

1-1 By: Lewis (Senate Sponsor - Shapiro) H.B. No. 1208
1-2 (In the Senate - Received from the House April 3, 2003;
1-3 April 7, 2003, read first time and referred to Committee on
1-4 Infrastructure Development and Security; May 12, 2003, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 9, Nays 0; May 12, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1208 By: Shapiro

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the mitigation of traffic congestion on highways;
1-11 providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 224.151, Transportation Code, is amended
1-14 by amending Subdivisions (2) and (4) and adding Subdivisions (7),
1-15 (8), and (9) to read as follows:

1-16 (2) "Congestion mitigation" means projects and
1-17 facilities used to reduce congestion by promoting [~~to promote~~] the
1-18 use of carpools and vanpools, improve air quality, conserve fuel,
1-19 and enhance the use of existing highways and facilities on the state
1-20 highway system.

1-21 (4) "High occupancy vehicle lane" means one or more
1-22 lanes of a highway or an entire highway where high occupancy
1-23 vehicles [~~, trucks, or emergency vehicles in any combination~~] are
1-24 given at all times, or at regularly scheduled times, a priority or
1-25 preference over some or all other vehicles moving in the general
1-26 stream of all highway traffic.

1-27 (7) "Exclusive lane" means a lane of a highway or
1-28 segment of a highway the use of which is restricted to one or more
1-29 designated classifications of motor vehicle.

1-30 (8) "Low-emissions vehicle" means a vehicle that meets
1-31 emissions standards established by commission rule.

1-32 (9) "Restricted lane" includes:

1-33 (A) a high occupancy vehicle lane;

1-34 (B) a toll lane under Section 224.154; and

1-35 (C) an exclusive lane.

1-36 SECTION 2. Section 224.152, Transportation Code, is amended
1-37 to read as follows:

1-38 Sec. 224.152. PURPOSE. (a) Subject to the availability of
1-39 state and federal funds, it is the intent of the legislature to
1-40 further the purposes of the United States Congress as expressed in
1-41 23 U.S.C. Sections 134, 135, 146, and 149 and in Section 1012(b) of
1-42 Pub. L. No. 102-240, as amended, to improve safety, conserve fuel,
1-43 decrease traffic congestion during rush hours, improve air quality,
1-44 develop innovative techniques to finance transportation projects,
1-45 and enhance the use of existing highways and facilities.

1-46 (b) The legislature declares that it is necessary, to
1-47 further the purposes described by Subsection (a), to provide for
1-48 the participation of the [~~commission and the~~] department, including
1-49 the expenditure of available funds by the department, in projects
1-50 and facilities for the purpose of congestion mitigation.

1-51 SECTION 3. Section 224.153, Transportation Code, is amended
1-52 to read as follows:

1-53 Sec. 224.153. HIGH OCCUPANCY VEHICLE LANES AUTHORIZED. (a)
1-54 The department [~~commission~~] may finance, designate, [~~and the~~
1-55 ~~department or a transportation corporation may~~] design, construct,
1-56 operate, or maintain one or more lanes on a multi-lane highway
1-57 facility as dedicated high occupancy vehicle lanes on the state
1-58 highway system.

1-59 (b) The department may enter into an agreement with a
1-60 transit authority under Chapter 451, 452, or 453, a regional
1-61 mobility authority under Chapter 361, a municipality, or a
1-62 transportation corporation for the design, construction,
1-63 operation, or maintenance of a high occupancy vehicle lane. [~~The~~

2-1 ~~commission may spend or allocate any available funds to:~~

2-2 ~~(1) designate highway lanes as preferential carpool~~
2-3 ~~or high occupancy vehicle lanes and create facilities to relieve~~
2-4 ~~traffic congestion; or~~

2-5 ~~(2) make any other designation of a dedicated high~~
2-6 ~~occupancy vehicle lane on the state highway system.]~~

2-7 (c) The department may authorize a motorcycle or a
2-8 low-emissions vehicle to use a [A motor vehicle displaying the
2-9 "low-emissions vehicle" insignia authorized by Section 502.186 in
2-10 an easily readable location on the back of the vehicle is entitled
2-11 to travel in a preferential car pool or] high occupancy vehicle lane
2-12 designated under this section regardless of the number of persons
2-13 on the motorcycle or occupants in the vehicle[. This subsection
2-14 expires August 31, 2008].

2-15 (d) The department may not authorize the use of a high
2-16 occupancy vehicle lane designed, constructed, operated, or
2-17 maintained under Subsection (b) by a motorcycle or a low-emissions
2-18 vehicle that is not occupied by the required minimum number of
2-19 persons if the use would impair the receipt of federal transit
2-20 funds.

2-21 SECTION 4. Section 224.154, Transportation Code, is amended
2-22 to read as follows:

2-23 Sec. 224.154. TOLL LANES [CONGESTION MITIGATION]. (a)
2-24 Notwithstanding any law of this state relating to charging tolls on
2-25 existing free public highways, and subject to Section 224.1541(d),
2-26 the commission may by order authorize the department [~~or a~~
2-27 ~~transportation corporation]~~ to charge a toll for the use of one or
2-28 more lanes of a state highway facility, including a high occupancy
2-29 vehicle lane, for the purposes of congestion mitigation.

2-30 (b) If the commission authorizes the department to charge a
2-31 toll under Subsection (a), the department [The commission] may
2-32 enter into an agreement with a regional tollway authority described
2-33 in Chapter 366, [~~or~~] a transit authority described in Chapter 451,
2-34 452, or 453, a regional mobility authority under Chapter 361, a
2-35 county acting under Chapter 284, or a transportation corporation:

2-36 (1) to design, construct, operate, or maintain a toll
2-37 lane under this section; and

2-38 (2) to charge a toll for the use of one or more lanes of
2-39 a state highway facility under this section [subsection].

2-40 (c) [~~(b)~~] The commission may by order authorize the
2-41 department or the entity contracted to operate the toll lane to set
2-42 the amount of toll charges. Any toll charges shall be imposed in a
2-43 reasonable and nondiscriminatory manner.

2-44 ~~(c) For purposes of congestion mitigation projects and~~
2-45 ~~facilities under this subchapter, the department, a transportation~~
2-46 ~~corporation, and a regional tollway authority or a transit~~
2-47 ~~authority with whom the commission has an agreement under this~~
2-48 ~~section are successor agencies to the Texas Turnpike Authority for~~
2-49 ~~purposes of Section 52-b, Article III, Texas Constitution.]~~

2-50 (d) Revenue generated from toll charges and collection
2-51 [administrative] fees assessed by the department in connection with
2-52 a toll lane [congestion mitigation facility] shall be deposited in
2-53 the state highway fund and may be used only for projects for the
2-54 improvement of the state highway system. Revenue generated from
2-55 toll charges and collection [administrative] fees assessed by an
2-56 entity with whom the department [commission] contracts under this
2-57 section shall be allocated as required by the terms of the
2-58 agreement.

2-59 (e) The powers granted by this section are subject to the
2-60 restrictions of 23 U.S.C. Section 129.

2-61 SECTION 5. Subchapter F, Chapter 224, Transportation Code,
2-62 is amended by adding Section 224.1541 to read as follows:

2-63 Sec. 224.1541. EXCLUSIVE LANES. (a) The commission by
2-64 order may designate and the department may finance, design,
2-65 construct, operate, or maintain one or more lanes of a state highway
2-66 facility as exclusive lanes.

2-67 (b) The commission may designate a lane as an exclusive lane
2-68 under Subsection (a) only if the commission determines that:

2-69 (1) there:

3-1 (A) are two or more lanes adjacent to the
 3-2 proposed exclusive lane for the use of vehicles other than vehicles
 3-3 for which the lane is restricted; or

3-4 (B) is a multilane facility adjacent to the
 3-5 proposed exclusive lane for the use of vehicles other than vehicles
 3-6 for which the lane is restricted; and

3-7 (2) the use or operation of the exclusive lane is
 3-8 likely to enhance safety, mobility, or air quality.

3-9 (c) The adjacent lanes or adjacent multilane facility under
 3-10 Subsection (b) may be designated as exclusive lanes or an exclusive
 3-11 lane facility for the use of vehicles that are prohibited from using
 3-12 the exclusive lane.

3-13 (d) The department may not charge a toll for the use of an
 3-14 exclusive lane unless:

3-15 (1) the lanes or multilane facility adjacent to the
 3-16 exclusive lane is tolled; or

3-17 (2) a vehicle that is authorized to use the tolled
 3-18 exclusive lane is authorized to use nontolled adjacent lanes or an
 3-19 adjacent nontolled multilane facility.

3-20 SECTION 6. Subchapter F, Chapter 224, Transportation Code,
 3-21 is amended by adding Sections 224.1542 and 224.1543 to read as
 3-22 follows:

3-23 Sec. 224.1542. POLICE AND EMERGENCY VEHICLES. A
 3-24 restriction imposed on a restricted lane under this subchapter does
 3-25 not apply to a police vehicle or an authorized emergency vehicle as
 3-26 defined by Section 541.201.

3-27 Sec. 224.1543. TRAFFIC CONTROL DEVICES. (a) The
 3-28 department shall erect and maintain official traffic control
 3-29 devices necessary to implement and ensure compliance with lane
 3-30 restrictions designated under this subchapter. The department, in
 3-31 a contract to operate a toll lane under this subchapter, may
 3-32 authorize the contracted entity to erect and maintain necessary
 3-33 official traffic control devices.

3-34 (b) Section 544.004 applies to a traffic control device
 3-35 erected under this section.

3-36 SECTION 7. Section 224.156, Transportation Code, is amended
 3-37 to read as follows:

3-38 Sec. 224.156. COLLECTION [ADMINISTRATIVE] FEE; NOTICE;
 3-39 OFFENSE. (a) In the event of nonpayment of the proper toll as
 3-40 required by Section 224.155, on issuance of a written notice of
 3-41 nonpayment, the registered owner of the nonpaying vehicle is liable
 3-42 for the payment of both the proper toll and a collection [an
 3-43 administrative] fee.

3-44 (b) The commission by rule or an entity contracted to
 3-45 operate a toll lane [and a transportation corporation] by order of
 3-46 its governing body [board of directors] may respectively impose and
 3-47 collect a collection [an administrative] fee, not to exceed \$100,
 3-48 to recover the cost of collecting an unpaid toll. The entity
 3-49 operating the toll lane [department] shall send a written notice of
 3-50 nonpayment to the registered owner of the vehicle at that owner's
 3-51 address as shown in the vehicle registration records of the
 3-52 department by first-class mail [not later than the 30th day after
 3-53 the date of the alleged failure to pay] and may require payment not
 3-54 sooner than the 30th day after the date the notice was mailed. The
 3-55 registered owner shall pay a separate toll and collection
 3-56 [administrative] fee for each event of nonpayment under Section
 3-57 224.155.

3-58 (c) The registered owner of a vehicle for which the proper
 3-59 toll was not paid who is mailed a written notice of nonpayment under
 3-60 Subsection (b) and fails to pay the proper toll and collection
 3-61 [administrative] fee within the time specified by the notice of
 3-62 nonpayment commits an offense. Each failure to pay a toll or
 3-63 collection [administrative] fee under this subsection is a separate
 3-64 offense.

3-65 (d) It is an exception to the application of Subsection (a)
 3-66 or (c) if the registered owner of the vehicle is a lessor of the
 3-67 vehicle and, not later than the 30th day after the date the notice
 3-68 of nonpayment is mailed, provides to the entity operating the toll
 3-69 lane [department or the transportation corporation] a copy of the

4-1 rental, lease, or other contract document covering the vehicle on
 4-2 the date of the nonpayment under Section 224.155, with the name and
 4-3 address of the lessee clearly legible. If the lessor provides the
 4-4 required information within the period prescribed, the entity
 4-5 operating the toll lane [~~department or the transportation~~
 4-6 ~~corporation~~] may send a notice of nonpayment to the lessee at the
 4-7 address shown on the contract document by first-class mail before
 4-8 the 30th day after the date of receipt of the required information
 4-9 from the lessor. The lessee of the vehicle for which the proper
 4-10 toll was not paid who is mailed a written notice of nonpayment under
 4-11 this subsection and fails to pay the proper toll and collection
 4-12 [~~administrative~~] fee within the time specified by the notice of
 4-13 nonpayment commits an offense. The lessee shall pay a separate toll
 4-14 and collection [~~administrative~~] fee for each event of nonpayment
 4-15 under Section 224.155. Each failure to pay a toll or collection
 4-16 [~~administrative~~] fee under this subsection is a separate offense.

4-17 (e) It is an exception to the application of Subsection (a)
 4-18 or (c) if the registered owner of the vehicle transferred ownership
 4-19 of the vehicle to another person before the event of nonpayment
 4-20 under Section 224.155 occurred, submitted written notice of the
 4-21 transfer to the department in accordance with Section 520.023, and,
 4-22 before the 30th day after the date the notice of nonpayment is
 4-23 mailed, provides to the entity operating the toll lane [~~department~~
 4-24 ~~or the transportation corporation~~] the name and address of the
 4-25 person to whom the vehicle was transferred. If the former owner of
 4-26 the vehicle provides the required information within the period
 4-27 prescribed, the entity operating the toll lane [~~department or the~~
 4-28 ~~transportation corporation~~] may send a notice of nonpayment to the
 4-29 person to whom ownership of the vehicle was transferred at the
 4-30 address provided the former owner by first-class mail before the
 4-31 30th day after the date of receipt of the required information from
 4-32 the former owner. The subsequent owner of the vehicle for which the
 4-33 proper toll was not paid who is mailed a written notice of
 4-34 nonpayment under this subsection and fails to pay the proper toll
 4-35 and collection [~~administrative~~] fee within the time specified by
 4-36 the notice of nonpayment commits an offense. The subsequent owner
 4-37 of the vehicle shall pay a separate toll and collection
 4-38 [~~administrative~~] fee for each event of nonpayment under Section
 4-39 224.155. Each failure to pay a toll or collection [~~administrative~~]
 4-40 fee under this subsection is a separate offense.

4-41 (f) An offense under this section is a misdemeanor
 4-42 punishable by a fine not to exceed \$250.

4-43 (g) The court in which a person is convicted of an offense
 4-44 under this section shall also collect the proper toll and
 4-45 collection [~~administrative~~] fee and forward the toll and fee to the
 4-46 entity operating the toll collection facility [~~department or to the~~
 4-47 ~~transportation corporation~~].

4-48 (h) In this section, "registered owner" means the owner of a
 4-49 vehicle as shown on the vehicle registration records of the
 4-50 department or the analogous department or agency of another state
 4-51 or country.

4-52 (i) An entity operating a toll lane under this subchapter
 4-53 may contract with a person to collect the proper toll and a required
 4-54 collection fee before filing a complaint charging the commission of
 4-55 an offense under Subsection (c), (d), or (e).

4-56 SECTION 8. Section 224.158(c), Transportation Code, is
 4-57 amended to read as follows:

4-58 (c) An entity operating a toll lane under this subchapter
 4-59 [~~The following entities~~] shall consider offering motor vehicle
 4-60 operators the option of using a transponder to pay tolls without
 4-61 stopping, to mitigate congestion at toll collection locations, to
 4-62 enhance traffic flow, and to otherwise increase efficiency of
 4-63 operations[+]

4-64 [~~(1) the department,~~
 4-65 ~~(2) a regional tollway authority governed by Chapter~~

4-66 366,

4-67 [~~(3) a transportation corporation,~~
 4-68 ~~(4) an entity to which a project authorized by this~~
 4-69 ~~subchapter is transferred by an entity described by Subdivision~~

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

5-4 SECTION 9. Section 545.0651, Transportation Code, is
5-5 amended to read as follows:

5-6 Sec. 545.0651. [MUNICIPAL] RESTRICTION ON USE OF HIGHWAY.

5-7 (a) In this section:

5-8 (1) "Commission" means the Texas Transportation
5-9 Commission.

5-10 (1-a) ~~[(1)]~~ "Department" means the Texas Department
5-11 of Transportation.

5-12 (2) "Highway" means a public highway ~~[roadway]~~ that:

5-13 (A) is in the designated state highway system;

5-14 (B) is designated a controlled access facility;

5-15 and

5-16 (C) has a minimum of three travel lanes,
5-17 excluding access or frontage roads, in each direction of traffic
5-18 that may be part of a single roadway or may be separate roadways
5-19 that are constructed as an upper and lower deck.

5-20 (b) The commission by order may restrict, by class of
5-21 vehicle, through traffic to two or more designated lanes of a
5-22 highway. If the lanes to be restricted by the commission are
5-23 located within a municipality, the commission shall consult with
5-24 the municipality before adopting an order under this section. A
5-25 municipality by ordinance may restrict, by class of vehicle,
5-26 through traffic to two or more designated lanes of a highway in the
5-27 municipality.

5-28 (c) An order or ordinance under Subsection (b) must ~~+~~
5-29 ~~[(1) be in effect only during peak traffic hours of a~~
5-30 ~~workday; and~~

5-31 ~~[(2)]~~ allow a restricted vehicle to use any lane of the
5-32 highway to pass another vehicle and to enter and exit the highway.

5-33 (d) Before adopting an ordinance ~~[under this section]~~, a
5-34 ~~[the]~~ municipality shall submit to the department a description of
5-35 the proposed restriction. The municipality may not enforce the
5-36 restrictions unless ~~+~~

5-37 ~~[(1)]~~ the department's executive director or the
5-38 executive director's designee has approved the restrictions ~~+, and~~

5-39 ~~[(2) the appropriate traffic control devices are in~~
5-40 ~~place].~~

5-41 (e) Department approval under Subsection (d) must:

5-42 (1) be based on a traffic study performed by the
5-43 department to evaluate the effect of the proposed restriction; and

5-44 (2) to the greatest extent practicable, ensure a
5-45 systems approach to preclude the designation of inconsistent lane
5-46 restrictions among adjacent municipalities.

5-47 (f) The department's executive director or the executive
5-48 director's designee may suspend or rescind approval of any
5-49 restrictions approved under Subsection (d) [this section] for one
5-50 or more of the following reasons:

5-51 (1) a change in pavement conditions;

5-52 (2) a change in traffic conditions;

5-53 (3) a geometric change in roadway configuration;

5-54 (4) construction or maintenance activity; or

5-55 (5) emergency or incident management.

5-56 (g) The department shall erect and maintain official
5-57 traffic control devices necessary to implement and enforce an order
5-58 adopted or an ordinance adopted and approved under this section. A
5-59 restriction approved under this section may not be enforced until
5-60 the appropriate traffic control devices are in place.

5-61 SECTION 10. This Act takes effect immediately if it
5-62 receives a vote of two-thirds of all the members elected to each
5-63 house, as provided by Section 39, Article III, Texas Constitution.
5-64 If this Act does not receive the vote necessary for immediate
5-65 effect, this Act takes effect September 1, 2003.

5-66 * * * * *