

SAFETEA

SEC. 1615. TOLL PROGRAMS.

This section establishes and modifies two toll programs. First, this section amends the Interstate System Rehabilitation and Reconstruction Pilot Program established under section 1216(b) of TEA-21. These minor modifications are intended to ease the eligibility criteria for participation in the pilot program. The strict financial analysis requirement, that the State must show that collecting tolls is the only way to improve the facility, is replaced by a requirement that the State must show that financing the improvements to the facility through tolls is the most efficient, economical, or expeditious way to advance the project. Most of the original provisions have been retained, including the number of pilots permitted, the limitation on the use of toll revenues, and the restriction on the use of Interstate Maintenance funds while the facility is being tolled.

Second, this section proposes a variable toll pricing program. The purpose of this program is to enable the use of variable toll pricing on congested facilities in order to increase mobility and improve air quality. Congestion continues to be a major concern on our nation's transportation system. Congestion not only makes our highways inconvenient and less safe, but it also increases transportation costs for American businesses, and adversely affects air quality. Under this proposal, the Secretary may permit a State or public authority to toll any highway, bridge, or tunnel, including facilities on the Interstate System, to manage existing high levels of congestion or reduce emissions in a nonattainment area or maintenance area. For each facility for which a variable toll pricing program is established, the State or public authority with jurisdiction over the facility, would enter into an agreement with the Secretary providing for certain conditions, such as variable tolling by time of day, high occupancy vehicle (HOV) requirements, and certain toll-revenue use restrictions. Upon the decision of the State or public authority to discontinue a variable toll pricing program, the tolls would be removed unless the facility qualifies for tolling under other applicable authority, such as 23 U.S.C. 129. However, if the facility has any outstanding debt attributable to the implementation of a variable toll pricing program, then the State or public authority may continue to toll the facility under the terms of its agreement until the debt is retired. To be eligible to participate in this program, the State would provide to the Secretary a description of the congestion and air quality problems sought to be addressed and the goals sought to be achieved.

This section would repeal the value pricing pilot program established in section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended by section 1216(a) of the Transportation Equity Act for the 21st Century. Additionally, this section would permit any State or public authority currently operating under the authority of a cooperative agreement under the value pricing pilot program to continue operating under the terms of that agreement and would make it clear that any State or public authority shall be allowed to continue tolling under that authority.

SEC. 1610. USE OF HIGH-OCCUPANCY VEHICLE (HOV) LANES.

This section would amend section 102(a) of title 23, U.S.C., to clarify existing law and provide more flexibility to State and local agencies for effective management of HOV facilities. The proposed addition of "other responsible local agencies" in subsection (a)(1) is an editorial change

to clarify that the provisions pertain to State departments of transportation and other local agencies that may be responsible for the implementation, management, operation, and maintenance of HOV lanes. This change is consistent with how State departments of transportation and local agencies are referred to in the FHWA Program Guidance on HOV lanes issued on March 28, 2001.

The proposed removal of motorcycles and bicycles in subsection (a)(1) would clarify the current language and improve safety. Section 163 of the Surface Transportation Assistance Act of 1982 does not contain any reference to bicycles and pertains entirely to motorcycles. The presence of bicycles on all freeway and most surface street HOV facilities would create potential operational and safety hazards. Subsection (a)(2)(C) proposes to provide agencies the option of allowing bicycles on surface street HOV facilities when there is insufficient space within the roadway or public right-of-way to establish and designate a bicycle-only lane.

Subsection (a)(2) would be added to clearly identify the types of vehicles that are exempt from meeting the minimum occupancy requirements for HOV facilities. This provision would also identify the possible options that responsible agencies may select from and use as operational strategies to maximize the use of existing and planned future HOV facilities and highway capacity, mitigate congestion, and reduce fuel consumption. Subsection (a)(2)(A) would provide that motorcycles shall not be considered single-occupant vehicles and shall be allowed to use HOV facilities, consistent with the provisions of section 163 of the Surface Transportation Assistance Act of 1982.

Existing subsection (a)(2), which allows States to permit a vehicle with fewer than two occupants to operate on HOV lanes if the vehicle is certified as an inherently low-emission vehicle (ILEV), would be deleted. Under the current statute, ILEVs are the only types of low-emission and energy-efficient vehicles that States may permit to use HOV facilities if they do not meet the required minimum occupancy requirement. EPA no longer supports programs that focus on providing incentives to individuals that purchase and use ILEVs, and in any event, this provision will expire on September 30, 2003. However, proposed subsection (a)(2)(B) discussed below would still provide responsible agencies the option of allowing low-emission and fuel-efficient vehicles (which would include ILEVs) to use HOV facilities, under the conditions specified in section (a)(2)(B)(i).

Subsection (a)(2)(B) would be added to provide responsible agencies with the option of allowing low-emission and fuel-efficient vehicles to use HOV facilities even if they do not meet the minimum occupancy requirements. This paragraph also identifies the types of vehicles that State transportation departments may elect to allow on HOV facilities along with the associated provisions that must be followed to ensure that these vehicles do not seriously degrade the operation of an HOV facility or system.

Subsection (a)(2)(B)(i) would define a “low-emission and energy-efficient” vehicle as one that can both meet EPA’s Tier II standards for light-duty vehicles and that has an EPA fuel efficiency rating of 45 miles per gallon or higher on the highway.

Subsection (a)(2)(B)(ii) would require the responsible agencies that allow low-emission and

energy-efficient vehicles to use HOV facilities to create a program that defines how such qualifying vehicles are selected and certified. The creation of such a program is critical to ensuring that there are requirements for properly labeling these vehicles and that there are procedures for enforcing these requirements. It is important to continuously monitor, evaluate, and report on the performance of these facilities and establish procedures to limit or restrict the use of such vehicles, if necessary, to ensure that the performance of individual facilities or the entire HOV system does not become seriously degraded.

Subsection (a)(2)(D) would be added to provide responsible agencies with the option of charging vehicles a toll for each use of an HOV facility if these vehicles do not meet the minimum occupancy requirements, and if the requirements of section 129 of title 23, U.S.C. are met. This ensures consistency with the provisions that have been proposed for allowing tolling to manage congestion and improve air quality in section 129 of title 23, U.S.C. This subsection also identifies the associated provisions that must be followed with establishing a program that addresses how vehicles can enroll and participate, and the other required provisions that must be satisfied. The creation of such a program is critical to ensure that the vehicles are properly tolled; fees collected; violations enforced; demand is managed in an efficient and safe manner; operation of these facilities continuously monitored, evaluated, and reported; and procedures established that limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual facilities or the entire system does not become seriously degraded.

Subsection (a)(2)(E) would be added to allow designated public transportation vehicles that are deadheading or not currently in service to use HOV facilities if they do not meet the established occupancy requirement. Designated public transportation vehicles are defined as those providing designated public transportation, as defined under section 12141 of title 42, and that are owned or operated by a public entity or that are operating under contract to a public entity. This definition would prohibit privately owned vehicles, public school transportation vehicles, nonprofit organizations, taxicabs, or other similar types of services from using HOV facilities without the requisite number of passengers. This provision would also establish the conditions that must be met to use HOV facilities when the designated public transportation vehicle does not meet the occupancy requirements. These conditions include requiring and enforcing the labeling of vehicles, continuously monitoring, evaluating, and reporting on performance, and establishing the policies and procedures that would limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual HOV facilities or the entire system does not become seriously degraded.

Subsection (a)(3) would be added to identify the requirements a responsible agency must follow when it permits any of the exceptions specified in subsection (a)(2). Subsection (a)(3)(A) would require the responsible agency to establish, manage, and support a performance monitoring, evaluation, and reporting program if it permits any of the exceptions specified subsection (a)(2). The program would be required to continuously monitor, assess, and report on the impacts that any of these excepted vehicles may have on the operation of individual HOV facilities and the entire HOV system. The FHWA Program Guidance on HOV lanes would be revised to provide guidance on how the responsible local agencies should work with the FHWA Division Offices to monitor, evaluate, report, and make changes based on the performance of specific HOV facilities and the entire HOV system.

Subsection (a)(3)(B) would require responsible agencies to limit or discontinue permitting any of the exceptions specified in subsection (a)(2), if the presence of any of these excepted vehicles seriously degrades the operation of individual HOV facilities or the entire HOV system. For purposes of this section, “seriously degraded” would mean that an HOV facility located on a freeway, or similar type of roadway, fails to maintain a minimum average operating speed of at least 45 miles per hour 90 percent of the time over a consecutive six-month period during weekday peak travel periods. For HOV facilities on other types of roadways, the minimum average operating speed, performance threshold, and associated time periods would be established based on the conditions unique to each roadway and agreed to by the responsible agencies.

The proposed restriction in subsection (a)(3)(B) is necessary to ensure that, if any of the excepted vehicles becomes a sufficiently popular consumer choice to fill the available HOV facility capacity, the responsible agency would be required to discontinue such exceptions to preserve the travel time savings and travel time reliability that HOV facilities must deliver to be viable, continue to encourage ridesharing, and support the efficient operation of transit vehicles.

The FHWA Program Guidance on HOV lanes will be revised to provide guidance and additional information on how the responsible local agencies will be required to work with the FHWA Division Offices to monitor, evaluate, report, and make changes based on the actual performance of both specific HOV facilities and the entire HOV system. The Program Guidance will also be revised to define freeway as a facility that provides full access control, provides for high levels of safety, and efficiently moves large volumes of traffic at high speeds.