

109TH CONGRESS
1ST SESSION

S. 129

To amend title 23, United States Code, to provide for HOV facilities.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. TALENT introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to provide for HOV facilities.

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 **“§ 165. HOV facilities**

8 “(a) DEFINITIONS.—In this section:

9 “(1) DEDICATED ALTERNATIVE FUEL VEHI-
10 CLE.—The term ‘dedicated alternative fuel vehicle’
11 means a vehicle that operates solely on—

1 “(A) methanol, denatured ethanol, or other
2 alcohols;

3 “(B) a mixture containing at least 85 per-
4 cent of methanol, denatured ethanol, or other
5 alcohols by volume with gasoline or other fuels;

6 “(C) natural gas;

7 “(D) liquefied petroleum gas;

8 “(E) hydrogen;

9 “(F) coal derived liquid fuels;

10 “(G) fuels (except alcohol) derived from bi-
11 ological materials;

12 “(H) electricity, including electricity from
13 solar energy; or

14 “(I) any other fuel that the Secretary pre-
15 scribes by regulation that is not substantially
16 petroleum and that would yield substantial en-
17 ergy security and environmental benefits.

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

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

23 “(A) has been certified by the Adminis-
24 trator of the Environmental Protection Agency
25 as meeting the Tier II emission level established

1 in regulations prescribed by the Administrator
2 under section 202(i) of the Clean Air Act (42
3 U.S.C. 7521(i)) for that make and model year
4 vehicle; and

5 “(B)(i) has propulsion energy drawn from
6 onboard hybrid sources of stored energy that
7 are—

8 “(I) an internal combustion or heat
9 engine using consumable fuel;

10 “(II) a rechargeable energy storage
11 system; and

12 “(III) certified by the manufacturer to
13 have achieved either a 10 percent or more
14 increase in city fuel economy relative to a
15 comparable vehicle that is an internal com-
16 bustion gasoline fueled vehicle (other than
17 a vehicle that has propulsion energy from
18 such onboard hybrid sources), or a 10 per-
19 cent or more vehicle increase in lifetime
20 fuel savings relative to a comparable vehi-
21 cle, determined in accordance with guide-
22 lines prescribed by the Administrator of
23 the Environmental Protection Agency not
24 later than 180 days after the date of en-
25 actment of this section, specifying proce-

1 dures and methods for calculating either
 2 increase and making the comparison, ex-
 3 cept that the State agency referred to in
 4 this section may, subject to the guidelines,
 5 increase in combination the percentage
 6 under this subclause in furtherance of its
 7 responsibilities with respect to a HOV fa-
 8 cility specified in subsection (e); or

9 “(ii) is a dedicated alternative fuel vehicle.

10 “(4) 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 “(5) 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 (including a
 17 State transportation department) having jurisdiction
 18 over the operation of the facility.

19 “(6) ADVANCED LEAN BURN TECHNOLOGY VE-
 20 HICLE.—The term ‘advanced lean burn technology
 21 vehicle’ means a vehicle with an internal combustion
 22 engine that—

23 “(A) is designed to operate primarily using
 24 more air than is necessary for complete com-
 25 bustion of fuel;

1 “(B) incorporates direct injection;

2 “(C) achieves at least 125 percent of city
3 fuel economy of a comparable vehicle; and

4 “(D) has received a certificate that the ve-
5 hicle meets or exceeds—

6 “(i) in the case of a vehicle having a
7 gross vehicle weight rating of 6000 pounds
8 or less, the Bin 5 II emission standard es-
9 tablished by regulations under section
10 202(i) of the Clean Air Act (42 U.S.C.
11 7521(i)); and

12 “(ii) in the case of a vehicle having a
13 gross vehicle weight rating of more than
14 6,000 pounds but not more than 8,500
15 pounds, the Bin 8 Tier II emission stand-
16 ard established by regulations under sec-
17 tion 202(i) of the Clean Air Act (42 U.S.C.
18 7521(i)).

19 “(b) IN GENERAL.—

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

24 “(2) OCCUPANCY REQUIREMENT.—Except as
25 otherwise provided by this section, not fewer than 2

1 occupants per vehicle may be required for use of a
2 HOV facility.

3 “(c) EXCEPTIONS TO OCCUPANCY REQUIREMENT.—

4 Notwithstanding the occupancy requirements of sub-
5 section (b)(2), the following exceptions shall apply with re-
6 spect to a State agency operating a HOV facility:

7 “(1) MOTORCYCLES AND BICYCLES.—

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

11 “(B) SAFETY EXCEPTION.—

12 “(i) IN GENERAL.—A State agency
13 may restrict use of the HOV facility by
14 motorcycles or bicycles if the agency cer-
15 tifies to the Secretary that such use would
16 create a safety hazard and the Secretary
17 accepts the certification.

18 “(ii) NOTICE.—The Secretary may ac-
19 cept a certification under clause (i) only
20 after the Secretary publishes notice of the
21 certification in the Federal Register and
22 provides an opportunity for public com-
23 ment.

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 the
8 vehicles.

9 “(3) HIGH OCCUPANCY TOLL VEHICLES.—The
10 State agency may allow vehicles that are not other-
11 wise exempt under this subsection to use the HOV
12 facility if—

13 “(A) the operators of the vehicles pay a
14 toll charged by the agency for use of the facil-
15 ity; and

16 “(B) the agency—

17 “(i) establishes a program that ad-
18 dresses how motorists can enroll and par-
19 ticipate in the toll program;

20 “(ii) develops, manages, and main-
21 tains a system that will automatically col-
22 lect the toll; and

23 “(iii) establishes policies and proce-
24 dures to—

1 “(I) manage the demand to use
2 the facility by varying the toll amount
3 that is charged;

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

6 “(III) permit low-income individ-
7 uals to pay reduced tolls.

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

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

19 “(B) OTHER LOW-EMISSION AND ENERGY-
20 EFFICIENT VEHICLES.—Before September 30,
21 2009, the State agency may allow vehicles that
22 are certified as and labeled low-emission and
23 energy-efficient vehicles under subsection (f) to
24 use the HOV facility if the agency—

1 “(i) establishes a program that ad-
2 dresses how the vehicles are selected and
3 certified;

4 “(ii) establishes requirements for la-
5 beling the vehicles and procedures for en-
6 forcing those requirements;

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

10 “(iv) imposes on the use of the HOV
11 facility by vehicles that do not satisfy es-
12 tablished occupancy requirements any re-
13 strictions that are necessary to ensure that
14 neither the performance of an individual
15 HOV facility nor the HOV facility system
16 are seriously degraded.

17 “(5) ADVANCED LEAN BURN TECHNOLOGY VE-
18 HICLES.—Before September 30, 2009, the State
19 agency may allow vehicles that are certified and la-
20 beled as advanced lean burn technology vehicles
21 under subsection (f) to use the HOV facility if the
22 agency—

23 “(A) establishes a program that addresses
24 how the vehicles are selected and certified;

1 “(B) establishes requirements for labeling
2 the vehicles and procedures for enforcing those
3 requirements;

4 “(C) continuously monitors, evaluates, and
5 reports to the Secretary on the performance of
6 the vehicles; and

7 “(D) imposes on the use of HOV facilities
8 by vehicles that do not satisfy established occu-
9 pancy requirements any restrictions that are
10 necessary to ensure that neither the perform-
11 ance of individual HOV facilities nor the HOV
12 facility system are seriously degraded.

13 “(d) REQUIREMENTS APPLICABLE TO TOLLS.—

14 “(1) IN GENERAL.—Notwithstanding section
15 301, tolls may be charged under paragraphs (3) and
16 (4) of subsection (c), subject to the requirements of
17 section 129.

18 “(2) HOV FACILITIES ON THE INTERSTATE
19 SYSTEM.—Notwithstanding section 129, tolls may be
20 charged under paragraphs (3) and (4) of subsection
21 (c) on a HOV facility on the Interstate System.

22 “(3) EXCESS TOLL REVENUES.—If a State
23 agency makes a certification under the last sentence
24 of section 129(a)(3) concerning toll revenues col-
25 lected under paragraphs (3) and (4) of subsection

1 (c), the State shall give priority consideration to
2 projects that develop alternatives to single occupancy
3 vehicle travel or improve highway safety in the use
4 of toll revenues under that sentence.

5 “(e) HOV FACILITY MANAGEMENT, OPERATION,
6 MONITORING, AND ENFORCEMENT.—

7 “(1) IN GENERAL.—A State agency that allows
8 low-emission and energy-efficient vehicles to use a
9 HOV facility under subsection (c)(4) in a fiscal year
10 shall certify to the Secretary that the agency will
11 carry out the following responsibilities with respect
12 to the facility in the fiscal year:

13 “(A) Establish, manage, and support a
14 performance-monitoring, evaluation, and report-
15 ing program for the facility that provides for
16 continuous monitoring, assessment, and report-
17 ing on the effects that low-emission and energy-
18 efficient vehicles may have on the operation of
19 the facility and adjacent highways.

20 “(B) Establish, manage, and support an
21 enforcement program that ensures that the fa-
22 cility is operated in accordance with this sec-
23 tion.

24 “(C) Limit or discontinue the use of the
25 facility by low-emission and energy-efficient ve-

1 hicles if the presence of the vehicles has de-
2 graded the operation of the facility.

3 “(2) MINIMUM AVERAGE OPERATING SPEED;
4 DEGRADED FACILITY.—

5 “(A) MINIMUM AVERAGE OPERATING
6 SPEED DEFINED.—In this paragraph, the term
7 ‘minimum average operating speed’ means—

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

11 “(ii) not more than 10 miles per hour
12 below the speed limit, in the case of a
13 HOV facility with a speed limit of less
14 than 50 miles per hour.

15 “(B) STANDARD FOR DETERMINING DEG-
16 RADATION.—For purposes of paragraph (1),
17 the operation of a HOV facility shall be consid-
18 ered to be degraded if vehicles operating on the
19 facility fail to maintain a minimum average op-
20 erating speed 90 percent of the time over a con-
21 secutive 180-day period during morning or
22 evening weekday peak hour periods.

23 “(f) CERTIFICATION AND LABELING OF LOW-EMIS-
24 SION AND ENERGY-EFFICIENT VEHICLES AND ADVANCED
25 LEAN BURN TECHNOLOGY VEHICLES.—Not later than

1 180 days after the date of enactment of this section, the
2 Administrator of the Environmental Protection Agency
3 shall promulgate a final rule establishing requirements
4 for—

5 “(1) certification of vehicles—

6 “(A) as low-emission and energy-efficient
7 vehicles; and

8 “(B) as advance lean burn technology vehi-
9 cles; and

10 “(2) labeling of the vehicles certified under
11 paragraph (1).”.

12 (b) TECHNICAL AMENDMENT.—Section 102(c) of
13 title 23, United States Code, is amended by striking from
14 “10 years” through “after” and inserting “10 years (or
15 any longer period that the State requests and the Sec-
16 retary determines to be reasonable) after”.

17 (c) CONFORMING AMENDMENTS.—

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

22 (2) CHAPTER ANALYSIS.—The analysis for sub-
23 chapter I of chapter 1 of title 23, United States
24 Code, is amended by adding at the end the fol-
25 lowing:

“165. HOV facilities.”

