

Senate Bill No. 535

Passed the Senate August 11, 2010

Secretary of the Senate

Passed the Assembly June 28, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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, 2012, and January 1, 2015, would require the Department of Motor Vehicles to issue up to 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, 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, 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.

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

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

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

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

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

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

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

(5) A vehicle that meets California's enhanced advanced technology partial zero-emission vehicle (enhanced AT PZEV) standard.

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

(c) The department shall include a summary of the provisions of this section on each motor vehicle registration renewal notice, or on a separate insert, if space is available and the summary can be included without incurring additional printing or postage costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) For lanes that are not nearing capacity, the Department of Transportation shall make the determination not later than 180

days after the date provided by the department under paragraph (2).

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

- (A) Reduction in level of service.
- (B) Sustained stop-and-go conditions.
- (C) Slower than average speed than the adjacent mixed-flow lanes.
- (D) Consistent increase in travel time.

(5) After making the determinations pursuant to subparagraphs (A) and (B) of paragraph (3), if the Department of Transportation determines that significant HOV lane breakdown has occurred throughout the state, the Department of Transportation shall immediately notify the department of that determination, and the department, on the date of receiving that notification, shall discontinue issuing the decals, labels, or other identifiers for the vehicles described in paragraphs (3) and (4) of subdivision (a).

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

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

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

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

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

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

(j) An owner of a vehicle specified in paragraph (3) or (4) of subdivision (a) whose vehicle is registered to an address in the region identified in Section 66502 of the Government Code and who seeks a vehicle identifier under subdivision (a) in order to have access to a HOV lane within the jurisdiction of the Bay Area Toll Authority shall do both of the following:

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

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

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

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

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

(2) However, with respect to a vehicle described in paragraph (3) or (4) of subdivision (a), this section shall be operative only until July 1, 2011, or only until the date the Secretary of State receives the notice described in subdivision (l), whichever occurs first.

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

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

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

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

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

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

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

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

(d) If the provisions in Section 5205.5 authorizing the department to issue decals, labels, or other identifiers to hybrid and alternative fuel vehicles are repealed, vehicles displaying those decals, labels, or other identifiers shall not access high-occupancy vehicle lanes without meeting the occupancy requirements otherwise applicable to those lanes.

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

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

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

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

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

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

- (b) Sections 20002 and 20003, relating to duties at accidents.
- (c) Section 21200.5, relating to riding a bicycle while under the influence of an alcoholic beverage or any drug.
- (d) Subdivision (b) of Section 21651, relating to wrong-way driving on divided highways.
- (e) Subdivision (c) of Section 21655.9, relating to illegal use of decals, labels, or other identifiers.
- (f) Section 22520.5, a second or subsequent conviction of an offense relating to vending on or near freeways.
- (g) Section 22520.6, a second or subsequent conviction of an offense relating to roadside rest areas and vista points.
- (h) This section shall remain in effect only until the date that the Secretary of State receives the notice from the Director of Transportation as described in Section 5205.5, and as of that date is repealed.

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

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

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

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

the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2010

Governor