

Date of Hearing: April 4, 2016

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1964 (Bloom) – As Amended March 28, 2016

SUBJECT: High-occupancy vehicle lanes: vehicle exceptions

SUMMARY: Creates a new program (upon expiration of the existing program) to allow plug-in hybrid electric vehicles (PHEVs) access to high-occupancy vehicle (HOV) lanes for a three-year period, regardless of vehicle occupancy level. Specifically, **this bill:**

- 1) Imposes a January 1, 2018, sunset on the issuance of decals for the white sticker HOV access program for certain clean air vehicles (discussed below); provides that decals issued before that date are valid until January 1, 2019, consistent with the existing sunset date for this program.
- 2) Provides that decals issued in the green sticker HOV access program (also discussed below) prior to January 1, 2018, are valid until January 1, 2019, also consistent with the existing sunset date.
- 3) Provides that decals issued in the green sticker HOV access program on or after January 1, 2018, and before January 1, 2019, are valid until January 1, 2022.
- 4) Strikes the cap on the number of decals that can be issued in the green sticker program.
- 5) Creates a new program, beginning January 1, 2019, that provides for the issuance of an unlimited number decals to allow HOV access for PHEVs until January 1 of the third year after the year of issuance; requires decals for this program to be distinguishable from white or green stickers.
- 6) Provides for a 60-day enforcement transition period in the event that clean air vehicle access to HOV lanes is discontinued.
- 7) Makes other, non-substantive changes to related provisions.

EXISTING LAW:

- 1) Directs the Department of Motor Vehicles (DMV) to issue decals for clean air vehicles, until January 1, 2019, as follows:
 - a) White stickers 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 (ILEV) evaporative emission standard. Vehicles that meet these requirements are typically certified pure zero-emission vehicles (100% battery electric and hydrogen fuel cell) and compressed natural gas vehicles; and,
 - b) Green stickers are available for 85,000 vehicles that meet California's enhanced AT PZEV requirement or transitional zero-emission vehicles (TZEV) standard, generally referred to as PHEVs.

- 2) Requires that drivers of clean air vehicles displaying the appropriate white or green access sticker be allowed 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.
- 3) Requires Caltrans to remove individual HOV lanes, or HOV lane segments, during periods of peak congestion from these 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 clean air vehicles will significantly increase HOV lane congestion.

FISCAL EFFECT: Unknown

COMMENTS: In 2012, Governor Brown issued an executive order laying the foundation for 1.5 million zero- or near-zero emission vehicles to be on California's roadways by 2025 (referred to as the ZEV mandate). In response, the California Air Resources Board promulgated regulations requiring the largest automakers to derive 15% of their annual California sales from electric vehicles and other zero- or near-zero emissions vehicles by 2025. This equates to approximately 270,000 vehicles annually.

Transitioning to clean air vehicles presents some significant hurdles for consumers to overcome, for example, upfront costs are higher than internal combustion engine (ICE) vehicles. Moreover, electric vehicles, with their relatively limited miles-per-charge capability, often induce range anxiety. Given this, and given the importance of these vehicles in meeting climate change goals, federal and state governments offer incentives to spur the commercial success of these vehicles. Typical incentives include: reduced purchase prices, tax credits, rebates, sales tax exemptions, HOV access, and free parking. These incentive programs appear to have been successful in enticing consumers to purchase clean air vehicles over ICE vehicles. For example, in a survey report released in 2014 by the California Center for Sustainable Energy, 59% of respondents indicated that access to HOV lanes was an important motivation for purchasing a clean air vehicle.

California's experiment in incentivizing the purchase of clean air vehicles by offering HOV lane access for single-occupant vehicles was first authorized in 1999 with the passage of AB 71 (Cunneen), Chapter 330, Statutes of 1999, for super ultra-low emission vehicles and ILEV's (white sticker vehicles). That access was later expanded by AB 2628 (Pavley), Chapter 725, Statutes of 2006, to allow hybrid vehicles. Yellow decals were issued for these vehicles. Since allowing large numbers of hybrids into HOV lanes would reduce the effectiveness of the lanes by compromising their ability to offer a quicker commute than adjacent mixed-flow lanes, AB 2628 limited the number of stickers (yellow) for hybrids that were allowed to be issued to 75,000 and allowed Caltrans to suspend HOV lane privileges for hybrids on any particular lane that reached a specified level of congestion. The yellow sticker program was eventually allowed to sunset.

SB 535 (Yee), Chapter 215, Statutes of 2010, essentially replaced the hybrid yellow sticker program with a new program aimed at incentivizing the purchase of enhanced AT PEZ. The new program (which uses green stickers) was capped at 40,000 vehicles and was originally scheduled to sunset on January 1, 2015. SB 286 (Yee), Chapter 414, Statutes of 2013, and AB 266 (Blumenfeld), Chapter, 405, Statutes of 2013, subsequently extended sunset dates for

both the green sticker and white sticker programs to January 1, 2019. The cap has also been raised incrementally to the current limit of 85,000 decals, all of which have been disbursed.

An HOV lane, commonly referred to as a "carpool" or "diamond" lane, is part of a traffic management strategy designed to provide an incentive for commuters to form carpools by offering reduced travel times. The declared legislative intent in establishing these lanes is to relieve traffic congestion, conserve fuel, and reduce vehicular emissions.

The success of HOV access programs for clean air vehicles triggers concerns that allowing these additional cars in the HOV lanes may result in degraded performance of the lanes. The fear is that, if HOV lanes become sufficiently degraded, their benefits (i.e., traffic congestion relief, fuel conservation, and reduced emissions) will be lost and carpooling will be discouraged. Consequently, both state and federal existing law require Caltrans to monitor the performance of HOV lanes and to take action to remedy the degradation if it occurs.

The latest HOV performance monitoring report issued by Caltrans (based on 2014 data), indicates that in the first half of 2014, 59% of the HOV lanes were degraded. That number rose to 63% for the second half of 2014. According to Caltrans, the connection between clean air vehicles and degradation has yet to be established. Traffic counts indicate that clean air vehicles constitute a relatively small percentage of the peak hour HOV volume. For example, in Los Angeles and Ventura counties, clean air vehicles constituted up to 5% of the peak HOV traffic on individual freeway segments.

In response to the HOV lane performance monitoring and consistent with federal law, Caltrans submitted to the Federal Highway Administration (FHWA) an action plan to remedy the HOV lane degradation. That plan called for, among other strategies, increased enforcement, improved incident management response times, and improved detection. The action plan specifically stated that Caltrans would not be considering prohibiting clean air vehicles from HOV lanes at this time because:

- 1) These vehicles constitute a very low percentage of the users of HOV lanes; and,
- 2) Prohibiting these vehicles runs counter to the Governor's Executive Order that directs state agencies to take action to support and incentivize the purchase and use of these vehicles.

FHWA responded to Caltrans' proposed action plan last year, indicating that the plan did not adequately provide "proactive or tangible strategies to affect immediate mitigation for bringing the facilities into compliance or at least leading towards that goal." As a result, Caltrans will be considering other options (reportedly not including removal of clean air vehicles) to improve HOV lane performance, such as raising vehicle occupancy levels.

According to the author, AB 1964 is necessary to provide long-term certainty for consumers of PHEVs. As the 2019 sunset date approaches, the author asserts that the value of the green sticker and the incentive for purchasing a PHEV will continually diminish.

Committee comments, concerns, and suggested amendments:

- 1) That the state should help spur the commercial market for ZEVs is undeniable. First, transitioning from ICE vehicles to vehicles that meet the ZEV mandate is the cornerstone of

the state's efforts to reduce greenhouse gas emissions from the transportation sector. The more ZEVs that are purchased, the sooner we meet these goals and the sooner we realize a healthier environment. Second, the 15% ZEV mandate will not be easy for automakers to attain and HOV access for clean air vehicles has proven to be an effective incentive to help. A recent University of California, Los Angeles study showed that the ability to access HOV lanes prompted the purchase of more than 24,000 plug-in electric cars and hybrids, representing 40% of ZEV sales in major urban areas. AB 1964 represents a creative approach to providing a more sustainable way to continually offer this incentive.

- 2) The problem with the HOV access incentive, and with this bill, is that there is no established expectation that the incentive should, at some point, stop. The state should not have to be in the position of indefinitely subsidizing or otherwise incentivizing ZEVs. That was not the intent of the initial HOV access incentive, as evidenced by both a sunset date and a cap on the number of decals that could be issued, and it should not be the intent of this bill.

AB 1964 should be amended to establish a performance metric for the revised program. For example, HOV access incentives for PHEVs should cease six months after the PHEV market share of total cars sold reaches 8.6% and sustains at least this level for two consecutive years. This will ensure the incentive is in place long enough for the market to be able to sustain itself. (Of the 15% ZEV mandate, PHEVs are estimated to likely make up 8.6% of the total cars sold.)

- 3) The bill ceases to issue white stickers for pure zero emission vehicles on January 1, 2018, even though decals are valid until January 1, 2019. White stickers should be issued up until the sunset date of the program to allow even partial-year use of the HOV access benefit. The bill should be amended to correct this drafting error.
- 4) Increasingly, the HOV lane performance is degraded. This bill will effectively allow a significant increase in the number of vehicles that will be eligible to access the HOV lanes, thereby exacerbating the HOV lane degradation to the point that carpool requirements may have to be increased to three or more occupants.

Related legislation: AB 1851 (Gray and Ting), among other things, removes the 85,000 cap on the number of decals that can be issued in the green sticker program. AB 1851 is scheduled to be heard by this committee on April 11, 2016.

The Governor's administration has proposed trailer bill language to extend the white sticker program until 2025, consistent with recently enacted federal law. The Governor's proposal would also remove the cap on the number of decals that can be issued in the green sticker program.

Previous legislation: AB 71 (Cunneen), Chapter 330, Statutes of 1999, first authorized access to HOV lanes for vehicles in the white sticker program.

AB 2628 (Pavley), Chapter 725, Statutes of 2006, expanded the HOV lane access by allowing hybrid vehicles to use the lanes. Yellow stickers were issued for this program.

SB 535 (Yee), Chapter 215, Statutes of 2010, essentially replaced the hybrid yellow sticker program with a new program aimed at incentivizing the purchase of enhanced AT PEZ. The

new program (which uses green stickers) was capped at 40,000 vehicles and was originally scheduled to sunset on January 1, 2015. Sunset dates for both the green sticker and white sticker 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.

SB 853 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2014, among other provisions, expanded the number of available green stickers 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.

REGISTERED SUPPORT / OPPOSITION:**Support**

Auto Alliance

Opposition

None on file

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