

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

Senate Bill 97 (Senator Teitelbaum, *et al.*)
 Judicial Proceedings

Transportation - High Occupancy Vehicle (HOV) Lanes - Use by Energy Efficient Vehicles

This bill expands the exemption governing the type of energy efficient vehicles that may use high occupancy vehicle (HOV) lanes at all times to include qualified hybrid vehicles. It directs the Motor Vehicle Administration (MVA), the State Highway Administration (SHA), and the Department of State Police to design a permit to designate a vehicle as a hybrid vehicle. The MVA may charge the same permit fee (up to \$16) that is authorized for inherently low emission vehicles (ILEVs). The bill requires the MVA to report to the General Assembly by January 1 of each year on the effect of hybrid vehicles on HOV lane operations. The bill repeals the September 30, 2004 sunset provision for ILEV use of HOV lanes and allows permanent HOV use by hybrid vehicles. The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues would increase by \$28,000 in FY 2005, and TTF expenditures would increase by \$54,900, for a net expenditure increase of \$26,900. Potential decrease in federal revenues due to conflict with federal law. Out-years reflect growth in hybrid vehicle sales and inflation.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
SF Revenue	\$28,000	\$20,000	\$24,000	\$28,000	\$32,000
FF Revenue	(-)	(-)	(-)	(-)	(-)
SF Expenditure	54,900	24,900	25,200	25,600	26,000
Net Effect	(\$26,900)	(\$4,900)	(\$1,200)	\$2,400	\$6,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Significant operational changes to HOV lanes, such as a proposal to significantly adjust the hours of operation, or convert an HOV lane to a general purpose lane, are not permitted without the Federal Highway Administration's (FHWA) approval if the lanes were designed and constructed with certain federal funds. This restriction applies to I-270 and U.S. 50. Under federal law, a state may only permit a vehicle with less than two occupants to operate in HOV lanes if it is certified as an ILEV. None of the hybrid vehicles qualify as ILEVs because their engines have fuel vapor emissions. FHWA advises that it can withhold federal funds or impose other sanctions (*e.g.*, project approval) on states that violate this rule.

Chapter 549 of 2002 authorizes drivers of ILEVs to use HOV lanes at all times until September 30, 2004 and requires the MVA to annually report to the General Assembly regarding the impact of ILEVs on HOV traffic.

State law defines a qualified hybrid vehicle as an automobile that: (1) meets all regulatory requirements; (2) meets current vehicle exhaust standards set under the National Low-Emission Vehicle Program for gasoline-powered passenger cars; and (3) can draw propulsion energy from both gasoline or diesel fuel and a rechargeable energy storage system, both of which are stored on-board. The Internal Revenue Code defines an electric hybrid vehicle as one that is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current.

Chapter 273 of 2003 exempts hybrid vehicles from the State's Vehicle Emissions Inspections Program (VEIP) until September 30, 2006, if its city fuel economy is at least 50 miles per gallon.

Background: Hybrid vehicles use two sources of power – gasoline and one of several types of alternative fuel, such as methanol and denatured ethanol, natural gas (compressed or liquefied), liquefied petroleum gas, coal-derived liquid fuels, or fuel derived from biological materials. By comparison, an ILEV is a vehicle that generates fuel vapor emissions that are five or less total grams per test as measured by the current Federal Test Procedure. Unlike a hybrid vehicle, ILEVs use only one fuel source (compressed natural gas) and have lower tailpipe emissions.

A limited number of hybrid vehicles are available commercially, including the Honda Insight and Civic and the Toyota Prius. Other manufacturers, including Mercedes Benz, General Motors (GM), and Saturn, have announced that they plan to introduce hybrid cars or sport utility vehicles (SUVs).

A few states allow lower emission cars and trucks to use HOV lanes without two occupants, including California, which has an exemption for ILEV vehicles. New York and Massachusetts considered legislation in 2003 to allow hybrid vehicles on HOV; New York also considered exempting clean or electric vehicles from tolls. FHWA denied Arizona's request to allow hybrid vehicles on high occupancy lanes in 2001. According to FHWA, the Commonwealth of Virginia permitted hybrid vehicles by mistake and will need to change its law following reauthorization of federal highway aid in 2004 if the reauthorization leaves intact the requirement for FHWA approval of HOV operational changes.

According to the MVA's report to the General Assembly in 2003, only nine ILEVs out of 500 registered in the State have received a permit for HOV use; accordingly, HOV lane operations were not affected. To obtain a permit, an ILEV owner must go to a VEIP station to demonstrate that the vehicle qualifies.

State Effect: TTF net expenditures in fiscal 2005 will be \$26,872. Total expenditures will be approximately \$54,872, and revenues will be approximately \$28,000. This estimate assumes the following:

- it will cost approximately \$30,000 to add 100 plaques to 300 HOV signs on I-270 and U.S. 50 for both ILEVs and hybrid vehicles. (Due to the low number of ILEV permits, SHA has not added signs for ILEV vehicle use.);
- MVA's expenditures will total \$24,872 for on-call assistance in field offices, postage, and stickers; and
- the MVA will receive \$28,000 for 1,750 hybrid vehicle permits at a cost of \$16 each. Approximately 3,000 hybrid vehicles were registered in 2003, and an additional 4,000 are estimated to be registered in 2004.

TTF expenditures will slightly exceed revenues in fiscal 2006, assuming that 1,750 (or 25%) of both new and existing hybrid vehicle owners will apply for a permit in the first fiscal year it is available, but fewer owners (1,250) will apply the following year. The MVA anticipates that hybrid sales will grow by 1,000 annually.

The MVA also advises that this estimate assumes manual processing; however, it will likely need to computerize the process at a later date, which could cost approximately \$101,600. The Department of Legislative Services advises that if other legislation which

requires reprogramming changes is passed at that time, economies of scale could be realized.

The impact of the bill on federal revenues is unclear. Maryland will receive \$441 million of federal aid in fiscal 2005 for capital projects such as the Woodrow Wilson Bridge replacement. FHWA has the authority to withhold a portion of federal funds for violations of federal law; however, it advises that it uses sanctions only as a last resort. Furthermore, Congress may decide to give state governments the authority to independently determine use of HOV lanes when it reauthorizes the Safe Accountable Flexible and Efficient Transportation Equity Act for the 21st Century, which expires in February 2004.

Additional Information

Prior Introductions: None.

Cross File: A similar bill has been introduced as HB 30.

Information Source(s): Maryland Department of Transportation, Department of State Police, National Conference of State Legislatures, Federal Highway Administration, Virginia Department of Transportation, Department of Legislative Services

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ncs/mdr

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