

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1508
By: Carona
Transportation & Homeland Security
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

High occupancy vehicle (HOV) lanes are useful in managing traffic during periods of congestion. However, many people do not properly enter and exit HOV lanes. This is dangerous and can result in accidents. Enforcing illegal accessing of an HOV lane is difficult for law enforcement or peace officers because they cannot always see where a vehicle enters or exits.

C.S.S.B. 1508 authorizes the use of automated enforcement systems to capture a person who illegally enters or exits an HOV lane and authorizes an administrative penalty not to exceed \$100 for violations. The bill prohibits the use of an image produced by an automated enforcement system to prosecute a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 451, Transportation Code, by adding Section 451.0615, as follows:

Sec. 451.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES. (a) Defines "automated enforcement system," "high occupancy vehicle lane," "official traffic-control device," and "owner of a motor vehicle."

(b) Authorizes a governing body of an authority (board) by resolution to implement an automated enforcement system and provide that the owner of a motor vehicle, other than an authorized emergency vehicle as defined by Section 541.201 (Vehicles), is liable to the regional transit authority (authority) for a penalty if the vehicle is operated in violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane.

(c) Requires that the resolution adopted under this section provide for a penalty of not more than \$100; authorize an attorney employed by the authority or an attorney with whom the authority contracts to bring suit to collect the penalty; provide for notice of the violation to the owner of the motor vehicle that committed the violation; require that a peace officer commissioned by the authority review images produced by the automated enforcement system to determine whether the vehicle was operated in violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane and notarize the notice of violation before the notice is mailed to the owner of the motor vehicle that committed the violation; provide that a notice of violation is presumed to have been received on the fifth day after the date the notice is mailed if the notice was mailed to the owner of a motor vehicle; provide procedures by which the owner of the motor vehicle may request an administrative adjudication hearing to contest the imposition or the amount of the penalty; allow for the use of images recorded by the automated enforcement system authorized by this section; and provide for other procedures the board

determines are necessary for the imposition of a penalty authorized by this section.

(d) Prohibits an image produced by an automated enforcement system, except as provided by Subsection (e), from being used to prosecute a criminal offense.

(e) Authorizes an image produced by an automated enforcement system to be used to prosecute a criminal offense defined by Chapter 19 (Criminal Homicide), 20 (Kidnapping and Unlawful Restraint), 20A (Trafficking of Persons), 31 (Theft), 38 (Obstructing Governmental Operation), or 49 (Intoxication and Alcoholic Beverage Offenses), Penal Code.

SECTION 2. Amends Subchapter B, Chapter 452, Transportation Code, by adding Section 452.0615, as follows:

Sec. 452.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES. (a) Defines "automated enforcement system," "high occupancy vehicle lane," "official traffic-control device," and "owner of a motor vehicle."

(b) Provides that this section applies only to an authority that consists of one subregion governed by a subregional board created under Subchapter O and has entered into an agreement with a governmental entity to operate a high occupancy vehicle lane or provide peace officers to enforce compliance with instructions for high occupancy vehicle lane restrictions.

(c) Authorizes a board by resolution to implement an automated enforcement system and provide that the owner of a motor vehicle, other than an authorized emergency vehicle as defined by Section 541.201, is liable to the authority for a penalty if the vehicle is operated in violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane.

(d) Requires that the resolution adopted under this section provide for a penalty of not more than \$100; authorize an attorney employed by the authority or an attorney with whom the authority contracts to bring suit to collect the penalty; provide for notice of the violation to the owner of the motor vehicle that committed the violation; require that a peace officer commissioned by the authority review images produced by the automated enforcement system to determine whether the vehicle was operated in violation of the instructions of an official traffic-control device regarding entering or exiting a high occupancy vehicle lane and notarize the notice of violation before the notice is mailed to the owner of the motor vehicle that committed the violation; provide that a notice of violation is presumed to have been received on the fifth day after the date the notice is mailed if the notice was mailed to the owner of a motor vehicle; provide procedures by which the owner of the motor vehicle may request an administrative adjudication hearing to contest the imposition or the amount of the penalty; allow for the use of images recorded by the automated enforcement system authorized by this section; and provide for other procedures the board determines are necessary for the imposition of a penalty authorized by this section.

(e) Prohibits an image produced by an automated enforcement system, except as provided by Subsection (f), from being used to prosecute a criminal offense.

(f) Authorizes an image produced by an automated enforcement system to be used to prosecute a criminal offense defined by Chapter 19, 20, 20A, 31, 38, or 49, Penal Code.

SECTION 3. Effective date: September 1, 2009.