

AMENDED IN ASSEMBLY APRIL 23, 2012

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2405

Introduced by Assembly Member Blumenfield

February 24, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2405, as amended, 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 an 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 lanes conducted by the Los Angeles County Metropolitan Transportation Authority.

This bill would instead exempt, *with specified exceptions*, 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 single-occupant vehicles in lanes designated for tolls unless prohibited by federal law. The bill would exclude a toll imposed for passage on a toll road, toll highway, or toll bridge from this exemption. The bill would provide that these changes shall be known as the Choose Clean Cars Act of 2012.

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

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

6 5205.5. (a) For purposes of implementing Section 21655.9,
7 the department shall make available for issuance, for a fee
8 determined by the department to be sufficient to reimburse the
9 department for the actual costs incurred pursuant to this section,
10 distinctive decals, labels, and other identifiers that clearly
11 distinguish the following vehicles from other vehicles:

12 (1) A vehicle that meets California's super ultra-low emission
13 vehicle (SULEV) standard for exhaust emissions and the federal
14 inherently low-emission vehicle (ILEV) evaporative emission
15 standard, as defined in Part 88 (commencing with Section
16 88.101-94) of Title 40 of the Code of Federal Regulations.

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

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

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

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

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

12 (c) 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 (d) 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 (e) The State Air Resources Board shall publish and maintain
27 a listing of all vehicles eligible for participation in the programs
28 described in this section. The board shall provide that listing to
29 the department.

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

37 (2) Decals, labels, or other identifiers designed pursuant to this
38 subdivision for a vehicle described in paragraph (5) of subdivision
39 (a) shall be distinguishable from the decals, labels, or other

1 identifiers that are designed for vehicles described in paragraphs
2 (1), (2), (3), and (4) of subdivision (a).

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

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

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

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

19 (iii) The owner of the vehicle applied for a decal, label, or other
20 identifier pursuant to this subparagraph on or before March 31,
21 2009, or within six months of the date on which the vehicle for
22 which a decal, label, or identifier was previously issued is declared
23 to be a nonrepairable vehicle or a total loss salvage vehicle,
24 whichever date is later.

25 (2) The department shall notify the Department of Transportation
26 immediately after the date on which the department has issued
27 50,000 decals, labels, and other identifiers under this section for
28 the vehicles described in paragraphs (3) and (4) of subdivision (a).

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

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

35 (B) For lanes that are not nearing capacity, the Department of
36 Transportation shall make the determination not later than 180
37 days after the date provided by the department under paragraph
38 (2).

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

- 4 (A) Reduction in level of service.
- 5 (B) Sustained stop-and-go conditions.
- 6 (C) Slower than average speed than the adjacent mixed-flow
7 lanes.
- 8 (D) Consistent increase in travel time.

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

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

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

24 (A) The vehicle is of a type identified in paragraph (5) of
25 subdivision (a).

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

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

38 (i) If the Metropolitan Transportation Commission, serving as
39 the Bay Area Toll Authority, grants toll-free and reduced-rate
40 passage on toll bridges under its jurisdiction to a vehicle pursuant

1 to Section 30102.5 of the Streets and Highways Code, it shall also
2 grant the same toll-free and reduced-rate passage to a vehicle
3 displaying an identifier issued by the department pursuant to
4 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying
5 a valid identifier issued by the department pursuant to paragraph
6 (3) or (4) of subdivision (a) if the vehicle is registered to an address
7 outside of the region identified in Section 66502 of the Government
8 Code.

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

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

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

31 (k) (1) Notwithstanding Section 21655.9 *and except as provided*
32 *in paragraph (2)*, a vehicle described in subdivision (a) that
33 displays a decal, label, or identifier issued pursuant to this section
34 shall be exempt from toll charges imposed on single-occupant
35 vehicles in lanes designated for tolls unless prohibited by federal
36 law.

37 (2) ~~This subdivision (A)~~ *Paragraph (1)* does not apply to the
38 imposition of a toll imposed for passage on a toll road, toll
39 highway, or toll bridge.

1 (B) *On or before November 1, 2013, paragraph (1) does not*
2 *apply to the imposition of a toll imposed for passage in lanes*
3 *designated for tolls pursuant to the federally supported*
4 *value-pricing and transit development demonstration program*
5 *operated pursuant to Section 149.9 of the Streets and Highways*
6 *Code for State Highway Route 110.*

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

13 (I) 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 (I), 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 (I), 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 (I), whichever occurs first.