

108TH CONGRESS
2D SESSION

H. R. 5417

To amend title 23, United States Code, relating to high occupancy vehicle lanes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2004

Mr. SHERMAN introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, relating to high occupancy vehicle lanes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. HOV FACILITIES.**

4 (a) IN GENERAL.—Subchapter I of chapter 1 of title
5 23, United States Code, is amended by adding at the end
6 the following:

7 **“§ 167. HOV facilities**

8 “(a) IN GENERAL.—

9 “(1) AUTHORITY OF STATE AGENCIES.—A
10 State agency that has jurisdiction over the operation

1 of a HOV facility shall establish the occupancy re-
2 quirements of vehicles operating on the facility.

3 “(2) OCCUPANCY REQUIREMENT.—Except as
4 otherwise provided by this section, no fewer than 2
5 occupants per vehicle may be required for use of a
6 HOV facility.

7 “(b) EXCEPTIONS.—Notwithstanding the occupancy
8 requirements of subsection (a)(2), the following exceptions
9 shall apply with respect to a State agency operating a
10 HOV facility:

11 “(1) MOTORCYCLES AND BICYCLES.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the State agency shall allow motor-
14 cycles and bicycles to use the HOV facility.

15 “(B) SAFETY EXCEPTION.—A State agen-
16 cy may restrict use of the HOV facility by mo-
17 torcycles or bicycles (or both) if the agency cer-
18 tifies to the Secretary that such use would cre-
19 ate a safety hazard and the Secretary accepts
20 the certification. The Secretary may accept a
21 certification under this subparagraph only after
22 the Secretary publishes notice of the certifi-
23 cation in the Federal Register and provides an
24 opportunity for public comment.

1 “(2) PUBLIC TRANSPORTATION VEHICLES.—
2 The State agency may allow public transportation
3 vehicles to use the HOV facility if the agency—

4 “(A) establishes requirements for clearly
5 identifying the vehicles; and

6 “(B) establishes procedures for enforcing
7 the restrictions on the use of the facility by
8 such vehicles.

9 “(3) HIGH OCCUPANCY TOLL VEHICLES.—The
10 State agency may allow vehicles not otherwise ex-
11 empt pursuant to this subsection to use the HOV fa-
12 cility if the operators of such vehicles pay a toll
13 charged by the agency for use of the facility and the
14 agency—

15 “(A) establishes a program that addresses
16 how motorists can enroll and participate in the
17 toll program;

18 “(B) develops, manages, and maintains a
19 system that will automatically collect the toll;
20 and

21 “(C) establishes policies and procedures
22 to—

23 “(i) manage the demand to use the fa-
24 cility by varying the toll amount that is
25 charged;

1 “(ii) enforce violations of use of the
2 facility; and

3 “(iii) permit low-income individuals to
4 pay reduced tolls.

5 “(4) LOW EMISSION AND ENERGY-EFFICIENT
6 VEHICLES.—

7 “(A) INHERENTLY LOW-EMISSION VEHI-
8 CLE.—Before September 30, 2009, the State
9 agency may allow vehicles that are certified as
10 inherently low-emission vehicles pursuant to
11 section 88.311–93 of title 40, Code of Federal
12 Regulations, and are labeled in accordance with
13 section 88.312–93 of such title, to use the HOV
14 facility if the agency establishes procedures for
15 enforcing the restrictions on the use of the fa-
16 cility by such vehicles.

17 “(B) OTHER LOW EMISSION AND ENERGY-
18 EFFICIENT VEHICLES.—Before September 30,
19 2009, the State agency may allow vehicles cer-
20 tified as low emission and energy-efficient vehi-
21 cles under subsection (e), and labeled in accord-
22 ance with subsection (e), to use the HOV facil-
23 ity if the agency—

24 “(i) establishes a program that ad-
25 dresses how those qualifying low emission

1 and energy-efficient vehicles are selected
2 and certified;

3 “(ii) establishes requirements for la-
4 beling qualifying low emission and energy-
5 efficient vehicles (including procedures for
6 enforcing those requirements);

7 “(iii) continuously monitors, evalu-
8 ates, and reports to the Secretary on per-
9 formance; and

10 “(iv) imposes such restrictions on the
11 use on high occupancy vehicle lanes by ve-
12 hicles that do not satisfy established occu-
13 pancy requirements as are necessary to en-
14 sure that the performance of individual
15 high occupancy vehicle lanes, and the en-
16 tire high occupancy vehicle lane system,
17 will not become seriously degraded.

18 “(c) REQUIREMENTS APPLICABLE TO TOLLS.—

19 “(1) IN GENERAL.—Tolls may be charged
20 under subsections (b)(3) and (b)(4) notwithstanding
21 section 301 and, except as provided in paragraphs
22 (2) and (3), subject to the requirements of section
23 129.

24 “(2) HOV FACILITIES ON THE INTERSTATE
25 SYSTEM.—Notwithstanding section 129, tolls may be

1 charged under subsections (b)(3) and (b)(4) on a
2 HOV facility on the Interstate System.

3 “(3) EXCESS TOLL REVENUES.—If a State
4 agency makes a certification under the last sentence
5 of section 129(a)(3) with respect to toll revenues col-
6 lected under subsections (b)(3) and (b)(4), the
7 State, in the use of tolls revenues under that sen-
8 tence, shall give priority consideration to projects for
9 developing alternatives to single occupancy vehicle
10 travel and projects for improving highway safety.

11 “(d) HOV FACILITY MANAGEMENT, OPERATION,
12 MONITORING, AND ENFORCEMENT.—

13 “(1) IN GENERAL.—A State agency that allows
14 vehicles to use a HOV facility under subsection
15 (b)(3) or (b)(4) in a fiscal year shall certify to the
16 Secretary that the agency will carry out the fol-
17 lowing responsibilities with respect to the facility in
18 the fiscal year:

19 “(A) Establishing, managing, and sup-
20 porting a performance monitoring, evaluation,
21 and reporting program for the facility that pro-
22 vides for continuous monitoring, assessment,
23 and reporting on the impacts that such vehicles
24 may have on the operation of the facility and
25 adjacent highways.

1 “(B) Establishing, managing, and sup-
2 porting an enforcement program that ensures
3 that the facility is being operated in accordance
4 with the requirements of this section.

5 “(C) Limiting or discontinuing the use of
6 the facility by such vehicles if the presence of
7 such vehicles has degraded the operation of the
8 facility.

9 “(2) DEGRADED FACILITY.—

10 “(A) IN GENERAL.—For purposes of para-
11 graph (1), the operation of a HOV facility shall
12 be considered to be degraded if vehicles oper-
13 ating on the facility are failing to maintain a
14 minimum average operating speed 90 percent of
15 the time over a consecutive 6-month period dur-
16 ing morning or evening weekday peak hour pe-
17 riods (or both).

18 “(B) MINIMUM AVERAGE OPERATING
19 SPEED DEFINED.—In subparagraph (A), the
20 term ‘minimum average operating speed’
21 means—

22 “(i) 45 miles per hour, in the case of
23 a HOV facility with a speed limit of 50
24 miles per hour or greater; and

1 “(ii) not more than 10 miles per hour
2 below the speed limit, in the case of a
3 HOV facility with a speed limit of less
4 than 50 miles per hour.

5 “(e) CERTIFICATION OF LOW EMISSION AND EN-
6 ENERGY-EFFICIENT VEHICLES.—Not later than 6 months
7 after the date of enactment of this section, the Adminis-
8 trator of the Environmental Protection Agency shall issue
9 a final rule establishing requirements for certification of
10 vehicles as low emission and energy-efficient vehicles for
11 purposes of this section and requirements for the labeling
12 of such vehicles.

13 “(f) DEFINITIONS.—In this section, the following
14 definitions apply:

15 “(1) ALTERNATIVE FUEL VEHICLE.—The term
16 ‘alternative fuel vehicle’ means a vehicle that oper-
17 ates on—

18 “(A) methanol, denatured ethanol, or other
19 alcohols;

20 “(B) a mixture containing at least 85 per-
21 cent of methanol, denatured ethanol, and other
22 alcohols by volume with gasoline or other fuels;

23 “(C) natural gas;

24 “(D) liquefied petroleum gas;

25 “(E) hydrogen;

1 “(F) coal derived liquid fuels;

2 “(G) fuels (except alcohol) derived from bi-
3 ological materials;

4 “(H) electricity (including electricity from
5 solar energy); or

6 “(I) any other fuel that the Secretary pre-
7 scribes by regulation that is not substantially
8 petroleum and that would yield substantial en-
9 ergy security and environmental benefits.

10 “(2) HOV FACILITY.—The term ‘HOV facility’
11 means a high occupancy vehicle facility.

12 “(3) LOW EMISSION AND ENERGY EFFICIENT
13 VEHICLE.—The term ‘low emission and energy-effi-
14 cient vehicle’ means a vehicle that—

15 “(A) has been certified by the Adminis-
16 trator of the Environmental Protection Agency
17 as meeting the Tier II emission level established
18 in regulations prescribed by the Administrator
19 under section 202(i) of the Clean Air Act (42
20 U.S.C. 7521(i)) or as meeting a California Air
21 Resources Board emission standard that is at
22 least as stringent for that make and model year
23 vehicle and meets any additional Environmental
24 Protection Agency or California Air Resources
25 Board emissions category or other requirements

1 identified by the Agency or the Board, as the
2 case may be; and

3 “(B)(i) has been certified by the Adminis-
4 trator to have a 45-mile-per-gallon or greater
5 fuel economy highway rating; or

6 “(ii) is an alternative fuel vehicle.

7 “(4) PUBLIC TRANSPORTATION VEHICLE.—The
8 term ‘public transportation vehicle’ means a vehicle
9 that provides public transportation (as defined in
10 section 5302(a) of title 49).

11 “(5) STATE AGENCY.—The term ‘State agency’,
12 as used with respect to a HOV facility, means an
13 agency of a State or local government having juris-
14 diction over the operation of the facility and includes
15 a State transportation department.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) PROGRAM EFFICIENCIES.—Section 102 of
18 title 23, United States Code, is amended by striking
19 subsection (a) and redesignating subsections (b) and
20 (c) as subsections (a) and (b), respectively.

21 (2) CHAPTER ANALYSIS.—The analysis for sub-
22 chapter I of chapter 1 of such title is amended by
23 adding at the end the following:

“167. HOV facilities.”.

24 (c) TECHNICAL AMENDMENT.—Section 102(c) of
25 title 23, United States Code, is amended by striking “10

- 1 years” and all that follows through “after” and inserting
- 2 “10 years (or such longer period as the State requests and
- 3 the Secretary determines to be reasonable) after”.

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