

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON TRANSPORTATION

Lori D. Wilson, Chair

AB 2678 (Wallis) – As Amended March 18, 2024

SUBJECT: Vehicles: high-occupancy vehicle lanes

SUMMARY: Extends the repeal date of provisions authorizing vehicles with a Clean Air Vehicle (CAV) decal to drive in High Occupancy Vehicle (HOV) lanes to January 1, 2027, if permitted by federal law.

EXISTING LAW:

- 1) Existing federal law authorizes states to authorize CAVs in HOV lanes until September 30, 2025. (23 United States Code 166)
- 2) Directs DMV to issue CAV decals until January 1, 2019, as follows:
 - a) White decals are available for an unlimited number of vehicles that meet California's super ultra-low emission vehicle standard for exhaust emissions and the federal inherently low-emission vehicle evaporative emission standard. Vehicles that meet these requirements are certified pure zero-emission vehicles (ZEV) (100% battery electric or hydrogen fuel cell). Liquefied petroleum gas (LPG) and compressed natural gas (CNG) fueled vehicles also qualify for white CAV decals.
 - b) Green decals are available for vehicles that meet California's enhanced advanced technology partial zero-emission vehicle (AT PZEV) requirement or transitional zero-emission vehicles (TZEV) standard. Vehicles that meet these requirements are usually plug-in Hybrids. (Vehicle Code Section (VEH) 5205.5)
- 3) Requires white and green decals that were issued prior to January 1, 2017, to expire on January 1, 2019. (VEH 5205.5)
- 4) Provides that a decal for a CAV (that has the same emission standards as the white and green decal vehicles) that has been issued between January 1, 2017, and January 1, 2019, to be valid until January 1, 2022. (VEH 5205.5)
- 5) Provides that a decal for a CAV (that has the same emission standards as the white and green decal vehicles) that has been issued on or after January 1, 2019, to be valid until January 1st of the fourth year after issuance. (VEH 5205.5)
- 6) Sunsets the CAV program on September 30, 2025. (VEH 5205.5)
- 7) Authorizes drivers displaying a CAV decal to use HOV lanes and freeway ramps, regardless of occupancy level, until such time as the Department of Transportation (Caltrans) determines that federal law does not authorize the state to allow these vehicles to use HOV lanes or ramps. (VEH 21655.9)

- 8) Requires Caltrans to remove individual HOV lanes, or HOV lane segments, during periods of peak congestion from these CAVs access provisions if it finds that the lane exceeds a level of service C (generally meaning at or near free-flowing traffic with minimal delays) and that the operation or projected operation of CAVs will significantly increase HOV lane congestion. (VEH 21655.9)
- 9) Requires that, if Caltrans determines HOV lane access is no longer authorized for CAVs under federal law, Caltrans is to notify the Secretary of State; subsequently, the authority to access HOV lanes by these vehicles will become inoperative. (VEH 5205.5)

FISCAL EFFECT: Unknown

COMMENTS:

CAV decals and ZEV goals: The Legislature has set several goals to reduce GHG emissions and address climate change. The Global Warming Solutions Act of 2006, AB 32 (Nuñez), Chapter 488, Statutes of 2006 and subsequent companion legislation SB 32 (Pavley), Chapter 249, Statutes of 2016, requires California to reduce statewide GHG emissions to 40% below the 1990 level by 2030. The 1990 level is an aggregated statewide limit and is not sector- or facility-specific. CARB is responsible for developing a Scoping Plan to detail how the state will achieve its GHG emissions reduction targets mandated by law.

Nearly 40% of California's GHG emissions are generated by the transportation sector, which includes both the light-duty (passenger) and medium- and heavy-duty fleets. Heavy-duty diesel trucks also contribute to unhealthy levels of ozone, inhalable particulate matter, carbon monoxide, NOx, and sulfur dioxide, affecting local air quality. In the transportation sector, measures to reduce GHG emissions include requiring the use of low-carbon fuels, cleaner vehicles, and strategies to promote sustainable communities and improved transportation choices that reduce growth in number of vehicle miles traveled.

To further these efforts, at the end of 2020, Governor Newsom issued Executive Order (EO) N-79-20 which requires 100% of in-state sales of new passenger cars and trucks to be zero-emission by 2035. EO N-79-20 charges CARB with developing and proposing passenger vehicle and truck regulations requiring increasing volumes of new ZEVs sold in the State towards that goal.

According to the author, “California’s current program allowing HOV lane access for ZEVs has proven to be an incentive for Californians to make the transition to ZEVs. Assuming continued federal authorization, a one year extension of the program will continue to provide incentives to buyers to transition to ZEVs and give the state additional data on ZEV adoption. Previous guardrails placed on this program to protect HOV lanes from degradation remain in place. While California leads the country in ZEV adoption, recent reports have indicated a slower growth rate for sales, making it is prudent to leave the program in place for an additional year for continued evaluation and to avoid a major disruption of adoption rates.”

CAV decals were designed to be one of the benefits of purchasing a ZEV. Besides providing single occupancy access to HOV lanes, they also are required to provide discounted or free tolls for bridges and in high occupancy toll (HOT) lanes. Of the 11 HOT lanes in the state, four charge no toll for vehicles with a CAV decal. The other HOT lanes provide a 15% or 50% discount on tolls.

Initially, the CAV decal provided an incentive for people to buy ZEVs and hybrids. According to the 2014 University of California Institute of Transportation Studies (UCITS) report *Exploring the Impact of High Occupancy Vehicle (HOV) Lane Access on Plug-in Vehicle Sales and Usage in California* “When asked about their primary motivation to buy a car 57% of Plug-in Priuses, 34% of Volts and 38% of LEAFs identified it as the HOV sticker.”

According to the California Energy Commission, ZEV sales in 2014 only accounted for 2.98% of the state’s car sales. Today, ZEVs account for 25% of the new car sales.

According to the 2023 report *Assessing the Potential Impacts of Toll Discounts on Zero-Emission Vehicle Adoption* from the National Center for Sustainable Transportation at UC Davis ITS, the incentive the CAV decal provides would likely only support a small increase in ZEV sales. Moreover, car owners disproportionately from middle and high-income suburban commuters are the beneficiaries.

The Alliance for Automotive Innovation, writing in support of this bill, argues “The Auto Innovators have been a proud partner in helping California reach its ambitious climate goals. In 2023, 25% of new cars sold in California were ZEVs, which is well ahead of the California Air Resources Board’s 2012 target of 15% by 2025. Helping in reaching that goal, no doubt, is the policy of letting ZEVs access HOV lanes: a significant incentive that encourages car buyers to choose a ZEV.

Under current law, California’s successful program that allows ZEVs to access HOV lanes is scheduled to sunset in 2025. Efforts are underway at the federal level to extend the federal authorization for this state program. However due to the unusual timing of the existing sunset date in California statute (September 30, 2025) which aligns with the federal law, legislation is needed this year to ensure the program does not lapse, should a federal extension be granted.”

HOV Lane Degradation: The federal government requires traffic in HOV lanes to move at a certain speed. Annually, Caltrans must complete an HOV Facilities Degradation Report to assess if the state is in compliance with federal law. An HOV facility is considered degraded if the average traffic speed during the morning or evening weekday peak hour period is less than 45 mph for more than 10% of the time over a consecutive 180-day period. Recent reports have found that 22% to 40% of the state’s HOV facilities do not meet federal requirements. According to the July 2023 report, in 2022 “Of the 1,130 lane-miles monitored during the morning peak hour period, about 22% (245 lane-miles) were degraded. Of the 1,130 lane-miles monitored during the afternoon peak hour period, approximately 36% (410 lane-miles) were degraded. District 7 (Los Angeles area), District 8 (Riverside and San Bernardino Counties), and District 12 (Orange County) had the most degradation. Approximately 40% of District 7, District 8, and District 12 HOV facilities that operated in both peak hour periods experienced degradation in both peak hour periods.” During that same period, Los Angeles accounted for 29% of the state’s active CAV decals, Orange County accounted for 18% of the state’s active CAV decals and San Bernardino/ Riverside accounted for 8% of the state's active decals.

CAV History: HOV lane access for single-occupant clean vehicles was first authorized in 1999 with the passage of AB 71 (Cunneen), Chapter 330, Statutes of 1999. Over the years, this access was expanded to encourage the purchase of more fuel-efficient vehicles. However, the addition of hybrid vehicles in 2004 eventually resulted in lane degradation. As a result, that program was allowed to sunset and was replaced. Since then, numerous bills have been enacted that modified and expanded the program. More recently, AB 544 (Bloom), Chapter 630, Statutes of 2017

established a new CAV program, until the expiration of federal authorization on September 30, 2025, under which decals issued in 2019 and later will have staggered expiration dates on January 1 of the fourth year after the year of issuance. AB 544 also modified the Clean Air Vehicle Rebate Project's (CVRP) eligibility requirements. This modification prohibited the DMV from issuing a decal for a vehicle purchased on or after January 1, 2018, if the applicant received a CVRP rebate and has an income above a specified limit (\$150,000 for single filers, \$204,000 for head-of-household filers and \$300,000 for joint filers). Finally, SB 957 (Lara) Chapter 367, Statutes of 2018, authorized CAV decals whose sticker has expired to obtain a new one if the owner's household income is at or below 80% of the state median income and the owner has not previously obtained a CAV sticker for the same vehicle. Those stickers were only in effect from January of 2020 to January of 2024.

Committee Comments: Federal authorization for CAV vehicles to operate in California expires on September 30, 2025, as does the state's authorization for issuing CAV decals. Should the federal government decide late next year to extend the authority for states to permit CAVs in HOV and HOT lanes, the Legislature would not have an opportunity to weigh in on whether we should extend or modify the state's existing program.

California ZEV adoption is far ahead of the rest of the country. In 2023, California accounted for 34% of all ZEV sales. By extending the sunset for this program until January 1, 2027, the Legislature has the opportunity in 2026 to evaluate if the state should have a CAV decal program. If the Federal government does not extend the authority for CAVs to operate beyond September 30, 2025, this bill and existing law would end the program on that date, keeping California in compliance with federal law.

Previous Legislation: SB 957 (Lara), Chapter 367, Statutes of 2018, authorized CAV decals whose sticker has expired to obtain a new one if the owner's household income is at or below 80% of the state median income and the owner has not previously obtained a CAV sticker for the same vehicle. Those stickers were only in effect from January of 2020 to January of 2024.

AB 544 (Bloom), Chapter 630, Statutes of 2017, modifies the CAV program and creates a new program to take effect when the program sunsets in 2019.

SB 838 (Committee on Budget and Fiscal Review), Chapter 339, Statutes of 2016, eliminated the cap on the number of green HOV lane decals that could be issued. SB 838 also required Caltrans to prepare and submit a report to the Legislature by December 1, 2017, on the degradation status of HOV lanes on the state highway system.

AB 1964 (Bloom) of 2016, was similar to AB 544. AB 1964 died on the Senate Floor.

AB 1721 (Linder), Chapter 526, Statutes of 2014, provides toll-free or reduced-rate passage for single-occupant, low-emission vehicles with a CAV decal.

SB 853 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2014, among other provisions, expanded the number of available green decals from 40,000 to 55,000, AB 2013 (Muratsuchi), Chapter 527, Statutes of 2014, expanded the number from 55,000 to 70,000, and AB 95 (Committee on Budget), Chapter 12, Statutes of 2015, expanded the number from 70,000 to 85,000.

SB 535 (Yee), Chapter 215, Statutes of 2010, essentially replaced the hybrid yellow decal program with a new program aimed at incentivizing the purchase of enhanced advanced technology partial zero-emission vehicles. The new program was capped at 40,000 vehicles and was originally scheduled to sunset on January 1, 2015. Sunset dates for both the green decal and white decal programs were subsequently extended to January 1, 2019, by SB 286 (Yee), Chapter 414, Statutes of 2013, and AB 266 (Blumenfeld), Chapter, 405, Statutes of 2013.

AB 2628 (Pavley), Chapter 725, Statutes of 2006, expanded the HOV lane access by allowing hybrid vehicles to use the lanes.

AB 71 (Cunneen), Chapter 330, Statutes of 1999, first authorized access to HOV lanes for certain vehicles.

REGISTERED SUPPORT / OPPOSITION:**Support**

Alliance for Automotive Innovation

Opposition

One Individual

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