

AMENDED IN ASSEMBLY MAY 17, 2004

AMENDED IN ASSEMBLY MAY 5, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2591

Introduced by Assembly Member Leno

February 20, 2004

An act to amend Sections 5371.4, ~~5411, and 5411.5~~ of 5411.5, 5412.2, and 5413.5 of, and to add Section 5381.5 to, the Public Utilities Code, relating to charter-party carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2591, as amended, Leno. Charter-party carriers: limousines.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. Charter-party carriers of passengers are subject to the jurisdiction and control of the commission under the Passenger Charter-Party Carriers' Act. The act requires a charter-party carrier of passengers to obtain from the commission a certificate that public convenience and necessity require the carrier's operation or, in the case of some carriers, to obtain a permit to conduct operations issued by the commission, ~~and to operate within the state on a prearranged basis, as defined.~~ The act prohibits the commission from issuing or renewing a permit unless the applicant has met specified requirements, including the submission of specified filing fees. The act does not apply to transportation service, other than

transportation service furnished in a limousine for hire, rendered wholly within the corporate limits of a single city or city and county and licensed or regulated by ordinance. The act prohibits the governing body of any city, county, or city and county from imposing business license fees on charter-party carriers operating limousines, but authorizes the governing body of any city, county, or city and county to impose a business license fee on any charter-party carrier domiciled or maintaining a business office within that city, county, or city and county. The act prohibits the governing body of an airport from imposing vehicle safety, licensing, or insurance requirements on charter-party carriers operating limousines that are more burdensome than those imposed by the commission, with certain exceptions pertaining to airport operations. *The act requires a charter-party carrier of passengers to operate on a prearranged basis within the state, defined to mean that the transportation of the prospective passenger was arranged with the carrier by the passenger, or a representative of the passenger, either by written contract or telephone.*

This bill would authorize a city, county, or city and county to impose reasonable rules for the inspection of waybills of charter-party carriers of passengers operating within the jurisdiction of the city, county, or city and county, *for purposes of verifying valid prearranged travel.*

This bill would require that the commission ensure that charter-party carriers of passengers operate on a prearranged basis within the state. The bill would require the commission to require every charter-party carrier of passengers include on a waybill or trip report, the name of at least one passenger in the traveling party, or identifying information of the traveling party's affiliation, along with the point of origin and destination of the passenger or traveling party, and information as to whether the transportation was arranged by telephone or written contract.

(2) Existing law authorizes a peace officer that arrests a person for operating a charter-party carrier of passengers without a valid certificate or permit at a public airport or within two miles of the international border with Mexico, to impound and retain possession of the vehicle, subject to certain exceptions and provisions for notice and return of the vehicle.

This bill would *additionally* authorize a peace officer, as defined, that arrests a person for operating a charter-party carrier of passengers ~~without a valid certificate or permit as a taxicab in violation of an ordinance or resolution of a city, county, or city and county,~~ to impound

and retain possession of the vehicle, subject to certain exceptions and provisions for notice and return of the vehicle. ~~The bill would make the operation of a motor vehicle without possession of a valid permit or operating authority a public nuisance and would authorize any peace officer to remove any motor vehicle located within the territorial limits in which the officer may act, when the vehicle is found upon a public highway and is being used in a manner constituting a public nuisance. The bill would authorize the law enforcement agency to impound the vehicle for a period not to exceed 72 hours, upon the request of the commission, the Attorney General, district attorney, city attorney, or county counsel, to enable the requesting agency to abate the public nuisance, to obtain an order from the superior court of the county in which the vehicle has been impounded to prevent the use of the motor vehicle in violation of law, and to obtain any other available remedy.~~

(3) Existing law requires that when a person is convicted of operating a charter-party carrier of passengers or a taxicab, as defined, without a valid certificate or permit, if the court determines the operator has the ability to pay, the court impose a fine not exceeding \$1,000 for the first conviction, a fine not exceeding \$2,000 for the second conviction, a fine not exceeding \$3,000 for the third conviction, a fine not exceeding \$4,000 for the fourth conviction, and a fine not exceeding \$5,000 for the fifth conviction.

This bill would instead require that when a person is convicted of operating a charter-party carrier of passengers or a taxicab, as defined, without a valid certificate or permit, if the court determines the operator has the ability to pay, the court impose a fine not exceeding \$5,000.

(4) Existing law provides that whenever the commission, after a hearing, finds that any person or corporation is operating as a charter-party carrier of passengers without a valid certificate or permit, or fails to include certain identifying information in a public advertisement, the commission is authorized to impose a fine of not more than \$5,000 for each violation, and to assess an amount sufficient to cover certain expenses of the commission. Existing law prohibits a charter-party carrier of passengers from advertising its services, or in any manner representing its services, as being a taxicab or taxi service.

This bill would provide that whenever the commission, after a hearing, finds that any person or corporation is operating a charter-party carrier of passengers as a taxicab without a valid certificate or permit in violation of an ordinance or resolution of a city, county, or city and county, the commission is authorized to impose a fine

of not more than \$5,000 for each violation, and to assess an amount sufficient to cover certain expenses of the commission.

(5) Under existing law, a violation of the Passenger Charter-Party Carriers' Act or a violation of an order or direction of the commission issued pursuant to the act is a crime.

Because the provisions of this bill would be a part of the act and because a violation of those provisions or of an order or decision of the commission implementing those provisions would be a crime, the bill would impose a state-mandated local program by creating new crimes.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5371.4 of the Public Utilities Code is
2 amended to read:

3 5371.4. (a) The governing body of any city, county, or city
4 and county may not impose a fee on charter-party carriers
5 operating limousines. However, the governing body of any city,
6 county, or city and county may impose a business license fee on,
7 and may adopt and enforce any reasonable rules and regulations
8 pertaining to operations within its boundaries for, any
9 charter-party carrier domiciled or maintaining a business office
10 within that city, county, or city and county.

11 (b) The governing body of any airport may not impose vehicle
12 safety, vehicle licensing, or insurance requirements on
13 charter-party carriers operating limousines that are more
14 burdensome than those imposed by the commission. However, the
15 governing board of any airport may require a charter-party carrier
16 operating limousines to obtain an airport permit for operating
17 authority at the airport.

18 (c) Notwithstanding subdivisions (a) and (b), the governing
19 body of any airport may adopt and enforce reasonable and
20 nondiscriminatory local airport rules, regulations, and ordinances



1 pertaining to access, use of streets and roads, parking, traffic
2 control, passenger transfers, trip fees, and occupancy, and the use
3 of buildings and facilities, that are applicable to charter-party
4 carriers operating limousines on airport property.

5 (d) This section does not apply to any agreement entered into
6 pursuant to Sections 21690.5 to 21690.9, inclusive, between the
7 governing body of an airport and charter-party carriers operating
8 limousines.

9 (e) The commission shall conduct an audit and review of the
10 annual gross revenues earned by charter-party carriers operating
11 limousines for the purpose of ascertaining whether the imposition
12 of additional fees based on a charter-party carrier's gross annual
13 revenues would place an undue administrative or financial burden
14 on the charter-party carrier industry. The commission shall report
15 its findings to the Legislature on or before June 30, 1992.

16 (f) The governing body of any airport shall not impose a fee
17 based on gross receipts of charter-party carriers operating
18 limousines.

19 (g) Notwithstanding subdivisions (a) to (f), inclusive, nothing
20 in this section prohibits a city, county, city and county, or the
21 governing body of any airport, from adopting and enforcing
22 reasonable permit requirements, fees, rules, and regulations
23 applicable to charter-party carriers of passengers other than those
24 operating limousines.

25 (h) Notwithstanding subdivisions (a) to (f), inclusive, a city,
26 county, or city and county may impose reasonable rules for the
27 inspection of waybills of charter-party carriers of passengers
28 operating within the jurisdiction of the city, county, or city and
29 county, *for purposes of verifying valid prearranged travel*.

30 (i) For the purposes of this section, "limousine" includes any
31 luxury sedan, of either standard or extended length, with a seating
32 capacity of not more than nine passengers including the driver,
33 used in the transportation of passengers for hire on a prearranged
34 basis within this state.

35 ~~SEC. 2.—Section 5411 of the Public Utilities Code is amended~~
36 ~~to read:~~

37 ~~5411.—(a) Every charter-party carrier of passengers and every~~
38 ~~officer, director, agent, or employee of any charter-party carrier of~~
39 ~~passengers who violates or who fails to comply with, or who~~
40 ~~procures, aids, or abets any violation by any charter-party carrier~~

1 of passengers of any provision of this chapter, or who fails to obey;
2 observe, or comply with any order, decision, rule, regulation,
3 direction, demand, or requirement of the commission, or of any
4 operating permit or certificate issued to any charter-party carrier
5 of passengers, or who procures, aids, or abets any charter-party
6 carrier of passengers in its failure to obey, observe, or comply with
7 any commission order, decision, rule, regulation, direction,
8 demand, or requirement, or any operating permit or certificate, is
9 guilty of a misdemeanor and is punishable by fine of not more than
10 one thousand dollars (\$1,000) or by imprisonment in the county
11 jail for not more than three months, or both.

12 (b) ~~The operation of a motor vehicle used as a charter-party~~
13 ~~carrier of passengers that does not possess a valid permit or~~
14 ~~operating authority, as required by Article 2 (commencing with~~
15 ~~Section 5371), constitutes a public nuisance. Any peace officer, as~~
16 ~~defined in Chapter 4.5 (commencing with Section 830) of Title 3~~
17 ~~of Part 2 of the Penal Code, may remove any motor vehicle located~~
18 ~~within the territorial limits in which the officer may act, when the~~
19 ~~vehicle is found upon a public highway and is being used in a~~
20 ~~manner constituting a public nuisance. At the request of the~~
21 ~~commission, the Attorney General, district attorney, city attorney,~~
22 ~~or county counsel, the law enforcement agency may impound the~~
23 ~~vehicle for a period not to exceed 72 hours to enable the requesting~~
24 ~~agency to abate the public nuisance, to obtain an order from the~~
25 ~~superior court of the county in which the vehicle has been~~
26 ~~impounded to prevent the use of the motor vehicle in violation of~~
27 ~~law, and to obtain any other remedy available under law as~~
28 ~~permitted by Section 5416.~~

29 *SEC. 2. Section 5381.5 is added to the Public Utilities Code,*
30 *to read:*

31 *5381.5. The commission shall, by rule or other appropriate*
32 *procedure, ensure that every charter-party carrier of passengers*
33 *operates on a prearranged basis within the state, consistent with*
34 *Section 5360.5. The commission shall require every charter-party*
35 *carrier of passengers to include on a waybill or trip report, all of*
36 *the following:*

37 *(a) The name of at least one passenger in the traveling party,*
38 *or identifying information of the traveling party's affiliation, along*
39 *with the point of origin and destination of the passenger or*
40 *traveling party.*

1 ***(b) Information as to whether the transportation was arranged***
2 ***by telephone or written contract.***

3 SEC. 3. Section 5411.5 of the Public Utilities Code is
4 amended to read:

5 5411.5. (a) Whenever a peace officer, as defined in Chapter
6 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal
7 Code, arrests a person for a violation of Section 5411 involving the
8 operation of a charter-party carrier of passengers without a valid
9 certificate or permit *at a public airport, within 100 feet of a public*
10 *airport, or within two miles of the international border between the*
11 *United States and Mexico*, the peace officer may impound and
12 retain possession of the vehicle used in violation of Section 5411.

13 (b) *Whenever a peace officer, as defined in Chapter 4.5*
14 *(commencing with Section 830) of Title 3 of Part 2 of the Penal*
15 *Code, arrests a person for operating a charter-party carrier of*
16 *passengers as a taxicab in violation of an ordinance or resolution*
17 *of a city, county, or city and county, the peace officer may impound*
18 *and retain possession of the vehicle.*

19 (c) If the vehicle is seized from a person who is not the owner
20 of the vehicle, the impounding authority shall immediately give
21 notice to the owner by first-class mail.

22 ~~(e)~~

23 (d) The vehicle shall immediately be returned to the owner
24 without cost to the owner if the infraction or violation is not
25 prosecuted or is dismissed, the owner is found not guilty of the
26 offense, or it is determined that the vehicle was used in violation
27 of Section 5411 without the knowledge and consent of the owner.
28 Otherwise, the vehicle shall be returned to the owner upon
29 payment of any fine ordered by the court. After the expiration of
30 six weeks from the final disposition of the criminal case, the
31 impounding authority may deal with the vehicle as lost or
32 abandoned property under Section 1411 of the Penal Code.

33 ~~(d)~~

34 (e) At any time, a person may make a motion in superior court
35 for the immediate return of the vehicle on the ground that there was
36 no probable cause to seize it or that there is some other good cause,
37 as determined by the court, for the return of the vehicle. A
38 proceeding under this section is a limited civil case.

39 ~~(e)~~

(f) No peace officer, however, may impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

SEC. 4. Section 5412.2 of the Public Utilities Code is amended to read:

5412.2. (a) When a person is convicted of the offense of the operating of a charter-party carrier of passengers or a taxicab without a valid certificate or permit, in addition to any other penalties provided by law, if the court determines the operator has the ability to pay, the court shall impose a mandatory fine not exceeding ~~one thousand dollars (\$1,000) for the first conviction, not exceeding two thousand dollars (\$2,000) for the second conviction, not exceeding three thousand dollars (\$3,000) for the third conviction, not exceeding four thousand dollars (\$4,000) for the fourth conviction, and not exceeding five thousand dollars (\$5,000) for the fifth conviction.~~

(b) As used in this section, “taxicab” means a passenger vehicle designed for carrying not more than eight persons, excluding the driver, and used to carry passengers for hire. “Taxicab” shall not include a charter-party carrier of passengers within the meaning of the Passenger Charter-Party Carriers’ Act, Chapter 8 (commencing with Section 5351).

SEC. 5. Section 5413.5 of the Public Utilities Code is amended to read:

5413.5. (a) Whenever the commission, after hearing, finds that any person or corporation is operating as a charter-party carrier of passengers without a valid certificate or permit, or fails to include in any public advertisement the number of the permit or identifying symbol required by Section 5386, the commission may impose a fine of not more than five thousand dollars (\$5,000) for each violation. The commission may assess the person or corporation an amount sufficient to cover the reasonable expense of investigation incurred by the commission. The commission may assess interest on any fine or assessment imposed, to commence on the day the payment of the fine or assessment becomes delinquent. All fines, assessments, and interest collected shall be deposited at least once each month in the General Fund.

1 **(b)** *Whenever the commission, after hearing, finds that any*
2 *person or corporation is operating a charter-party carrier of*
3 *passengers as a taxicab without a valid certificate or permit in*
4 *violation of an ordinance or resolution of a city, county, or city and*
5 *county, the commission may impose a fine of not more than five*
6 *thousand dollars (\$5,000) for each violation. The commission may*
7 *assess the person or corporation an amount sufficient to cover the*
8 *reasonable expense of investigation incurred by the commission.*
9 *The commission may assess interest on any fine or assessment*
10 *imposed, to commence on the day the payment of the fine or*
11 *assessment becomes delinquent. All fines, assessments, and*
12 *interest collected shall be deposited at least once each month in the*
13 *General Fund.*

14 **SEC. 6.** *No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution because*
16 *the only costs that may be incurred by a local agency or school*
17 *district will be incurred because this act creates a new crime or*
18 *infraction, eliminates a crime or infraction, or changes the penalty*
19 *for a crime or infraction, within the meaning of Section 17556 of*
20 *the Government Code, or changes the definition of a crime within*
21 *the meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

