

ASSEMBLY BILL

No. 957

Introduced by Assembly Member Scott

February 25, 1999

An act to amend Section 5285.6 of the Public Utilities Code, and to amend Sections 34505.6 and 34623 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 957, as introduced, Scott. Vehicles: motor carriers of property.

(1) Existing law requires the Department of the California Highway Patrol to inspect every motor carrier terminal under the biennial inspection of terminals program, at least every 25 months, as specified. Existing law requires a motor carrier to schedule the inspection with the department and to submit fees as specified. Applications and fees for subsequent inspections are required to be submitted, as specified, before the expiration of the motor carrier's then current inspection term.

Existing provisions of the Public Utilities Code require the Public Utilities Commission, upon recommendation of the Department of the California Highway Patrol, and after a hearing, to suspend a household goods carrier's permit if the carrier has either (a) 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 relative to motor safety, if that failure is either consistent failure or presents an imminent danger to public safety, or (b)

failed to enroll all drivers in the required pull-notice system, as defined.

This bill would add failure to submit any application or to pay any fee required through the inspection program within the required timeframes to the list of actions for which the Department of the California Highway Patrol would recommend suspensions.

(2) Existing provisions of the Vehicle Code require the Department of the California Highway Patrol, for motor carrier's of property, to recommend that the Department of Motor Vehicles suspend or revoke the permit of a motor carrier of property, or for interstate operators, to recommend to the federal Highway Administration Office of Motor Carriers that appropriate administrative action be taken against a carrier, when the carrier has either (a) failed to maintain any pertinent vehicle in a safe operating condition or to comply with regulations relative to motor carrier safety, as specified, or (b) failed to enroll all drivers in a required pull-notice system, as defined.

This bill would add failure to submit any application or pay any fees required through the inspection program within the required timeframes to the list of actions for which the Department of the California Highway Patrol would make those recommendations. Because a motor carrier of property whose permit has been suspended or revoked under these provisions would have to pay a reinstatement fee that is to be deposited into the Transportation Rate Fund, which is a continuously appropriated fund, the bill would make an appropriation.

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

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

1 SECTION 1. Section 5285.6 of the Public Utilities
2 Code is amended to read:
3 5285.6. (a) (1) Upon receipt of a written
4 recommendation from the Department of the California
5 Highway Patrol that the permit of a household goods
6 carrier be suspended ~~either (1) for failure~~ for any of the

1 *following, the commission, pending a hearing in the*
2 *matter pursuant to subdivision (d), shall suspend the*
3 *carrier's permit:*

4 (A) *Failure to maintain any vehicle used in*
5 *transportation for compensation in a safe operating*
6 *condition or to comply with the Vehicle Code or with*
7 *applicable regulations contained in Title 13 of the*
8 *California Code of Regulations* ~~relative to motor carrier~~
9 ~~safety~~, *if that failure is either a consistent failure or*
10 *presents an imminent danger to public safety,* ~~or (2) for~~
11 ~~failure.~~

12 (B) *Failure to enroll all drivers in the pull notice*
13 *system as required by Section 1808.1 of the Vehicle Code;*
14 ~~the commission shall, pending a hearing in the matter~~
15 ~~pursuant to subdivision (d), suspend the carrier's permit.~~
16 ~~The written recommendation shall specifically indicate~~
17 ~~compliance with subdivision (c).~~

18 (C) *Failure to submit any application or pay any fee*
19 *required by subdivision (e) or (h) of Section 34501.12 of*
20 *the Vehicle Code within the timeframes set forth in that*
21 *section.*

22 (2) *The written recommendation shall specifically*
23 *indicate compliance with subdivision (c).*

24 (b) (1) *A carrier whose permit is suspended pursuant*
25 *to subdivision (a) may obtain a reinspection of its*
26 *terminal and vehicles by the* ~~department~~ *Department of*
27 *the California Highway Patrol, by submitting a written*
28 *request for reinstatement to the commission and paying*
29 *a reinstatement fee of one hundred twenty-five dollars*
30 *(\$125).* ~~The~~

31 (2) *A carrier whose permit is suspended for failure to*
32 *submit any application or to pay any fee required by*
33 *Section 34501.12 of the Vehicle Code shall present proof*
34 *of having submitted that application or having paid that*
35 *fee to the Department of the California Highway Patrol*
36 *before applying for reinstatement of that permit.*

37 (3) *The commission shall deposit all reinstatement*
38 *fees collected pursuant to this subdivision in the*
39 *Transportation Rate Fund. The commission shall then*
40 *forward a request for reinspection to the* ~~department~~

1 *Department of the California Highway Patrol* which shall
2 then perform a reinspection within a reasonable time or
3 *verify receipt of the application or fee, or both the*
4 *application and fee.* The commission shall reinstate a
5 carrier's permit *that is* suspended under subdivision (a)
6 promptly upon receipt of a written recommendation
7 from the ~~department~~ *Department of the California*
8 *Highway Patrol* that the carrier's safety compliance has
9 improved to the satisfaction of ~~the~~ *that* department, or
10 *that the required application or fees have been received,*
11 unless the permit is suspended for another reason or has
12 been revoked.

13 (c) Before transmitting a recommendation pursuant
14 to subdivision (a) to the commission, the Department of
15 the California Highway Patrol shall notify the household
16 goods carrier in writing of all of the following:

17 (1) That the ~~department~~ *Department of the*
18 *California Highway Patrol* has determined that the
19 carrier's safety record, *or compliance with Section 1808.1*
20 *of, or subdivision (e) or (h) of Section 34501.12 of, the*
21 *Vehicle Code,* is unsatisfactory, furnishing a copy of any
22 documentation or summary of any other evidence
23 supporting the determination.

24 (2) That the determination may result in a suspension
25 or revocation of the carrier's permit by the commission.

26 (3) That the carrier may request a review of the
27 determination by the ~~department~~ *Department of the*
28 *California Highway Patrol* within five days of its receipt
29 of the notice required under this subdivision. If a review
30 pursuant to this paragraph is requested by the carrier, the
31 ~~department~~ *Department of the California Highway*
32 *Patrol* shall conduct and evaluate that review prior to
33 transmitting any notification to the commission pursuant
34 to subdivision (a).

35 (d) Whenever the commission suspends the permit of
36 any household goods carrier pursuant to subdivision (a),
37 the commission shall furnish the carrier written notice of
38 the suspension and shall hold a hearing within a
39 reasonable time, not to exceed 21 days, after a written
40 request ~~therefor~~ *for a hearing* is filed with the

1 commission, with a copy ~~thereof~~ of that written request
 2 furnished to the Department of the California Highway
 3 Patrol. At the hearing, the carrier shall show cause why
 4 the suspension should not be continued. At the conclusion
 5 of the hearing, the commission ~~may~~, in addition to any
 6 other penalty provided in this chapter, *may* terminate the
 7 suspension, continue the suspension in effect, or revoke
 8 the permit. The commission may revoke the permit of
 9 any household goods carrier suspended pursuant to
 10 subdivision (a) at any time 90 days or more after its
 11 suspension if the commission has not received a written
 12 recommendation for reinstatement from the ~~department~~
 13 *Department of the California Highway Patrol* and the
 14 ~~corporation~~ carrier has not filed a written request for a
 15 hearing with the commission.

16 (e) *Notwithstanding subdivision (d), no hearing shall*
 17 *be provided when the suspension of the permit is based*
 18 *solely upon the failure of the household goods carrier to*
 19 *submit an application or to pay fees required by Section*
 20 *34501.12 of the Vehicle Code.*

21 (f) If the commission, after a hearing, finds that a
 22 household goods carrier has continued to operate as such
 23 a carrier after its permit or permits have been suspended
 24 pursuant to subdivision (a), the commission shall do one
 25 of the following:

26 (1) Revoke the operating permit or permits of the
 27 carrier.

28 (2) Impose upon the holder of the permit or permits
 29 a civil penalty of not less than one thousand dollars
 30 (\$1,000) nor more than five thousand dollars (\$5,000) for
 31 each day of unlawful operations.

32 SEC. 2. Section 34505.6 of the Vehicle Code is
 33 amended to read:

34 34505.6. (a) Upon determining that a motor carrier
 35 of property who is operating any vehicle described in
 36 subdivision (a), (b), (e), (f), (g), or (k) of Section 34500,
 37 or any motortruck of two or more axles that is more than
 38 10,000 pounds gross vehicle weight rating, on a public
 39 highway, has done ~~either of the following: (1) failed any~~
 40 *of the following, the department shall recommend that*

1 *the Department of Motor Vehicles suspend or revoke the*
2 *carrier's motor carrier permit, or for interstate operators,*
3 *the department shall recommend to the federal Highway*
4 *Administration Office of Motor Carriers that appropriate*
5 *administrative action be taken against the carrier:*

6 (1) *Failed to maintain any vehicle of a type described*
7 *above in a safe operating condition or to comply with the*
8 *Vehicle Code or with applicable regulations contained in*
9 *Title 13 of the California Code of Regulations*~~relative to~~
10 ~~motor carrier safety,~~ and, in the department's opinion,
11 that failure presents an imminent danger to public safety
12 or constitutes a consistent failure so as to justify a
13 suspension or revocation of the motor carrier's motor
14 carrier permit ~~or (2) failed.~~

15 (2) *Failed to enroll all drivers in the pull notice system*
16 *as required by Section 1808.1,*~~the department shall~~
17 ~~recommend that the Department of Motor Vehicles~~
18 ~~suspend or revoke the carrier's motor carrier permit. For~~
19 ~~interstate operators, the department shall recommend to~~
20 ~~the federal Highway Administration Office of Motor~~
21 ~~Carriers that appropriate administrative action be taken~~
22 ~~against the carrier. For purposes of this subdivision, two~~
23 ~~consecutive unsatisfactory compliance ratings for an~~
24 ~~inspected terminal assigned because the motor carrier~~
25 ~~failed to comply with the periodic report requirements of~~
26 ~~Section 1808.1 or the cancellation of the carrier's~~
27 ~~enrollment by the Department of Motor Vehicles for~~
28 ~~nonpayment of required fees is a consistent failure. The~~
29 ~~department shall retain a record, by operator, of every~~
30 ~~recommendation made pursuant to this section.~~

31 (3) *Failed to submit any application or pay any fee*
32 *required by subdivision (e) or (h) of Section 34501.12*
33 *within the timeframes set forth in that section.*

34 (b) Upon determining that a household goods carrier
35 operating any vehicle described in subdivision (a), (b),
36 (e), (f), (g), or (k) of Section 34500 on a public highway
37 has done ~~either of the following: (1) failed any of the~~
38 ~~following, the department shall recommend that the~~
39 ~~Public Utilities Commission deny, suspend, or revoke the~~
40 ~~carrier's operating authority, or for interstate operators,~~

1 *the department shall recommend to the federal Highway*
2 *Administration Office of Motor Carriers that appropriate*
3 *administrative action be taken against the carrier:*

4 (1) *Failed to maintain any vehicle used in*
5 *transportation for compensation in a safe operating*
6 *condition or to comply with the Vehicle Code or with*
7 *applicable regulations contained in Title 13 of the*
8 *California Code of Regulations relative to motor carrier*
9 *safety, and, in the department's opinion, that failure*
10 *presents an imminent danger to public safety or*
11 *constitutes a consistent failure so as to justify a suspension,*
12 *revocation, or denial of the motor carrier's operating*
13 *authority or (2) failed.*

14 (2) *Failed to enroll all drivers in the pull notice system*
15 *as required by Section 1808.1, the department shall*
16 *recommend that the Public Utilities Commission deny,*
17 *suspend, or revoke the carrier's operating authority. For*
18 *interstate operators, the department shall recommend to*
19 *the Federal Highway Administration Office of Motor*
20 *Carriers that appropriate administrative action be taken*
21 *against the carrier. For*

22 (3) *Failed to submit any application or pay any fee*
23 *required by subdivision (e) or (h) of Section 34501.12*
24 *within the timeframes set forth in that section.*

25 (c) *For purposes of this subdivision section, two*
26 *consecutive unsatisfactory compliance ratings for an*
27 *inspected terminal assigned because the motor carrier*
28 *failed to comply with the periodic report requirements of*
29 *Section 1808.1 or the cancellation of the carrier's*
30 *enrollment by the Department of Motor Vehicles for the*
31 *nonpayment of required fees is a consistent failure. The*
32 *department shall retain a record, by operator, of every*
33 *recommendation made pursuant to this section.*

34 (e)

35 (d) *Before transmitting a recommendation pursuant*
36 *to subdivision (a), the department shall notify the carrier*
37 *in writing of all of the following:*

38 (1) *That the department has determined that the*
39 *carrier's safety record or compliance with Section 1808.1*
40 *or subdivision (e) or (h) of Section 34501.12 is*

1 unsatisfactory, furnishing a copy of any documentation or
2 summary of any other evidence supporting the
3 determination.

4 (2) That the determination may result in a suspension,
5 revocation, or denial of the carrier's motor carrier permit
6 by the Department of Motor Vehicles, suspension,
7 revocation, of the motor carrier's operating authority by
8 the California Public Utilities Commission, or
9 administrative action by the federal Highway
10 Administration Office of Motor Carriers.

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

18 ~~(d)~~

19 (e) Upon receipt of a written recommendation from
20 the department that a motor carrier permit or operating
21 authority be suspended, revoked, or denied, the
22 Department of Motor Vehicles or Public Utilities
23 Commission, as appropriate, shall, pending a hearing in
24 the matter pursuant to Section 34623 or appropriate
25 Public Utilities Commission authority, suspend the motor
26 carrier permit or operating authority. The written
27 recommendation shall specifically indicate compliance
28 with subdivision ~~(e)~~ (d).

29 SEC. 3. Section 34623 of the Vehicle Code is amended
30 to read:

31 34623. (a) The Department of the California
32 Highway Patrol has exclusive jurisdiction for the
33 regulation of safety of operation of motor carriers of
34 property.

35 (b) The motor carrier permit of a motor carrier of
36 property may be suspended for failure to ~~either—(1)~~
37 ~~maintain~~ *do any of the following*:

38 (1) *Maintain* any vehicle of the carrier in a safe
39 operating condition or to comply with this code or with
40 *applicable* regulations contained in Title 13 of the

1 California Code of Regulations ~~relative to motor carrier~~
2 ~~safety~~, if that failure is either a consistent failure or
3 presents an imminent danger to public safety, ~~or (2)~~
4 ~~enroll~~.

5 (2) *Enroll* all drivers in the pull notice system as
6 required by Section 1808.1. ~~The~~

7 (3) *Submit any application or pay any fee required by*
8 *subdivision (e) or (h) of Section 34501.12 within the*
9 *timeframes set forth in that section.*

10 (c) *The department may*, pending a hearing in the
11 matter pursuant to subdivision ~~(d)~~ (e), *may* suspend a
12 carrier's permit.

13 ~~(e)~~

14 (d) (1) A motor carrier whose motor carrier permit is
15 suspended pursuant to subdivision (b) may obtain a
16 reinspection of its terminal and vehicles by the
17 Department of the California Highway Patrol by
18 submitting a written request for reinstatement to the
19 department and paying a reinstatement fee as required
20 by Section 34623.5.

21 (2) *A motor carrier whose motor carrier permit is*
22 *suspended for failure to submit any application or to pay*
23 *any fee required by Section 34501.12 shall present proof*
24 *of having submitted such application or have paid that fee*
25 *to the Department of the California Highway Patrol*
26 *before applying for reinstatement of its motor carrier*
27 *permit. The*

28 (3) *The department shall deposit all reinstatement*
29 *fees collected from motor carriers of property pursuant*
30 *to this section in the fund. Upon receipt of the fee, the*
31 *department shall forward a request to the Department of*
32 *the California Highway Patrol, which shall perform a*
33 *reinspection within a reasonable time, or shall verify*
34 *receipt of the application or fee or both the application*
35 *and fee. Following the term of a suspension imposed*
36 *under Section 34670, the department shall reinstate a*
37 *carrier's motor carrier permit suspended under*
38 *subdivision (b) upon notification by the Department of*
39 *the California Highway Patrol that the carrier's safety*
40 *compliance has improved to the satisfaction of the*

1 Department of the California Highway Patrol, *or that the*
2 *required application or fees have been received by the*
3 *Department of the California Highway Patrol*, unless the
4 permit is suspended for another reason or has been
5 revoked.

6 ~~(d)~~

7 (e) Whenever the department suspends the permit of
8 any carrier pursuant to subdivision (b), the department
9 shall furnish the carrier with written notice of the
10 suspension and shall provide for a hearing within a
11 reasonable time, not to exceed 21 days, after a written
12 request is filed with the department. At the hearing, the
13 carrier shall show cause why the suspension should not be
14 continued. Following the hearing, the department may
15 terminate the suspension, continue the suspension in
16 effect, or revoke the permit. The department may revoke
17 the permit of any carrier suspended pursuant to
18 subdivision (b) at any time that is 90 days or more after
19 its suspension if the carrier has not filed a written request
20 for a hearing with the department or has failed to submit
21 a request for reinstatement pursuant to subdivision ~~—(e)~~
22 (d).

23 ~~(e)~~

24 (f) Notwithstanding any other provision of this code,
25 no hearing shall be provided when the suspension of the
26 motor carrier permit is based solely upon the failure of
27 the motor carrier to maintain satisfactory proof of
28 financial responsibility as required by this code, *or failure*
29 *of the motor carrier to submit an application or to pay fees*
30 *required by Section 34501.12.*

31 ~~(f)~~

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