Date of Hearing: April 24, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
AB 544 (Bloom) – As Amended March 21, 2017

SUBJECT: Vehicles: high-occupancy vehicle lanes

SUMMARY: Creates a new program (upon expiration of the existing program) to grant federal inherently low emission vehicles (ILEVs) and transitional zero-emission vehicles (TZEVs) access to high-occupancy vehicle (HOV) lanes for approximately a four-year period, regardless of vehicle occupancy level. Specifically, **this bill:**

1) Provides that, for white HOV decals issued for ILEVs and green HOV decals issued for TZEVs, the following expiration dates apply:

   a) Decals issued prior to January 1, 2017, are valid until January 1, 2019;

   b) Decals issued on or after January 1, 2017, and before January 1, 2018, are valid until January 1, 2021;

   c) Decals issued on or after January 1, 2018, and before January 1, 2019, are valid until January 1, 2022; and

   d) Decals issued on or after January 1, 2019, are valid until January 1 of the fourth year after the year of issuance.

2) Provides for a 60-day enforcement transition period in the event that clean air vehicle access to HOV lanes is discontinued.

3) 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 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 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 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, generally referred to as PHEVs.

2) Requires that drivers of clean air vehicles displaying the appropriate white or green access decal 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 clean air vehicle 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.

4) Requires that, if Caltrans determines HOV lane access is no longer authorized for clean air vehicles under federal law, Caltrans is to notify the Secretary of State; subsequently, the authority to access HOV lanes by these vehicles will become inoperative; federal authority for HOV lane access by clean air vehicles is set to expire September 2025.

FISCAL EFFECT: The Assembly Appropriations Committee analysis of a similar bill last session, AB 1984 (Bloom), noted the following fiscal impact:

> Costs to the DMV are minor and absorbable. Caltrans will continue to incur annual special fund costs of around $100,000 beyond the current sunset date for one position associated with federally required analysis and reporting regarding compliance of HOV lanes with federal performance standards.

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 (ARB) 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 300,000 vehicles annually (based on total new car sales in 2016).

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 somewhat 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 ILEVs (white decal 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 decals (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 decal program was eventually allowed to sunset.

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 AT PZEVs. The new program (which uses green decals) 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 (Blumenfield), Chapter, 405, Statutes of 2013, subsequently extended sunset dates for both the green decal and white decal programs to January 1, 2019. The cap was raised incrementally to 85,000 decals, until SB 838 (Committee on Budget and Fiscal Review), Chapter 339, Statutes of 2016, eliminated the cap all together.

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 lane 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. In light of this, last session's SB 838, in addition to eliminating the cap on the number of green decals issued, directed 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.

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, 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, the HOV lane access program is "invaluable to California reaching its ambitious greenhouse gas reductions goals. The green and white decals have had a demonstrated impact in motivating customers to choose zero emission vehicles and transitional zero emission vehicles. In addition to facilitating the adoption of innovative technologies, the decals, by incentivizing consumers to choose clean air vehicles, have helped reduce greenhouse gas emissions and improve air quality. As California's zero emission vehicle regulations ramp up over the coming years, it is essential that we take advantage of every tool in our toolbox, including the Clean Air Vehicle Decal Program. This bill will bolster this important incentive and help California achieve its greenhouse gas reductions and air quality goals."

Committee comments and concerns:

1) That the state should help spur the commercial market for zero-emission vehicles is unquestionable. 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 zero-emission vehicles 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 zero-emission vehicle sales in major urban areas. This bill represents a creative approach to providing a more sustainable way to continually offer this incentive.

2) This bill is one of nearly a dozen bills pending before the Assembly that seeks to incentivize the purchase of zero- or near zero-emission vehicles. While more incentives may be needed to ensure full market adoption of these vehicles, the fact that the multitude of incentive programs already in existence have not resulted in a significant increase in market share. For example, according to a report issued by the California New Car Dealers Association, new registration for plug-in hybrids and electric vehicles totaled 2.5% of the new market share in 2013. Four years later, that number had inched up to only 3.5%.

   Given that this is only one of many bills introduced this year to create and enhance clean air vehicle incentive programs, the Legislature may wish to pause, gather the data, and develop a comprehensive strategy to support the ZEV mandate, rather than to continue to pursue a patchwork approach.

3) Increasingly, 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. This may be another reason that the Legislature may wish to pause, until the results of the HOV lane degradation study are released later this year.

Related legislation: AB 188 (Salas) would require ARB to update guidelines to allow participants to replace their vehicles with a light-duty truck so long as they are retiring a pickup truck and the replacement truck meets fuel efficiency standard set for minivans. AB 188 passed out of this committee on March 27, 2017, with a 14-0 vote and is awaiting a hearing in the Assembly Appropriations Committee.

AB 193 (Cervantes) would require ARB to create a program that incentivizes the purchase and use of used clean air vehicles by low- and moderate income individuals living in areas of the state with poor air quality and where existing clean air vehicle rebate programs have been underutilized. AB 193 is set to be heard by this committee on April 24, 2017.

AB 615 (Cooper) is an urgency measure that would make permanent the current income restrictions in the Clean Vehicle Rebate Program that were imposed by last year's budget. AB 615 passed out of this committee on March 20, 2017, with a 13-0 vote and is awaiting a hearing by the Assembly Appropriations Committee.

AB 964 (Gomez) would create a new program (The California Affordable Clean Vehicle Program) to help low-income and high financial risk individuals buy low-emission vehicles using qualified loans. AB 964 passed out of this committee on April 17, 2017, on a vote of 10-3 and is set to be heard by the Assembly Natural Resources Committee on April 24, 2017.

AB 1341 (Calderon) would establish tax credits, deductions, and exemptions to incentivize the deployment of ZEVs and TZEVs. AB 1341 passed out of this committee on April 17, 2017, on a vote of 9-2 and is set to be heard by the Assembly Revenue and Taxation Committee on April 24, 2017.

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

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

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 (which uses green decals) 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 (Blumenfield), 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 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.

AB 1984 (Bloom) of 2016 was similar to this bill. AB 1984 died on the Senate Floor.

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 the California Department of Transportation (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.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of Global Automakers
California Electric Transportation Coalition
California New Car Dealers Association
Hyundai

Opposition

None on file

Analysis Prepared by: Janet Dawson / TRANS. /