

1-1 By: Carona S.B. No. 1508  
1-2 (In the Senate - Filed March 9, 2009; March 17, 2009, read  
1-3 first time and referred to Committee on Transportation and Homeland  
1-4 Security; April 8, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 April 8, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1508 By: Carona

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

1-10 relating to the authority of certain transportation and transit  
1-11 authorities to enforce compliance with high occupancy vehicle lane  
1-12 restrictions by an automated enforcement system; providing for the  
1-13 imposition of penalties.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter B, Chapter 451, Transportation Code,  
1-16 is amended by adding Section 451.0615 to read as follows:

1-17 Sec. 451.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES.

1-18 (a) In this section:

1-19 (1) "Automated enforcement system" means a system  
1-20 that:

1-21 (A) consists of a camera or other electrical or  
1-22 mechanical device that produces photographic, electronic, video,  
1-23 or digital images of a motor vehicle; and

1-24 (B) is used to enforce compliance with  
1-25 instructions for high occupancy vehicle lane restrictions.

1-26 (2) "High occupancy vehicle lane" has the meaning  
1-27 assigned by Section 224.151.

1-28 (3) "Official traffic-control device" has the meaning  
1-29 assigned by Section 541.304 and includes a traffic pylon and double  
1-30 white lines on a highway.

1-31 (4) "Owner of a motor vehicle" means the owner of a  
1-32 motor vehicle as shown on the motor vehicle registration records of  
1-33 the department or the analogous department or agency of another  
1-34 state or county.

1-35 (b) A board by resolution may implement an automated  
1-36 enforcement system and provide that the owner of a motor vehicle,  
1-37 other than an authorized emergency vehicle as defined by Section  
1-38 541.201, is liable to the authority for a penalty if the vehicle is  
1-39 operated in violation of the instructions of an official  
1-40 traffic-control device regarding entering or exiting a high  
1-41 occupancy vehicle lane.

1-42 (c) The resolution adopted under this section must:

1-43 (1) provide for a penalty of not more than \$100;

1-44 (2) authorize an attorney employed by the authority or  
1-45 an attorney with whom the authority contracts to bring suit to  
1-46 collect the penalty;

1-47 (3) provide for notice of the violation to the owner of  
1-48 the motor vehicle that committed the violation;

1-49 (4) require that a peace officer commissioned by the  
1-50 authority:

1-51 (A) review images produced by the automated  
1-52 enforcement system to determine whether the vehicle was operated in  
1-53 violation of the instructions of an official traffic-control device  
1-54 regarding entering or exiting a high occupancy vehicle lane; and

1-55 (B) notarize the notice of violation before the  
1-56 notice is mailed to the owner of the motor vehicle that committed  
1-57 the violation;

1-58 (5) provide that a notice of violation is presumed to  
1-59 have been received on the fifth day after the date the notice is  
1-60 mailed if the notice was mailed to the owner of a motor vehicle;

1-61 (6) provide procedures by which the owner of the motor  
1-62 vehicle may request an administrative adjudication hearing to  
1-63 contest the imposition or the amount of the penalty;

2-1 (7) allow for the use of images produced by the  
2-2 automated enforcement system authorized by this section; and

2-3 (8) provide for other procedures the board determines  
2-4 are necessary for the imposition of a penalty authorized by this  
2-5 section.

2-6 (d) Except as provided by Subsection (e), an image produced  
2-7 by an automated enforcement system may not be used to prosecute a  
2-8 criminal offense.

2-9 (e) An image produced by an automated enforcement system may  
2-10 be used to prosecute a criminal offense defined by Chapter 19, 20,  
2-11 20A, 31, 38, or 49, Penal Code.

2-12 SECTION 2. Subchapter B, Chapter 452, Transportation Code,  
2-13 is amended by adding Section 452.0615 to read as follows:

2-14 Sec. 452.0615. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANES.

2-15 (a) In this section:

2-16 (1) "Automated enforcement system" means a system  
2-17 that:

2-18 (A) consists of a camera or other electrical or  
2-19 mechanical device that produces photographic, electronic, video,  
2-20 or digital images of a motor vehicle; and

2-21 (B) is used to enforce compliance with  
2-22 instructions for high occupancy vehicle lane restrictions.

2-23 (2) "High occupancy vehicle lane" has the meaning  
2-24 assigned by Section 224.151.

2-25 (3) "Official traffic-control device" has the meaning  
2-26 assigned by Section 541.304 and includes a traffic pylon and double  
2-27 white lines on a highway.

2-28 (4) "Owner of a motor vehicle" means the owner of a  
2-29 motor vehicle as shown on the motor vehicle registration records of  
2-30 the department or the analogous department or agency of another  
2-31 state or county.

2-32 (b) This section applies only to an authority that:

2-33 (1) consists of one subregion governed by a  
2-34 subregional board created under Subchapter O; and

2-35 (2) has entered into an agreement with a governmental  
2-36 entity to:

2-37 (A) operate a high occupancy vehicle lane; or

2-38 (B) provide peace officers to enforce compliance  
2-39 with instructions for high occupancy vehicle lane restrictions.

2-40 (c) A board by resolution may implement an automated  
2-41 enforcement system and provide that the owner of a motor vehicle,  
2-42 other than an authorized emergency vehicle as defined by Section  
2-43 541.201, is liable to the authority for a penalty if the vehicle is  
2-44 operated in violation of the instructions of an official  
2-45 traffic-control device regarding entering or exiting a high  
2-46 occupancy vehicle lane.

2-47 (d) The resolution adopted under this section must:

2-48 (1) provide for a penalty of not more than \$100;

2-49 (2) authorize an attorney employed by the authority or  
2-50 an attorney with whom the authority contracts to bring suit to  
2-51 collect the penalty;

2-52 (3) provide for notice of the violation to the owner of  
2-53 the motor vehicle that committed the violation;

2-54 (4) require that a peace officer commissioned by the  
2-55 authority:

2-56 (A) review images produced by the automated  
2-57 enforcement system to determine whether the vehicle was operated in  
2-58 violation of the instructions of an official traffic-control device  
2-59 regarding entering or exiting a high occupancy vehicle lane; and

2-60 (B) notarize the notice of violation before the  
2-61 notice is mailed to the owner of the motor vehicle that committed  
2-62 the violation;

2-63 (5) provide that a notice of violation is presumed to  
2-64 have been received on the fifth day after the date the notice is  
2-65 mailed if the notice was mailed to the owner of a motor vehicle;

2-66 (6) provide procedures by which the owner of the motor  
2-67 vehicle may request an administrative adjudication hearing to  
2-68 contest the imposition or the amount of the penalty;

2-69 (7) allow for the use of images produced by the

3-1 automated enforcement system authorized by this section; and  
3-2 (8) provide for other procedures the board determines  
3-3 are necessary for the imposition of a penalty authorized by this  
3-4 section.

3-5 (e) Except as provided by Subsection (f), an image produced  
3-6 by an automated enforcement system may not be used to prosecute a  
3-7 criminal offense.

3-8 (f) An image produced by an automated enforcement system may  
3-9 be used to prosecute a criminal offense defined by Chapter 19, 20,  
3-10 20A, 31, 38, or 49, Penal Code.

3-11 SECTION 3. This Act takes effect September 1, 2009.

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