Assembly Bill No. 1518

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Passed the Assembly September 10, 1997

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Chief Clerk of the Assembly

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Passed the Senate September 4, 1997

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Secretary of the Senate

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This bill was received by the Governor this ___ day

of _____, 1997, at ___ o'clock __M.

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Private Secretary of the Governor

CHAPTER ____

An act to amend Section 16728 of the Business and Professions Code, to amend Sections 728.5, 4001, and 5003.1 of, and to repeal Section 5003.3 of, the Public Utilities Code, to amend Sections 7231 and 7232 of the Revenue and Taxation Code, and to amend Sections 471, 1808.1, 16020, 34505.6, 34507.5, 34601, 34620, 34621, 34623, 34624, 34631, 34631.5, 34660, and 34670 of, to add Section 34505.10 to, and to repeal Section 34650 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1518, Committee on Transportation. Vehicles: motor carriers of property.

(1) Existing law provides for the regulation of motor carriers of property by the Department of Motor Vehicles. Existing law also provides for the regulation of public utilities, including highway carriers, household goods carriers, and charter-party carriers. Under existing law, the Department of the California Highway Patrol is required to enforce certain of these provisions.

This bill would revise the definitions of ''motor carrier of property,'' ''commercial motor vehicle,'' and related terms for purposes of those provisions. This bill would revise provisions relating to suspension or revocation of a motor carrier's permit by the Department of Motor Vehicles or a carrier's operating authority by the Public Utilities Commission, for failure to maintain described vehicles in a safe operating condition or to enroll all drivers in the required pull notice system. This bill would require motor carriers who contract or subcontract transportation service for other motor carriers to retain certain required records.

(2) Existing law prohibits motor carriers of property from operating a motor vehicle on a public highway unless it registers with the Department of Motor Vehicles, obtains a permit, and obtains and displays carrier identification, as specified.

This bill would revise the requirements applicable to motor carriers regarding obtaining and displaying a carrier identification number issued by the Department of Motor Vehicles, and would prohibit the operation by a motor carrier of property of a commercial motor vehicle on a public highway while his or her permit is suspended. This bill would authorize the Department of the California Highway Patrol to impound a vehicle or combination of vehicles for violation of those requirements. This bill would also prohibit any person from contracting with, or utilizing the services of, a motor carrier of property until that carrier provides certification of compliance with the requirements regarding carrier identification, and would require that person to retain the certification for a specified period of time.

This bill would revise requirements for motor carriers of property to maintain proof of financial responsibility and adequate protection against liability. This bill would also change the additional penalties that may be imposed for violations that result in suspension or revocation of a permit.

This bill would repeal provisions requiring annual allocations to the Commercial Motor Carrier Safety Enforcement Fund, would change the name of that fund, and would make various technical and conforming changes.

(3) Existing law authorizes motor carriers of property to elect to participate in certain uniform rules relating to transport of cargo in accordance with specified provisions of federal law.

This bill would prescribe certain methods for exercising that election, and would authorize carriers to cancel that election.

(4) Under existing law, violations of certain of the provisions relating to motor carriers of property is a misdemeanor.

By changing the definition and expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(5) This bill would incorporate additional changes in Section 16020 of the Vehicle Code proposed by AB 651, to be operative only if AB 651 and this bill are both enacted and become effective on or before January 1, 1998, and this bill is enacted last.

(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 16728 of the Business and Professions Code is amended to read:

16728. (a) Notwithstanding any other provision of law, motor carriers of property, as defined in Section 34601 of the Vehicle Code, may voluntarily elect to participate in uniform cargo liability rules, uniform bills of lading or receipts for property being transported, uniform cargo credit rules, joint line rates or routes, classifications and mileage guides and pooling. Motor carriers of property that so elect shall comply with all requirements of Section 14501(c) of Title 49 of the United States Code and with federal regulations promulgated pursuant thereto. The Legislature intends by this section to provide to motor carriers of property the antitrust immunity authorized by state action pursuant to Section 14501(c) of Title 49 of the United States Code.

(b) The election authorized by this section shall be exercised in either of the following ways:

(1) Participation in an agreement pursuant to Section 13703 of Title 49 of the United States Code.

(2) Filing with the Secretary of State a notice of adoption of any or all of the uniform cargo liability rules, uniform bills of lading or receipts for property being transported, uniform cargo credit rules, and joint rates or routes, classifications, mileage guides, and pooling contained in an identified publication authorized by

Section 13703 of Title 49 of the United States Code, along with a written certification issued by the organization establishing those uniform rules or provisions in accordance with 49 U.S.C. 13703(g)(1)(B), affirming participation of the motor carrier of property in the collective publication. The certification shall be made available for public inspection.

(c) The elections made by a motor carrier of property pursuant to this section may be canceled by the motor carrier.

SEC. 2. Section 728.5 of the Public Utilities Code is amended to read:

728.5. The commission may establish rates or charges for the transportation of passengers and freight by railroads and other transportation companies, except motor carriers of property, and no railroad or other transportation company under its jurisdiction, except motor carriers of property, shall charge or demand or collect or receive a greater or less or different compensation for that transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates established by the commission than the rates, fares and charges which are specified in that tariff. The commission may examine books, records and papers of all railroad and other transportation companies, except motor carriers of property; may hear and determine complaints against railroad and other transportation companies; and may issue subpoenas and all necessary process and send for persons and papers. The commission and each of the commissioners may administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record. The commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies, except motor carriers of property.

SEC. 3. Section 4001 of the Public Utilities Code is amended to read:

4001. (a) For purposes of this chapter, ‘‘private carrier’’ means a not-for-hire motor carrier, as defined in

Section 408 of the Vehicle Code, who transports passengers and is required to obtain a carrier identification number pursuant to Section 34507.5 of the Vehicle Code, but does not include persons providing transportation services specified in subdivision (k) or (*l*) of Section 5353.

(b) For purposes of this chapter, ‘‘department’’ means the Department of the California Highway Patrol.

SEC. 4. Section 5003.1 of the Public Utilities Code is amended to read:

5003.1. Every household goods carrier owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the commission shall, between the first and 15th days of January, April, July, and October of each year, file with the commission a statement showing the gross operating revenue derived by that person or corporation from the transportation of property for the preceding three calendar months, and shall, at the time of filing the report, pay to the commission a fee of fifteen dollars ($15) for each quarter. Five dollars ($5) from each fifteen dollars ($15) quarterly base fee shall be allocated on a quarterly basis to the Motor Carriers Safety Improvement Fund. Every household goods carrier owning or operating motor vehicles in the transportation of property for hire upon the public highways under the jurisdiction of the commission shall, at the time of filing the report, pay to the commission a fee equal to one-third of 1 percent of the amount of the gross operating revenue, except as follows:

(a) For any particular fiscal year, the commission, with the approval of the Department of Finance, may fix the fee at less than one-third of 1 percent of that amount.

(b) The commission may increase the fee pursuant to subdivision (b) of Section 5003.2.

SEC. 5. Section 5003.3 of the Public Utilities Code is repealed.

SEC. 6. Section 7231 of the Revenue and Taxation Code is amended to read:

7231. (a) This chapter may be cited as the Motor Carriers of Property Permit Fee Act.

(b) The Legislature finds and declares that a safe and efficient transportation system is essential to the welfare of the state, and an important part of the system is service rendered by motor carriers of property.

SEC. 7. Section 7232 of the Revenue and Taxation Code is amended to read:

7232. (a) Every motor carrier of property shall annually pay a permit fee to the Department of Motor Vehicles. The fees contained in this section are due and shall be paid by each carrier at the time of application for an initial motor carrier permit, and upon annual renewal, with the Department of Motor Vehicles, pursuant to the Motor Carriers of Property Permit Act, as set forth in Division 14.85 (commencing with Section 34600) of the Vehicle Code. The Department of Motor Vehicles may, upon initial application for a motor carrier permit, assign an expiration date not less than six months, nor more than 18 months, from date of application, and may charge one-twelfth of the annual fee for each month covered by the initial permit. The fee paid by each motor carrier of property shall be based on the number of commercial motor vehicles operated in California by the motor carrier of property.

(b) As used in this chapter, ‘‘motor carrier of property’’ means any person who operates any commercial motor vehicle as defined in subdivision (d). ‘‘Motor carrier of property’’ does not include household goods carriers, as defined in Section 5109 of the Public Utilities Code, persons providing only transportation of passengers, or a passenger stage corporation transporting baggage and express upon a passenger vehicle incidental to the transportation of passengers.

(c) As used in this chapter, ‘‘for-hire motor carrier of property’’ means a motor carrier of property, as defined in subdivision (b), who transports property for compensation.

(d) As used in this chapter, ‘‘commercial motor vehicle’’ means any self-propelled vehicle listed in

subdivisions (a), (b), (f), (g), and (k) of Section 34500 of the Vehicle Code, any motor truck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, and any other motor vehicle used to transport property for compensation. ‘‘Commercial motor vehicle’’ does not include vehicles operated by household goods carriers, as defined in Section 5109 of the Public Utilities Code, pickup trucks as defined in Section 471, and two-axle daily rental trucks with gross vehicle weight ratings less than 26,001 pounds when operated in noncommercial use.

(e) The ‘‘number of commercial motor vehicles operated by the motor carrier of property’’ as used in this section means all of the commercial motor vehicles owned, registered to, or leased by the carrier. For interstate and foreign motor carriers of property the fees set forth in subdivision (a) shall be apportioned based on the percentage of fleet miles traveled in California in intrastate commerce. In the absence of records to establish intrastate fleet miles, the fees set forth in subdivision (a) shall be apportioned on total fleet miles traveled in California.

(f) For purposes of this chapter, ‘‘private carrier’’ means a motor carrier of property, as defined in subdivision (b), who does not transport any goods or property for compensation.

(g) (1) Fees contained in this chapter shall not apply to a motor carrier of property while engaged solely in interstate or foreign transportation of property by motor vehicle. No motor carrier of property shall engage in any interstate or foreign transportation of property for compensation by motor vehicle on any public highway in this state without first having registered the operation with the Department of Motor Vehicles or with the carrier’s base registration state, if other than California, as determined in accordance with final regulations issued by the Interstate Commerce Commission pursuant to the Intermodal Surface Efficiency Act of 1991 (49 U.S.C. Sec. 11506). To register with the Department of Motor

Vehicles, carriers specified in this subdivision shall comply with the following:

(A) When the operation requires authority from the Interstate Commerce Commission under the Interstate Commerce Act, or authority from another federal regulatory agency, a copy of that authority shall be filed with the initial application for registration. A copy of any additions or amendments to the authority shall be filed with the Department of Motor Vehicles.

(B) If the operation does not require authority from the Interstate Commerce Commission under the Interstate Commerce Act, or authority from another federal regulatory agency, an affidavit of that exempt status shall be filed with the application for registration.

(2) The Department of Motor Vehicles shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, subject to the carrier's compliance with this chapter.

(3) This subdivision does not apply to household goods carriers, as defined in Section 5109 of the Public Utilities Code, and motor carriers engaged in the transportation of passengers for compensation.

SEC. 8. Section 471 of the Vehicle Code is amended to read:

471. A ''pickup truck'' is a motor truck with a manufacturer's gross vehicle weight rating of less than 11,500 pounds, an unladen weight of less than 8,001 pounds, and which is equipped with an open box-type bed not exceeding 9 feet in length. ''Pickup truck'' does not include a motor vehicle otherwise meeting the above definition, that is equipped with a bed-mounted storage compartment unit commonly called a ''utility body.''

SEC. 9. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives any vehicle specified in subdivision (*l*) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver.

The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives any vehicle specified in subdivision (*l*) shall participate in a pull notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled. As used in this section, participation in the pull notice system means obtaining a requester code and enrolling all employed drivers who drive any vehicle specified in subdivision (*l*) under that requester code.

(c) The employer of a driver of any vehicle specified in subdivision (*l*) shall, additionally, obtain a periodic report from the department at least every six months, except that an employer who enrolls more than 500 drivers in the pull notice system under a single requester code shall obtain a report at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The reports shall be presented upon demand to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer shall notify the department to discontinue the driver's enrollment in the pull notice system.

(e) For the purposes of the pull notice system and periodic report process required by subdivisions (b) and (c), owners, other than owner-operators as defined in Section 34624, and employers who drive vehicles described in subdivision (*l*), shall be enrolled as if they were employees. Family members and volunteer drivers who drive vehicles described in subdivision (*l*) shall also be enrolled as if they were employees.

(f) An employer who, after receiving any driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. No funds shall be allocated under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator which the Department of the California Highway Patrol has not certified under this section.

(h) A request to participate in the pull notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811.

Any employer who qualifies under Section 1812 shall be exempt from any fee required under this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports in subdivision (c) to employers on a regular basis without the need for individual requests.

(j) This section shall not be construed to change the definition of ''employer,'' ''employee,'' or ''independent contractor'' for any other purpose.

(k) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive any vehicle specified in subdivision (*l*). A report is current if it was issued less than six months prior to the date the employer employs the driver. As used in this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. For purposes of this subdivision, ''casual driver'' does not include any driver who operates a vehicle that requires a passenger transportation endorsement.

(*l*) This section applies to any vehicle for the operation of which the driver is required to have a class 1, class 2, class A, or class B driver's license, a class C license with a hazardous materials endorsement, or a certificate issued pursuant to Section 2512, 12517, 12519, 12520, 12523, or 12523.5, or any passenger vehicle having a seating capacity of not more than 10 persons, including the driver, operated for compensation by a charter-party carrier of passengers or passenger stage corporation pursuant to a certificate of public convenience and necessity or a permit issued by the Public Utilities Commission.

SEC. 10. Section 16020 of the Vehicle Code, as amended by Section 4 of Chapter 1126 of the Statutes of 1996, is amended to read:

16020. (a) Every driver and every owner of a motor vehicle shall at all times be able to establish financial responsibility pursuant to Section 16021, and shall at all times carry in the vehicle evidence of the form of financial responsibility in effect for the vehicle.

(b) ‘‘Evidence of financial responsibility’’ means any of the following:

(1) The name of the insurance or surety company that issued a policy or bond for the vehicle that meets the requirements of Section 16056 and is currently in effect, and the number of the insurance policy or surety bond.

(2) If the owner is a self-insurer, as provided in Section 16052 or a depositor, as provided in Section 16054.2, the certificate or deposit number issued by the department.

(3) An insurance covering note, as specified in Section 382 of the Insurance Code.

(4) A showing that the vehicle is owned or leased by, or under the direction of, the United States or any public entity, as defined in Section 811.2 of the Government Code.

(c) For purposes of this section, ‘‘evidence of financial responsibility’’ shall be in writing, and established by writing the name of the insurance company or surety company and the policy number on the vehicle registration card issued by the department.

(d) For purposes of this section, ‘‘evidence of financial responsibility’’ also includes any of the following:

(1) The number of an insurance policy or surety bond that was in effect at the time of the accident, if that information is contained in the vehicle registration records of the department.

(2) The identifying motor carrier of property permit number issued by the department to the motor carrier of property as defined in Section 34601, and displayed on the motor vehicle in the manner specified by the department.

(3) The identifying number issued to the household goods carrier, passenger stage carrier, or transportation charter party carrier by the Public Utilities Commission and displayed on the motor vehicle in the manner specified by the commission.

(4) The identifying number issued by the Interstate Commerce Commission or its successor federal agency, if proof of financial responsibility must be presented to the issuing agency as part of the identification number issuance process, and displayed on the motor vehicle in the manner specified by the issuing agency.

(e) Evidence of financial responsibility does not include any of the identification numbers in paragraph (1), (2), or (3) of subdivision (c) if the carrier is currently suspended by the issuing agency for lack or lapse of insurance or other form of financial responsibility.

(f) This section shall become operative on January 1, 1997.

(g) This section shall remain in effect only until January 1, 2000, or until the date determined by the director pursuant to paragraph (2) of subdivision (a) of Section 1680, whichever is later, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2000, deletes or extends that date.

SEC. 10.5. Section 16020 of the Vehicle Code, as amended by Section 4 of Chapter 1126 of the Statutes of 1996, is amended to read:

16020. (a) Every driver and every owner of a motor vehicle shall at all times be able to establish financial responsibility pursuant to Section 16021, and shall at all times carry in the vehicle evidence of the form of financial responsibility in effect for the vehicle.

(b) ‘‘Evidence of financial responsibility’’ means any of the following:

(1) The name of the insurance or surety company that issued a policy or bond for the vehicle that meets the requirements of Section 16056 and is currently in effect, and the number of the insurance policy or surety bond.

(2) If the owner is a self-insurer, as provided in Section 16052 or a depositor, as provided in Section 16054.2, the certificate of deposit number issued by the department.

(3) An insurance covering note or binder pursuant to Section 382 or 382.5 of the Insurance Code.

(4) A showing that the vehicle is owned or leased by, or under the direction of, the United States or any public entity, as defined in Section 811.2 of the Government Code.

(c) For purposes of this section, ‘‘evidence of financial responsibility’’ shall be in writing, and established by writing the name of the insurance company or surety company and the policy number on the vehicle registration card issued by the department.

(d) For purposes of this section, ‘‘evidence of financial responsibility’’ also includes any of the following:

(1) The name of the insurance company or surety bond company and the number of an insurance policy or surety bond that was in effect at the time of the accident, if that information is contained in the vehicle registration records of the department.

(2) The identifying symbol issued to a highway carrier by the Department of the California Highway Patrol.

(3) The identifying motor carrier of property permit number issued by the department to the motor carrier of property as defined in Section 34601, and displayed on the motor vehicle in the manner specified by the department.

(4) The identifying number issued to the household goods carrier, passenger stage carrier, or transportation charter party carrier by the Public Utilities Commission and displayed on the motor vehicle in the manner specified by the commission.

(5) The identifying number issued by the Interstate Commerce Commission or its successor federal agency, if proof of financial responsibility must be presented to the issuing agency as part of the identification number issuance process, and displayed on the motor vehicle in the manner specified by the issuing agency.

(e) Evidence of financial responsibility does not include any of the identification numbers in paragraph (1), (2), or (3) of subdivision (c) if the carrier is currently suspended by the issuing agency for lack or lapse of insurance or other form of financial responsibility.

(f) This section shall remain in effect only until January 1, 2003, or until the date determined by the director pursuant to paragraph (2) of subdivision (a) of Section 1680, whichever is later, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 11. Section 34505.6 of the Vehicle Code is amended to read:

34505.6. (a) Upon determining that a motor carrier of property who is operating any vehicle described in subdivision (a), (b), (e), (f), (g), or (k) of Section 34500, or any motortruck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, on a public highway, has done either of the following: (1) failed to maintain any vehicle of a type described above in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes a consistent failure so as to justify a suspension or revocation of the motor carrier's motor carrier permit or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall recommend that the Department of Motor Vehicles suspend or revoke the carrier's motor carrier permit. For interstate operators, the department shall recommend to the federal Highway Administration Office of Motor Carriers that appropriate administrative action be taken against the carrier. For purposes of this subdivision, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the motor carrier failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the carrier's enrollment by the Department of Motor Vehicles for

nonpayment of required fees is a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Upon determining that a household goods carrier operating any vehicle described in subdivision (a), (b), (e), (f), (g), or (k) of Section 34500 on a public highway has done either of the following: (1) failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes a consistent failure so as to justify a suspension, revocation, or denial of the motor carrier's operating authority or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall recommend that the Public Utilities Commission deny, suspend, or revoke the carrier's operating authority. For interstate operators, the department shall recommend to the Federal Highway Administration Office of Motor Carriers that appropriate administrative action be taken against the carrier. For purposes of this subdivision, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the motor carrier failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the carrier's enrollment by the Department of Motor Vehicles for the nonpayment of required fees is a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(c) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension, revocation, or denial of the carrier's motor carrier permit

by the Department of Motor Vehicles, suspension, revocation, of the motor carrier's operating authority by the California Public Utilities Commission, or administrative action by the federal Highway Administration Office of Motor Carriers.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a) or (b).

(d) Upon receipt of a written recommendation from the department that a motor carrier permit or operating authority be suspended, revoked, or denied, the Department of Motor Vehicles or Public Utilities Commission, as appropriate, shall, pending a hearing in the matter pursuant to Section 34623 or appropriate Public Utilities Commission authority, suspend the motor carrier permit or operating authority. The written recommendation shall specifically indicate compliance with subdivision (c).

SEC. 12. Section 34505.10 is added to the Vehicle Code, to read:

34505.10. Motor carriers who contract or subcontract transportation service for other motor carriers shall retain all required records relating to the dispatch of vehicles and drivers and the pay of drivers that are not required to be retained by the carrier for whom the contracted or subcontracted service is performed.

SEC. 13. Section 34507.5 of the Vehicle Code is amended to read:

34507.5. (a) Every motor carrier, as defined in Section 408, and every motor carrier of property, and for-hire motor carrier of property, as defined in Section 34601, shall obtain a carrier identification number from the department. Application for a carrier identification number shall be on forms furnished by the department. Information provided in connection with applications for

carrier identification numbers shall be updated by motor carriers upon request from the department.

(b) The carrier identification number assigned to the motor carrier under whose operating authority or motor carrier permit the vehicle or combination of vehicles is being operated shall be displayed on both sides of each vehicle, or on both sides of at least one motor vehicle in each combination of the following vehicles while engaged in intrastate commerce:

(1) Each vehicle set forth in Section 34500.

(2) Any motortruck of two or more axles that is more than 10,000 pounds gross vehicle weight rating.

(3) Any other motortruck or motor vehicle used to transport property for compensation.

(c) This section does not apply to any of the following vehicles:

(1) Vehicles described in subdivision (f) of Section 34500, which are operated by a private carrier as defined in subdivision (d) of Section 34601, if the gross vehicle weight rating of the towing vehicle is 11,500 pounds or less.

(2) Vehicles described in subdivision (g) of Section 34500, which are operated by a private carrier as defined in subdivision (d) of Section 34601, if the hazardous material transportation does not require the display of placards pursuant to Section 27903, a license pursuant to Section 32000.5, or hazardous waste hauler registration pursuant to Section 25163 of the Health and Safety Code.

(3) Historical vehicles, as described in Section 5004, vehicles which display special identification plates in accordance with Section 5011.

(4) Implements of husbandry as defined in Chapter 1 (commencing with Section 36000) of Division 16.

(5) Vehicles owned or operated by an agency of the federal government.

(d) Subdivision (b) does not apply to the following:

(1) Vehicles that display a valid operating authority or identification number assigned by the former Interstate Commerce Commission, or the Federal Highway

Administration, of the United States Department of Transportation.

(2) Vehicles that are regulated by, and that display a valid operating authority number issued by, the Public Utilities Commission, including household goods carriers as defined in Section 5109 of the Public Utilities Code.

(3) For-hire motor carriers of passengers.

(e) The display of the carrier identification number shall be in sharp contrast to the background, and shall be of a size, shape, and color that it is readily legible during daylight hours from a distance of 50 feet.

(f) The carrier identification number for companies no longer in business, no longer operating with the same name, or no longer operating under the same operating authority, identification number, or motor carrier permit shall be removed before sale, transfer, or other disposal of any vehicle marked pursuant to this section.

SEC. 14. Section 34601 of the Vehicle Code is amended to read:

34601. (a) As used in this division, ‘‘motor carrier of property’’ means any person who operates any commercial motor vehicle as defined in subdivision (c). ‘‘Motor carrier of property’’ does not include household goods carriers, as defined in Section 5109 of the Public Utilities Code, persons providing only transportation of passengers, or a passenger stage corporation transporting baggage and express upon a passenger vehicle incidental to the transportation of passengers.

(b) As used in this division, ‘‘for-hire motor carrier or property’’ means a motor carrier of property as defined in subdivision (a) who transports property for compensation.

(c) (1) As used in this division, except as provided in paragraph (2), a commercial motor vehicle is defined as any self-propelled vehicle listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500, any motor truck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, and any other motor vehicle used to transport property for compensation.

(2) ‘‘Commercial motor vehicle’’ does not include vehicles operated by household goods carriers, as defined in Section 5109 of the Public Utilities Code or pickup trucks as defined in Section 471 and two-axle daily rental trucks with gross vehicle weight ratings less than 26,001 pounds when operated in noncommercial use.

(d) For purposes of this chapter, ‘‘private carrier’’ means a motor carrier of property, as defined in subdivision (a), who does not transport any goods or property for compensation.

SEC. 15. Section 34620 of the Vehicle Code is amended to read:

34620. (a) Except as provided in subdivision (b) and Section 34622, no motor carrier of property shall operate a commercial motor vehicle on any public highway in this state unless it has complied with Section 34507.5 and has registered with the department its carrier identification number authorized or assigned thereunder. The department shall issue a motor carrier permit upon the carrier’s written request, compliance with Sections 34507.5, 34630, and 34640, and the payment of the fee required by this chapter.

(b) No person shall contract with, or otherwise engage the services of, a motor carrier of property unless that motor carrier holds a valid motor carrier of property permit issued by the department. No motor carrier of property shall contract or subcontract with, or otherwise engage the services of, another motor carrier of property until the contracted motor carrier of property provides certification in the manner prescribed by this section, of compliance with subdivision (a). This certification shall be completed by the contracted motor carrier of property and shall include a provision requiring the contracted motor carrier of property to immediately notify the person to whom they are contracted if the contracted motor carrier of property’s permit is suspended or revoked. A copy of the contracted motor carrier of property’s permit shall accompany the required certificate. The Department of the California Highway Patrol shall, by regulation, prescribe the format

for the certificate and may make available an optional specific form for that purpose. The certificate, or a copy thereof, shall be maintained by each involved party for the duration of the contract or period of service plus two years, and shall be presented for inspection at the location designated by each carrier under Section 34501.10, immediately upon the request of an authorized employee of the Department of the California Highway Patrol.

(c) Motor carriers of property who were in compliance with the insurance requirements of this state on the day prior to the effective date of this section and continue to be in compliance with those requirements may continue to operate until directed by the department to obtain a motor carrier permit as required by subdivision (a). The department shall require all of those carriers to obtain permits pursuant to subdivision (a) on or before December 31, 1998.

SEC. 16. Section 34621 of the Vehicle Code is amended to read:

34621. (a) The fee required by Section 7232 of the Revenue and Taxation Code shall be paid to the department upon initial application for a motor carrier permit and for annual renewal.

(b) Every application for an original or a renewal motor carrier permit shall contain all of the following information:

(1) The full name of the motor carrier; any fictitious name under which it is doing business; address, both physical and mailing; and business telephone number.

(2) Status as individual, partnership, owner-operator, or corporation, and officers of corporation and all partners.

(3) Name, address, and driver's license number of owner-operator.

(4) California carrier number, number of commercial motor vehicles in fleet, interstate or intrastate operations, State Board of Equalization, federal Department of Transportation or Interstate Commerce Commission number, as applicable.

(5) Transporter or not a transporter of hazardous materials or petroleum.

(6) Evidence of financial responsibility.

(7) Evidence of Workman's Compensation coverage, if applicable.

(8) Any other information necessary to enable the department to determine whether the applicant is entitled to a permit.

SEC. 17. Section 34623 of the Vehicle Code is amended to read:

34623. (a) The Department of the California Highway Patrol has exclusive jurisdiction for the regulation of safety of operation of motor carriers of property.

(b) The motor carrier permit of a motor carrier of property may be suspended for failure to either (1) maintain any vehicle of the carrier in a safe operating condition or to comply with this code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to public safety, or (2) enroll all drivers in the pull notice system as required by Section 1808.1. The department may, pending a hearing in the matter pursuant to subdivision (d), suspend a carrier's permit.

(c) A motor carrier whose motor carrier permit is suspended pursuant to subdivision (b) may obtain a reinspection of its terminal and vehicles by the Department of the California Highway Patrol by submitting a written request for reinstatement to the department and paying a reinstatement fee as required by Section 34623.5. The department shall deposit all reinstatement fees collected from motor carriers of property pursuant to this section in the fund. Upon receipt of the fee, the department shall forward a request to the Department of the California Highway Patrol, which shall perform a reinspection within a reasonable time. Following the term of a suspension imposed under Section 34670, the department shall reinstate a carrier's motor carrier permit suspended under subdivision (b)

upon notification by the Department of the California Highway Patrol that the carrier's safety compliance has improved to the satisfaction of the Department of the California Highway Patrol, unless the permit is suspended for another reason or has been revoked.

(d) Whenever the department suspends the permit of any carrier pursuant to subdivision (b), the department shall furnish the carrier with written notice of the suspension and shall provide for a hearing within a reasonable time, not to exceed 21 days, after a written request is filed with the department. At the hearing, the carrier shall show cause why the suspension should not be continued. Following the hearing, the department may terminate the suspension, continue the suspension in effect, or revoke the permit. The department may revoke the permit of any carrier suspended pursuant to subdivision (b) at any time that is 90 days or more after its suspension if the carrier has not filed a written request for a hearing with the department or has failed to submit a request for reinstatement pursuant to subdivision (c).

(e) Notwithstanding any other provision of this code, no hearing shall be provided when the suspension of the motor carrier permit is based solely upon the failure of the motor carrier to maintain satisfactory proof of financial responsibility as required by this code.

(f) No motor carrier of property shall operate a commercial motor vehicle on any public highway in this state during any period its motor carrier of property permit is suspended pursuant to this division.

SEC. 18. Section 34624 of the Vehicle Code is amended to read:

34624. (a) The department shall establish a classification of motor carrier of property known as owner-operators.

(b) As used in this section and in Sections 1808.1 and 34501.12, an owner-operator is a person who meets all of the following requirements:

(1) Holds a class A or class B driver's license or a class C license with a hazardous materials endorsement.

(2) Owns, leases, or otherwise operates not more than one power unit and not more than three towed vehicles.

(3) Is required to obtain a permit as a motor carrier of property by the department under this division.

(c) (1) As used in this section, ‘‘power unit’’ is a motor vehicle described in subdivision (a), (b), (g), (f), or (k) of Section 34500, or a motortruck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, but does not include those vehicles operated by household goods carriers, as defined in Section 5109 of the Public Utilities Code or persons providing transportation of passengers. A ‘‘towed vehicle’’ is a nonmotorized vehicle described in subdivision (d), (e), (f), (g), or (k) of that section.

(2) As used in this section, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating of the towing vehicle exceeds 11,500 pounds, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous materials for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which a hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code.

(d) The department, upon suspending or revoking the driving privilege of an owner-operator shall also suspend the owner-operator’s motor carrier permit, unless the owner-operator, within 15 days, shows good cause why the permit should not be suspended.

(e) This section shall not be construed to change the definition of ‘‘employer,’’ ‘‘employee,’’ or ‘‘independent contractor’’ for any other purpose.

SEC. 19. Section 34631 of the Vehicle Code is amended to read:

34631. The proof of financial responsibility required under Section 34630 shall be evidenced by the deposit with the department, covering each vehicle used or to be used under the motor carrier permit applied for, of one of the following:

(a) A certificate of insurance, issued by a company licensed to write insurance in this state, or by a nonadmitted insurer subject to Section 1763 of the Insurance Code, if the policies represented by the certificate comply with Section 34630 and the rules promulgated by the department pursuant to Section 34604.

(b) A bond of a surety company licensed to write surety bonds in the state.

(c) Evidence of qualification of the carrier as a self-insurer as provided for in subdivision (a) of Section 34630. However, any certificate of self-insurance granted to a motor carrier of property shall be limited to serve as proof of financial responsibility under paragraphs (1) and (2) of subdivision (a) of Section 34631.5 minimum limits only and shall not be acceptable as proof of financial responsibility for the coverage required pursuant to paragraph (3) or (4) of subdivision (a) of Section 34631.5.

SEC. 20. Section 34631.5 of the Vehicle Code is amended to read:

34631.5. (a) (1) Every motor carrier of property as defined in Section 34601, except those subject to paragraph (2), (3), or (4), shall provide and thereafter continue in effect adequate protection against liability imposed by law upon those carriers for the payment of damages in the amount of a combined single limit of not less than seven hundred fifty thousand dollars ($750,000) on account of bodily injuries to, or death of, one or more persons, or damage to or destruction of, property other than property being transported by the carrier for any shipper or consignee whether the property of one or more than one claimant in any one accident.

(2) Every motor carrier of property, as defined in Section 34601, who operates only vehicles under 10,000 pounds gross vehicle weight rating (GVWR) and who does not transport any commodity subject to paragraph (3) or (4), shall provide and thereafter continue in effect adequate protection against liability imposed by law for the payment of damages caused by bodily injuries to or the death of any person; or for damage to or destruction

of property of others, other than property being transported by the carrier, in an amount not less than three hundred thousand dollars ($300,000).

(3) Every intrastate motor carrier of property, as defined in Section 34601, who transports petroleum products in bulk, including waste petroleum and waste petroleum products, shall provide and thereafter continue in effect adequate protection against liability imposed by law upon the carrier for the payment of damages for personal bodily injuries (including death resulting therefrom) in the amount of not less than five hundred thousand dollars ($500,000) on account of bodily injuries to, or death of, one person; and protection against a total liability of those carriers on account of bodily injuries to, or death of more than one person as a result of any one accident, but subject to the same limitation for each person in the amount of not less than one million dollars ($1,000,000); and protection in an amount of not less than two hundred thousand dollars ($200,000) for one accident resulting in damage to or destruction to property other than property being transported by the carrier for any shipper or consignee, whether the property of one or more than one claimant; or a combined single limit in the amount of not less than one million two hundred thousand dollars ($1,200,000) on account of bodily injuries to, or death of, one or more person or damage to or destruction of property, or both, other than property being transported by the carrier for any shipper or consignee whether the property of one or more than one claimant in any one accident.

(4) Except as provided in paragraph (3), every motor carrier of property, as defined in Section 34601, that transports any hazardous material, as defined by Section 353, shall provide and thereafter continue in effect adequate protection against liability imposed by law on those carriers for the payment of damages for personal injury or death, and damage to or destruction of property, in amounts of not less than the minimum levels of financial responsibility specified for carriers of hazardous materials by the United States Department of

Transportation in Part 387 (commencing with Section 387.1) of Title 49 of the Code of Federal Regulations. The applicable minimum levels of financial responsibility required are as follows:

Commodity Transported:	Combined Single Limit Coverage
(a) Oil listed in Section 172.101 of Title 49 of the Code of Federal Regulations; hazardous waste, hazardous materials and hazardous substances defined in Section 171.8 of Title 49 of the Code of Federal Regulations and listed in Section 172.101 of Title 49 of the Code of Federal Regulations, but not mentioned in (c) or (d).	$1,000,000
(b) Hazardous waste as defined in Section 25117 of the Health and Safety Code and in Article 1 (commencing with Section 66261.1) of Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, but not mentioned in (c) or (d).	$1,000,000
(c) Hazardous substances, as defined in Section 171.8 of Title 49 of the Code of Federal Regulations, or liquefied compressed gas or compressed gas, transported in cargo tanks, portable tanks, or hopper-type vehicle with capacities in excess of 3,500 water gallons.	$5,000,000
(d) Any quantity of class A or B explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in Section 173.403 of Title 49 of the Code of Federal Regulations.	$5,000,000

(5) The protection required under paragraphs (1), (2), (3), and (4) shall be evidenced by the deposit with

the department, covering each vehicle used or to be used in conducting the service performed by each motor carrier of property, an authorized certificate of public liability and property damage insurance, issued by a company licensed to write the insurance in the State of California, or by a nonadmitted insurer subject to Section 1763 of the Insurance Code.

(6) The protection required under paragraphs (1), (2), (3), and (4) by every motor carrier of property engaged in interstate or foreign transportation of property in or through California, shall be evidenced by the filing and acceptance of a department authorized certificate of insurance, or qualification as a self-insurer as may be authorized by law.

(7) A certificate of insurance, evidencing the protection, shall not be cancelable on less than 30 days' written notice to the department, the notice to commence to run from the date notice is actually received at the office of the department in Sacramento.

(8) Every insurance certificate or equivalent protection to the public shall contain a provision that the certificate or equivalent protection shall remain in full force and effect until canceled in the manner provided by paragraph (7).

(9) Upon cancellation of an insurance certificate or the cancellation of equivalent protection authorized by the Department of Motor Vehicles, the motor carrier permit of any motor carrier of property, shall stand suspended immediately upon the effective date of the cancellations.

(10) No carrier shall engage in any operation on any public highway of this state during the suspension of its permit.

(11) No motor carrier of property, whose permit has been suspended under paragraph (9) shall resume operations unless and until the carrier has filed an insurance certificate or equivalent protection in effect at the time and that meets the standards set forth in this section. The operative rights of the complying carriers

shall be reinstated from suspension upon the filing of an insurance certificate or equivalent protection.

(12) In order to expedite the processing insurance filings by the department, each insurance filing made should contain the insured's California carrier number, if known, in the upper right corner of the certificate.

SEC. 21. Section 34650 of the Vehicle Code is repealed.

SEC. 22. Section 34660 of the Vehicle Code is amended to read:

34660. (a) A motor carrier of property, after its motor carrier permit has been suspended by the department, who continues to operate as a motor carrier, either independently or for another motor carrier, is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(b) Each violation of this section is a separate and distinct offense, and, in the case of a continuing violation, each day's continuance of operation as a carrier in violation of this section is a separate and distinct offense.

(c) Upon finding that a motor carrier of property is willfully violating this section after being advised that it is not operating in compliance with the laws of this state, the court may issue an injunction to stop the carrier's continued operation.

(d) A member of the Department of the California Highway Patrol may impound a vehicle or combination of vehicles operated by a motor carrier of property, when the vehicle or combination of vehicles is found upon a highway, any public lands, or an offstreet parking facility and the motor carrier is found to be in violation of this section or of subdivision (a) of Section 34620. For purposes of this subdivision, the vehicle shall be released to the registered owner or authorized agent only after the registered owner or authorized agent furnishes the Department of the California Highway Patrol with proof of current registration, a currently valid driver's license of the appropriate class to operate the vehicle or

combination of vehicles, and proof of compliance with this division. The registered owner or authorized agent is responsible for all towing and storage charges related to the impoundment.

SEC. 23. Section 34670 of the Vehicle Code is amended to read:

34670. Any violation of Division 14.8 (commencing with Section 34500) or any violation that results in a suspension or revocation of the motor carrier permit pursuant to Section 34505.6 or 34623, or subdivision (d) of Section 34624, in addition to any other penalties, shall be sanctioned as follows:

(a) If there have been no prior sanctions imposed on the permitholder, the permit shall be suspended for 30 days.

(b) If the permit had been suspended once prior in the previous 36 months, the permit shall be suspended for 60 days.

(c) If the permit had been previously suspended two or more times in the previous 36 months, the permit shall be suspended for 90 days, and a fine of one thousand five hundred dollars ($1,500) shall be imposed.

SEC. 24. Section 10.5 of this bill incorporates amendments to Section 16020 of the Vehicle Code proposed by both this bill and AB 651. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 16020 of the Vehicle Code, and (3) this bill is enacted after AB 651, in which case Section 10 of this bill shall not become operative.

SEC. 25. 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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Approved _____, 1997

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Governor