

TAX FOUNDATION OF HAWAII

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SUBJECT: MISCELLANEOUS, Single Occupant Vehicle Access Fee to Use Zipper Lane

BILL NUMBER: HB 327, HD-1

INTRODUCED BY: House Committee on Transportation

EXECUTIVE SUMMARY: Directs the Department of Transportation to develop and implement a single occupant vehicle access fee to use a zipper lane on Oahu. Requires that revenues generated from the single occupant vehicle access fee be deposited in the state highway fund. We have concerns that the fee may be preempted by federal statutes governing the interstate highway system, of which the H-1 Freeway is a part.

SYNOPSIS: Adds a new section to section 291C, HRS, directing DOT to develop and implement a system in which drivers may pay a single occupant vehicle access fee of \$ _____ to the department in exchange for use of a high occupancy vehicle lane that has been designated as a zipper lane on the island of Oahu regardless of the number of occupants in the motor vehicle.

States that the revenues are to be deposited in the state highway fund.

EFFECTIVE DATE: July 1, 2050.

STAFF COMMENTS: Recently, we have heard the term “congestion pricing” bandied about as a way of improving traffic congestion here, and of raising more money.

What is it? Congestion pricing is a way of charging motorists for driving in designated areas during designated times. For example, in London, drivers pay a daily fee of about \$16 to drive to the heart of the city on weekdays between 7 a.m. and 6 p.m. According to the British online magazine CityMetric, the number of private cars entering the protected zone dropped by 39%.

“It absolutely works,” Mayor Caldwell is quoted as saying. But: “It’s fraught with political problems.”

Even if the political problems could be overcome, how would it work?

This bill contemplates the State charging to use the zipper lane on the H-1. It’s possible, with current technology, to set up devices at onramps to check in cars, either through license plate number recognition software or through transponders. The owners of those cars then receive a bill every so often.

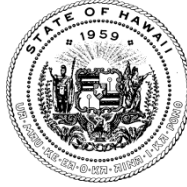
There are some wrinkles, however. One is that the H-1 is part of the federal Interstate Highway System (although the word “Interstate” means “between states” and our freeways obviously aren’t). Which means federal law dictates whether states or cities can charge a toll for accessing the freeway. The [1956 National Interstate and Defense Highways Act](#) generally prohibits state

and local governments from charging tolls on interstate highways. 23 U.S.C. section 301 provides:

Freedom from tolls. Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

There have been some exceptions to this rule, and President Trump has proposed scrapping the restriction altogether, but the law still exists so it may not be possible for the proposed toll charge to take effect.

Digested 2/16/2019



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February 20, 2019
4:00 P.M.
State Capitol, Room 308

H.B. 327 H.D. 1
RELATING TO TRANSPORTATION

House Committee on Finance

The Department of Transportation (DOT) **supports with an amendment** H.B. 327 H.D. 1 to develop and implement a single occupant vehicle access fee to use the zipper lane on the H-1 Freeway.

We request SECTION 2.(a) be revised to read as follows:

(a) The department of transportation shall develop and implement a system in accordance with chapter 91 in which drivers may pay a single occupant vehicle access fee to the department in exchange for use of a high occupancy vehicle lane that has been designated as a zipper lane on the island of Oahu regardless of the number of occupants in the motor vehicle.

Since federal funding was utilized in the construction of the zipper lane, the DOT is required to comply with the provisions in Title 23 of the United States Code (U.S.C.), Section 166 relating to High Occupancy Vehicle (HOV) facilities. Federal law allows exceptions to the minimum two occupants per vehicle requirement for motorcycles, bicycles, public transportation vehicles, and alternative fuel vehicles. Other single occupant vehicles may be allowed to use a HOV lane provided the operator of the vehicle pays a toll charge and the DOT complies with the following provisions:

1. Establishes a program that addresses how motorists can enroll and participate in the toll program;
2. Develops, manages, and maintains a system that will automatically collect the toll; and
3. Establishes policies and procedures to—
 - a. Manage the demand to use the facility by varying the toll amount that is charged;
 - b. Enforce violations of use of the facility; and
 - c. Ensure that over-the-road buses serving the public are provided access to the facility under the same rates, terms, and conditions as public transportation buses.

The DOT recommends the following amounts to be appropriated to develop and implement a system to allow single occupant vehicles to access the zipper lane on the H-1 Freeway provided that its passage does not replace or adversely impact priorities indicated in our Executive Budget:

Design	\$ 5,000,000
Construction	\$ 20,000,000
Operation and Maintenance	\$ 5,000,000
Total funding	<u>\$ 30,000,000</u>

Thank you for the opportunity to provide testimony.