

Legislative Analysis



HIGH-OCCUPANCY VEHICLE LANES

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<http://www.house.mi.gov/hfa>

House Bill 4352 as reported from committee
Sponsor: Rep. Nate Shannon

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4353 (H-1) as reported from committee
Sponsor: Rep. Sharon MacDonell

Committee: Transportation, Mobility and Infrastructure
Complete to 6-11-23

SUMMARY:

House Bill 4353 would amend 1951 PA 51 (“Act 51”) to allow the Michigan Department of Transportation (MDOT) to designate a lane on a highway for the exclusive use of *high-occupancy vehicles* (HOVs) or other classes of vehicles determined by the department, during a period determined by the department, by filing a *traffic control order* and installing appropriate *traffic control devices*.

High-occupancy vehicle would mean any motor vehicle carrying at least two occupants, including the vehicle’s driver.

Traffic control devices would mean all signs, signals, markings, and devices not inconsistent with the Michigan Vehicle Code that are placed or erected by authority of a public body or official with jurisdiction, for the purpose of regulating, warning, or guiding traffic.

Traffic control order would mean an order officially establishing the location of traffic control devices and traffic control signals on the highways of Michigan by the authority with jurisdiction over the highway that is filed with the county clerk of the county traversed by the highway. A certified copy of the order would be *prima facie* evidence in all courts of the issuance of the order.

[The above are the current Michigan Vehicle Code definitions for these terms.]

MCL 247.651

House Bill 4352 would amend the Michigan Vehicle Code to amend a provision that now provides that a lane designated under Act 51 as an HOV lane and that is appropriately marked must be reserved for exclusive use by buses and HOVs during the indicated times, except that the restrictions do not apply to emergency or law enforcement vehicles or transit buses operated by a regional transit authority.

The bill would instead provide that a lane designated as an HOV lane by an agency with jurisdiction over the roadway and that is appropriately marked with traffic control devices must be reserved for exclusive use by buses and HOVs during the indicated times, except that the restrictions do not apply to the following:

- An authorized emergency vehicle.

- A law enforcement vehicle.
- A bus.
- A motorcycle.
- Any other class of vehicle as determined by the agency with jurisdiction over the roadway.

An individual violating the HOV lane restrictions would be responsible for a civil infraction and could be ordered to pay a civil fine under section 907 of the code.

MCL 257.642

BACKGROUND:

The bills are understood as authorizing the creation of HOV lanes (also called “carpool lanes”) on I-75 as part of the ongoing I-75 Modernization project.¹ According to the project website,² HOV lanes “are planned from 12 Mile Road to South Boulevard and an additional travel lane is being built from M-102 (8 Mile Road) to 12 Mile Road.” The lanes will be restricted during rush hour (weekdays from 6 a.m. to 9 a.m. and again from 3 p.m. to 6 p.m.) and will otherwise be available for use by all vehicles.³

Legislation enacted in 2008 amended Act 51 to allow MDOT to designate one or more lanes of Michigan Avenue (US-12) in Detroit as HOV lanes, but that authorization was time-limited and ended December 31, 2010. The Michigan Vehicle Code was amended at the same time to provide for the use of HOV lanes designated under Act 51.⁴

In 2012, the same sections of Act 51 and the Michigan Vehicle Code were amended as part of a package of bills related to the newly created Regional Transit Authority Act, which provided for the creation of a regional transit authority in southeast Michigan.⁵

The 2012 amendments to Act 51 removed the expired provisions authorizing MDOT to create HOV lanes on Michigan Avenue. In addition, provisions were added that allow MDOT or a local road agency to enter into an agreement with the regional transit authority to operate a public transit system and designate one or more lanes of a street or highway as dedicated public transit lanes, which are subject to the same provisions as HOV lanes under the Michigan Vehicle Code.

The 2012 amendments to the Michigan Vehicle Code added transit buses operated by the regional transit authority to the list of vehicles exempted from restrictions imposed on HOV

¹ See <https://www.freep.com/story/news/local/michigan/2023/03/03/i-75-carpool-lanes-oakland-county-detroit/69967410007/>

² <https://www.modernize75.com/Project-Highlights-HOV>

³ An FAQ page from the Federal Highway Administration concerning HOV facilities under federal law is available here: <https://ops.fhwa.dot.gov/freewaymgmt/faq.htm> (Note that allowing motorcycles to use HOV lanes is a federal requirement. According to the FAQ page: “The rationale behind allowing motorcycles to use HOV lanes is that it is safer to keep two-wheeled vehicles moving than to have them travel in start-and-stop congested traffic conditions on the general-purpose lanes.” States can override the requirement if it is determined to present a risk to safety.)

⁴ <https://www.legislature.mi.gov/documents/2007-2008/billanalysis/Senate/pdf/2007-SFA-1461-N.pdf>

⁵ <https://www.legislature.mi.gov/documents/2011-2012/billanalysis/Senate/pdf/2011-SFA-0445-N.pdf>

lanes, and removed vehicles such as taxicabs and bicycles that had been exempted under specific circumstances when the HOV lanes were contemplated for Michigan Avenue in 2008.

As described above, under House Bill 4352, the relevant Michigan Vehicle Code provisions would apply more broadly to “a lane... designated as an HOV lane by an agency with jurisdiction over the roadway,” instead of only to “a lane... designated as an HOV lane under section 1” of Act 51.

FISCAL IMPACT:

MDOT has indicated that the bills are required to authorize the HOV lanes that have been constructed on I-75 in Oakland County and to make the HOV lane restrictions enforceable. The HOV lanes are a feature of the project as presented to the public during the project-development and environmental-clearance process.⁶

The department indicates that the bills have no direct fiscal impact on state government. All the costs of the HOV lanes were already incurred as part of the I-75 project. No road-use fees are assessed for the use of the HOV lanes.

The bills have no fiscal impact on local units of government. The department indicates that a local agency can create HOV lanes on roads under its jurisdiction under local ordinances.

POSITIONS:

Representatives of the following entities testified in support of the bills (5-9-23):

- Michigan Department of Transportation
- WSP

The following entities indicated support for the bills (5-16-23):

- Southeast Michigan Council of Governments (SEMCOG)
- American Council of Engineering Companies

Legislative Analyst: E. Best
Fiscal Analyst: William E. Hamilton

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

⁶ <https://www.michigan.gov/mdot/projects-studies/i-route-construction/i75-modernization-project-oakland-county>