeds a level of service C,
8 as discussed in subdivision (b) of Section 65089 of the Government
9 Code.

10 (2) The operation or projected operation of the vehicles
11 described in subdivision (a) in these lanes, or portions thereof, will
12 significantly increase congestion.

13 ~~The finding also shall demonstrate the infeasibility of alleviating~~
14 ~~the congestion by other means, including, but not limited to,~~
15 ~~reducing the use of the lane by noneligible vehicles, or further~~
16 ~~increasing vehicle occupancy.~~

17 (e) The State Air Resources Board shall publish and maintain
18 a listing of all vehicles eligible for participation in the programs
19 described in this section. The board shall provide that listing to
20 the department.

21 (f) (1) For purposes of subdivision (a), the Department of the
22 California Highway Patrol and the department, in consultation
23 with the Department of Transportation, shall design and specify
24 the placement of the decal, label, or other identifier on the vehicle.
25 Each decal, label, or other identifier issued for a vehicle shall
26 display a unique number, which number shall be printed on, or
27 affixed to, the vehicle registration.

28 (2) *Decals, labels, or other identifiers designed pursuant to this*
29 *subdivision for a vehicle described in paragraph (5) of subdivision*
30 *(a) shall be distinguishable from the decals, labels, or other*
31 *identifiers that are designed for vehicles described in paragraphs*
32 *(1), (2), (3), and (4) of subdivision (a).*

33 (g) (1) (A) Except as provided in subparagraph (B), for
34 purposes of subdivision (a), the department shall issue no more
35 than 85,000 distinctive decals, labels, or other identifiers that
36 clearly distinguish the vehicles specified in paragraphs (3) and (4)
37 of subdivision (a).

38 (B) The department may issue a decal, label, or other identifier
39 for a vehicle that satisfies all of the following conditions:

1 (i) The vehicle is of a type identified in paragraph (3) or (4) of
2 subdivision (a).

3 (ii) The owner of the vehicle is the owner of a vehicle for which
4 a decal, label, or identifier described in subparagraph (A) was
5 previously issued and that vehicle for which the decal, label, or
6 identifier was previously issued is determined by the department,
7 on the basis of satisfactory proof submitted by the owner to the
8 department, to be a nonrepairable vehicle or a total loss salvage
9 vehicle.

10 (iii) The owner of the vehicle applied for a decal, label, or other
11 identifier pursuant to this subparagraph on or before March 31,
12 2009, or within six months of the date on which the vehicle for
13 which a decal, label, or identifier was previously issued is declared
14 to be a nonrepairable vehicle or a total loss salvage vehicle,
15 whichever date is later.

16 (2) The department shall notify the Department of Transportation
17 immediately after the date on which the department has issued
18 50,000 decals, labels, and other identifiers under this section for
19 the vehicles described in paragraphs (3) and (4) of subdivision (a).

20 (3) The Department of Transportation shall determine whether
21 significant HOV lane breakdown has occurred throughout the state,
22 in accordance with the following timeline:

23 (A) For lanes that are nearing capacity, the Department of
24 Transportation shall make the determination not later than 90 days
25 after the date provided by the department under paragraph (2).

26 (B) For lanes that are not nearing capacity, the Department of
27 Transportation shall make the determination not later than 180
28 days after the date provided by the department under paragraph
29 (2).

30 (4) In making the determination that significant HOV lane
31 breakdown has occurred, the Department of Transportation shall
32 consider the following factors in the HOV lane:

33 (A) Reduction in level of service.

34 (B) Sustained stop-and-go conditions.

35 (C) Slower than average speed than the adjacent mixed-flow
36 lanes.

37 (D) Consistent increase in travel time.

38 (5) After making the determinations pursuant to subparagraphs
39 (A) and (B) of paragraph (3), if the Department of Transportation
40 determines that significant HOV lane breakdown has occurred

1 throughout the state, the Department of Transportation shall
2 immediately notify the department of that determination, and the
3 department, on the date of receiving that notification, shall
4 discontinue issuing the decals, labels, or other identifiers for the
5 vehicles described in paragraphs (3) and (4) of subdivision (a).

6 (h) (1) Except as provided in paragraph (2), for purposes of
7 paragraph (5) of subdivision (a), the department shall issue no
8 more than ~~65,000~~ 40,000 distinctive decals, labels, or other
9 identifiers that clearly distinguish a vehicle specified in paragraph
10 (5) of subdivision (a).

11 (2) The department may issue a decal, label, or other identifier
12 for a vehicle that satisfies all of the following conditions:

13 (A) The vehicle is of a type identified in paragraph (5) of
14 subdivision (a).

15 (B) The owner of the vehicle is the owner of a vehicle for which
16 a decal, label, or other identifier described in paragraph (1) was
17 previously issued and that vehicle for which the decal, label, or
18 other identifier was previously issued is determined by the
19 department, on the basis of satisfactory proof submitted by the
20 owner to the department, to be a nonrepairable vehicle or a total
21 loss salvage vehicle.

22 (C) The owner of the vehicle applied for a decal, label, or other
23 identifier pursuant to this paragraph within six months of the date
24 on which the vehicle for which a decal, label, or other identifier
25 was previously issued is declared to be a nonrepairable vehicle or
26 a total loss salvage vehicle.

27 (i) If the Metropolitan Transportation Commission, serving as
28 the Bay Area Toll Authority, grants toll-free and reduced-rate
29 passage on toll bridges under its jurisdiction to any vehicle pursuant
30 to Section 30102.5 of the Streets and Highways Code, it shall also
31 grant the same toll-free and reduced-rate passage to a vehicle
32 displaying an identifier issued by the department pursuant to
33 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying
34 a valid identifier issued by the department pursuant to paragraph
35 (3) or (4) of subdivision (a) if the vehicle is registered to an address
36 outside of the region identified in Section 66502 of the Government
37 Code.

38 (j) An owner of a vehicle specified in paragraph (3) or (4) of
39 subdivision (a) whose vehicle is registered to an address in the
40 region identified in Section 66502 of the Government Code and

1 who seeks a vehicle identifier under subdivision (a) in order to
2 have access to a HOV lane within the jurisdiction of the Bay Area
3 Toll Authority shall do both of the following:

4 (1) Obtain and maintain an active account to operate within the
5 automatic vehicle identification system described in Section 27565
6 of the Streets and Highways Code and shall submit to the
7 department a form, approved by the department and issued by the
8 Bay Area Toll Authority, that contains the vehicle owner's name,
9 the license plate number and vehicle identification number of the
10 vehicle, the vehicle make and year model, and the automatic
11 vehicle identification system account number, as a condition to
12 obtaining a vehicle identifier pursuant to subdivision (a) that allows
13 for the use of that vehicle in HOV lanes regardless of the number
14 of occupants.

15 (2) Be eligible for toll-free or reduced-rate passage on toll
16 bridges within the jurisdiction of the Bay Area Toll Authority only
17 if, at time of passage, the vehicle meets the passenger occupancy
18 rate requirement established for that toll-free or reduced-rate
19 passage.

20 (k) Notwithstanding Section 21655.9, a vehicle described in
21 paragraph (5) of subdivision (a) shall not be exempt from toll
22 charges imposed on single-occupant vehicles in lanes designated
23 for tolls pursuant to the federally supported value-pricing and
24 transit development demonstration program operated pursuant to
25 Section 149.9 of the Streets and Highways Code.

26 (l) If the Director of Transportation determines that federal law
27 does not authorize the state to allow vehicles that are identified by
28 distinctive decals, labels, or other identifiers on vehicles described
29 in subdivision (a) to use highway lanes or highway access ramps
30 for high-occupancy vehicles regardless of vehicle occupancy, the
31 Director of Transportation shall submit a notice of that
32 determination to the Secretary of State.

33 (m) (1) This section shall remain in effect only until *January*
34 *1, 2015, or until* the date the Secretary of State receives the notice
35 described in subdivision (l), *whichever occurs first*, and as of that
36 date is repealed.

37 (2) However, with respect to a vehicle described in paragraph
38 (3) or (4) of subdivision (a), this section shall be operative only
39 until ~~January~~ *July 1, 2011*, or only until the date the Secretary of

1 State receives the notice described in subdivision (l), whichever
2 occurs first.

3 (3) With respect to a vehicle described in paragraph (5) of
4 subdivision (a), this section shall become operative on January 1,
5 ~~2011~~ 2012, and shall be operative only until January 1, ~~2014~~ 2015,
6 or until the date the Secretary of State receives the notice described
7 in subdivision (l), whichever occurs first.

8 SEC. 2. Section 21655.9 of the Vehicle Code is amended to
9 read:

10 21655.9. (a) (1) Whenever the Department of Transportation
11 or a local authority authorizes or permits exclusive or preferential
12 use of highway lanes or highway access ramps for high-occupancy
13 vehicles pursuant to Section 21655.5, the use of those lanes or
14 ramps shall also be extended to vehicles that are issued distinctive
15 decals, labels, or other identifiers pursuant to Section 5205.5
16 regardless of vehicle occupancy or ownership.

17 (2) A local authority during periods of peak congestion shall
18 suspend for a lane the access privileges extended pursuant to
19 paragraph (1) for those vehicles issued distinctive decals, labels,
20 or other identifiers pursuant to Section 5205.5, if a periodic review
21 of lane performance by that local authority discloses both of the
22 following factors regarding the lane:

23 (A) The lane, or a portion of the lane, exceeds a level of service
24 C, as described in subdivision (b) of Section 65089 of the
25 Government Code.

26 (B) The operation or projected operation of vehicles in the lane,
27 or a portion of the lane, will significantly increase congestion.

28 (b) A person shall not drive a vehicle described in subdivision
29 (a) of Section 5205.5 with a single occupant upon a high-occupancy
30 vehicle lane pursuant to this section unless the decal, label, or other
31 identifier issued pursuant to Section 5205.5 is properly displayed
32 on the vehicle, and the vehicle registration described in Section
33 5205.5 is with the vehicle.

34 (c) A person shall not operate or own a vehicle displaying a
35 decal, label, or other identifier, as described in Section 5205.5, if
36 that decal, label, or identifier was not issued for that vehicle
37 pursuant to Section 5205.5. A violation of this subdivision is a
38 misdemeanor.

39 (d) If the provisions in Section 5205.5 authorizing the
40 department to issue decals, labels, or other identifiers to hybrid

1 and alternative fuel vehicles are repealed, vehicles displaying those
2 decals, labels, or other identifiers shall not access high-occupancy
3 vehicle lanes without meeting the occupancy requirements
4 otherwise applicable to those lanes.

5 (e) (1) This section shall remain in effect only until *January 1,*
6 *2015, or until* the date that the Secretary of State receives the notice
7 described in subdivision (l) of Section 5205.5, *whichever occurs*
8 *first*, and as of that date is repealed.

9 (2) However, with respect to a vehicle described in paragraph
10 (3) or (4) of subdivision (a) of Section 5205.5, this section shall
11 be operative only until ~~January~~ *July* 1, 2011, or until the date the
12 Secretary of State receives the notice described in subdivision (l)
13 of Section 5205.5, whichever occurs first.

14 (3) With respect to a vehicle described in paragraph (5) of
15 subdivision (a) of Section 5205.5, this section shall become
16 operative on January 1, ~~2011~~ *2012*, and shall be operative only
17 until January 1, ~~2014~~ *2015*, or until the date the Secretary of State
18 receives the notice described in subdivision (l) of Section 5205.5,
19 whichever occurs first.

20 SEC. 3. Section 40000.13 of the Vehicle Code, as amended
21 by Section 5 of Chapter 614 of the Statutes of 2006, is amended
22 to read:

23 40000.13. A violation of any of the following provisions is a
24 misdemeanor, and not an infraction:

25 (a) Section 16560, relating to interstate highway carriers.

26 (b) Sections 20002 and 20003, relating to duties at accidents.

27 (c) Section 21200.5, relating to riding a bicycle while under the
28 influence of an alcoholic beverage or any drug.

29 (d) Subdivision (b) of Section 21651, relating to wrong-way
30 driving on divided highways.

31 (e) Subdivision (c) of Section 21655.9, relating to illegal use of
32 decals, labels, or other identifiers.

33 (f) Section 22520.5, a second or subsequent conviction of an
34 offense relating to vending on or near freeways.

35 (g) Section 22520.6, a second or subsequent conviction of an
36 offense relating to roadside rest areas and vista points.

37 (h) This section shall remain in effect only until the date that
38 the Secretary of State receives the notice from the Director of
39 Transportation as described in Section 5205.5, and as of that date
40 is repealed.

1 SEC. 4. Section 40000.13 of the Vehicle Code, as amended
2 by Section 6 of Chapter 614 of the Statutes of 2006, is amended
3 to read:

4 40000.13. A violation of any of the following provisions is a
5 misdemeanor, and not an infraction:

- 6 (a) Section 16560, relating to interstate highway carriers.
- 7 (b) Sections 20002 and 20003, relating to duties at accidents.
- 8 (c) Section 21200.5, relating to riding a bicycle while under the
9 influence of an alcoholic beverage or any drug.
- 10 (d) Subdivision (b) of Section 21651, relating to wrong-way
11 driving on divided highways.
- 12 (e) Section 22520.5, a second or subsequent conviction of an
13 offense relating to vending on or near freeways.
- 14 (f) Section 22520.6, a second or subsequent conviction of an
15 offense relating to roadside rest areas and vista points.
- 16 (g) This section shall become operative on the date that the
17 Secretary of State receives the notice from the Director of
18 Transportation as described in Section 5205.5.

19 SEC. 5. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.