

**STORAGE NAME:** h0231.tr.doc

**DATE:** December 28, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
TRANSPORTATION  
ANALYSIS**

**BILL #:** HB 231

**RELATING TO:** High Occupancy Vehicle Lanes

**SPONSOR(S):** Representative(s) Meadows

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TRANSPORTATION
  - (2) COUNCIL FOR READY INFRASTRUCTURE
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

High-occupancy vehicle (HOV) lanes are defined in s. 316.0741, F.S., as traffic lanes of a public roadway that have been designated for use by vehicles carrying more than one person, unless otherwise authorized by federal law. The Federal Highway Administration administers national policy guidelines and rules for HOV lanes.

Florida has only two enforced, operating HOV corridors: a 46-mile-long system on I-95 from Linton Boulevard in Palm Beach County south to State Road 112 in Miami-Dade County, and a 10-mile-long stretch of I-4, from U.S. 192 to State Road 434, in the Orlando-Disney World area.

HB 231 amends s. 316.0741, F.S., law to allow "inherently low-emission vehicles" (ILEVs), which are certified and labeled in accordance with federal regulations, to be driven in HOV lanes, regardless of the number of occupants. It also directs the Department of Highway Safety and Motor Vehicles (DHSMV) to issue decals that the owners of ILEVs must place on their vehicles if they want to use HOV lanes.

The fiscal impact of HB 231 is indeterminate. An estimate of revenues cannot be determined because the cost of the decal isn't addressed in the bill, and the DHSMV doesn't know how many ILEVs are registered in Florida, nor how many might be used on Florida's HOV lanes. DHSMV also will incur unknown costs to print, distribute, and market the decals.

Questions also have been raised as to whether DHSMV has sufficient rulemaking authority to implement HB 231's provisions.

HB 231 takes effect July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                                        |                                         |
|-----------------------------------|------------------------------|----------------------------------------|-----------------------------------------|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 316.0741, F.S., defines HOV lanes as a lane of a public roadway designated for use by vehicles in which there is more than one occupant, unless otherwise authorized by federal law. The section requires the number of persons who must be in a vehicle to lawfully use the HOV lane, during the hours at which the lane serves as an HOV lane. If the HOV lane is not designated as such on a full-time basis, then it must be indicated on a traffic control sign. Motorists who do not comply with this section of law are guilty of a moving violation, punishable by a \$60 fine.

California and Washington are the leaders in HOV lane availability, although states as diverse as Pennsylvania, Texas and New York also provide them for motorists. Florida has only two enforced, operating HOV corridors: a 46-mile-long system on I-95 from Linton Boulevard in Palm Beach County south to State Road 112 in Miami-Dade County, and a 10-mile-long stretch of I-4, from U.S. 192 to State Road 434, in the Orlando-Disney World area.

One of the conditions of accepting federal-aid transportation funds is that the Florida Department of Transportation (DOT) agrees to manage, operate, and maintain its HOV lanes as they were originally planned, designed, constructed and approved. If certain changes are made by a state to the operation of HOV lanes, then federal approval is required. Changes to the minimum number of people in a vehicle in order to use HOV lanes, or small adjustments to when HOV restrictions begin or end, are not considered significant changes, and do not trigger federal review. A proposal to significantly adjust the hours of operation or to convert an HOV lane to a general-purpose lane is considered a significant change in the original project design concept or scope and would require further review by the Federal Highway Administration.

23 USC 102(a)(1) requires a state highway department to establish the occupancy requirements of vehicles operating on HOV lanes, although no fewer than 2 occupants per vehicle may be required, with three exceptions. Those exceptions are: motorcycles, bicycles, and any vehicle certified as an ILEV.

ILEVs are a subcategory of clean-fuel vehicles that have essentially no fuel vapor emissions. The U.S. Environmental Protection Agency (EPA) established this category of vehicles to recognize there are certain technologies and clean fuels that have inherently lower emissions than typical clean-fuel vehicles. The ILEV recognition is a federal program; therefore, the program requirements, certification, labeling process, and other regulatory provisions are all administered through the EPA.

It is unknown how many ILEVS are owned by Floridians. There are no special vehicle registration requirements for ILEVs, or other energy-efficient vehicles, so DHSMV cannot track them. The Department of Revenue also has no way to track these type vehicles, because they do not qualify for any sales, use, or fuel tax exemptions. (A sales-tax exemption for electric-powered motor vehicles expired June 30, 2000.)

C. EFFECT OF PROPOSED CHANGES:

HB 231 amends s. 316.0741, F.S., to authorize the use of HOV lanes, regardless of vehicle occupancy, by ILEVs that are certified and labeled in accordance with federal regulations. The bill, which takes effect July 1, 2002, also requires DHSMV to issue a decal to be placed on authorized ILEVs.

The overall effect of HB 231 is unknown, however, because of a lack of data of how many ILEVs are registered in Florida, how many of their owners would use them in HOV lanes, and how much it will cost the DHSMV to prepare and distribute the required decals.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends s. 316.0741, F.S., to allow owners of federally compliant ILEVs to drive them in HOV lanes. Directs DHSMV to issue decals, to be placed on ILEVS using HOV lanes.

**Section 2:** Specifies this act shall take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. HB 231 does not specify a cost of the decal, which ILEV owners would have to obtain and place on their vehicles in order to legally use an HOV lane. In fact, the bill does not even address whether the decals would have to be purchased – only that the DHSMV has to issue them.

2. Expenditures:

Indeterminate. The DHSMV responded in its analysis of HB 231 that it will incur costs to design, produce, and distribute the required decals.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Presumably, if the decals were to have a purchase price associated with them, then a percentage of that amount would be given to the county tax collectors, as is the case with the more typical vehicle registration, decal, and license fees Florida motorists pay.

2. Expenditures:

Indeterminate. Presumably, the county tax collectors, as agents of the DHSMV in issuing and renewing vehicle registrations, would incur some costs in distributing and storing the ILEV decals.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate, but likely minimal, since the market in ILEVs appears to be small.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of HB 231 because the proposed bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 231 does not reduce the revenue-raising authority of counties or municipalities, in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 231 does not reduce the state tax revenues shared with counties or municipalities, in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

HB 231 does not raise any constitutional issues.

B. RULE-MAKING AUTHORITY:

Whereas the DHSMV has general rulemaking authority to issue vehicle licenses, registrations, and decals, in this case, the agency is given no legislative guidance on the particulars of the proposed ILEV decal. HB 231 only directs the agency to issue the decal. The bill is silent on the salient points it takes to do that, such as decal design and distribution, decal placement, decal expiration date, even whether to charge a fee for it. For this program to be implemented properly, the Legislature should give DHSMV specific rulemaking authority to address these issues.

C. OTHER COMMENTS:

Unless the ILEV decal is easily identifiable and properly attached, law enforcement officers may have a difficult time distinguishing these vehicles in traffic on the HOV lanes.

HB 231's sponsor is working with the sponsor of the identical Senate companion bill to address the aforementioned issues.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Not applicable.

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VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION :

Prepared by:

Staff Director:

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Joyce Pug/h

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