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DATE: January 8, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: CS/HB 231

RELATING TO: High Occupancy Vehicle Lanes

SPONSOR(S): Committee on Transportation and Representative(s) Meadows

TIED BILL(S):

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

- (1) TRANSPORTATION YEAS 9 NAYS 3
 - (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.

CS/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 Environmental Protection 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. These decals must be renewed annually at the time of vehicle registration.

The fiscal impact of CS/HB 231 is indeterminate. The bill specifies that DHSMV may charge a decal fee that covers the costs of design, production, and distribution, or \$5 per decal, whichever is less. However, revenues and expenditures related to implementation of CS/HB 231 can't be reliably estimated because the number of ILEVs registered in Florida is unknown, as is how many ILEVs might be used on Florida's HOV lanes.

The bill gives DHSMV specific rulemaking authority to implement the ILEV provisions.

CS/HB 231 takes effect October 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:

CS/HB 231 creates a government program to track alternative vehicles that may not generate enough revenues to pay for itself, nor which may be easily enforced.

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 two 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. Vehicles powered only by electricity, compressed natural gas, bio-diesel, or ethanol typically would qualify as ILEVs. However, hybrid-electric vehicles now being developed by the major automobile

manufacturers and the more-common vehicles that have dual fuel tanks – one for alternative fuel and the other for petroleum gasoline – are not ILEVs.

The U.S. Environmental Protection Agency (EPA) established the ILEV 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 for personal use. 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.)

A January 2001 report by the Clean Fuel Florida Advisory Board noted that there are about 5,725 alternative fuel vehicles in use in 25 Florida counties. It is unknown how many of these vehicles qualify as ILEVs. About 33 percent of the vehicles are part of federal government fleets; 3 percent are used by state agencies; and 13 percent are operated by energy providers, such as electric utilities. The remaining 51 percent are operated by local-governments, typically in their mass transit or law enforcement fleets, as well as by private businesses (such as propane and natural-gas dealers) and individuals. An analyst with the Center for Urban Transportation (CUTR), which provided some of the research used by the Advisory Board in drafting the report, said the number of individuals driving alternative-fueled vehicles “probably is in the dozens.”

C. EFFECT OF PROPOSED CHANGES:

CS/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 October 1, 2002, also requires DHSMV to issue a decal and registration certificate, to be renewed annually, that reflects the vehicle’s status as an ILEV that can be driven in an HOV lane.

The DHSMV is permitted to charge a fee for the decal, at a price not to exceed the costs of designing, producing, and distributing each decal, or \$5 each, whichever is less. The proceeds from the sale of the decals must be deposited in the Highway Safety Operating Trust Fund.

Also, the DHSMV is given statutory authority to promulgate rules related to the decal program.

The overall effect of CS/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, to be renewed annually with the vehicles’ registrations. Directs DHSMV to set the per-decal fee at the costs to design, produce, and distribute a decal, or \$5, whichever is less. Gives DHSMV rulemaking authority.

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. CS/HB 231 gives the DHSMV authority to charge a fee for the decals, at a price not to exceed the costs of designing, producing, and distributing each decal, or \$5 each, whichever is less. However, there is no reliable documentation on how many ILEVs are in use in Florida because current vehicle registration forms don't require them to be identified.

2. Expenditures:

Indeterminate. The DHSMV responded in its analysis of CS/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, a percentage of the ILEV decal fee will be given to the county tax collectors who, as agents of the DHSMV, are empowered to issue vehicle registrations, tags and decals.

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 – at least for individuals -- appears to be small.

D. FISCAL COMMENTS:

The DHSMV's cost in implementing CS/HB 231 could be more expensive than the revenues derived from the sale of decals, depending on the actual number of ILEVs in Florida whose owners are likely to drive them on HOV lanes.

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 CS/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:

CS/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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

CS/HB 231 does not raise any constitutional issues.

B. RULE-MAKING AUTHORITY:

Section 1 of CS/HB 231 gives the DHSMV specific rulemaking authority to design, produce, and distribute ILEV decals; to address enforcement-related issues; and to address the purchase and renewal of such decals.

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. DHSMV staff says they plan to address this issue in rule.

By tying ILEV decal purchase to annual registration of these vehicles, the state will begin building a database of how many ILEVs are in use in Florida, and where they are located.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its January 8, 2002, meeting, the Transportation Committee adopted one amendment by the bill's sponsor that:

- Gave the DHSMV specific rulemaking authority to operate the ILEV decal program;
- Directed DHSMV to assess a fee to cover the costs of designing, producing and distributing each decal, or \$5 each, whichever is less;
- Indicated that the decal proceeds shall be deposited in the Highway Safety Operating Trust Fund; and
- Linked the purchase of the ILEV decal with annual vehicle registration.

The committee then voted 9-3 in favor of the bill, and upon request of the sponsor, reported it as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION :

Prepared by:

Staff Director:

Joyce Pugh

Phillip B. Miller