

SUBJECT: Allowing plug-in electric vehicles to use high-occupancy vehicle lanes

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Phillips, Darby, Bonnen, Y. Davis, Martinez, McClendon,
Rodriguez

2 nays — Fletcher, Lavender

2 absent — Harper-Brown, Pickett

WITNESSES: For — Dan Frakes, General Motors; Russ Keene, Plug-In Texas; Bradley Smith, NRG Energy/eVgo (*Registered, but did not testify*: Robert Braziel, Texas Automobile Dealers Association; Robert Peeler, Ford Motor Company; Kate Robertson, Environmental Defense Fund; Alejandro Savransky, Environment Texas; Chris Shields, Toyota Manufacturing; David Weinberg, Texas League of Conservation Voters)

Against — Terri Hall, Texas TURF, Texans for Accountable Government, Central Texas Republican Liberty Caucus; Don Dixon

On — Vincent Obregon, METRO

BACKGROUND: Transportation Code, sec. 224.153 allows the Texas Department of Transportation (TxDOT) to designate high-occupancy vehicle lanes on the state highway system. High-occupancy lanes are designated lanes where a bus or other vehicle occupied by a specified number of people are given preference over other vehicles moving in the general stream of highway traffic.

TxDOT also can authorize a motorcycle or another low-emissions vehicle to use a high-occupancy vehicle lane regardless of the number of persons on the motorcycle or occupants in the vehicle, unless doing so would violate federal transit or highway funding restrictions.

DIGEST: CSHB 3308 would allow a motor vehicle displaying the “plug-in electric vehicle” insignia to use a high-occupancy vehicle (HOV) lane regardless of the number of occupants in the vehicle, unless doing so would impair the state’s ability to receive federal funds.

The bill would require the Texas Department of Motor Vehicles (TxDMV) to issue the plug-in electric vehicle insignia for a vehicle that:

- was made by a manufacturer primarily for public highways;
- had not been modified from original manufacturer specifications;
- was rated at not more than 8,500 pounds unloaded gross vehicle weight;
- was acquired for use or lease by a consumer and not for resale;
- could reach speeds of at least 65 miles per hour;
- was propelled to a significant extent by an electric motor that drew electricity from a battery that could be recharged from an external source of electricity and had a capacity of at least four kilowatt hours.

Recreational vehicles that drew power for purposes other than propulsion, such as a camper or motor home, would not be eligible.

TxDmv would have to issue the insignia to a person who submitted an application and proof of eligibility. The department could charge a fee for issuing the insignia of no more than \$20 per vehicle.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 3308 would provide a small but important incentive for drivers in the most heavily congested metropolitan areas of the state, specifically, Houston and Dallas, to purchase plug-in electric vehicles. These vehicles are distinguished from other hybrid and fuel-efficient vehicles by a battery that is recharged through an adapted electrical socket. Nissan and General Motors recently introduced plug-in electric vehicles, the Nissan *Leaf* and the Chevy *Volt*, and Ford and Toyota are planning to release electric models in the near future. There currently are a very small number — fewer than 300 by some estimates — plug-in electric vehicles on the road in Texas. This number is expected to increase very gradually, reaching perhaps 5,000 by the end of the upcoming biennium.

CSHB 3308 would provide a small but important incentive to drivers to purchase electric cars. The bill would have an impact only in Dallas and Houston, since currently those are the only municipalities that have designated HOV lanes. This incentive would make particular sense for those areas, since both are in federal air quality non-attainment zones and

suffer from severe traffic congestion. Encouraging residents in these areas to buy electric cars would reinforce decisions that improved air quality and protected the environment.

Increasing the fleet of electric vehicles would have a variety of benefits. Completely electric vehicles, like the Nissan *Leaf*, emit no tailpipe emissions. Electric vehicles also reduce dependence on foreign oil, thereby improving energy security, and have low operation costs for consumers. While these vehicles use electricity, the majority of which currently is derived from coal-fired plants, they have a much better “well-to-wheel” ratio. This means that electric vehicles can do much more with the same energy than a vehicle with a conventional internal combustion engine.

More than 10 other states have adopted programs identical to the one CSHB 3308 would implement. Current law already recognizes the merits of the bill in principle, since it allows TxDOT to authorize a low-emissions vehicle to use an HOV lane regardless of the number of persons in it. The department, however, has not used its authority under this provision nor expressed an intent to pursue this option.

CSHB 3308 would extend the privilege to use HOV lanes to electric vehicles by making an express authorization in statute. The bill would have no effect on toll roads or designated toll lanes. The additional \$20 fee that owners would pay for the electric vehicle insignia would offset any administrative costs of the program. The bill also includes a provision to protect against any possible negative impact on federal funds available for transportation. If TxDOT determined there could be a negative impact, it would not have to implement the program.

TxDOT has stated that with the current numbers of electric vehicles on the roads in Texas, authorizing electric vehicles to travel in the HOV lanes would not appreciably increase congestion. The Legislature could reconsider the policy if numbers of electric vehicles on the road increased enough to cause congestion in HOV lanes.

**OPPONENTS
SAY:**

CSHB 3308 would provide an unnecessary incentive for plug-in electric vehicles and would put in place a measure that is contrary to the intended purpose of HOV lanes.

While there are benefits to increasing the fleet of electric vehicles in the state, there also are abundant incentives available to buyers to purchase

these vehicles. Owners of electric vehicles currently are not paying taxes comparable to owners of gas-powered cars, who pay a 20-cent state and 18.4-cent federal motor fuels tax for each gallon of gas. Electric vehicles are not currently subject to this, since they do not use gasoline. In addition, the federal government is offering a maximum \$7,500 tax credit for the purchase of an electric vehicle during or after 2010. These already available incentives are adequate to encourage customers to purchase electric vehicles without giving them special privileges on the road.

The bill would take the dubious measure of carving electric vehicles out of occupancy requirements for HOV lanes. The chief purpose of HOV lanes is to move a greater number of people — such as those in buses, carpools, and vanpools — efficiently and quickly. Allowing operators of electric vehicles to use these lanes, irrespective of the number of people in the vehicle, would be counter to this purpose. Allowing electric vehicles to use these lanes could create a “slippery slope.” Why should this privilege be confined to electric vehicles and not hybrid vehicles, or low-emission vehicles more generally? Access to HOV lanes should be based exclusively on the number of vehicle occupants and not the type of vehicle someone drives.

In addition, TxDOT already has the authority through current law to implement a policy permitting low-emission vehicles to use HOV lanes. The department, and not the Legislature, should be the ultimate arbiter over what vehicles may use the HOV lanes. If allowing electric vehicles to use HOV lanes is important, interested parties should work with TxDOT to accomplish this administratively.

NOTES:

The author plans to offer a floor amendment to withdraw privileges granted if they were found to “violate federal transit or highway funding restrictions.”

The companion bill, SB 1742 by Fraser, was reported favorably, as substituted, by the Senate Transportation and Homeland Security Committee on April 28.