

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>

MODEL STATE STATUTE FOR HOV LANE BENEFITS

Use of decals, labels and other identifiers to distinguish enumerated alternative fuel vehicles from other vehicles; use of high-occupancy lanes

Effective: January 1, 202[0]

- (a) For purposes of implementing the state vehicle code section dealing with HOV lanes, the department of motor vehicles ("department") shall make available for issuance, for a fee determined by the department to be sufficient to reimburse the department for the reasonable costs incurred pursuant to this section, distinctive decals, labels, and other identifiers that clearly distinguish a vehicle of less than 14,000 pounds that is either a hydrogen fuel cell vehicle, a battery electric vehicle or a plug-in hybrid vehicle that has a battery capacity of at least 8 kWh and that meets the federal inherently low-emission vehicle (ILEV) evaporative emission standard, as defined in Part 88 (commencing with Section 88.101-94) of Title 40 of the Code of Federal Regulations). The decal, label, or other identifier issued as specified above, is valid until September 30, 2025.
- (b) A vehicle described in subdivision (a) that displays a valid decal, label, or other identifier issued pursuant to this section shall be granted a toll-free passage in high-occupancy toll lanes unless prohibited by federal law.
- (c) If the Department of Transportation finds the operation or projected operation of the vehicles described in subdivision (a) in the HOV lanes, or portions of those lanes, will significantly increase congestion, it shall increase the occupancy requirement for internal combustion engine powered vehicles to a minimum of three people and, in consultation with the Department of Highway Patrol, [State Police or Public Safety], take such measures as are required to reduce the use of the lane by non-eligible vehicles.
- (d) For purposes of subdivision (a), the Department of Highway Patrol in consultation with the Department of Transportation, shall design and specify the placement of the decal, label, or other identifier on the vehicle. Each decal, label, or other identifier issued for a vehicle shall display a unique number, which shall be printed on, or affixed to, the vehicle registration.
- (e) The department shall report to the Legislature the number of decals, labels, and other identifiers issued pursuant to subdivision (a) yearly, by June 30th, for the prior calendar year.
- (f) If the Director of Transportation determines that federal law does not authorize the state to allow vehicles that are identified by distinctive decals, labels, or other identifiers on vehicles described in subdivision (a) to use highway lanes or highway access ramps for high-occupancy vehicles regardless of vehicle occupancy, the Director of Transportation shall submit a notice of that determination to the Secretary of State.

(g) With respect to HOV lanes on federal-aid highways, this section shall become inoperative on the date the federal authorization pursuant to Section 166 of Title 23 of the United States Code expires (which is currently September 30, 2025), or the date the Secretary of State receives the notice described in subdivision (f), whichever occurs first.

(h) If this section becomes inoperative pursuant to subdivision (g) the driver of a vehicle with an otherwise valid decal, label, or other identifier issued pursuant to this section shall not be cited for a violation for a period of 60 days after the date that this section becomes inoperative or before the date the federal authorization pursuant to Section 166 of Title 23 of the United States Code expires, whichever occurs first.

(i) This section is repealed as of September 30, 2025.