

By: Lewis

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 Subdivision (2) and adding Subdivisions (7), (8), and  
7 (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 (7) "Exclusive lane" means a lane of a highway or  
14 segment of a highway the use of which is restricted to one or more  
15 designated classifications of motor vehicle.

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

18 (9) "Restricted lane" includes:

19 (A) a high occupancy vehicle lane;

20 (B) a toll lane under Section 224.154; and

21 (C) an exclusive lane.

22 SECTION 2. Section 224.152, Transportation Code, is amended  
23 to read as follows:

24 Sec. 224.152. PURPOSE. (a) Subject to the availability of

1 state and federal funds, it is the intent of the legislature to  
2 further the purposes of the United States Congress as expressed in  
3 23 U.S.C. Sections 134, 135, 146, and 149 and in Section 1012(b) of  
4 Pub. L. No. 102-240, as amended, to improve safety, conserve fuel,  
5 decrease traffic congestion during rush hours, improve air quality,  
6 develop innovative techniques to finance transportation projects,  
7 and enhance the use of existing highways and facilities.

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

13 SECTION 3. Section 224.153, Transportation Code, is amended  
14 to read as follows:

15 Sec. 224.153. HIGH OCCUPANCY VEHICLE LANES AUTHORIZED. (a)  
16 The department [~~commission~~] may finance, designate, [~~and the~~  
17 ~~department or a transportation corporation may~~] design, construct,  
18 operate, or maintain one or more lanes on a multi-lane highway  
19 facility as dedicated high occupancy vehicle lanes on the state  
20 highway system.

21 (b) The department may enter into an agreement with a  
22 transit authority under Chapter 451, 452, or 453, a regional  
23 mobility authority under Chapter 361, a municipality, or a  
24 transportation corporation for the design, construction,  
25 operation, or maintenance of a high occupancy vehicle lane. [~~The~~  
26 ~~commission may spend or allocate any available funds to:~~

27 [~~(1) designate highway lanes as preferential carpool~~

1 ~~or high occupancy vehicle lanes and create facilities to relieve~~  
2 ~~traffic congestion; or~~

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

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

13       SECTION 4. Section 224.154, Transportation Code, is amended  
14 to read as follows:

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

22       (b) If the commission authorizes the department to charge a  
23 toll under Subsection (a), the department ~~[The commission]~~ may  
24 enter into an agreement with a regional tollway authority described  
25 in Chapter 366, ~~[or]~~ a transit authority described in Chapter 451,  
26 452, or 453, a regional mobility authority under Chapter 361, a  
27 county acting under Chapter 284, or a transportation corporation:

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

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

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

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

15           (d) Revenue generated from toll charges and collection  
16 [~~administrative~~] fees assessed by the department in connection with  
17 a toll lane [~~congestion mitigation facility~~] shall be deposited in  
18 the state highway fund and may be used only for projects for the  
19 improvement of the state highway system. Revenue generated from  
20 toll charges and collection [~~administrative~~] fees assessed by an  
21 entity with whom the department [~~commission~~] contracts under this  
22 section shall be allocated as required by the terms of the  
23 agreement.

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

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

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

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

7           (1) there:

8               (A) are two or more lanes adjacent to the  
9 proposed exclusive lane; or

10              (B) is a multilane facility adjacent to the  
11 proposed exclusive lane, the use of which is not restricted; and

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

14       (c) The commission may designate more than one lane of a  
15 highway as exclusive lanes only if the conditions in Subsections  
16 (b)(1) and (2) exist. The commission may designate all the lanes of  
17 a highway as exclusive lanes only if the conditions in Subsections  
18 (b)(1)(B) and (2) exist.

19       SECTION 6. Subchapter F, Chapter 224, Transportation Code,  
20 is amended by adding Sections 224.1542 and 224.1543 to read as  
21 follows:

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

26       Sec. 224.1543. TRAFFIC CONTROL DEVICES. (a) The  
27 department shall erect and maintain official traffic control

1 devices necessary to implement and ensure compliance with lane  
2 restrictions designated under this subchapter. The department, in  
3 a contract to operate a toll lane under this subchapter, may  
4 authorize the contracted entity to erect and maintain necessary  
5 official traffic control devices.

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

8 SECTION 7. Section 224.156, Transportation Code, is amended  
9 to read as follows:

10 Sec. 224.156. COLLECTION [ADMINISTRATIVE] FEE; NOTICE;  
11 OFFENSE. (a) In the event of nonpayment of the proper toll as  
12 required by Section 224.155, on issuance of a written notice of  
13 nonpayment, the registered owner of the nonpaying vehicle is liable  
14 for the payment of both the proper toll and a collection [~~an~~  
15 ~~administrative~~] fee.

16 (b) The commission by rule or an entity contracted to  
17 operate a toll lane [~~and a transportation corporation~~] by order of  
18 its governing body [~~board of directors~~] may respectively impose and  
19 collect a collection [~~an administrative~~] fee, not to exceed \$100,  
20 to recover the cost of collecting an unpaid toll. The entity  
21 operating the toll lane [~~department~~] shall send a written notice of  
22 nonpayment to the registered owner of the vehicle at that owner's  
23 address as shown in the vehicle registration records of the  
24 department by first-class mail not later than the 30th day after the  
25 date of the alleged failure to pay and may require payment not  
26 sooner than the 30th day after the date the notice was mailed. The  
27 registered owner shall pay a separate toll and collection

1 ~~[administrative]~~ fee for each event of nonpayment under Section  
2 224.155.

3 (c) The registered owner of a vehicle for which the proper  
4 toll was not paid who is mailed a written notice of nonpayment under  
5 Subsection (b) 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. Each failure to pay a toll or  
8 collection ~~[administrative]~~ fee under this subsection is a separate  
9 offense.

10 (d) It is an exception to the application of Subsection (a)  
11 or (c) if the registered owner of the vehicle is a lessor of the  
12 vehicle and, not later than the 30th day after the date the notice  
13 of nonpayment is mailed, provides to the entity operating the toll  
14 lane ~~[department or the transportation corporation]~~ a copy of the  
15 rental, lease, or other contract document covering the vehicle on  
16 the date of the nonpayment under Section 224.155, with the name and  
17 address of the lessee clearly legible. If the lessor provides the  
18 required information within the period prescribed, the entity  
19 operating the toll lane ~~[department or the transportation~~  
20 ~~corporation]~~ may send a notice of nonpayment to the lessee at the  
21 address shown on the contract document by first-class mail before  
22 the 30th day after the date of receipt of the required information  
23 from the lessor. The lessee of the vehicle for which the proper  
24 toll was not paid who is mailed a written notice of nonpayment under  
25 this subsection and fails to pay the proper toll and collection  
26 ~~[administrative]~~ fee within the time specified by the notice of  
27 nonpayment commits an offense. The lessee shall pay a separate toll

1 and collection [~~administrative~~] fee for each event of nonpayment  
2 under Section 224.155. Each failure to pay a toll or collection  
3 [~~administrative~~] fee under this subsection is a separate offense.

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



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

3 (g) The court in which a person is convicted of an offense  
4 under this section shall also collect the proper toll and  
5 collection [administrative] fee and forward the toll and fee to the  
6 entity operating the toll collection facility [department or to the  
7 transportation corporation].

8 (h) In this section, "registered owner" means the owner of a  
9 vehicle as shown on the vehicle registration records of the  
10 department or the analogous department or agency of another state  
11 or country.

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

14 (c) An entity operating a toll lane under this subchapter  
15 [The following entities] shall consider offering motor vehicle  
16 operators the option of using a transponder to pay tolls without  
17 stopping, to mitigate congestion at toll collection locations, to  
18 enhance traffic flow, and to otherwise increase efficiency of  
19 operations[+]

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

21 [~~(2) a regional tollway authority governed by Chapter~~

22 ~~366,~~

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

24 [~~(4) an entity to which a project authorized by this~~  
25 ~~subchapter is transferred by an entity described by Subdivision~~  
26 ~~(1), (2), or (3), or~~

27 [~~(5) a third-party service provider under contract~~

1 ~~with an entity described by Subdivision (1), (2), (3), or (4)].~~

2 SECTION 9. Section 545.0651, Transportation Code, is  
3 amended to read as follows:

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

5 (a) In this section:

6 (1) "Commission" means the Texas Transportation  
7 Commission.

8 (1-a) [~~(1)~~] "Department" means the Texas Department  
9 of Transportation.

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

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

12 (B) is designated a controlled access facility;

13 and

14 (C) has a minimum of three travel lanes,  
15 excluding access or frontage roads, in each direction of traffic  
16 that may be part of a single roadway or may be separate roadways  
17 that are constructed as an upper and lower deck.

18 (b) The commission by order may restrict, by class of  
19 vehicle, through traffic to two or more designated lanes of a  
20 highway. A municipality by ordinance may restrict, by class of  
21 vehicle, through traffic to two or more designated lanes of a  
22 highway in the municipality.

23 (c) An order or ordinance under Subsection (b) must [~~+~~

24 [~~(1)~~] ~~be in effect only during peak traffic hours of a~~  
25 ~~workday, and~~

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

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

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

7 [~~(2) the appropriate traffic control devices are in~~  
8 ~~place~~].

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

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

12 (2) to the greatest extent practicable, ensure a  
13 systems approach to preclude the designation of inconsistent lane  
14 restrictions among adjacent municipalities.

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

- 19 (1) a change in pavement conditions;  
20 (2) a change in traffic conditions;  
21 (3) a geometric change in roadway configuration;  
22 (4) construction or maintenance activity; or  
23 (5) emergency or incident management.

24 (g) The department shall erect and maintain official  
25 traffic control devices necessary to implement and enforce an order  
26 adopted or an ordinance adopted and approved under this section. A  
27 restriction approved under this section may not be enforced until

1 the appropriate traffic control devices are in place.

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