

108TH CONGRESS
2D SESSION

H. R. 5389

To amend title 23, United States Code, to establish requirements for the operation of high occupancy vehicle facilities on highways.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2004

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

A BILL

To amend title 23, United States Code, to establish requirements for the operation of high occupancy vehicle facilities on highways.

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. SHORT TITLE.**

4 This Act may be cited as the “Hybrid HOV Access
5 Act of 2004”.

6 **SEC. 2. HOV FACILITIES.**

7 (a) IN GENERAL.—Subchapter I of chapter 1 of title
8 23, United States Code, is amended by adding at the end
9 the following:

1 **“§ 165. HOV facilities**

2 “(a) IN GENERAL.—

3 “(1) AUTHORITY OF STATE AGENCIES.—A
4 State agency that has jurisdiction over the operation
5 of a HOV facility shall establish the occupancy re-
6 quirements of vehicles operating on the facility.

7 “(2) OCCUPANCY REQUIREMENT.—Except as
8 otherwise provided by this section, no fewer than 2
9 occupants per vehicle may be required for use of a
10 HOV facility.

11 “(b) EXCEPTIONS.—Notwithstanding the occupancy
12 requirements of subsection (a)(2), the following exceptions
13 shall apply with respect to a State agency operating a
14 HOV facility:

15 “(1) MOTORCYCLES AND BICYCLES.—

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

19 “(B) SAFETY EXCEPTION.—A State agen-
20 cy may restrict use of the HOV facility by mo-
21 torcycles or bicycles (or both) if the agency cer-
22 tifies to the Secretary that such use would cre-
23 ate a safety hazard and the Secretary accepts
24 the certification. The Secretary may accept a
25 certification under this subparagraph only after
26 the Secretary publishes notice of the certifi-

1 cation in the Federal Register and provides an
2 opportunity for public comment.

3 “(2) PUBLIC TRANSPORTATION VEHICLES.—

4 The State agency may allow public transportation
5 vehicles to use the HOV facility if the agency—

6 “(A) establishes requirements for clearly
7 identifying the vehicles; and

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

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

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

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

23 “(C) establishes policies and procedures
24 to—

1 “(i) manage the demand to use the fa-
2 cility by varying the toll amount that is
3 charged;

4 “(ii) enforce violations of use of the
5 facility; and

6 “(iii) permit low-income individuals to
7 pay reduced tolls.

8 “(4) LOW EMISSION AND ENERGY-EFFICIENT
9 VEHICLES.—

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

20 “(B) OTHER LOW EMISSION AND ENERGY-
21 EFFICIENT VEHICLES.—Before September 30,
22 2009, the State agency may allow vehicles cer-
23 tified as low emission and energy-efficient vehi-
24 cles under subsection (e), and labeled in accord-

1 ance with subsection (e), to use the HOV facil-
2 ity if the agency—

3 “(i) establishes a program that ad-
4 dresses how those qualifying low emission
5 and energy-efficient vehicles are selected
6 and certified;

7 “(ii) establishes requirements for la-
8 beling qualifying low emission and energy-
9 efficient vehicles (including procedures for
10 enforcing those requirements);

11 “(iii) continuously monitors, evalu-
12 ates, and reports to the Secretary on per-
13 formance; and

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

22 “(5) ADVANCED LEAN BURN TECHNOLOGY VE-
23 HICLES.—Before September 30, 2009, the State
24 agency may allow vehicles certified as advanced lean
25 burn technology vehicles under subsection (e), and

1 labeled in accordance with subsection (e), to use the
2 HOV facility if the agency—

3 “(A) establishes a program that address
4 how those qualifying advanced lean burn tech-
5 nology vehicles are selected and certified;

6 “(B) establishes requirements for labeling
7 qualifying advanced lean burn technology vehi-
8 cles (including procedures for enforcing those
9 requirements);

10 “(C) continuously monitors, evaluates, and
11 reports to the Secretary on performance; and

12 “(D) imposes such restrictions on the use
13 on high occupancy vehicle lanes by vehicles that
14 do not satisfy established occupancy require-
15 ments as are necessary to ensure that the per-
16 formance of individual high occupancy vehicle
17 lanes, and the entire high occupancy vehicle
18 lane system, will not become seriously degraded.

19 “(c) REQUIREMENTS APPLICABLE TO TOLLS.—

20 “(1) IN GENERAL.—Tolls may be charged
21 under subsections (b)(3) and (b)(4) notwithstanding
22 section 301 and, except as provided in paragraphs
23 (2) and (3), subject to the requirements of section
24 129.

1 “(2) HOV FACILITIES ON THE INTERSTATE
2 SYSTEM.—Notwithstanding section 129, tolls may be
3 charged under subsections (b)(3) and (b)(4) on a
4 HOV facility on the Interstate System.

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

13 “(d) HOV FACILITY MANAGEMENT, OPERATION,
14 MONITORING, AND ENFORCEMENT.—

15 “(1) IN GENERAL.—A State agency that allows
16 vehicles to use a HOV facility under subsection
17 (b)(4) in a fiscal year shall certify to the Secretary
18 that the agency will carry out the following respon-
19 sibilities with respect to the facility in the fiscal
20 year:

21 “(A) Establishing, managing, and sup-
22 porting a performance monitoring, evaluation,
23 and reporting program for the facility that pro-
24 vides for continuous monitoring, assessment,
25 and reporting on the impacts that such vehicles

1 may have on the operation of the facility and
2 adjacent highways.

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

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

11 “(2) DEGRADED FACILITY.—

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

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

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

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

8 “(e) CERTIFICATION OF LOW EMISSION AND EN-
9 ERGY-EFFICIENT VEHICLES AND ADVANCED LEAN BURN
10 TECHNOLOGY VEHICLES.—Not later than 6 months after
11 the date of enactment of this section, the Administrator
12 of the Environmental Protection Agency shall issue—

13 “(1) a final rule establishing requirements for
14 certification of a vehicle for purposes of this section
15 as—

16 “(A) a low emission and energy-efficient
17 vehicle; or

18 “(B) an advanced lean burn technology ve-
19 hicle; and

20 “(2) requirements for the labeling of such vehi-
21 cles.

22 “(f) FUEL EFFICIENCY GUIDANCE FOR HYBRID VE-
23 HICLES.—Not later than 6 months after the date of enact-
24 ment of this section, the Administrator of the Environ-
25 mental Protection agency shall issue guidance on methods

1 for determining whether a vehicle meets the fuel efficiency
2 standards required to qualify as a hybrid vehicle under
3 subsection (g).

4 “(g) DEFINITIONS.—In this section, the following
5 definitions apply:

6 “(1) ADVANCED LEAN BURN TECHNOLOGY VE-
7 HICLE.—The term ‘advanced lean burn technology
8 vehicle’ means a vehicle with an internal combustion
9 engine that is designed to operate primarily using
10 more air than is necessary for complete combustion
11 of fuel, incorporates direct injection, achieves at
12 least 125 percent of city fuel economy of a com-
13 parable vehicle, and has received a certificate that
14 such vehicle meets or exceeds—

15 “(A) in the case of a vehicle having a gross
16 vehicle weight rating of 6000 pounds or less,
17 the Bin 5 Tier II emission standard established
18 in regulations prescribed by the Administrator
19 of the Environmental Protection Agency under
20 section 202(i) of the Clean Air Act (42 U.S.C
21 7521(i)); and

22 “(B) in the case of a vehicle having a gross
23 vehicle weight rating of more than 6,000
24 pounds but not more than 8,500 pounds, the

1 Bin 8 Tier II emission standard established in
2 such regulations.

3 “(2) DEDICATED ALTERNATIVE FUEL VEHI-
4 CLE.—The term ‘dedicated alternative fuel vehicle’
5 means a vehicle that operates solely on—

6 “(A) methanol, denatured ethanol, or other
7 alcohols;

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

11 “(C) natural gas;

12 “(D) liquefied petroleum gas;

13 “(E) hydrogen;

14 “(F) coal derived liquid fuels;

15 “(G) fuels (except alcohol) derived from bi-
16 ological materials;

17 “(H) electricity (including electricity from
18 solar energy); or

19 “(I) any other fuel that the Secretary pre-
20 scribes by regulation that is not substantially
21 petroleum and that would yield substantial en-
22 ergy security and environmental benefits.

23 “(3) HOV FACILITY.—The term ‘HOV facility’
24 means a high occupancy vehicle facility.

1 “(4) HYBRID VEHICLE.—The term ‘hybrid vehi-
2 cle’ means a vehicle that—

3 “(A) has propulsion energy drawn from
4 onboard hybrid sources of stored energy, includ-
5 ing—

6 “(i) an internal combustion or heat
7 engine using consumable fuel; and

8 “(ii) a rechargeable energy storage
9 system; and

10 “(B) has been certified by the manufac-
11 turer, in accordance with guidance prescribed
12 by the Administrator under subsection (f), to
13 have achieved either—

14 “(i) a 10 percent or greater increase
15 in city fuel economy relative to a com-
16 parable vehicle that is an internal combus-
17 tion gasoline fueled vehicle (other than a
18 vehicle that has propulsion energy from
19 such onboard hybrid sources); or

20 “(ii) a 10 percent or greater increase
21 in lifetime fuel savings relative to such
22 comparable vehicle.

23 “(6) LOW EMISSION AND ENERGY EFFICIENT
24 VEHICLE.—The term ‘low emission and energy-effi-
25 cient vehicle’ means a vehicle that—

1 “(A) has been certified by the Adminis-
2 trator of the Environmental Protection Agency
3 as meeting the Tier II emission standard estab-
4 lished in regulations prescribed by the Adminis-
5 trator under section 202(i) of the Clean Air Act
6 (42 U.S.C. 7521(i)) for that make and model
7 year vehicle; and

8 “(B) is a hybrid vehicle or dedicated alter-
9 native fuel vehicle.

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

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

19 (b) CONFORMING AMENDMENTS.—

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

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

“165. HOV facilities.”.

4 (c) TECHNICAL AMENDMENT.—Section 102(b) of
5 title 23, United States Code, (as redesignated by sub-
6 section (b)(1) of this section) is amended by striking “10
7 years” and all that follows through “after” and inserting
8 “10 years (or such longer period as the State requests and
9 the Secretary determines to be reasonable) after”.

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