

AMENDED IN SENATE AUGUST 17, 2016
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

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

February 12, 2016

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.

Existing law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for the purposes of funding projects related to, among other things, the reduction of criteria air pollutants and improvement of air quality. Pursuant to the Air Quality Improvement Program, the state board has established the Clean Vehicle Rebate Project to promote the production and use of zero-emission vehicles.

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 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 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 impose income restrictions regarding an applicant's ability to qualify for both an identifier and a rebate under the Clean Vehicle Rebate Project, and would require the department to collaborate with the board to establish procedures implementing these restrictions.

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.

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

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

11 (B) A decal, label, and other identifier issued pursuant to this
12 paragraph on or after January 1, 2018, and before January 1, 2019,
13 is valid until January 1, 2021. A decal, label, and other identifier
14 issued pursuant to this paragraph on or after January 1, 2019, is
15 valid until January 1 of the fourth year after the year of issuance.

16 *(b) (1) Commencing January 1, 2019, the department shall not*
17 *issue a decal, label, or other identifier to an applicant who has*
18 *received a consumer rebate pursuant to the Clean Vehicle Rebate*
19 *Project, established as a part of the Air Quality Improvement*
20 *Program pursuant to Article 3 (commencing with Section 44274)*
21 *of Chapter 8.9 of Part 5 of Division 26 of the Health and Safety*
22 *Code, unless the rebate was issued to a buyer whose income falls*
23 *below one hundred twenty-five thousand dollars (\$125,000) for a*
24 *person who files a tax return as a single person, one hundred*
25 *seventy thousand dollars (\$170,000) for a person who files a tax*
26 *return as a head-of-household, and two hundred fifty thousand*
27 *dollars (\$250,000) for a person who files a joint tax return.*

28 *(2) The department shall collaborate with the State Air*
29 *Resources Board to establish procedures to implement this*
30 *subdivision, including, but not limited to, all of the following:*

31 *(A) Amend the application form for a decal, label, or other*
32 *identifier issued pursuant to this section and the application for a*
33 *rebate under the Clean Vehicle Rebate Project to include a*
34 *statement indicating that an applicant cannot participate in both*
35 *programs unless the applicant meets the income restrictions in*
36 *paragraph (1). Each application shall require the applicant to*
37 *provide a signature to confirm that the applicant understands this*
38 *condition.*

39 *(B) Notify consumers of the eligibility criteria and conditions*
40 *using existing education and outreach efforts.*

1 (C) Establish appropriate compliance and enforcement
2 measures.

3 (D) Establish information sharing between the department and
4 the board to implement the requirements of this subdivision.

5 ~~(b)~~

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

10 ~~(e)~~

11 (d) The Department of Transportation shall remove individual
12 HOV lanes, or portions of those lanes, from the access provisions
13 provided in subdivision (a), upon the request of, and with the
14 concurrence of, the regional transportation planning agency whose
15 jurisdiction includes the HOV lanes, following a finding by the
16 Department of Transportation as follows:

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

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

24 (3) Alleviating the congestion by reducing the use of the lane
25 by noneligible vehicles through increased enforcement or further
26 increasing vehicle occupancy is either infeasible in the immediate
27 future or is forecast to result in increased congestion in the corridor
28 overall.

29 ~~(d)~~

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 ~~(e)~~

35 (f) (1) For purposes of subdivision (a), the Department of the
36 California Highway Patrol and the department, in consultation
37 with the Department of Transportation, shall design and specify
38 the placement of the decal, label, or other identifier on the vehicle.
39 Each decal, label, or other identifier issued for a vehicle shall

1 display a unique number, which shall be printed on, or affixed to,
2 the vehicle registration.

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

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

12 ~~(f)~~

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

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

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

32 (A) The vehicle is of a type identified in paragraph (3) of
33 subdivision (a).

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

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

6 ~~(g)~~

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

14 ~~(h)~~

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

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

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

27 ~~(i)~~

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

35 ~~(j)~~

36 (k) 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)~~, (j), whichever occurs first.

40 ~~(k)~~

1 (l) If this section becomes inoperative pursuant to subdivision
2 (j); (k), a driver of a vehicle with an otherwise valid decal, label,
3 or other identifier issued pursuant to this section shall not be cited
4 for a violation of Section 21655.5 within 60 days of the date that
5 this section becomes inoperative.

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

8 21655.9. (a) (1) Whenever the Department of Transportation
9 or a local authority authorizes or permits exclusive or preferential
10 use of highway lanes or highway access ramps for high-occupancy
11 vehicles pursuant to Section 21655.5, the use of those lanes or
12 ramps shall also be extended to vehicles that are issued distinctive
13 decals, labels, or other identifiers pursuant to Section 5205.5
14 regardless of vehicle occupancy or ownership.

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

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

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

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

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

37 (d) If the provisions in Section 5205.5 authorizing the
38 department to issue decals, labels, or other identifiers to hybrid
39 and alternative fuel vehicles become inoperative, vehicles
40 displaying those decals, labels, or other identifiers shall not access

1 high-occupancy vehicle lanes without meeting the occupancy
2 requirements otherwise applicable to those lanes.

3 (e) This section shall become inoperative on the date the federal
4 authorization pursuant to Section 166 of Title 23 of the United
5 States Code expires, or the date the Secretary of State receives the
6 notice described in subdivision ~~(i)~~ (j) of Section 5205.5, whichever
7 occurs first.

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

O