

Assembly Bill No. 957

CHAPTER 1006

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.

[Approved by Governor October 10, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 957, 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 carriers 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 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.

Appropriation: yes.

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

SECTION 1. Section 5285.6 of the Public Utilities Code is amended to read:

5285.6. (a) (1) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a household goods carrier be suspended for any of the following, the commission, pending a hearing in the matter pursuant to subdivision (d), shall suspend the carrier's permit:



(A) Failure 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, if that failure is either a consistent failure or presents an imminent danger to public safety.

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

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

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

(b) (1) A carrier whose permit is suspended pursuant to subdivision (a) 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 commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125).

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

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

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

(1) That the Department of the California Highway Patrol has determined that the carrier's safety record, or compliance with Section 1808.1 of, or subdivision (e) or (h) of Section 34501.12 of, the Vehicle Code, 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 or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the Department of the California Highway Patrol 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 of the California Highway Patrol shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request for a hearing is filed with the commission, with a copy of that written request furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission, in addition to any other penalty provided in this chapter, may terminate the suspension, continue the suspension in effect, or revoke the permit. The commission may revoke the permit of any household goods carrier suspended pursuant to subdivision (a) at any time 90 days or more after its suspension if the commission has not received a written recommendation for reinstatement from the Department of the California Highway Patrol and the carrier has not filed a written 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) That the department has determined that the carrier's safety record or compliance with Section 1808.1 or subdivision (e) or (h) of Section 34501.12 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).

(e) 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 (d).

SEC. 3. 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 do any of the following:

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

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

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

(d) (1) 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.

(2) A motor carrier whose motor carrier permit is suspended for failure to submit any application or to pay any fee required by Section

34501.12 shall present proof of having submitted such application or have paid that fee to the Department of the California Highway Patrol before applying for reinstatement of its motor carrier permit.

(3) 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, or shall verify receipt of the application or fee or both the application and fee. 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, or that the required application or fees have been received by the Department of the California Highway Patrol, unless the permit is suspended for another reason or has been revoked.

(e) Whenever the department suspends the permit of any carrier pursuant to subdivision (b) or paragraph (3) of subdivision (h), 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 (d).

(f) 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, or failure of the motor carrier to submit an application or to pay fees required by Section 34501.12.

(g) A motor carrier of property may not 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.

(h) (1) A motor carrier of property whose motor carrier permit is suspended pursuant to this section or Section 34505.6, which suspension is based wholly or in part on the failure of the motor carrier to maintain any vehicle in safe operating condition, may not lease, or otherwise allow, another motor carrier to operate the vehicles of the carrier subject to the suspension, during the period of the suspension.

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

(3) The department may immediately suspend the motor carrier permit of any motor carrier that the department determines to be in violation of paragraph (2).

SEC. 4. 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.

