

AN ACT

relating to the mitigation of traffic congestion on highways;
providing penalties.

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

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

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

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

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

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

(9) "Restricted lane" includes:

- 1 (A) a high occupancy vehicle lane;
- 2 (B) a toll lane under Section 224.154; and
- 3 (C) an exclusive lane.

4 SECTION 2. Section 224.152, Transportation Code, is amended
5 to read as follows:

6 Sec. 224.152. PURPOSE. (a) Subject to the availability of
7 state and federal funds, it is the intent of the legislature to
8 further the purposes of the United States Congress as expressed in
9 23 U.S.C. Sections 134, 135, 146, and 149 and in Section 1012(b) of
10 Pub. L. No. 102-240, as amended, to improve safety, conserve fuel,
11 decrease traffic congestion during rush hours, improve air quality,
12 develop innovative techniques to finance transportation projects,
13 and enhance the use of existing highways and facilities.

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

19 SECTION 3. Section 224.153, Transportation Code, is amended
20 to read as follows:

21 Sec. 224.153. HIGH OCCUPANCY VEHICLE LANES AUTHORIZED. (a)
22 The department ~~[commission]~~ may finance, designate, ~~[and the~~
23 ~~department or a transportation corporation may]~~ design, construct,
24 operate, or maintain one or more lanes on a multi-lane highway
25 facility as dedicated high occupancy vehicle lanes on the state
26 highway system.

27 (b) The department may enter into an agreement with a

1 transit authority under Chapter 451, 452, or 453, a regional
2 mobility authority under Chapter 361, a municipality, or a
3 transportation corporation for the design, construction,
4 operation, or maintenance of a high occupancy vehicle lane. [~~The~~
5 ~~commission may spend or allocate any available funds to:~~

6 [~~(1) designate highway lanes as preferential carpool~~
7 ~~or high occupancy vehicle lanes and create facilities to relieve~~
8 ~~traffic congestion; or~~

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

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

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

25 SECTION 4. Section 224.154, Transportation Code, is amended
26 to read as follows:

27 Sec. 224.154. TOLL LANES [~~CONGESTION MITIGATION~~]. (a)

1 Notwithstanding any law of this state relating to charging tolls on
2 existing free public highways, and subject to Section 224.1541(d),
3 the commission may by order authorize the department [~~or a~~
4 ~~transportation corporation~~] to charge a toll for the use of one or
5 more lanes of a state highway facility, including a high occupancy
6 vehicle lane, for the purposes of congestion mitigation.

7 (b) If the commission authorizes the department to charge a
8 toll under Subsection (a), the department [~~The commission~~] may
9 enter into an agreement with a regional tollway authority described
10 in Chapter 366, [~~or~~] a transit authority described in Chapter 451,
11 452, or 453, a regional mobility authority under Chapter 361, a
12 county acting under Chapter 284, or a transportation corporation:

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

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

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

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

27 (d) Revenue generated from toll charges and collection

1 ~~[administrative]~~ fees assessed by the department in connection with
2 a toll lane ~~[congestion mitigation facility]~~ shall be deposited in
3 the state highway fund and may be used only for projects for the
4 improvement of the state highway system. Revenue generated from
5 toll charges and collection ~~[administrative]~~ fees assessed by an
6 entity with whom the department ~~[commission]~~ contracts under this
7 section shall be allocated as required by the terms of the
8 agreement.

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

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

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

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

19 (1) there:

20 (A) are two or more lanes adjacent to the
21 proposed exclusive lane for the use of vehicles other than vehicles
22 for which the lane is restricted; or

23 (B) is a multilane facility adjacent to the
24 proposed exclusive lane for the use of vehicles other than vehicles
25 for which the lane is restricted; and

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

1 (c) The adjacent lanes or adjacent multilane facility under
2 Subsection (b) may be designated as exclusive lanes or an exclusive
3 lane facility for the use of vehicles that are prohibited from using
4 the exclusive lane.

5 (d) The department may not charge a toll for the use of an
6 exclusive lane unless:

7 (1) the lanes or multilane facility adjacent to the
8 exclusive lane is tolled; or

9 (2) a vehicle that is authorized to use the tolled
10 exclusive lane is authorized to use nontolled adjacent lanes or an
11 adjacent nontolled multilane facility.

12 SECTION 6. Subchapter F, Chapter 224, Transportation Code,
13 is amended by adding Sections 224.1542 and 224.1543 to read as
14 follows:

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

19 Sec. 224.1543. TRAFFIC CONTROL DEVICES. (a) The
20 department shall erect and maintain official traffic control
21 devices necessary to implement and ensure compliance with lane
22 restrictions designated under this subchapter. The department, in
23 a contract to operate a toll lane under this subchapter, may
24 authorize the contracted entity to erect and maintain necessary
25 official traffic control devices.

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

1 SECTION 7. Section 224.156, Transportation Code, is amended
2 to read as follows:

3 Sec. 224.156. COLLECTION [~~ADMINISTRATIVE~~] FEE; NOTICE;
4 OFFENSE. (a) In the event of nonpayment of the proper toll as
5 required by Section 224.155, on issuance of a written notice of
6 nonpayment, the registered owner of the nonpaying vehicle is liable
7 for the payment of both the proper toll and a collection [~~an~~
8 ~~administrative~~] fee.

9 (b) The commission by rule or an entity contracted to
10 operate a toll lane [~~and a transportation corporation~~] by order of
11 its governing body [~~board of directors~~] may respectively impose and
12 collect a collection [~~an administrative~~] fee, not to exceed \$100,
13 to recover the cost of collecting an unpaid toll. The entity
14 operating the toll lane [~~department~~] shall send a written notice of
15 nonpayment to the registered owner of the vehicle at that owner's
16 address as shown in the vehicle registration records of the
17 department by first-class mail [~~not later than the 30th day after~~
18 ~~the date of the alleged failure to pay~~] and may require payment not
19 sooner than the 30th day after the date the notice was mailed. The
20 registered owner shall pay a separate toll and collection
21 [~~administrative~~] fee for each event of nonpayment under Section
22 224.155.

23 (c) The registered owner of a vehicle for which the proper
24 toll was not paid who is mailed a written notice of nonpayment under
25 Subsection (b) 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. Each failure to pay a toll or

1 collection [~~administrative~~] fee under this subsection is a separate
2 offense.

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

24 (e) It is an exception to the application of Subsection (a)
25 or (c) if the registered owner of the vehicle transferred ownership
26 of the vehicle to another person before the event of nonpayment
27 under Section 224.155 occurred, submitted written notice of the

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

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

23 (g) The court in which a person is convicted of an offense
24 under this section shall also collect the proper toll and
25 collection [~~administrative~~] fee and forward the toll and fee to the
26 entity operating the toll collection facility [~~department or to the~~
27 ~~transportation corporation~~].

1 (h) In this section, "registered owner" means the owner of a
2 vehicle as shown on the vehicle registration records of the
3 department or the analogous department or agency of another state
4 or country.

5 (i) An entity operating a toll lane under this subchapter
6 may contract with a person to collect the proper toll and a required
7 collection fee before filing a complaint charging the commission of
8 an offense under Subsection (c), (d), or (e).

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

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

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

18 [~~(2) a regional tollway authority governed by Chapter~~
19 ~~366,~~

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

21 [~~(4) an entity to which a project authorized by this~~
22 ~~subchapter is transferred by an entity described by Subdivision~~
23 ~~(1), (2), or (3), or~~

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

26 SECTION 9. Section 545.0651, Transportation Code, is
27 amended to read as follows:

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

2 (a) In this section:

3 (1) "Commission" means the Texas Transportation
4 Commission.

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

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

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

9 (B) is designated a controlled access facility;

10 and

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

15 (b) The commission by order may restrict, by class of
16 vehicle, through traffic to two or more designated lanes of a
17 highway. If the lanes to be restricted by the commission are
18 located within a municipality, the commission shall consult with
19 the municipality before adopting an order under this section. A
20 municipality by ordinance may restrict, by class of vehicle,
21 through traffic to two or more designated lanes of a highway in the
22 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.

President of the Senate

Speaker of the House

I certify that H.B. No. 1208 was passed by the House on April 2, 2003, by the following vote: Yeas 143, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1208 on May 24, 2003, by the following vote: Yeas 132, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1208 was passed by the Senate, with amendments, on May 22, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor