

AMENDED IN SENATE JULY 7, 1999

AMENDED IN SENATE JUNE 22, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

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 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~~ *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~~ *authorize* 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: 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

1 consistent failure or presents an imminent danger to
2 public safety.

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

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

9 (2) The written recommendation shall specifically
10 indicate compliance with subdivision (c).

11 (b) (1) A carrier whose permit is suspended pursuant
12 to subdivision (a) may obtain a reinspection of its
13 terminal and vehicles by the Department of the
14 California Highway Patrol, by submitting a written
15 request for reinstatement to the commission and paying
16 a reinstatement fee of one hundred twenty-five dollars
17 (\$125).

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

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38 reason or has been revoked.

39 (c) Before transmitting a recommendation pursuant
40 to subdivision (a) to the commission, the Department of

1 the California Highway Patrol shall notify the household
2 goods carrier in writing of all of the following:

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

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

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

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

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

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

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

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

SEC. 2. 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 any of the following, the department shall recommend that the Department of Motor Vehicles suspend or revoke the carrier's motor carrier permit, or 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:

(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 applicable regulations contained in Title 13 of the California Code of Regulations, 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.

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

(3) Failed to submit any application or pay any fee required by subdivision (e) or (h) of Section 34501.12 within the timeframes set forth in that 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 any of the following, the department shall recommend that the Public Utilities Commission deny, suspend, or revoke the carrier's operating authority, or 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:

(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 applicable regulations contained in Title 13 of the California Code of Regulations, 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.

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

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

(c) For purposes of this section, 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.

(d) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier 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) A motor carrier of property may not operate a
31 commercial motor vehicle on any public highway in this
32 state during any period its motor carrier of property
33 permit is suspended pursuant to this division.

34 (h) (1) A motor carrier of property whose motor
35 carrier permit is suspended pursuant to this section or
36 Section 34505.6, which suspension is based wholly or in
37 part on the failure of the motor carrier to maintain any
38 vehicle in safe operating condition, may not lease, or
39 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~~ *may* immediately suspend
10 the 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.

