

AMENDED IN ASSEMBLY AUGUST 22, 2013

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN ASSEMBLY JUNE 24, 2013

AMENDED IN ASSEMBLY JUNE 11, 2013

AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 286

**Introduced by Senators Yee and Pavley
(Coauthors: Senators Correa and Lieu)
(Coauthor: Assembly Member Ting)**

February 14, 2013

An act to amend Sections 21655.9 and 42001.6 of, and to amend and repeal Section 5205.5 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 286, as amended, Yee. Vehicles: high-occupancy vehicle lanes.

Existing federal law, until September 30, 2017, authorizes a state to allow specified labeled vehicles to use lanes designated for high-occupancy vehicles (HOVs).

Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles (HOVs), HOVs, which lanes may also be used, until January 1, 2015, 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 issued by the Department of Motor Vehicles. A violation of provisions relating to HOV lane use by vehicles with those identifiers is a crime.

This bill would extend the operation of those provisions for certain zero-emission vehicles to January 1, 2019, *or until federal authorization expires*, or until the Secretary of State receives that specified notice, whichever occurs first. The bill would authorize the department to issue a valid identifier to a vehicle that meets California's transitional zero-emission vehicle (TZEV) standard. The bill would also repeal duplicate provisions of law, delete obsolete provisions of law relating to hybrid vehicles, and make additional conforming changes. By extending a crime that otherwise would be repealed, the bill would impose a state-mandated local program.

This bill would incorporate additional substantive changes in Sections 5205.5 and 21655.9 of the Vehicle Code made by AB 266, to become operative if AB 266 and this bill become effective on or before January 1, 2014, and this bill is enacted last.

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.

This bill would become operative only if AB 266 is enacted and takes effect on or before January 1, 2014.

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, as amended
2 by Section 2 of Chapter 674 of the Statutes of 2012, is amended
3 to read:
4 5205.5. (a) For 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
7 department for the actual costs incurred pursuant to this section,
8 distinctive decals, labels, and other identifiers that clearly
9 distinguish the following vehicles from other vehicles:
10 (1) A vehicle that meets California's super ultra-low emission
11 vehicle (SULEV) standard for exhaust emissions and the federal
12 inherently low-emission vehicle (ILEV) evaporative emission
13 standard, as defined in Part 88 (commencing with Section
14 88.101-94) of Title 40 of the Code of Federal Regulations.

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

4 (3) A vehicle that meets California’s enhanced advanced
5 technology partial zero-emission vehicle (enhanced AT PZEV)
6 standard or transitional zero-emission vehicle (TZEV) standard.

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

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

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

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

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

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

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

37 (f) (1) Except as provided in paragraph (2), for purposes of
38 paragraph (3) of subdivision (a), the department shall issue no
39 more than 40,000 distinctive decals, labels, or other identifiers that

1 clearly distinguish a vehicle specified in paragraph (3) of
2 subdivision (a).

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

5 (A) The vehicle is of a type identified in paragraph (3) of
6 subdivision (a).

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

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

19 (g) If the Metropolitan Transportation Commission, serving as
20 the Bay Area Toll Authority, grants toll-free and reduced-rate
21 passage on toll bridges under its jurisdiction to a vehicle pursuant
22 to Section 30102.5 of the Streets and Highways Code, it shall also
23 grant the same toll-free and reduced-rate passage to a vehicle
24 displaying an identifier issued by the department pursuant to
25 paragraph (1) or (2) of subdivision (a).

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

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

37 (B) On or before March 1, 2014, paragraph (1) does not apply
38 to the imposition of a toll imposed for passage in lanes designated
39 for tolls pursuant to the federally supported value pricing and
40 transit development demonstration program operated pursuant to

1 Section 149.9 of the Streets and Highways Code for State Highway
2 Route 10 or 110.

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

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

12 (j) (1) This section shall not apply to a vehicle described in
13 paragraphs (1) and (2) of subdivision (a) on or after January 1,
14 2015, or the date the Secretary of State receives the notice
15 described in subdivision (i), whichever occurs first.

16 (2) This section shall become inoperative on January 1, 2019,
17 *or the date the federal authorization pursuant to Section 166 of*
18 *Title 23 of the United States Code expires, or ~~on~~ the date the*
19 *Secretary of State receives the notice described in subdivision (i),*
20 *whichever occurs first, and, as of January 1, 2019, is repealed,*
21 *unless a later enacted statute, that becomes operative on or before*
22 *January 1, 2019, deletes or extends the dates on which it becomes*
23 *inoperative and is repealed.*

24 SEC. 1.5. Section 5205.5 of the Vehicle Code, as amended by
25 Section 2 of Chapter 674 of the Statutes of 2012, is amended to
26 read:

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

33 (1) A vehicle that meets California's super ultra-low emission
34 vehicle (SULEV) standard for exhaust emissions and the federal
35 inherently low-emission vehicle (ILEV) evaporative emission
36 standard, as defined in Part 88 (commencing with Section
37 88.101-94) of Title 40 of the Code of Federal Regulations.

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

1 (3) A vehicle that meets California's enhanced advanced
2 technology partial zero-emission vehicle (enhanced AT PZEV)
3 standard or transitional zero-emission vehicle (TZEV) standard.

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

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

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

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

18 (3) The finding shall also demonstrate the infeasibility of
19 alleviating the congestion by other means, including, but not
20 limited to, reducing the use of the lane by noneligible vehicles or
21 further increasing vehicle occupancy.

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

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

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

38 (f) (1) Except as provided in paragraph (2), for purposes of
39 paragraph (3) of subdivision (a), the department shall issue no
40 more than 40,000 distinctive decals, labels, or other identifiers that

1 clearly distinguish a vehicle specified in paragraph (3) of
2 subdivision (a).

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

5 (A) The vehicle is of a type identified in paragraph (3) of
6 subdivision (a).

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

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

19 (g) If the Metropolitan Transportation Commission, serving as
20 the Bay Area Toll Authority, grants toll-free and reduced-rate
21 passage on toll bridges under its jurisdiction to a vehicle pursuant
22 to Section 30102.5 of the Streets and Highways Code, it shall also
23 grant the same toll-free and reduced-rate passage to a vehicle
24 displaying an identifier issued by the department pursuant to
25 paragraph (1) or (2) of subdivision (a).

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

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

37 (B) On or before March 1, 2014, paragraph (1) does not apply
38 to the imposition of a toll imposed for passage in lanes designated
39 for tolls pursuant to the federally supported value pricing and
40 transit development demonstration program operated pursuant to

1 Section 149.9 of the Streets and Highways Code for State Highway
2 Route 10 or 110.

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

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

12 (j) This section shall become inoperative on January 1, 2019,
13 *or the date the federal authorization pursuant to Section 166 of*
14 *Title 23 of the United States Code expires, or on* the date the
15 Secretary of State receives the notice described in subdivision (i),
16 whichever occurs first, and, as of January 1, 2019, is repealed,
17 unless a later enacted statute, that becomes operative on or before
18 January 1, 2019, deletes or extends the dates on which it becomes
19 inoperative and is repealed.

20 SEC. 2. Section 5205.5 of the Vehicle Code, as added by
21 Section 1 of Chapter 37 of the Statutes of 2010, is repealed.

22 SEC. 3. Section 21655.9 of the Vehicle Code is amended to
23 read:

24 21655.9. (a) (1) Whenever the Department of Transportation
25 or a local authority authorizes or permits exclusive or preferential
26 use of highway lanes or highway access ramps for high-occupancy
27 vehicles pursuant to Section 21655.5, the use of those lanes or
28 ramps shall also be extended to vehicles that are issued distinctive
29 decals, labels, or other identifiers pursuant to Section 5205.5
30 regardless of vehicle occupancy or ownership.

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

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

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

3 (b) A person shall not drive a vehicle described in subdivision
4 (a) of Section 5205.5 with a single occupant upon a high-occupancy
5 vehicle lane pursuant to this section unless the decal, label, or other
6 identifier issued pursuant to Section 5205.5 is properly displayed
7 on the vehicle, and the vehicle registration described in Section
8 5205.5 is with the vehicle.

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

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

20 (e) (1) This section shall not apply to a vehicle described in
21 paragraphs (1) and (2) of subdivision (a) of Section 5205.5 on or
22 after January 1, 2015, or the date the Secretary of State receives
23 the notice described in subdivision (i) of Section 5205.5, whichever
24 occurs first.

25 (2) This section shall become inoperative on January 1, 2019,
26 *or the date federal authorization pursuant to Section 166 of Title*
27 *23 of the United States Code expires, or on the date the Secretary*
28 *of State receives the notice described in subdivision (i) of Section*
29 *5205.5, whichever occurs first, and, as of January 1, 2019, is*
30 *repealed, unless a later enacted statute, that becomes operative on*
31 *or before January 1, 2019, deletes or extends the dates on which*
32 *it becomes inoperative and is repealed.*

33 SEC. 3.5. Section 21655.9 of the Vehicle Code is amended to
34 read:

35 21655.9. (a) (1) Whenever the Department of Transportation
36 or a local authority authorizes or permits exclusive or preferential
37 use of highway lanes or highway access ramps for high-occupancy
38 vehicles pursuant to Section 21655.5, the use of those lanes or
39 ramps shall also be extended to vehicles that are issued distinctive

1 decals, labels, or other identifiers pursuant to Section 5205.5
2 regardless of vehicle occupancy or ownership.

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

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

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

14 (b) A person shall not drive a vehicle described in subdivision
15 (a) of Section 5205.5 with a single occupant upon a high-occupancy
16 vehicle lane pursuant to this section unless the decal, label, or other
17 identifier issued pursuant to Section 5205.5 is properly displayed
18 on the vehicle, and the vehicle registration described in Section
19 5205.5 is with the vehicle.

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

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

31 (e) This section shall become inoperative on January 1, 2019,
32 *or the date the federal authorization pursuant to Section 166 of*
33 *Title 23 of the United States Code expires, or on the date the*
34 *Secretary of State receives the notice described in subdivision (i)*
35 *of Section 5205.5, whichever occurs first, and, as of January 1,*
36 *2019, is repealed, unless a later enacted statute, that becomes*
37 *operative on or before January 1, 2019, deletes or extends the dates*
38 *on which it becomes inoperative and is repealed.*

39 SEC. 4. Section 42001.6 of the Vehicle Code is amended to
40 read:

1 42001.6. Every person convicted of an infraction for a violation
2 of Section 22511.1 is punishable by a fine of one hundred dollars
3 (\$100).

4 No part of any fine imposed shall be suspended, except the court
5 may suspend that portion of the fine above twenty-five dollars
6 (\$25) for a violation of Section 22511.1 if the person convicted
7 possessed at the time of the offense, but failed to display, a valid
8 zero-emission vehicle decal identification issued pursuant to
9 subdivision (a) of Section 5205.5. The fine may be paid in
10 installments if the court determines that the defendant is unable to
11 pay the entire amount in one payment.

12 SEC. 5. (a) Section 1.5 of this bill incorporates substantive
13 amendments to Section 5205.5 of the Vehicle Code proposed by
14 both this bill and Assembly Bill 266. It shall only become operative
15 if (1) both bills are enacted and become effective on or before
16 January 1, 2014, (2) each bill amends Section 5205.5 of the Vehicle
17 Code, and (3) this bill is enacted after Assembly Bill 266, in which
18 case Section 1 of this bill shall not become operative.

19 (b) Section 3.5 of this bill incorporates substantive amendments
20 to Section 21655.9 of the Vehicle Code proposed by both this bill
21 and Assembly Bill 266. It shall only become operative if (1) both
22 bills are enacted and become effective on or before January 1,
23 2014, (2) each bill amends Section 21655.9 of the Vehicle Code,
24 and (3) this bill is enacted after Assembly Bill 266, in which case
25 Section 3 of this bill shall not become operative.

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

35 SEC. 7. *This act shall become operative only if Assembly Bill*
36 *266 is enacted and takes effect on or before January 1, 2014.*