

Assembly Bill No. 2591

Passed the Assembly August 16, 2004

Chief Clerk of the Assembly

Passed the Senate August 10, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Sections 5371.4, 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, 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. 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. Existing law authorizes the impounding authority to deal with a vehicle as lost or abandoned property after the expiration of 6 weeks from the final disposition of the criminal case.

This bill would additionally authorize a peace officer, as defined, that arrests a person for operating a charter-party carrier of passengers 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. Under the bill, an impounding authority would not be authorized to deal with a vehicle as lost or abandoned property if the owner is in the process of making payments to the court.

(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 \$2,500 for a first conviction or \$5,000 for a subsequent conviction.

(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.

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

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

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

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

(c) Notwithstanding subdivisions (a) and (b), the governing body of any airport may adopt and enforce reasonable and nondiscriminatory local airport rules, regulations, and ordinances pertaining to access, use of streets and roads, parking, traffic control, passenger transfers, trip fees, and occupancy, and the use of buildings and facilities, that are applicable to charter-party carriers operating limousines on airport property.

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

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



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

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

(h) Notwithstanding subdivisions (a) to (f), inclusive, a city, county, or city and county may 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.

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

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

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

(a) 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.

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

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

5411.5. (a) Whenever a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, arrests a person for a violation of Section 5411 involving the operation of a charter-party carrier of passengers without a valid certificate or permit at a public airport, within 100 feet of a public



airport, or within two miles of the international border between the United States and Mexico, the peace officer may impound and retain possession of the vehicle used in violation of Section 5411.

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

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

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

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

(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 operating 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 two



thousand five hundred dollars (\$2,500) for a first conviction or five thousand dollars (\$5,000) for a subsequent 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.

(b) Whenever the commission, after 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 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.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or



infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2004

Governor

