

AMENDED IN SENATE JULY 2, 2014
AMENDED IN SENATE JUNE 19, 2014
AMENDED IN SENATE JUNE 10, 2014
AMENDED IN SENATE MAY 29, 2014
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 612

**Introduced by Assembly Member Nazarian
(Coauthor: Assembly Member Hernández)**

February 20, 2013

An act to amend Section 5374 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 612, as amended, Nazarian. Charter-party carriers of passengers: permit requirements: drivers.

The Passenger Charter-party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission, subject to various requirements. The act defines a charter-party carrier of passengers as every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state and includes any person, corporation, or other entity engaged

in the provision of a hired driver service when a rented motor vehicle is being operated by a hired driver.

This bill would prohibit the commission from issuing or renewing a permit or certificate to a charter-party carrier of passengers unless the applicant, in addition to existing requirements, participates in the Department of Motor Vehicles Employer Pull Notice Program and provides for mandatory Department of Justice background checks of every driver who is either employed by or under contract to the applicant, as specified.

~~The bill would also require any driver who is either under contract to, or employed by, the carrier to operate a vehicle used in transportation for compensation under the act to furnish classifiable fingerprint cards which the carrier would be required to forward to the Department of Justice to conduct a criminal history background check, as specified and would prohibit the carrier from employing or contracting with a driver who fails that check, as specified.~~

The bill would require a driver of a charter-party carrier to submit to the Department of Justice fingerprint images and related information for the purpose of obtaining information as to the existence and content of state convictions and state arrests, as specified. The bill would require the department to charge a fee sufficient to cover the cost of processing the request described in these provisions.

The bill would provide that its provisions apply to all charter-party carriers regardless of class or category created by the commission.

(2) Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

(3) 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: yes.
State-mandated local program: yes.

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

- 1 *SECTION 1. It is the intent of the Legislature to give direction*
- 2 *to the Public Utilities Commission, as it establishes rules and*
- 3 *regulations for all charter-party carriers, to investigate and*
- 4 *implement proper identifying decals and trade dress for*

1 *charter-party carriers in order to assist law enforcement in*
2 *enforcing those regulations and the law established under the*
3 *Passenger Charter-party Carriers' Act.*

4 **SECTION 1.**

5 *SEC. 2.* Section 5374 of the Public Utilities Code is amended
6 to read:

7 5374. (a) (1) Before a permit or certificate is issued or
8 renewed, the commission shall require the applicant to establish
9 reasonable fitness and financial responsibility to initiate and
10 conduct or continue to conduct the proposed or existing
11 transportation services. The commission shall not issue or renew
12 a permit or certificate pursuant to this chapter unless the applicant
13 meets all of the following requirements:

14 (A) It is financially and organizationally capable of conducting
15 an operation that complies with the rules and regulations of the
16 Department of the California Highway Patrol governing highway
17 safety.

18 (B) It is committed to observing the hours of service regulations
19 of state and, where applicable, federal law, for all persons, whether
20 employees or subcarriers, operating vehicles in transportation for
21 compensation under the certificate.

22 (C) It has a preventive maintenance program in effect for its
23 vehicles used in transportation for compensation that conforms to
24 regulations of the Department of the California Highway Patrol
25 in Title 13 of the California Code of Regulations.

26 (D) It participates in the Department of Motor Vehicle's
27 Employer Pull Notice Program to regularly check the driving
28 records of all persons, whether employees or subcarriers, operating
29 vehicles used in transportation for compensation.

30 (E) It has a safety education and training program in effect for
31 all employees or subcarriers operating vehicles used in
32 transportation for compensation.

33 (F) It will maintain its vehicles used in transportation for
34 compensation in a safe operating condition and in compliance with
35 the Vehicle Code and with regulations contained in Title 13 of the
36 California Code of Regulations relative to motor vehicle safety.

37 (G) It has filed with the commission the certificate of workers'
38 compensation insurance coverage or statement required by Section
39 5378.1.

1 (H) It has provided the commission an address of an office or
2 terminal where documents supporting the factual matters specified
3 in the showing required by this subdivision may be inspected by
4 the commission and the Department of the California Highway
5 Patrol.

6 (I) It provides for a mandatory controlled substance and alcohol
7 testing certification program as adopted by the commission
8 pursuant to Section 1032.1.

9 (J) Subparagraphs (C), (F), and (H) do not apply to a
10 charter-party carrier of passengers engaged in the provision of a
11 hired driver service when a rented motor vehicle is being operated
12 by the hired driver.

13 (K) It provides for mandatory Department of Justice criminal
14 background checks to check the criminal history of any driver who
15 is either under contract to, or employed by, the applicant to operate
16 a vehicle used in transportation for compensation pursuant to the
17 following:

18 ~~(i) Upon accepting employment by or entering into a contract~~
19 ~~with a carrier, a driver shall obtain two classifiable fingerprint~~
20 ~~cards for submission to the Department of Justice. The driver shall~~
21 ~~submit to the carrier the fingerprint cards and a processing fee~~
22 ~~payable to the department. The carrier shall forward the classifiable~~
23 ~~fingerprint cards and the fee to the Department of Justice. The~~
24 ~~department shall forward one classifiable fingerprint card to the~~
25 ~~Federal Bureau of Investigation for purposes of a background~~
26 ~~check. The processing fee shall be in an amount to cover the actual~~
27 ~~costs to the department.~~

28 ~~(ii) In lieu of classifiable fingerprint cards provided for in this~~
29 ~~section, the carrier may authorize drivers to submit their~~
30 ~~fingerprints into an electronic fingerprinting system administered~~
31 ~~by the Department of Justice. Drivers who submit their fingerprints~~
32 ~~by electronic means shall have their fingerprints entered into the~~
33 ~~system through a terminal operated by a law enforcement agency~~
34 ~~or other facility authorized by the Department of Justice to conduct~~
35 ~~electronic fingerprinting. The enforcement agency responsible for~~
36 ~~operating the terminal may charge a fee sufficient to reimburse it~~
37 ~~for the costs incurred in providing this service.~~

38 ~~(iii) Upon receipt of a driver's electronic or hard card~~
39 ~~fingerprints as provided in this section, the Department of Justice~~
40 ~~shall disseminate the following information to the carrier:~~

- 1 ~~(I) Every conviction rendered against the driver.~~
2 ~~(II) Every arrest for an offense for which the driver is presently~~
3 ~~awaiting trial, whether the driver is incarcerated or has been~~
4 ~~released on bail or on his or her own recognizance pending trial.~~
5 ~~(iv) The carrier shall request from the Department of Justice~~
6 ~~subsequent notification service, as provided pursuant to Section~~
7 ~~11105.2 of the Penal Code.~~
8 *(i) A driver, as defined in Section 305 of the Vehicle Code, of*
9 *a charter-party carrier, as defined in Section 5360, shall submit*
10 *to the Department of Justice fingerprint images and related*
11 *information required by the department for the purpose of*
12 *obtaining information as to the existence and content of state*
13 *convictions and state arrests and also information as to the*
14 *existence and content of a record of a state arrest for which the*
15 *department establishes that the person is free on bail or on his or*
16 *her recognizance pending trial or appeal.*
17 *(ii) The department shall provide a state response to the*
18 *charter-party carrier pursuant to paragraph (1) of subdivision (p)*
19 *of Section 11105 of the Penal Code.*
20 *(iii) The charter-party carrier shall request from the Department*
21 *of Justice subsequent notification service, as provided pursuant*
22 *to Section 11105.2 of the Penal Code, for persons described in*
23 *clause (i).*
24 *(iv) The department shall charge a fee sufficient to cover the*
25 *cost of processing the request described in this subparagraph.*
26 *(v) A driver shall be denied employment or have his or her*
27 *contract voided if he or she is required by any law to register as a*
28 *sex offender or has been convicted of any felony involving any*
29 *type of sexual offense; the manufacture, possession for sale,*
30 *transportation, or distribution of narcotics, controlled substances,*
31 *or addictive or dangerous drugs; force, violence, ~~threat~~ *threat*, or*
32 *intimidation against persons; kidnapping; forgery, fraud, larceny,*
33 *extortion, burglary, robbery, or theft; credit card fraud; possession*
34 *of a firearm or dangerous weapon; resisting or obstructing a peace*
35 *officer, public officer, or emergency medical technician; or use of*
36 *another vehicle for hire in the commission of a felony. Equivalent*
37 *out-of-state violations shall be considered.*
38 ~~(vi) As used in this section, “driver” has the same meaning as~~
39 ~~defined in Section 305 of the Vehicle Code.~~

1 (L) Subparagraphs (D), (I), and (K) apply to all charter-party
2 carriers regardless of class or category created by the commission.

3 (2) With respect to subparagraphs (B) and (F) of paragraph (1),
4 the commission may base a finding on a certification by the
5 commission that an applicant has filed, with the commission, a
6 sworn declaration of ability to comply and intent to comply.

7 (3) The commission may require, as a precondition to the
8 issuance of a permit or certificate, the procurement of a
9 performance bond sufficient to facilitate the collection of fines,
10 penalties, and restitution related to enforcement actions that can
11 be taken against the applicant.

12 (b) In addition to the requirements in subdivision (a),
13 charter-party carriers shall meet all other state and, where
14 applicable, federal regulations as prescribed.

15 (c) The commission may delegate to its executive director or
16 that executive director’s designee the authority to issue, renew, or
17 authorize the transfer of, charter-party carrier permits or certificates
18 and to make the findings specified in subdivision (a) that are
19 necessary to that delegated authority.

20 ~~SEC. 2.~~

21 *SEC. 3.* No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.