

CHAPTER 317

TRANSPORTATION

SENATE BILL 99-088

BY SENATORS Andrews, Congrove, Epps, Hillman, Musgrave, Tebedo, and Teck;
also REPRESENTATIVES Young, Coleman, Kester, McKay, Nunez, Piffner, Scott, Spence, Spradley, and Swenson.

AN ACT

CONCERNING HIGH OCCUPANCY VEHICLE LANES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 42-4-1012 (1), (2), (2.5) (a) (II) (A), and (2.5) (b) (I), Colorado Revised Statutes, are amended to read:

42-4-1012. High occupancy vehicle (HOV) and high occupancy toll (HOT) lanes. (1) (a) The department of transportation and local authorities, with respect to streets and highways under their respective jurisdictions, may designate exclusive or preferential lanes for vehicles that carry a specified number of persons. The occupancy level of vehicles and the time of day when lane usage is restricted to high occupancy vehicles, if applicable, shall be designated by official traffic control devices.

(b) (I) ON OR BEFORE JULY 1, 2001, THE DEPARTMENT SHALL ISSUE A REQUEST FOR PROPOSALS TO PRIVATE ENTITIES FOR THE PURPOSE OF ENTERING INTO A CONTRACT WITH SUCH AN ENTITY FOR THE CONVERSION OF AN EXISTING HIGH OCCUPANCY VEHICLE LANE DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) TO A HIGH OCCUPANCY TOLL LANE AND FOR THE PURPOSE OF ENTERING INTO A CONTRACT FOR THE OPERATION OF THE HIGH OCCUPANCY TOLL LANE BY A PRIVATE ENTITY; EXCEPT THAT THE DEPARTMENT MAY CONVERT OR OPERATE THE HIGH OCCUPANCY TOLL LANE, OR BOTH, IN THE EVENT THAT NO PROPOSAL BY A PRIVATE ENTITY FOR SUCH CONVERSION OR OPERATION, OR BOTH, IS ACCEPTABLE.

(II) THE HIGH OCCUPANCY TOLL LANE SHALL BE A LANE FOR USE BY VEHICLES CARRYING LESS THAN THE SPECIFIED NUMBER OF PERSONS FOR SUCH HIGH OCCUPANCY VEHICLE LANE THAT PAY A SPECIFIED TOLL OR FEE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(III) ANY CONTRACT ENTERED INTO BETWEEN THE DEPARTMENT AND A PRIVATE ENTITY PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL:

(A) AUTHORIZE THE PRIVATE ENTITY TO IMPOSE TOLLS FOR USE OF THE HIGH OCCUPANCY TOLL LANE;

(B) REQUIRE THAT OVER THE TERM OF SUCH CONTRACT ONLY TOLL REVENUES BE APPLIED TO PAYMENT OF THE PRIVATE ENTITY'S CAPITAL OUTLAY COSTS FOR THE PROJECT, THE COSTS ASSOCIATED WITH OPERATIONS, TOLL COLLECTION, ADMINISTRATION OF THE HIGH OCCUPANCY TOLL LANE, IF ANY, AND A REASONABLE RETURN ON INVESTMENT TO THE PRIVATE ENTITY, AS EVIDENCED BY AND CONSISTENT WITH THE RETURNS ON INVESTMENT TO PRIVATE ENTITIES ON SIMILAR PUBLIC AND PRIVATE PROJECTS;

(C) REQUIRE THAT ANY EXCESS TOLL REVENUE EITHER BE APPLIED TO ANY INDEBTEDNESS INCURRED BY THE PRIVATE ENTITY WITH RESPECT TO THE PROJECT OR BE PAID INTO THE STATE HIGHWAY FUND CREATED PURSUANT TO SECTION 43-1-219, C.R.S., FOR EXCLUSIVE USE IN THE CORRIDOR WHERE THE HIGH OCCUPANCY TOLL LANE IS LOCATED INCLUDING FOR MAINTENANCE AND ENFORCEMENT PURPOSES IN THE HIGH OCCUPANCY TOLL LANE AND FOR OTHER TRAFFIC CONGESTION RELIEVING OPTIONS INCLUDING TRANSIT. SUCH CONTRACT SHALL DEFINE OR PROVIDE A METHOD FOR CALCULATING EXCESS TOLL REVENUES AND SHALL SPECIFY THE AMOUNT OF INDEBTEDNESS THAT THE PRIVATE ENTITY MAY INCUR AND APPLY EXCESS TOLL REVENUES TO BEFORE SUCH REVENUES MUST BE PAID INTO THE STATE HIGHWAY FUND. IT IS NOT THE INTENT OF THE GENERAL ASSEMBLY THAT THE CONVERSION OF A HIGH OCCUPANCY VEHICLE LANE TO A HIGH OCCUPANCY TOLL LANE SHALL DETRACT IN ANY WAY FROM THE POSSIBLE PROVISION OF MASS TRANSIT OPTIONS BY THE REGIONAL TRANSPORTATION DISTRICT OR ANY OTHER AGENCY IN THE CORRIDOR WHERE THE HIGH OCCUPANCY TOLL LANE IS LOCATED.

(IV) THE DEPARTMENT SHALL STRUCTURE A VARIABLE TOLL OR FEE TO ENSURE A LEVEL OF SERVICE C AND UNRESTRICTED ACCESS TO THE LANES AT ALL TIMES BY ELIGIBLE VEHICLES, INCLUDING BUSES, CARPOOLS, AND EPA CERTIFIED LOW-EMITTING VEHICLES WITH A GROSS VEHICLE WEIGHT RATING OVER 10,000 POUNDS.

(V) THE DEPARTMENT SHALL NOT ENTER INTO A CONTRACT FOR THE CONVERSION OF A HIGH OCCUPANCY VEHICLE LANE TO A HIGH OCCUPANCY TOLL LANE IF SUCH A CONVERSION WILL RESULT IN THE LOSS OR REFUND OF FEDERAL FUNDS PAYABLE, AVAILABLE, OR PAID TO THE STATE FOR CONSTRUCTION, RECONSTRUCTION, REPAIRS, IMPROVEMENT, PLANNING, SUPERVISION, AND MAINTENANCE OF THE STATE HIGHWAY SYSTEM AND OTHER PUBLIC HIGHWAYS.

(VI) THE DEPARTMENT SHALL REQUIRE THE PRIVATE ENTITY ENTERING INTO A CONTRACT PURSUANT TO THIS SECTION TO PROVIDE SUCH PERFORMANCE BOND OR OTHER SURETY FOR THE PROJECT AS THE DEPARTMENT MAY REASONABLY REQUIRE.

(c) WHENEVER PRACTICABLE, A HIGH OCCUPANCY TOLL LANE DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) SHALL BE PHYSICALLY SEPARATED FROM THE OTHER LANES OF A STREET OR HIGHWAY SO AS TO MINIMIZE THE INTERFERENCE

BETWEEN TRAFFIC IN THE DESIGNATED LANES AND TRAFFIC IN THE OTHER LANES.

(d) THE DEPARTMENT SHALL DEVELOP AND ADOPT FUNCTIONAL SPECIFICATIONS AND STANDARDS FOR AN AUTOMATIC VEHICLE IDENTIFICATION SYSTEM FOR USE ON HIGH OCCUPANCY VEHICLE LANES, HIGH OCCUPANCY TOLL LANES, ANY PUBLIC HIGHWAY CONSTRUCTED AND OPERATED UNDER THE PROVISIONS OF PART 5 OF ARTICLE 4 OF TITLE 43, C.R.S., AND ANY OTHER STREET OR HIGHWAY WHERE TOLLS OR CHARGES ARE IMPOSED FOR THE PRIVILEGE OF TRAVELING UPON SUCH STREET OR HIGHWAY. THE SPECIFICATIONS AND STANDARDS SHALL ENSURE THAT:

(I) AUTOMATIC VEHICLE IDENTIFICATION SYSTEMS UTILIZED BY THE STATE, MUNICIPALITY, OR OTHER ENTITY HAVING JURISDICTION OVER THE STREET OR HIGHWAY ARE COMPATIBLE WITH ONE ANOTHER;

(II) A VEHICLE OWNER SHALL NOT BE REQUIRED TO PURCHASE OR INSTALL MORE THAN ONE DEVICE TO USE ON ALL TOLL FACILITIES;

(III) TOLL FACILITY OPERATORS HAVE THE ABILITY TO SELECT FROM DIFFERENT MANUFACTURERS AND VENDORS OF AUTOMATIC VEHICLE IDENTIFICATION SYSTEMS; AND

(IV) THERE IS COMPATIBILITY BETWEEN ANY AUTOMATIC VEHICLE IDENTIFICATION SYSTEM IN OPERATION ON THE EFFECTIVE DATE OF THIS ACT AND ANY AUTOMATIC VEHICLE IDENTIFICATION SYSTEM DESIGNED AND INSTALLED ON AND AFTER SAID DATE.

(2) A motorcycle may be operated upon high occupancy vehicle lanes pursuant to section 163 of Public Law 97-424 OR UPON HIGH OCCUPANCY TOLL LANES, unless prohibited by official traffic control devices.

(2.5) (a) (II) As used in this subsection (2.5), "inherently low-emission vehicle" or "ILEV" means:

(A) A light-duty vehicle or light-duty truck, REGARDLESS OF WHETHER SUCH VEHICLE OR TRUCK IS PART OF A MOTOR VEHICLE FLEET, that has been certified by the federal environmental protection agency as conforming to the ILEV guidelines, procedures, and standards as published in the federal register at 58 FR 11888 (March 1, 1993) and 59 FR 50042 (September 30, 1994), as amended from time to time; and

(b) No person shall operate a vehicle upon a high occupancy vehicle lane pursuant to this subsection (2.5) unless the vehicle:

(I) Meets all applicable federal emission standards ~~and labeling requirements~~ set forth in 40 CFR ~~secs. SEC. 88.311-93, and 88.312-93~~; as amended from time to time; and

SECTION 2. 43-1-1202 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

43-1-1202. Department powers. (1) Notwithstanding any other law, the department may:

(a) Solicit and consider proposals, enter into agreements, grant benefits, and accept contributions for public-private initiatives pursuant to this part 12 concerning any of the following:

(XIII) DESIGN, FINANCING, CONSTRUCTION, OPERATION, MAINTENANCE, OR IMPROVEMENT OF A HIGH OCCUPANCY TOLL LANE DESCRIBED IN SECTION 42-4-1012 (1), C.R.S.

SECTION 3. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: June 3, 1999