

Date of Hearing: June 25, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 957 (Lara) – As Amended June 12, 2018

**SENATE VOTE:**

**SUBJECT:** Vehicles: high-occupancy vehicle lanes.

**SUMMARY:** Allows the Department of Motor Vehicles (DMV) to issue a Clean Air Vehicle (CAV) decal which allows a single occupant vehicle access to high-occupancy vehicle (HOV) lanes for a CAV that has previously been issued a decal, if the owner of the vehicle is low-income and has not obtained a CAV decal prior to January 1, 2017. Specifically, **this bill:**

- 1) Expands the eligibility for the CAV program to allow for the issuance of a decal for a vehicle that had previously been issued a decal, if the applicant's household income is at or below 80% of the state median income.
- 2) Prohibits issuance of the aforementioned decal if a person obtained a decal for a vehicle prior to January 1, 2017.
- 3) Allows DMV to issue decals that would expire in 2023 to eligible applicants from January 1, 2019 until January 1, 2023.
- 4) Requires DMV to report to the Legislature by June 1, 2022, on the number of decals issued pursuant to this bill.
- 5) Requires DMV to select a governmental or nonprofit entity for the determination of income eligibility.

**EXISTING LAW:**

- 1) 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.
- 2) Requires white and green decals that were issued prior to January 1, 2017, to expire on January 1, 2019.

- 3) 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.
- 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 on or after January 1, 2019, to be valid until January 1st of the fourth year after issuance.
- 5) Sunsets the CAV program on September 30, 2025.
- 6) Authorizes drivers of CAVs 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.
- 7) 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.
- 8) 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; federal authority for HOV lane access by CAVs is set to expire September 2025.
- 9) Establishes the Charge Ahead California Initiative pursuant to SB 1275 (de León), Chapter 530, Statutes of 2014, that, among other things, includes the goal of placing at least one million ZEV and near-zero emission vehicles into service by January 1, 2023, and increasing access to these vehicles for disadvantaged, low-income, and moderate-income communities and consumers.

**FISCAL EFFECT:** Unknown

**COMMENTS:** To reduce mobile source pollution and meet our climate goals, the state is reducing its reliance on gasoline-powered vehicles and promoting efforts to deploy clean air and alternative fuel vehicles on California roads.

The state has created various incentives to entice motorists to buy these cars, including the ability for a driver to use HOV lanes without meeting occupancy requirements, in order to better achieve Legislature's goal of placing 1 million ZEVs on California's roadways by 2023, the Governor's 2012 goal of placing 1.5 million ZEVs on California's roadways by 2025 (Executive Order B-16-12) and the Governor's new goal of 5 million ZEVs on the road by 2030 (Executive Order B-48-18).

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. In order to drive in an HOV lane, a driver must typically have 2 or more occupants in their car. By promoting carpooling, HOV lanes decrease congestion and reduce vehicular pollution. Existing federal law authorizes states to allow CAVs and toll-paying

vehicles to access HOV lanes without meeting occupancy requirements. States that allow these vehicles to access HOV lanes must monitor and report on the performance of the lanes to the Federal Highway Administration to ensure the integrity of the lane is not degraded. An HOV lane is considered degraded if the average traffic speed during the morning or evening weekday peak commute hour is less than 45 miles per hour for more than 10 percent of the time over a consecutive 180-day period. Recent Caltrans data shows 65 and 68 percent of HOV lanes were degraded in the first and second half of 2016 respectively.

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, for super ultra-low emission vehicles and ILEV's (white decal vehicles). That access was later expanded by AB 2628 (Pavley), Chapter 725, Statutes of 2004, to allow hybrid vehicles such as, the Toyota Prius. 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 yellow decals for hybrids to 75,000 and allowed Caltrans to suspend HOV lane privileges for hybrids on any particular lane that reached a specified level of congestion. In 2006, AB 2600, (Lieu/Lieber), Chapter 614, Statutes of 2006 increased the cap to 85,000, which was reached in 2007. 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 PZEV's (plug-in hybrids). 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 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.

Cognizant of the potential impacts of the CAV program on HOV lanes and with the sunset date of the white and green decals soon approaching, the Legislature passed and Governor Brown signed AB 544 (Bloom), Chapter 630, Statutes of 2017. AB 544 retained the January 1, 2019, sunset date for decals that were issued prior to January 1, 2017, and only allowed holders of decals issued in 2017 and 2018 to apply for a new decal that is valid until January 1, 2022. To reduce the administrative burden of DMV reissuing decals, budget trailer bill language authorizes decals issued by DMV between March 1, 2018, and January 1, 2019, (red decals) to be valid until January 1, 2022. DMV will only have to reissue decals for the decals that were issued between January 1, 2017, and March 1, 2018.

AB 544 also 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. See the table below for a breakdown of decal validity.

<b>Decal Issuance Date</b>	<b>Decal Expiration Date</b>
Prior to January 1, 2017	January 1, 2019

January 1, 2017 – February 28, 2018	January 1, 2019*
March 1, 2018 – December 31, 2019	January 1, 2022
January 1, 2019 – December 31, 2019	January 1, 2023
January 1, 2020 – December 31, 2020	January 1, 2024
January 1, 2021 – December 31, 2021	January 1, 2025
January 1, 2022 – December 31, 2022	September 30, 2025
January 1, 2023 – December 31, 2023	September 30, 2025
January 1, 2024 – December 31, 2024	September 30, 2025
January 1, 2025 – September 30, 2025	September 30, 2025

\*Must apply for new decal on or after January 1, 2019, which will be valid until January 1, 2022.

DMV indicates that it has issued 23,934 red decals from March 3, 2018, to May 30, 2018, and as of May 30, 2018, has issued a total of 340,750 green, white, red decals. The vast majority of these decals have been issued in the Bay and Los Angeles area.

AB 544 also modified the Clean Air Vehicle Rebate Project's (CVRP) eligibility requirements. This modification prohibits the DMV from issuing a decal for a vehicle purchased on or after January 1, 2018, if the applicant has 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). Through CVRP, the Air Resources Board (ARB) offers a rebate of \$5,000 for hydrogen electric, \$2,500 for battery electric, and \$1,500 for plug-in hybrid electric vehicles, and an additional \$2,000 for low income drivers. Applicants that earn more than these specified limits cannot receive a CVRP rebate but can be issued a CAV decal. Individuals below these specified limits can obtain both a CVRP rebate and a CAV decal. These rebates are a crucial part of the Governor's new Executive Order and new eight-year initiative to accelerate sales of ZEVs.

Existing law does not allow DMV to issue a CAV decal to a person who buys a used CAV. The author has introduced this bill to incentivize the purchase of these vehicles for low-income applicants and notes that a costly purchase of a new vehicle creates barriers for an individual to take advantage of this incentive. The author further reasons that this bill will help reduce emissions from long-distance commuters and in impacted communities.

Writing in support, the California Environmental Justice Alliance states, "SB 957 will allow a person earning less than the median income- approximately \$50,000- to apply for an HOV decal for a used vehicle, even if the car already has had a sticker. Access to the HOV lane is often the reason consumers choose a ZEV over other car options, and therefore SB 957 provides a clear incentive that will build interest in ZEVs in low-income communities. California's growing number of super commuters, who live in affordable housing far from their work, often cannot afford new ZEV car".

In opposition, the Metropolitan Transportation Commission writes, “given the program was just extended for another seven years and the cap on the number of decals has been removed we simply cannot support a change that would further increase the number of single occupant vehicles using HOV lanes. By definition, carpool lanes are designed to encourage California motorists to carpool or ride transit rather than drive alone, but your bill would further erode the incentive to do so by increasing the share of single occupant vehicles using the lanes. Already, two-thirds of the state’s carpool lanes are failing the federal performance standard and CAVs are a contributing factor, resulting in delayed bus service relied upon by many low-income riders.”

*Committee Comments and Concerns:* The state has created various programs to increase the sales of clean vehicles and has emphasized the need to deploy these vehicles in low income communities and communities that are most impacted by pollution. Examples of these incentive programs include the CVRP that provides rebates (ranging from \$1,500-\$7,000, depending on the purchasers' income status) on the purchase of new ZEVs. In addition, programs such as the Enhanced Fleet Modernization Program (EFMP) and EFMP-Plus Up, while not exclusively a ZEV program, offers incentives for individuals to retire their old, high-polluting vehicles with additional incentives for those individuals who replace their vehicles with ZEVs. There are also other incentive programs at ARB that encourage the use of clean vehicles in the light-duty transportation sector such as the Car Sharing and Mobility Options Pilot Project. This bill is another attempt to encourage the purchase of these vehicles in these communities and to incentivize a used CAV market for those who cannot afford to lease or buy a new CAV. According to a 2014 study done by UC Davis, CAV decals can be one of the most significant reasons why an individual decides to buy a clean vehicle. However, while enticing buyers with CAV decals has been an effective non-monetary tool to deploy more vehicle on California roads, this bill does not address several barriers that make it difficult for a low-income person to own a CAV in the first place, including lack of charging infrastructure, lack of awareness that incentives and these type of vehicles exist, and the cost associated with buying a used CAV in comparison to buying a used gas-powered vehicle.

As mentioned earlier, the majority of HOV lanes in California are degraded and the amount of degraded lanes increases each year. There are multiple potential causes for degradation, including high demand, operational issues and limited enforcement. Caltrans states that “the connection between CAV and HOV lane degradation has yet to be established” and further notes, “if they are shown to impact HOV lane degradation, Caltrans would have to consider options which could include expansion of facilities, raising occupancy, or potentially restricting CAVs from those HOV lanes where the degradation impacts are the highest”. With the recent enactment of AB 544 and “a connection yet to be established”, Caltrans will need to collect more data on the number of CAVs in HOV lanes and their impact on HOV lane degradation.

DMV indicates that there are approximately 300,000 vehicles that will be eligible to be re-issued a decal pursuant to this bill. Of this pool of decals, it is unknown how many low-income households will take advantage of this incentive. However, what is known is that the potential of adding more vehicles to our already degraded HOV lanes will only exacerbate congestion in these lanes, especially in areas with already congested freeways and a high issuance of decals, such as the Bay and Los Angeles area.

AB 544 made significant changes to the CAV program in order to alleviate concerns with HOV lane degradation. Starting in 2019, owners whose vehicles were issued a green or white decal prior to January 1, 2017 will be unable to access HOV lanes unless they meet occupancy

requirements and owners whose eligible vehicles will be issued a decal post 2019 will have access to HOV lanes for four years. The staggered four year access allows for an automatic “rolling” program, meaning that every year a certain number of CAV decals will expire. For that reason, AB 544 included an explicit prohibition on issuing a decal to a vehicle whose sticker has expired. Given the recent enactment of AB 544 and the unknown nexus between CAV access and HOV lane degradation, the Legislature may wish to pause to balance against our state goals of advanced CAV sales and the potential cost of increased congestion on our HOV lanes. Additionally, one can argue that if the state provides a narrow exemption to allow HOV access to one sector of the community, others may follow.

*Previous Legislation:* 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.

AB 193 (Cervantes) of 2017, would have required ARB to establish a Clean Reused Vehicle Rebate Project. AB 193 is on the Senate Inactive File.

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 904 (Perea) of 2015, would have established a Clean Reused Vehicle Rebate Project. AB 904 was held on Senate Appropriations Committee suspense file.

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 (Blumenfield), 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 of Automobile Manufacturers  
Advance Energy Economy  
Asian Pacific Environmental Network  
California Electric Transportation Coalition  
California Environmental Justice Association  
Central California Asthma Collaborative  
Coalition for Clean Air  
Communities for a Better Environment  
The Greenlining Institute

**Opposition**

Metropolitan Transportation Commission

**Analysis Prepared by:** Cynthia Alvarez / TRANS. / (916) 319-2093