

Assembly Bill No. 2405

CHAPTER 674

An act to amend Section 5205.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 2012. Filed with
Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2405, Blumenfield. Vehicles: high-occupancy toll lanes.

Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles (HOV), which lanes may also be used, until January 1, 2015, by certain eligible low-emission and hybrid vehicles not carrying the requisite number of passengers otherwise required for the use of HOV lanes if the vehicle displays a valid identifier issued by the Department of Motor Vehicles. Existing law provides that a vehicle, eligible under these provisions to use HOV lanes, that meets the California's enhanced advanced technology partial zero-emission vehicle (enhanced AT PZEV) standard is not exempt from toll charges imposed on single-occupant vehicles in lanes designated for tolls pursuant to a federally supported value-pricing and transit development program involving high-occupancy toll (HOT) lanes conducted by the Los Angeles County Metropolitan Transportation Authority.

This bill would instead exempt, with specified exceptions applicable to passage on designated state highways, all of the low-emission and hybrid vehicles eligible to use HOV lanes under these provisions, including vehicles that meet the enhanced AT PZEV standards, from toll charges imposed on HOT lanes unless prohibited by federal law. The bill would exclude a toll imposed for passage on a toll road or toll highway, that is not an HOT lane, a toll imposed for crossing a state-owned bridge, or, until March 1, 2014, a toll imposed for passage in HOT lanes designated for State Highway Route 10 or 110, from this exemption. The bill would provide that these changes shall be known as the Choose Clean Cars Act of 2012.

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

SECTION 1. This act shall be known, and may be cited, as the Choose Clean Cars Act of 2012.

SEC. 2. Section 5205.5 of the Vehicle Code, as amended by Section 1 of Chapter 215 of the Statutes of 2010, is amended to read:

5205.5. (a) For 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 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 a 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 an 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) (1) Notwithstanding Section 21655.9, and except as provided in paragraph (2), a vehicle described in subdivision (a) that displays a decal, label, or identifier issued pursuant to this section shall be exempt from toll charges imposed on single-occupant vehicles in high-occupancy toll lanes as described in Section 149.7 of the Streets and Highways Code unless prohibited by federal law.

(2) (A) Paragraph (1) does not apply to the imposition of a toll imposed for passage on a toll road or toll highway, that is not a high-occupancy toll lane as described in Section 149.7 of the Streets and Highways Code.

(B) On or before March 1, 2014, paragraph (1) does not apply to the imposition of a toll imposed for passage 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 for State Highway Route 10 or 110.

(C) Paragraph (1) does not apply to the imposition of a toll charged for crossing a state-owned bridge.

(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.