

By: Carona

S.B. No. 1508

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain transportation and transit authorities to enforce compliance with high occupancy vehicle lane restrictions by an automated enforcement system; providing for the imposition of penalties.

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

SECTION 1. Subchapter B, Chapter 451, Transportation Code, is amended by adding Section 451.0615 to read as follows:

Sec. 451.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES.

(a) In this section:

(1) "Automated enforcement system" means a system that:

(A) consists of a camera or other electrical or mechanical device that produces photographic, electronic, video, or digital images of a motor vehicle; and

(B) is used to enforce compliance with instructions for high occupancy vehicle lane restrictions.

(2) "High occupancy vehicle lane" has the meaning assigned by Section 224.151.

(3) "Official traffic-control device" has the meaning assigned by Section 541.304 and includes a traffic pylon and double white lines on a highway.

(4) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of

1 the department or the analogous department or agency of another  
2 state or county.

3 (b) A board by resolution may implement an automated  
4 enforcement system and provide that the owner of a motor vehicle,  
5 other than an authorized emergency vehicle as defined by Section  
6 541.201, is liable to the authority for a penalty if the vehicle is  
7 operated in violation of the instructions of an official  
8 traffic-control device regarding entering or exiting a high  
9 occupancy vehicle lane.

10 (b-1) A resolution adopted under Subsection (b) may not  
11 provide for the imposition of a penalty for a vehicle that is  
12 operated in violation of the minimum number of persons requirement  
13 for use of a high occupancy vehicle lane or for the purpose of  
14 enforcing compliance with posted speed limits.

15 (c) The resolution adopted under this section must:

16 (1) provide for a penalty of not more than \$100;

17 (2) authorize an attorney employed by the authority or  
18 an attorney with whom the authority contracts to bring suit to  
19 collect the penalty;

20 (3) provide for notice of the violation to the owner of  
21 the motor vehicle that committed the violation;

22 (4) require that a peace officer commissioned by the  
23 authority:

24 (A) review images produced by the automated  
25 enforcement system to determine whether the vehicle was operated in  
26 violation of the instructions of an official traffic-control device  
27 regarding entering or exiting a high occupancy vehicle lane; and

1           (B) notarize the notice of violation before the  
2 notice is mailed to the owner of the motor vehicle that committed  
3 the violation;

4           (5) provide that a notice of violation is presumed to  
5 have been received on the fifth day after the date the notice is  
6 mailed if the notice was mailed to the owner of a motor vehicle;

7           (6) provide procedures by which the owner of the motor  
8 vehicle may request an administrative adjudication hearing to  
9 contest the imposition or the amount of the penalty;

10          (7) allow for the use of images produced by the  
11 automated enforcement system authorized by this section; and

12          (8) provide for other procedures the board determines  
13 are necessary for the imposition of a penalty authorized by this  
14 section.

15          (d) Except as provided by Subsection (e), an image produced  
16 by an automated enforcement system may not be used to prosecute a  
17 criminal offense.

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

21          (f) This section does not apply to an authority in which the  
22 principal municipality has a population of more than 1.9 million.

23          SECTION 2. Subchapter B, Chapter 452, Transportation Code,  
24 is amended by adding Section 452.0615 to read as follows:

25          Sec. 452.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES.

26          (a) In this section:

27                 (1) "Automated enforcement system" means a system

1 that:

2 (A) consists of a camera or other electrical or  
3 mechanical device that produces photographic, electronic, video,  
4 or digital images of a motor vehicle; and

5 (B) is used to enforce compliance with  
6 instructions for high occupancy vehicle lane restrictions.

7 (2) "High occupancy vehicle lane" has the meaning  
8 assigned by Section 224.151.

9 (3) "Official traffic-control device" has the meaning  
10 assigned by Section 541.304 and includes a traffic pylon and double  
11 white lines on a highway.

12 (4) "Owner of a motor vehicle" means the owner of a  
13 motor vehicle as shown on the motor vehicle registration records of  
14 the department or the analogous department or agency of another  
15 state or county.

16 (b) This section applies only to an authority that:

17 (1) consists of one subregion governed by a  
18 subregional board created under Subchapter O; and

19 (2) has entered into an agreement with a governmental  
20 entity to:

21 (A) operate a high occupancy vehicle lane; or

22 (B) provide peace officers to enforce compliance  
23 with instructions for high occupancy vehicle lane restrictions.

24 (c) A board by resolution may implement an automated  
25 enforcement system and provide that the owner of a motor vehicle,  
26 other than an authorized emergency vehicle as defined by Section  
27 541.201, is liable to the authority for a penalty if the vehicle is

1 operated in violation of the instructions of an official  
2 traffic-control device regarding entering or exiting a high  
3 occupancy vehicle lane.

4 (c-1) A resolution adopted under Subsection (c) may not  
5 provide for the imposition of a penalty for a vehicle that is  
6 operated in violation of the minimum number of persons requirement  
7 for use of a high occupancy vehicle lane or for the purpose of  
8 enforcing compliance with posted speed limits.

9 (d) The resolution adopted under this section must:

10 (1) provide for a penalty of not more than \$100;

11 (2) authorize an attorney employed by the authority or  
12 an attorney with whom the authority contracts to bring suit to  
13 collect the penalty;

14 (3) provide for notice of the violation to the owner of  
15 the motor vehicle that committed the violation;

16 (4) require that a peace officer commissioned by the  
17 authority:

18 (A) review images produced by the automated  
19 enforcement system to determine whether the vehicle was operated in  
20 violation of the instructions of an official traffic-control device  
21 regarding entering or exiting a high occupancy vehicle lane; and

22 (B) notarize the notice of violation before the  
23 notice is mailed to the owner of the motor vehicle that committed  
24 the violation;

25 (5) provide that a notice of violation is presumed to  
26 have been received on the fifth day after the date the notice is  
27 mailed if the notice was mailed to the owner of a motor vehicle;

1           (6) provide procedures by which the owner of the motor  
2 vehicle may request an administrative adjudication hearing to  
3 contest the imposition or the amount of the penalty;

4           (7) allow for the use of images produced by the  
5 automated enforcement system authorized by this section; and

6           (8) provide for other procedures the board determines  
7 are necessary for the imposition of a penalty authorized by this  
8 section.

9           (e) Except as provided by Subsection (f), an image produced  
10 by an automated enforcement system may not be used to prosecute a  
11 criminal offense.

12           (f) An image produced by an automated enforcement system may  
13 be used to prosecute a criminal offense defined by Chapter 19, 20,  
14 20A, 31, 38, or 49, Penal Code.

15           SECTION 3. This Act takes effect September 1, 2009.