

ASSEMBLY BILL

No. 1096

Introduced by Assembly Member Nestande

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1096, as introduced, Nestande. Vehicles: high-occupancy vehicle lanes.

Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles (HOV), which 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.

This bill would make technical, nonsubstantive changes to these provisions.

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

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

- 1 SECTION 1. Section 5205.5 of the Vehicle Code, as added by
- 2 Section 1 of Chapter 37 of the Statutes of 2010, is amended to
- 3 read:
- 4 5205.5. (a) For the purposes of implementing Section 21655.9,
- 5 the department shall make available for issuance, for a fee
- 6 determined by the department to be sufficient to reimburse the

1 department for the actual costs incurred pursuant to this section,
2 distinctive decals, labels, and other identifiers that clearly
3 distinguish the following vehicles from other vehicles:

4 (1) A vehicle that meets California’s super ultra-low emission
5 vehicle (SULEV) standard for exhaust emissions and the federal
6 inherently low-emission vehicle (ILEV) evaporative emission
7 standard, as defined in Part 88 (commencing with Section
8 88.101-94) of Title 40 of the Code of Federal Regulations.

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

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

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

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

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

26 The finding also shall demonstrate the infeasibility of alleviating
27 the congestion by other means, including, but not limited to,
28 reducing the use of the lane by noneligible vehicles, or further
29 increasing vehicle occupancy.

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

34 (e) For purposes of subdivision (a), the Department of the
35 California Highway Patrol and the department, in consultation
36 with the Department of Transportation, shall design and specify
37 the placement of the decal, label, or other identifier on the vehicle.
38 Each The decal, label, or other identifier issued for a vehicle shall
39 display a unique number, and that number shall be printed on, or
40 affixed to, the vehicle registration.

1 (f) If the Metropolitan Transportation Commission, serving as
2 the Bay Area Toll Authority, grants toll-free and reduced-rate
3 passage on toll bridges under its jurisdiction to any vehicle pursuant
4 to Section 30102.5 of the Streets and Highways Code, it shall also
5 grant the same toll-free and reduced-rate passage to a vehicle
6 displaying an identifier issued by the department pursuant to
7 paragraph (1) or (2) of subdivision (a).

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

15 (h) This section shall become operative on January 1, 2011.

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

20 SEC. 2. Section 5205.5 of the Vehicle Code, as amended by
21 Section 2 of Chapter 674 of the Statutes of 2012, is amended to
22 read:

23 5205.5. (a) For purposes of implementing Section 21655.9,
24 the department shall make available for issuance, for a fee
25 determined by the department to be sufficient to reimburse the
26 department for the actual costs incurred pursuant to this section,
27 distinctive decals, labels, and other identifiers that clearly
28 distinguish the following vehicles from other vehicles:

29 (1) A vehicle that meets California's super ultra-low emission
30 vehicle (SULEV) standard for exhaust emissions and the federal
31 inherently low-emission vehicle (ILEV) evaporative emission
32 standard, as defined in Part 88 (commencing with Section
33 88.101-94) of Title 40 of the Code of Federal Regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (iii) The owner of the vehicle applied for a decal, label, or other
23 identifier pursuant to this subparagraph on or before March 31,
24 2009, or within six months of the date on which the vehicle for
25 which a decal, label, or identifier was previously issued is declared
26 to be a nonrepairable vehicle or a total loss salvage vehicle,
27 whichever date is later.

28 (2) The department shall notify the Department of Transportation
29 immediately after the date on which the department has issued
30 50,000 decals, labels, and other identifiers under this section for
31 the vehicles described in paragraphs (3) and (4) of subdivision (a).

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

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

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

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

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

6 (A) Reduction in level of service.

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

8 (C) Slower than average speed than the adjacent mixed-flow
9 lanes.

10 (D) Consistent increase in travel time.

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

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

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

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

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

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

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

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

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

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

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

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

5 (B) On or before March 1, 2014, paragraph (1) does not apply
6 to the imposition of a toll imposed for passage in lanes designated
7 for tolls pursuant to the federally supported value-pricing and
8 transit development demonstration program operated pursuant to
9 Section 149.9 of the Streets and Highways Code for State Highway
10 Route 10 or 110.

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

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

20 (m) (1) This section shall remain in effect only until January
21 1, 2015, or until the date the Secretary of State receives the notice
22 described in subdivision (l), whichever occurs first, and as of that
23 date is repealed.

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

29 (3) With respect to a vehicle described in paragraph (5) of
30 subdivision (a), this section shall become operative on January 1,
31 2012, and shall be operative only until January 1, 2015, or until
32 the date the Secretary of State receives the notice described in
33 subdivision (l), whichever occurs first.