

AMENDED IN SENATE JUNE 30, 2016

AMENDED IN ASSEMBLY MAY 5, 2016

AMENDED IN ASSEMBLY APRIL 11, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1964**

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**Introduced by Assembly Member Bloom  
(Coauthor: Assembly Member Linder)**

February 12, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1964, as amended, Bloom. High-occupancy vehicle lanes: vehicle exceptions.

Existing federal law authorizes, until September 30, 2019, a state to allow low emission and energy-efficient vehicles, as specified, to use lanes designated for high-occupancy vehicles (HOVs). Existing federal law also authorizes, until September 30, 2025, a state to allow alternative fuel vehicles, as defined, and new qualified plug-in electric drive motor vehicles, as defined, to use HOV lanes.

Existing state law authorizes the Department of Transportation to designate certain lanes for the exclusive use of HOVs. Existing law also authorizes super ultra-low emission vehicles, ultra-low emission vehicles, partial zero-emission vehicles, or transitional zero-emission vehicles, as specified, that display a valid identifier issued by the Department of Motor Vehicles to use these HOV lanes until January

1, 2019, or until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first. A violation of provisions relating to HOV lane use by vehicles without those identifiers is a crime. Existing law authorizes the Department of Motor Vehicles to issue those identifiers until January 1, 2019, or until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first. Existing law prohibits the Department of Motor Vehicles from issuing more than 85,000 identifiers that clearly distinguish a partial or transitional zero-emission vehicle, as specified. *Existing law requires the Department of Transportation to remove individual HOV lanes, or portions of those lanes, during peak periods of congestion from access by vehicles displaying the identifiers if the department makes specified findings.*

This bill would extend the operation of the provisions allowing specified vehicles to use HOV lanes until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first. The bill would provide that identifiers issued for specified vehicles are valid until January 1, 2019. The bill would authorize the Department of Motor Vehicles to issue other identifiers until the date federal authorization expires, or until the Secretary of State receives a specified notice, whichever occurs first.

The bill would provide that identifiers issued for partial or transitional zero-emission vehicles on or after January 1, 2018, but before January 1, 2019, would be valid until January 1, 2021. The bill would provide that identifiers issued for those vehicles on or after January 1, 2019, would be valid until January 1 of the ~~3rd~~ 4th year after the year of issuance. The bill would remove the limit of 85,000 identifiers for those vehicles, and would instead prohibit the Department of Motor Vehicles from issuing identifiers if the sale of new vehicles of that category reaches at least ~~8.6%~~ 9.2% of the total new car market share for 2 consecutive years, upon notification by the State Air Resources Board, as specified.

The bill would make conforming changes allowing vehicles displaying specified identifiers to use HOV lanes. *The bill would recast provisions relating to access to HOV lanes by vehicles displaying those identifiers to require the Department of Transportation to remove HOV lanes or portions of those lanes from access by vehicles displaying identifiers upon the request of, and with the concurrence of, the regional transportation planning agency whose jurisdiction includes the HOV lanes if the department makes specified findings, as prescribed.*

By extending the operation of an existing crime, this bill would impose a state-mandated local program.

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 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 reasonable costs incurred pursuant to this  
7 section, distinctive decals, labels, and other identifiers that clearly  
8 distinguish the following vehicles from other vehicles:

9 (1) A vehicle that meets the state'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. A decal,  
14 label, and other identifier issued pursuant to this paragraph is valid  
15 until January 1, 2019.

16 (2) A vehicle that was produced during the 2004 model year or  
17 earlier and meets the state's ultra-low emission vehicle (ULEV)  
18 standard for exhaust emissions and the federal ILEV standard. A  
19 decal, label, and other identifier issued pursuant to this paragraph  
20 is valid until January 1, 2019.

21 (3) (A) A vehicle that meets the state's enhanced advanced  
22 technology partial zero-emission vehicle (enhanced AT PZEV)  
23 standard or transitional zero-emission vehicle (TZEV) standard.  
24 A decal, label, and other identifier issued pursuant to this paragraph  
25 before January 1, 2018, is valid until January 1, 2019.

26 (B) A decal, label, and other identifier issued pursuant to this  
27 paragraph on or after January 1, 2018, and before January 1, 2019,  
28 is valid until January 1, 2021. A decal, label, and other identifier

1 issued pursuant to this paragraph on or after January 1, 2019, is  
2 valid until January 1 of the ~~third~~ *fourth* year after the year of  
3 issuance.

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 *upon the request of, and with the concurrence of, the regional*  
12 *transportation planning agency whose jurisdiction includes the*  
13 *HOV lanes*, following a finding by the Department of  
14 Transportation as follows:

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

18 (2) The operation or projected operation *within the next 12*  
19 *months* of the vehicles described in subdivision (a) in these lanes,  
20 or portions of the lanes, ~~will significantly increase congestion.~~  
21 *significantly contributes to, or is projected to significantly*  
22 *contribute to, congestion of those lanes.*

23 (3) ~~The finding shall also demonstrate the infeasibility of~~  
24 ~~alleviating the congestion by other means, including, but not~~  
25 ~~limited to,~~ *Alleviating the congestion by* reducing the use of the  
26 lane by noneligible vehicles *through increased enforcement* or  
27 further increasing vehicle ~~occupancy~~. *occupancy is either infeasible*  
28 *in the immediate future or is forecast to result in increased*  
29 *congestion in the corridor overall.*

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) (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 decal, label, or other identifier issued for a vehicle shall  
39 display a unique number, which shall be printed on, or affixed to,  
40 the vehicle registration.

1 (2) Decals, labels, or other identifiers designed pursuant to this  
2 subdivision for a vehicle described in paragraph (3) 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) and (2) of subdivision (a).

6 (3) Decals, labels, or other identifiers issued pursuant to  
7 paragraph (3) of subdivision (a) before January 1, 2019, shall be  
8 distinguishable from the decals, labels, or other identifiers issued  
9 on or after January 1, 2019.

10 (f) (1) Except as provided in paragraph (3), the department  
11 shall no longer issue decals, labels, or other identifiers pursuant  
12 to paragraph (3) of subdivision (a) if the sale of new vehicles  
13 described in paragraph (3) of subdivision (a) reaches at least ~~8.6~~  
14 9.2 percent of the total new car market share for two consecutive  
15 years, calculated cumulatively for each of the two years, upon  
16 being notified by the State Air Resources Board pursuant to  
17 paragraph (2). The department shall not reinstate the issuance of  
18 decals, labels, or other identifiers if there is a subsequent decrease  
19 in the sale of the new vehicles resulting in less than ~~8.6~~ 9.2 percent  
20 of the total new car market share in a later year.

21 (2) The State Air Resources Board shall notify the department,  
22 the Department of Transportation, and the Secretary of State if the  
23 sale of new vehicles described in paragraph (3) of subdivision (a)  
24 reaches at least ~~8.6~~ 9.2 percent of the total new car market share  
25 for two consecutive years, calculated cumulatively for each of the  
26 two years.

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

29 (A) The vehicle is of a type identified in paragraph (3) of  
30 subdivision (a).

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

37 (C) The owner of the vehicle applied for a decal, label, or other  
38 identifier pursuant to this paragraph within six months of the date  
39 on which the vehicle for which a decal, label, or other identifier

1 was previously issued is declared to be a nonrepairable vehicle or  
2 a total loss salvage vehicle.

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

10 (h) (1) Notwithstanding Section 21655.9, and except as  
11 provided in paragraph (2), a vehicle described in subdivision (a)  
12 that displays a valid decal, label, or identifier issued pursuant to  
13 this section shall be granted a toll-free or reduced-rate passage in  
14 high-occupancy toll lanes as described in Section 149.7 of the  
15 Streets and Highways Code unless prohibited by federal law.

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

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

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

29 (j) This section shall become inoperative on the date the federal  
30 authorization pursuant to Section 166 of Title 23 of the United  
31 States Code expires, or the date the Secretary of State receives the  
32 notice described in subdivision (i), whichever occurs first.

33 (k) If this section becomes inoperative pursuant to subdivision  
34 (j), a driver of a vehicle with an otherwise valid decal, label, or  
35 other identifier issued pursuant to this section shall not be cited  
36 for a violation of Section 21655.5 within 60 days of the date that  
37 this section becomes inoperative.

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

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

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

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

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

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

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

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

36 (e) This section shall become inoperative on the date the federal  
37 authorization pursuant to Section 166 of Title 23 of the United  
38 States Code expires, or the date the Secretary of State receives the  
39 notice described in subdivision (i) of Section 5205.5, whichever  
40 occurs first.

1     SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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