

AMENDED IN SENATE JUNE 22, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 957**

**Introduced by Assembly Member Scott**

February 25, 1999

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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 amended, 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.

*(3) Existing provisions of the Vehicle Code prohibit a motor carrier of property from operating a commercial motor vehicle on any public highway in this state during any period its motor carrier of property permit is suspended pursuant to specified existing law.*

*This bill would prohibit a motor carrier of property whose motor carrier permit is suspended pursuant to specified existing law, which suspension is based wholly or in part on the failure of the motor carrier to maintain any vehicle in safe*

operating condition, from leasing, or otherwise allowing another motor carrier to operate the vehicles of the carrier subject to the suspension, during the period of the suspension. The bill would also prohibit a motor carrier of property from knowingly leasing, operating, dispatching or otherwise utilizing any vehicle from a motor carrier of property whose motor carrier permit is suspended in the manner described above, and would require the department to immediately suspend the motor carrier permit of any motor carrier that the department determines to be in violation of that prohibition. Because a violation of the Vehicle Code under existing law is a crime, this bill would create new crimes, thereby imposing a state-mandated local program.

(4) 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: yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*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 for any of the following, the  
7 commission, pending a hearing in the matter pursuant to  
8 subdivision (d), shall suspend the carrier's permit:  
9 (A) Failure to maintain any vehicle used in  
10 transportation for compensation in a safe operating  
11 condition or to comply with the Vehicle Code or with  
12 applicable regulations contained in Title 13 of the  
13 California Code of Regulations , if that failure is either a  
14 consistent failure or presents an imminent danger to  
15 public safety.

1 (B) Failure to enroll all drivers in the pull notice  
2 system as required by Section 1808.1 of the Vehicle Code.

3 (C) Failure to submit any application or pay any fee  
4 required by subdivision (e) or (h) of Section 34501.12 of  
5 the Vehicle Code within the timeframes set forth in that  
6 section.

7 (2) The written recommendation shall specifically  
8 indicate compliance with subdivision (c).

9 (b) (1) A carrier whose permit is suspended pursuant  
10 to subdivision (a) may obtain a reinspection of its  
11 terminal and vehicles by the Department of the  
12 California Highway Patrol, by submitting a written  
13 request for reinstatement to the commission and paying  
14 a reinstatement fee of one hundred twenty-five dollars  
15 (\$125).

16 (2) A carrier whose permit is suspended for failure to  
17 submit any application or to pay any fee required by  
18 Section 34501.12 of the Vehicle Code shall present proof  
19 of having submitted that application or having paid that  
20 fee to the Department of the California Highway Patrol  
21 before applying for reinstatement of that permit.

22 (3) The commission shall deposit all reinstatement  
23 fees collected pursuant to this subdivision in the  
24 Transportation Rate Fund. The commission shall then  
25 forward a request for reinspection to the Department of  
26 the California Highway Patrol which shall then perform  
27 a reinspection within a reasonable time or verify receipt  
28 of the application or fee, or both the application and fee.  
29 The commission shall reinstate a carrier's permit that is  
30 suspended under subdivision (a) promptly upon receipt  
31 of a written recommendation from the Department of  
32 the California Highway Patrol that the carrier's safety  
33 compliance has improved to the satisfaction of that  
34 department, or that the required application or fees have  
35 been received, unless the permit is suspended for another  
36 reason or has been revoked.

37 (c) Before transmitting a recommendation pursuant  
38 to subdivision (a) to the commission, the Department of  
39 the California Highway Patrol shall notify the household  
40 goods carrier in writing of all of the following:

1 (1) That the Department of the California Highway  
2 Patrol has determined that the carrier's safety record, or  
3 compliance with Section 1808.1 of, or subdivision (e) or  
4 (h) of Section 34501.12 of, the Vehicle Code, is  
5 unsatisfactory, furnishing a copy of any documentation or  
6 summary of any other evidence supporting the  
7 determination.

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

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

19 (d) Whenever the commission suspends the permit of  
20 any household goods carrier pursuant to subdivision (a),  
21 the commission shall furnish the carrier written notice of  
22 the suspension and shall hold a hearing within a  
23 reasonable time, not to exceed 21 days, after a written  
24 request for a hearing is filed with the commission, with a  
25 copy of that written request furnished to the Department  
26 of the California Highway Patrol. At the hearing, the  
27 carrier shall show cause why the suspension should not be  
28 continued. At the conclusion of the hearing, the  
29 commission, in addition to any other penalty provided in  
30 this chapter, may terminate the suspension, continue the  
31 suspension in effect, or revoke the permit. The  
32 commission may revoke the permit of any household  
33 goods carrier suspended pursuant to subdivision (a) at  
34 any time 90 days or more after its suspension if the  
35 commission has not received a written recommendation  
36 for reinstatement from the Department of the California  
37 Highway Patrol and the carrier has not filed a written  
38 request for a hearing with the commission.

39 (e) Notwithstanding subdivision (d), no hearing shall  
40 be provided when the suspension of the permit is based

1 solely upon the failure of the household goods carrier to  
2 submit an application or to pay fees required by Section  
3 34501.12 of the Vehicle Code.

4 (f) If the commission, after a hearing, finds that a  
5 household goods carrier has continued to operate as such  
6 a carrier after its permit or permits have been suspended  
7 pursuant to subdivision (a), the commission shall do one  
8 of the following:

9 (1) Revoke the operating permit or permits of the  
10 carrier.

11 (2) Impose upon the holder of the permit or permits  
12 a civil penalty of not less than one thousand dollars  
13 (\$1,000) nor more than five thousand dollars (\$5,000) for  
14 each day of unlawful operations.

15 SEC. 2. Section 34505.6 of the Vehicle Code is  
16 amended to read:

17 34505.6. (a) Upon determining that a motor carrier  
18 of property who is operating any vehicle described in  
19 subdivision (a), (b), (e), (f), (g), or (k) of Section 34500,  
20 or any motortruck of two or more axles that is more than  
21 10,000 pounds gross vehicle weight rating, on a public  
22 highway, has done any of the following, the department  
23 shall recommend that the Department of Motor Vehicles  
24 suspend or revoke the carrier's motor carrier permit, or  
25 for interstate operators, the department shall  
26 recommend to the federal Highway Administration  
27 Office of Motor Carriers that appropriate administrative  
28 action be taken against the carrier:

29 (1) Failed to maintain any vehicle of a type described  
30 above in a safe operating condition or to comply with the  
31 Vehicle Code or with applicable regulations contained in  
32 Title 13 of the California Code of Regulations, and, in the  
33 department's opinion, that failure presents an imminent  
34 danger to public safety or constitutes a consistent failure  
35 so as to justify a suspension or revocation of the motor  
36 carrier's motor carrier permit.

37 (2) Failed to enroll all drivers in the pull notice system  
38 as required by Section 1808.1.

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

4 (b) Upon determining that a household goods carrier  
5 operating any vehicle described in subdivision (a), (b),  
6 (e), (f), (g), or (k) of Section 34500 on a public highway  
7 has done any of the following, the department shall  
8 recommend that the Public Utilities Commission deny,  
9 suspend, or revoke the carrier's operating authority, or  
10 for interstate operators, the department shall  
11 recommend to the federal Highway Administration  
12 Office of Motor Carriers that appropriate administrative  
13 action be taken against the carrier:

14 (1) Failed to maintain any vehicle used in  
15 transportation for compensation in a safe operating  
16 condition or to comply with the Vehicle Code or with  
17 applicable regulations contained in Title 13 of the  
18 California Code of Regulations, and, in the department's  
19 opinion, that failure presents an imminent danger to  
20 public safety or constitutes a consistent failure so as to  
21 justify a suspension, revocation, or denial of the motor  
22 carrier's operating authority.

23 (2) Failed to enroll all drivers in the pull notice system  
24 as required by Section 1808.1.

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

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

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

1 (1) That the department has determined that the  
2 carrier's safety record or compliance with Section 1808.1  
3 or subdivision (e) or (h) of Section 34501.12 is  
4 unsatisfactory, furnishing a copy of any documentation or  
5 summary of any other evidence supporting the  
6 determination.

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

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

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

31 SEC. 3. Section 34623 of the Vehicle Code is amended  
32 to read:

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

37 (b) The motor carrier permit of a motor carrier of  
38 property may be suspended for failure to do any of the  
39 following:



1 (1) Maintain any vehicle of the carrier in a safe  
2 operating condition or to comply with this code or with  
3 applicable regulations contained in Title 13 of the  
4 California Code of Regulations , if that failure is either a  
5 consistent failure or presents an imminent danger to  
6 public safety.

7 (2) Enroll all drivers in the pull notice system as  
8 required by Section 1808.1.

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

12 (c) The department , pending a hearing in the matter  
13 pursuant to subdivision (e), may suspend a carrier's  
14 permit.

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

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

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

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

7 (e) Whenever the department suspends the permit of  
8 any carrier pursuant to subdivision (b) *or paragraph (3)*  
9 *of subdivision (h)*, the department shall furnish the  
10 carrier with written notice of the suspension and shall  
11 provide for a hearing within a reasonable time, not to  
12 exceed 21 days, after a written request is filed with the  
13 department. At the hearing, the carrier shall show cause  
14 why the suspension should not be continued. Following  
15 the hearing, the department may terminate the  
16 suspension, continue the suspension in effect, or revoke  
17 the permit. The department may revoke the permit of  
18 any carrier suspended pursuant to subdivision (b) at any  
19 time that is 90 days or more after its suspension if the  
20 carrier has not filed a written request for a hearing with  
21 the department or has failed to submit a request for  
22 reinstatement pursuant to subdivision (d).

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

30 (g) ~~No motor carrier of property shall~~ A motor carrier  
31 *of property may not* operate a commercial motor vehicle  
32 on any public highway in this state during any period its  
33 motor carrier of property permit is suspended pursuant  
34 to this division.

35 (h) (1) A motor carrier of property whose motor  
36 carrier permit is suspended pursuant to this section or  
37 Section 34505.6, which suspension is based wholly or in  
38 part on the failure of the motor carrier to maintain any  
39 vehicle in safe operating condition, may not lease, or  
40 otherwise allow, another motor carrier to operate the

1 vehicles of the carrier subject to the suspension, during  
2 the period of the suspension.

3 (2) A motor carrier of property may not knowingly  
4 lease, operate, dispatch, or otherwise utilize any vehicle  
5 from a motor carrier of property whose motor carrier  
6 permit is suspended, which suspension is based wholly or  
7 in part on the failure of the motor carrier to maintain any  
8 vehicle in safe operating condition.

9 (3) The department shall immediately suspend the  
10 motor carrier permit of any motor carrier that the  
11 department determines to be in violation of paragraph  
12 (2).

13 SEC. 4. No reimbursement is required by this act  
14 pursuant to Section 6 of Article XIII B of the California  
15 Constitution because the only costs that may be incurred  
16 by a local agency or school district will be incurred  
17 because this act creates a new crime or infraction,  
18 eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section  
20 17556 of the Government Code, or changes the definition  
21 of a crime within the meaning of Section 6 of Article  
22 XIII B of the California Constitution.