

**RESOLUTION 4-10-03**

**DIGEST**

HOV Lanes: Use by Attorneys Late for Court

Adds Vehicle Code section 21655.10 to let attorneys use HOV lanes when on second call to the Superior Court.

**RESOLUTIONS COMMITTEE RECOMMENDATION**

DISAPPROVE

History:

None known.

Reasons:

This resolution adds Vehicle Code section 21655.10 to let attorneys use HOV lanes when on second call to the Superior Court. This resolution should be disapproved because it not only discriminates against non-attorneys, but also against attorneys who are late for appearances and hearings in tribunals other than Superior Court.

While certainly of considerable interest to attorneys who are chronically late for appearances in Superior Court, the new section as proposed likely would be only the first of many exceptions for people who want to drive in HOV lanes because they are late for hearings, appointments, or other personal or professional matters. While this would be acceptable if limited to attorneys who are late for appellate court appearances, depositions, arbitrations, mediations and vital social engagements, it is likely other groups will begin to demand similar treatment. For example, doctors will insist on the right to use HOV lanes not only when rushing to the hospital to handle an emergency, but also for driving to the golf course. Once this resolution is enacted into law, other groups will use it as an example such that the exceptional circumstances will swallow up the rule. This will not only negate any advantage attorneys might gain from the ability to use the HOV lanes, but also will reduce income to the state in a time of budgetary crises because solo drivers will no longer have any incentive to drive in overcrowded HOV lanes.

Also of serious concern is the raising of this offense to misdemeanor status. It is one thing to provide attorneys with special privileges in the use of the HOV lanes. It is an entirely different matter to expose attorneys to misdemeanor prosecution for misuse of the lane when everyone else is subject only to receiving a ticket.

**TEXT OF RESOLUTION**

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to add Vehicle Code section 21655.10 to read as follows:

- 1    §21655.10
- 2            (a) As provided in subsection (b), any attorney licensed to practice law in the State of
- 3    California is authorized to use high-occupancy vehicle lanes.
- 4            (b) Use of high-occupancy vehicle lanes by an attorney as described in subsection (a) is
- 5    restricted to such times as said attorney is on second call, as defined in subsection (c), to a Superior
- 6    Court of the County in which he is driving his vehicle or a County adjacent thereto.
- 7            (c) An attorney is on second call when he has contacted the court in which he has a court
- 8    appearance and left a message with the clerk of that court. Upon detention and request by an
- 9    authorized peace officer as defined in Penal Code section 830 et seq., an attorney shall provide proof
- 10   of said call by presenting said peace officer with his cell phone which must contain in its outgoing

11 calls the phone number of the court in which the attorney is scheduled to appear. Said peace officer  
12 is authorized to use the attorney's cell phone for purposes of verifying said call as defined in  
13 subsection (d).

14 (d) Any peace officer as defined in subsection (c) who has detained an attorney for driving in  
15 a high-occupancy vehicle lane and who is presented with said attorney's cell phone for purposes of  
16 verifying that attorney's second call status may verify that status by activating said cell phone, then  
17 using the directional do-hickey on said phone to highlight outgoing calls on the cell phone presented,  
18 pressing OK; then highlighting the court phone number in question again by using said do-hickey,  
19 pressing OK; then highlighting "call" by using said do-hickey again, pressing OK; and speaking to  
20 the court clerk.

21 (e) Any peace officer as defined in subsection (c) who has detained an attorney for driving in  
22 a high-occupancy vehicle lane, as an alternative to the procedure set forth in subsection (d), may  
23 accept the attorney's second call status if all of the following criteria are met by the attorney:

24 (1) said attorney is able to present a State Bar card current for the year in which the stop is  
25 made;

26 (2) said attorney is able to present court documents which prove to the officer's satisfaction  
27 that the attorney is in fact scheduled to appear that day in a Superior Court in the County in which  
28 the stop is made or a County adjacent thereto;

29 (3) said attorney is wearing attire appropriate for an appearance in court which shall at a  
30 minimum be:

31 (a) for male attorneys: a suit or sports coat with matching pants accompanied by a shirt and  
32 tie color-coordinated to match the shoes and socks;

33 (b) for female attorneys: a suit or dress with blouse and accompanying fashion accessories  
34 suitable for appearance in a court of law or a tasteful pants-suit of recent vintage; open-toe shoes  
35 may be permitted if they match an accompanying purse;

36 (c) a briefcase - no shoulder bags or back packs may be substituted.

37 (f) It shall not be a defense to a failure to meet the criteria in subsection (e)(3) that the court  
38 in which the appearance is scheduled has "casual Fridays".

39 (g) A violation of this section shall be a misdemeanor.

(Proposed new language underlined; language to be deleted stricken.)

PROPOSERS: The Lesbian and Gay Lawyers Association of Los Angeles and The Bay Area Lawyers  
for Individual Freedom

#### STATEMENT OF REASONS

Existing Law: No attorney is allowed to drive in a high-occupancy vehicle lane when he is the sole occupant of a vehicle.

This Resolution: Authorizes an attorney to drive in a high-occupancy vehicle lane while a sole occupant of a vehicle if he or she meets the criteria set forth therein.

The Problem: The taxpayers of this state should no longer pay to keep courts open and staffed while waiting for attorneys to make their way through congested freeways and highways when high-occupancy vehicle lanes sit empty just waiting for cars to fill them. This is a particular problem in Southern California where the high-occupancy vehicle lanes are permanent and not limited to high-occupancy vehicle use only during heavy commuter traffic as they are in Northern California. It is well-documented that freeway congestion in Southern California can last from 6 a.m. until 10:30 a.m. on all the major freeways leading to all of the courthouses. Not a day goes by without a court clerk receiving a call from an attorney stuck in heavy traffic on the 101 or the 5, whether that clerk is in Northern, Central, or

Southern California. It would also alleviate the high stress level of attorneys throughout the state faced with a court appearance more than 5 miles from their home, office (for those attorneys who work all day and night) or child-care center. Finally, it would permit peace officers to relieve their documented concerns regarding attorneys by enforcing timely court appearances and tasteful attorney attire.

#### IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule....yet.

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