

SECOND REGULAR SESSION

HOUSE BILL NO. 2426

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FAITH (Sponsor) AND DENISON (Co-sponsor).

5487L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 227, RSMo, by adding thereto one new section relating to the designation of high occupancy vehicle lanes and high occupancy toll lanes on the state highway system, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.725, to read as follows:

227.725. 1. For purposes of this section, the following terms shall mean:

(1) "High occupancy vehicle lane", a lane designated by the commission on a state highway where vehicle usage is limited to vehicles occupied by a minimum number of persons, with exceptions as determined by the commission;

(2) "High occupancy toll lane", a high occupancy vehicle lane designated by the commission on a state highway that authorizes vehicles that do not meet the commission's minimum occupancy requirements on such lane to use such lane if the operators of such vehicles pay a toll.

2. The commission may either designate an existing general-use lane on the state highway system, or construct new lanes on the state highway system, as a high occupancy vehicle lane or lanes pursuant to 23 U.S.C. Section 166, as amended. The occupancy levels of vehicles that may use a high occupancy vehicle lane and the time of day when such lane may be restricted to high occupancy vehicle usage shall be determined by the commission and indicated on commission traffic control devices.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **3. Any person who uses a high occupancy vehicle lane in violation of the**
16 **requirements for such lane established by the commission is guilty of an infraction, with**
17 **a fine in an amount not to exceed two hundred dollars and court costs.**

18 **4. Should a high occupancy vehicle lane designated or constructed by the**
19 **commission have excess vehicle capacity, the commission may, after approval from the**
20 **federal highway administration, convert the high occupancy vehicle lane to a high**
21 **occupancy toll lane, pursuant to 23 U.S.C. Section 166, as amended.**

22 **5. The commission may authorize vehicles other than high occupancy vehicles to**
23 **operate in the high occupancy toll lanes and may impose and collect tolls upon such**
24 **vehicles.**

25 **6. All tolls imposed on vehicles other than high occupancy vehicles using a high**
26 **occupancy toll lane shall be established and imposed in amounts determined by the**
27 **commission.**

28 **7. Toll administration and collection by the commission shall be consistent with 23**
29 **U.S.C. Section 166, as amended, and this section.**

30 **(1) The commission shall develop, manage, and maintain a toll collection system**
31 **that will automatically collect tolls, which may include, but is not limited to, toll tickets,**
32 **billing accounts, commuter passes, license plate recognition technology, and electronic**
33 **recording or identification devices. The display of a recording or identification device**
34 **issued by the commission for such purposes on or near the windshield of a motor vehicle**
35 **shall not be a violation of any law or rule in the state of Missouri unless the device is**
36 **attached in a manner that obstructs the operator's clear view of the lane.**

37 **(2) The commission shall post notice on or around the high occupancy vehicle toll**
38 **lane in the plain view of operators of motor vehicles using such lane, which shall notify the**
39 **public that failure to pay the toll is a traffic violation. This notice shall also describe the**
40 **minimum occupancy requirements for high occupancy vehicles that will not be required**
41 **to pay a toll to use the high occupancy toll lane.**

42 **(3) The owner of a motor vehicle issued a summons for a violation for failure to pay**
43 **the required toll to use a high occupancy toll lane is guilty of an infraction and upon**
44 **conviction shall be required to pay the amount of the toll that was the subject of the**
45 **violation, which shall be remitted to the commission, and a fine in an amount not to exceed**
46 **two hundred dollars and court costs.**

47 **(a) If a summons is issued for failure to pay the required toll and the motor vehicle**
48 **that is the subject of the summons has multiple owners, the summons shall be issued**
49 **against only one of the owners and, upon conviction, the toll payment, fine, and court costs**
50 **may be assessed against that one owner.**

51 (b) An owner may furnish evidence that the motor vehicle was in the care, custody,
52 or control of another person at the time of the violation. In such instance, the owner shall
53 submit such evidence in an affidavit authorized by the court setting forth the name,
54 address, and other pertinent information of the person who leased, rented, or otherwise
55 had care, custody, or control of the motor vehicle at the time of the alleged violation,
56 subject to the penalties for perjury. The affidavit submitted pursuant to this subdivision
57 shall be admissible in a court proceeding to adjudicate the alleged violation. In such case,
58 the court shall have the authority to terminate the prosecution of the summons issued to
59 the owner and issue a summons to the person identified in the owner's affidavit as the
60 operator of the motor vehicle at the time of the violation.

61 (c) If the motor vehicle is alleged to have been stolen at the time of the alleged
62 violation, the owner of the vehicle shall submit proof to the court that the owner filed a
63 police report.

64 (d) If the motor vehicle involved in the violation is registered in the name of a rental
65 or leasing company and the vehicle is rented or leased to another person at the time of the
66 violation, the rental or leasing company may rebut the presumption by providing law
67 enforcement or the prosecuting authority with a copy of the rental or lease agreement in
68 effect at the time of the violation. No prosecuting authority shall bring any legal
69 proceeding against a rental or leasing company under this section unless prior written
70 notice of the violation has been given to such rental or leasing company by registered mail
71 at the address appearing on the motor vehicle's registration and the rental or leasing
72 company has failed to provide the rental or leasing agreement copy within fifteen days of
73 receipt of such notice.

74 (4) A written report, telephone call, or any other record from a law enforcement
75 officer, or photographic evidence arising from the use of a photo monitoring system, that
76 indicates a required toll was not paid is admissible in any proceeding to enforce this
77 section, subject to foundation evidence to establish the authenticity of the report, call,
78 record, or photographs. Photo monitoring system evidence that shows the motor vehicle,
79 whether operated by the owner or another operator, has failed to pay a toll shall raise a
80 rebuttable presumption that the motor vehicle shown in the photographic evidence was
81 used to commit a violation of this section. A summons issued through use of a photo
82 monitoring system shall be sent by first class mail to the most recent address of the owner
83 of the motor vehicle within twenty-one days of the violation and shall include, at a
84 minimum, the date, time, and location of the violation. The summons must also include
85 instructions on how to dispose of the violation through court appearance or payment of the
86 fine and costs.

87 **(5) The following procedures shall be taken for the enforcement of toll collections**
88 **and issuance of traffic citations under this section through the use of a photo monitoring**
89 **system:**

90 **(a) A certificate or a written report sworn to or affirmed by a Missouri law**
91 **enforcement agency, including a Missouri state highway patrol officer, city police officer,**
92 **or a sheriff's department deputy which alleges that a violation of this section occurred, or**
93 **a facsimile thereof, based upon inspection of photographs, microphotographs, videotape,**
94 **or other recorded images produced by a photo monitoring system shall be prima facie**
95 **evidence of the facts contained therein, subject to foundation evidence to establish the**
96 **authenticity of such photographs, microphotographs, videotape, or other recorded images**
97 **produced by a photo monitoring system, and shall be admissible in any proceeding**
98 **charging a violation of the toll collection provisions in this section, provided that any**
99 **photographs, microphotographs, videotape, or other recorded images evidencing such a**
100 **violation shall be available for inspection and admission into evidence in any proceeding**
101 **to adjudicate the liability for such violation;**

102 **(b) After a Missouri law enforcement agency has been notified that a violation of**
103 **this section has occurred, such agency is authorized to issue a summons for failure to pay**
104 **the required toll; and**

105 **(c) The law enforcement agency responsible for the issuance of a summons for**
106 **failure to pay a toll is responsible to refer the summons to the appropriate local prosecuting**
107 **attorney for prosecution of such summons.**

108 **(6) The provisions of this section shall not prohibit a law enforcement officer from**
109 **issuing a citation for a violation of any other traffic laws and regulations that occurs on the**
110 **high occupancy vehicle lane or high occupancy toll lane, except that a photo monitoring**
111 **system shall not be used to enforce such other traffic laws and regulations.**

112 **8. The commission shall promulgate rules to implement and administer the**
113 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
114 **536.010, that is created under the authority delegated in this section shall become effective**
115 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
116 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
117 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
118 **the effective date, or to disapprove and annul a rule are subsequently held**
119 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
120 **after August 28, 2010, shall be invalid and void.**

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