

By: Lewis

H.B. No. 1208

Substitute the following for H.B. No. 1208:

By: Phillips

C.S.H.B. No. 1208

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the mitigation of traffic congestion on highways;
3 providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 224.151, Transportation Code, is amended
6 by amending Subdivisions (2) and (4) and adding Subdivisions (7),
7 (8), and (9) to read as follows:

8 (2) "Congestion mitigation" means projects and
9 facilities used to reduce congestion by promoting [~~to promote~~] the
10 use of carpools and vanpools, improve air quality, conserve fuel,
11 and enhance the use of existing highways and facilities on the state
12 highway system.

13 (4) "High occupancy vehicle lane" means one or more
14 lanes of a highway or an entire highway where high occupancy
15 vehicles [~~, trucks, or emergency vehicles in any combination~~] are
16 given at all times, or at regularly scheduled times, a priority or
17 preference over some or all other vehicles moving in the general
18 stream of all highway traffic.

19 (7) "Exclusive lane" means a lane of a highway or
20 segment of a highway the use of which is restricted to one or more
21 designated classifications of motor vehicle.

22 (8) "Low-emissions vehicle" means a vehicle that meets
23 emissions standards established by commission rule.

24 (9) "Restricted lane" includes:

- 1 (A) a high occupancy vehicle lane;
- 2 (B) a toll lane under Section 224.154; and
- 3 (C) an exclusive lane.

4 SECTION 2. Section 224.152, Transportation Code, is amended
5 to read as follows:

6 Sec. 224.152. PURPOSE. (a) Subject to the availability of
7 state and federal funds, it is the intent of the legislature to
8 further the purposes of the United States Congress as expressed in
9 23 U.S.C. Sections 134, 135, 146, and 149 and in Section 1012(b) of
10 Pub. L. No. 102-240, as amended, to improve safety, conserve fuel,
11 decrease traffic congestion during rush hours, improve air quality,
12 develop innovative techniques to finance transportation projects,
13 and enhance the use of existing highways and facilities.

14 (b) The legislature declares that it is necessary, to
15 further the purposes described by Subsection (a), to provide for
16 the participation of the [~~commission and the~~] department, including
17 the expenditure of available funds by the department, in projects
18 and facilities for the purpose of congestion mitigation.

19 SECTION 3. Section 224.153, Transportation Code, is amended
20 to read as follows:

21 Sec. 224.153. HIGH OCCUPANCY VEHICLE LANES AUTHORIZED. (a)
22 The department [~~commission~~] may finance, designate, [~~and the~~
23 ~~department or a transportation corporation may~~] design, construct,
24 operate, or maintain one or more lanes on a multi-lane highway
25 facility as dedicated high occupancy vehicle lanes on the state
26 highway system.

27 (b) The department may enter into an agreement with a

1 transit authority under Chapter 451, 452, or 453, a regional
2 mobility authority under Chapter 361, a municipality, or a
3 transportation corporation for the design, construction,
4 operation, or maintenance of a high occupancy vehicle lane. [~~The~~
5 ~~commission may spend or allocate any available funds to:~~

6 [~~(1) designate highway lanes as preferential carpool~~
7 ~~or high occupancy vehicle lanes and create facilities to relieve~~
8 ~~traffic congestion; or~~

9 [~~(2) make any other designation of a dedicated high~~
10 ~~occupancy vehicle lane on the state highway system.]~~

11 (c) The department may authorize a motorcycle or a
12 low-emissions vehicle to use a [~~A motor vehicle displaying the~~
13 ~~"low-emissions vehicle" insignia authorized by Section 502.186 in~~
14 ~~an easily readable location on the back of the vehicle is entitled~~
15 ~~to travel in a preferential car pool or]~~ high occupancy vehicle lane
16 designated under this section regardless of the number of persons
17 on the motorcycle or occupants in the vehicle. [~~This subsection~~
18 ~~expires August 31, 2008.]~~

19 SECTION 4. Section 224.154, Transportation Code, is amended
20 to read as follows:

21 Sec. 224.154. TOLL LANES [~~CONGESTION MITIGATION~~]. (a)
22 Notwithstanding any law of this state relating to charging tolls on
23 existing free public highways, the commission may by order
24 authorize the department [~~or a transportation corporation~~] to
25 charge a toll for the use of one or more lanes of a state highway
26 facility, including a high occupancy vehicle lane, for the purposes
27 of congestion mitigation.

1 (b) If the commission authorizes the department to charge a
2 toll under Subsection (a), the department [~~The commission~~] may
3 enter into an agreement with a regional tollway authority described
4 in Chapter 366, [~~or~~] a transit authority described in Chapter 451,
5 452, or 453, a regional mobility authority under Chapter 361, a
6 county acting under Chapter 284, or a transportation corporation:

7 (1) to design, construct, operate, or maintain a toll
8 lane under this section; and

9 (2) to charge a toll for the use of one or more lanes of
10 a state highway facility under this section [~~subsection~~].

11 (c) [~~(b)~~] The commission may by order authorize the
12 department or the entity contracted to operate the toll lane to set
13 the amount of toll charges. Any toll charges shall be imposed in a
14 reasonable and nondiscriminatory manner.

15 [~~(c) For purposes of congestion mitigation projects and~~
16 ~~facilities under this subchapter, the department, a transportation~~
17 ~~corporation, and a regional tollway authority or a transit~~
18 ~~authority with whom the commission has an agreement under this~~
19 ~~section are successor agencies to the Texas Turnpike Authority for~~
20 ~~purposes of Section 52-b, Article III, Texas Constitution.~~]

21 (d) Revenue generated from toll charges and collection
22 [~~administrative~~] fees assessed by the department in connection with
23 a toll lane [~~congestion mitigation facility~~] shall be deposited in
24 the state highway fund and may be used only for projects for the
25 improvement of the state highway system. Revenue generated from
26 toll charges and collection [~~administrative~~] fees assessed by an
27 entity with whom the department [~~commission~~] contracts under this

1 section shall be allocated as required by the terms of the
2 agreement.

3 (e) The powers granted by this section are subject to the
4 restrictions of 23 U.S.C. Section 129.

5 SECTION 5. Subchapter F, Chapter 224, Transportation Code,
6 is amended by adding Section 224.1541 to read as follows:

7 Sec. 224.1541. EXCLUSIVE LANES. (a) The commission by
8 order may designate and the department may finance, design,
9 construct, operate, or maintain one or more lanes of a state highway
10 facility as exclusive lanes.

11 (b) The commission may designate a lane as an exclusive lane
12 under Subsection (a) only if the commission determines that:

13 (1) there:

14 (A) are two or more lanes adjacent to the
15 proposed exclusive lane for the use of vehicles other than vehicles
16 for which the lane is restricted; or

17 (B) is a multilane facility adjacent to the
18 proposed exclusive lane for the use of vehicles other than vehicles
19 for which the lane is restricted; and

20 (2) the use or operation of the exclusive lane is
21 likely to enhance safety, mobility, or air quality.

22 (c) The adjacent lanes or adjacent multilane facility under
23 Subsection (b) may be designated as exclusive lanes or an exclusive
24 lane facility for the use of vehicles that are prohibited from using
25 the exclusive lane.

26 SECTION 6. Subchapter F, Chapter 224, Transportation Code,
27 is amended by adding Sections 224.1542 and 224.1543 to read as

1 follows:

2 Sec. 224.1542. POLICE AND EMERGENCY VEHICLES. A
3 restriction imposed on a restricted lane under this subchapter does
4 not apply to a police vehicle or an authorized emergency vehicle as
5 defined by Section 541.201.

6 Sec. 224.1543. TRAFFIC CONTROL DEVICES. (a) The
7 department shall erect and maintain official traffic control
8 devices necessary to implement and ensure compliance with lane
9 restrictions designated under this subchapter. The department, in
10 a contract to operate a toll lane under this subchapter, may
11 authorize the contracted entity to erect and maintain necessary
12 official traffic control devices.

13 (b) Section 544.004 applies to a traffic control device
14 erected under this section.

15 SECTION 7. Section 224.156, Transportation Code, is amended
16 to read as follows:

17 Sec. 224.156. COLLECTION [ADMINISTRATIVE] FEE; NOTICE;
18 OFFENSE. (a) In the event of nonpayment of the proper toll as
19 required by Section 224.155, on issuance of a written notice of
20 nonpayment, the registered owner of the nonpaying vehicle is liable
21 for the payment of both the proper toll and a collection [an
22 administrative] fee.

23 (b) The commission by rule or an entity contracted to
24 operate a toll lane [and a transportation corporation] by order of
25 its governing body [board of directors] may respectively impose and
26 collect a collection [an administrative] fee, not to exceed \$100,
27 to recover the cost of collecting an unpaid toll. The entity

1 operating the toll lane [~~department~~] shall send a written notice of
2 nonpayment to the registered owner of the vehicle at that owner's
3 address as shown in the vehicle registration records of the
4 department by first-class mail [~~not later than the 30th day after~~
5 ~~the date of the alleged failure to pay~~] and may require payment not
6 sooner than the 30th day after the date the notice was mailed. The
7 registered owner shall pay a separate toll and collection
8 [~~administrative~~] fee for each event of nonpayment under Section
9 224.155.

10 (c) The registered owner of a vehicle for which the proper
11 toll was not paid who is mailed a written notice of nonpayment under
12 Subsection (b) and fails to pay the proper toll and collection
13 [~~administrative~~] fee within the time specified by the notice of
14 nonpayment commits an offense. Each failure to pay a toll or
15 collection [~~administrative~~] fee under this subsection is a separate
16 offense.

17 (d) It is an exception to the application of Subsection (a)
18 or (c) if the registered owner of the vehicle is a lessor of the
19 vehicle and, not later than the 30th day after the date the notice
20 of nonpayment is mailed, provides to the entity operating the toll
21 lane [~~department or the transportation corporation~~] a copy of the
22 rental, lease, or other contract document covering the vehicle on
23 the date of the nonpayment under Section 224.155, with the name and
24 address of the lessee clearly legible. If the lessor provides the
25 required information within the period prescribed, the entity
26 operating the toll lane [~~department or the transportation~~
27 ~~corporation~~] may send a notice of nonpayment to the lessee at the

1 address shown on the contract document by first-class mail before
2 the 30th day after the date of receipt of the required information
3 from the lessor. The lessee of the vehicle for which the proper
4 toll was not paid who is mailed a written notice of nonpayment under
5 this subsection and fails to pay the proper toll and collection
6 ~~[administrative]~~ fee within the time specified by the notice of
7 nonpayment commits an offense. The lessee shall pay a separate toll
8 and collection ~~[administrative]~~ fee for each event of nonpayment
9 under Section 224.155. Each failure to pay a toll or collection
10 ~~[administrative]~~ fee under this subsection is a separate offense.

11 (e) It is an exception to the application of Subsection (a)
12 or (c) if the registered owner of the vehicle transferred ownership
13 of the vehicle to another person before the event of nonpayment
14 under Section 224.155 occurred, submitted written notice of the
15 transfer to the department in accordance with Section 520.023, and,
16 before the 30th day after the date the notice of nonpayment is
17 mailed, provides to the entity operating the toll lane ~~[department~~
18 ~~or the transportation corporation]~~ the name and address of the
19 person to whom the vehicle was transferred. If the former owner of
20 the vehicle provides the required information within the period
21 prescribed, the entity operating the toll lane ~~[department or the~~
22 ~~transportation corporation]~~ may send a notice of nonpayment to the
23 person to whom ownership of the vehicle was transferred at the
24 address provided the former owner by first-class mail before the
25 30th day after the date of receipt of the required information from
26 the former owner. The subsequent owner of the vehicle for which the
27 proper toll was not paid who is mailed a written notice of

1 nonpayment under this subsection and fails to pay the proper toll
2 and collection [~~administrative~~] fee within the time specified by
3 the notice of nonpayment commits an offense. The subsequent owner
4 of the vehicle shall pay a separate toll and collection
5 [~~administrative~~] fee for each event of nonpayment under Section
6 224.155. Each failure to pay a toll or collection [~~administrative~~]
7 fee under this subsection is a separate offense.

8 (f) An offense under this section is a misdemeanor
9 punishable by a fine not to exceed \$250.

10 (g) The court in which a person is convicted of an offense
11 under this section shall also collect the proper toll and
12 collection [~~administrative~~] fee and forward the toll and fee to the
13 entity operating the toll collection facility [~~department or to the~~
14 ~~transportation corporation~~].

15 (h) In this section, "registered owner" means the owner of a
16 vehicle as shown on the vehicle registration records of the
17 department or the analogous department or agency of another state
18 or country.

19 (i) An entity operating a toll lane under this subchapter
20 may contract with a person to collect the proper toll and a required
21 collection fee before filing a complaint charging the commission of
22 an offense under Subsection (c), (d), or (e).

23 SECTION 8. Section 224.158(c), Transportation Code, is
24 amended to read as follows:

25 (c) An entity operating a toll lane under this subchapter
26 [~~The following entities~~] shall consider offering motor vehicle
27 operators the option of using a transponder to pay tolls without

1 stopping, to mitigate congestion at toll collection locations, to
2 enhance traffic flow, and to otherwise increase efficiency of
3 operations[+]

4 ~~[(1) the department,~~

5 ~~[(2) a regional tollway authority governed by Chapter
6 366,~~

7 ~~[(3) a transportation corporation,~~

8 ~~[(4) an entity to which a project authorized by this
9 subchapter is transferred by an entity described by Subdivision
10 (1), (2), or (3); or~~

11 ~~[(5) a third-party service provider under contract
12 with an entity described by Subdivision (1), (2), (3), or (4)].~~

13 SECTION 9. Section 545.0651, Transportation Code, is
14 amended to read as follows:

15 Sec. 545.0651. ~~[MUNICIPAL]~~ RESTRICTION ON USE OF HIGHWAY.

16 (a) In this section:

17 (1) "Commission" means the Texas Transportation
18 Commission.

19 (1-a) [(1)] "Department" means the Texas Department
20 of Transportation.

21 (2) "Highway" means a public highway ~~[roadway]~~ that:

22 (A) is in the designated state highway system;

23 (B) is designated a controlled access facility;

24 and

25 (C) has a minimum of three travel lanes,
26 excluding access or frontage roads, in each direction of traffic
27 that may be part of a single roadway or may be separate roadways

1 that are constructed as an upper and lower deck.

2 (b) The commission by order may restrict, by class of
3 vehicle, through traffic to two or more designated lanes of a
4 highway. If the lanes to be restricted by the commission are
5 located within a municipality, the commission shall consult with
6 the municipality before adopting an order under this section. A
7 municipality by ordinance may restrict, by class of vehicle,
8 through traffic to two or more designated lanes of a highway in the
9 municipality.

10 (c) An order or ordinance under Subsection (b) must[+
11 ~~[(1) be in effect only during peak traffic hours of a~~
12 ~~workday; and~~

13 ~~[(2)]~~ allow a restricted vehicle to use any lane of the
14 highway to pass another vehicle and to enter and exit the highway.

15 (d) Before adopting an ordinance [~~under this section~~], a
16 [~~the~~] municipality shall submit to the department a description of
17 the proposed restriction. The municipality may not enforce the
18 restrictions unless[+]

19 ~~[(1)]~~ the department's executive director or the
20 executive director's designee has approved the restrictions[+~~and~~

21 ~~[(2) the appropriate traffic control devices are in~~
22 ~~place].~~

23 (e) Department approval under Subsection (d) must:

24 (1) be based on a traffic study performed by the
25 department to evaluate the effect of the proposed restriction; and

26 (2) to the greatest extent practicable, ensure a
27 systems approach to preclude the designation of inconsistent lane

1 restrictions among adjacent municipalities.

2 (f) The department's executive director or the executive
3 director's designee may suspend or rescind approval of any
4 restrictions approved under Subsection (d) [~~this section~~] for one
5 or more of the following reasons:

- 6 (1) a change in pavement conditions;
- 7 (2) a change in traffic conditions;
- 8 (3) a geometric change in roadway configuration;
- 9 (4) construction or maintenance activity; or
- 10 (5) emergency or incident management.

11 (g) The department shall erect and maintain official
12 traffic control devices necessary to implement and enforce an order
13 adopted or an ordinance adopted and approved under this section. A
14 restriction approved under this section may not be enforced until
15 the appropriate traffic control devices are in place.

16 SECTION 10. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2003.