

**ASSEMBLY BILL**

**No. 1531**

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**Introduced by Assembly Member House**

February 26, 1999

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An act to amend Sections 1808.1 and 34520 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1531, as introduced, House. Vehicles: drivers.

Existing law requires the prospective employer of a driver who drives any specified vehicle to obtain a report showing the driver's current public record as recorded by the Department of Motor Vehicles.

Existing law also requires motor carriers and drivers to comply with the controlled substances and alcohol use and testing requirements of the United States Secretary of Transportation as specified.

This bill would make technical, nonsubstantive changes in these provisions.

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

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

- 1 SECTION 1. Section 1808.1 of the Vehicle Code is  
2 amended to read:  
3 1808.1. (a) The prospective employer of a driver who  
4 drives any vehicle specified in subdivision ~~(j)~~ (k) shall  
5 obtain a report showing the driver's current public record

1 as recorded by the department. For *the* purposes of this  
2 subdivision, a report is current if it was issued less than 30  
3 days prior to the date the employer employs the driver.  
4 The report shall be reviewed, signed, and dated by the  
5 employer and maintained at the employer's place of  
6 business until receipt of the ~~pull-notice~~ *pull-notice* system  
7 report pursuant to subdivisions (b) and (c). These  
8 reports shall be presented upon request to any authorized  
9 representative of the Department of the California  
10 Highway Patrol during regular business hours.

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

26 (c) The employer of a driver of any vehicle specified  
27 in subdivision ~~(h)~~ (k) shall, additionally, obtain a periodic  
28 report from the department at least every six months,  
29 except that an employer who enrolls more than 500  
30 drivers in the ~~pull-notice~~ *pull-notice* system under a single  
31 requester code shall obtain a report at least every 12  
32 months. The employer shall verify that each employee's  
33 driver's license has not been suspended or revoked, the  
34 employee's traffic violation point count, and whether the  
35 employee has been convicted of a violation of Section  
36 23152 or 23153. The report shall be signed and dated by  
37 the employer and maintained at the employer's principal  
38 place of business. The reports shall be presented upon  
39 demand to any authorized representative of the



1 Department of the California Highway Patrol during  
2 regular business hours.

3 (d) Upon the termination of a driver's employment,  
4 the employer shall notify the department to discontinue  
5 the driver's enrollment in the ~~pull-notice~~ *pull-notice*  
6 system.

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

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

26 (g) As part of its inspection of ~~bus-maintenance~~  
27 *bus-maintenance* facilities and terminals required at least  
28 once every 13 months pursuant to subdivision (c) of  
29 Section 34501, the Department of the California Highway  
30 Patrol shall determine whether each transit operator, as  
31 defined in Section 99210 of the Public Utilities Code, is  
32 then in compliance with this section and Section 12804.6,  
33 and shall certify each operator found to be in compliance.  
34 No funds shall be allocated under Chapter 4  
35 (commencing with Section 99200) of Part 11 of Division  
36 10 of the Public Utilities Code to a transit operator which  
37 the Department of the California Highway Patrol has not  
38 certified under this section.

39 (h) A request to participate in the ~~pull-notice~~  
40 *pull-notice* system established by this section shall be



1 accompanied by a fee determined by the department to  
2 be sufficient to defray the entire actual cost to the  
3 department for the notification service. For the receipt  
4 of subsequent reports, the employer ~~shall~~ also *shall* be  
5 charged a fee established by the department pursuant to  
6 Section 1811. Any employer who qualifies under Section  
7 1812 shall be exempt from any fee required under this  
8 section. Failure to pay the fee shall result in automatic  
9 cancellation of the employer's participation in the  
10 notification services.

11 (i) The department, as soon as feasible, may establish  
12 an automatic procedure to provide the periodic reports  
13 ~~in subdivision (e)~~ to employers, *as required by*  
14 *subdivision (c)*, on a regular basis without the need for  
15 individual requests.

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

19 ~~(k)~~The employer of a driver who is employed as a  
20 casual driver is not required to enter that driver's name  
21 in the ~~pull-notice~~ *pull-notice* system, as otherwise  
22 required by subdivision (a). However, the employer of a  
23 casual driver shall be in possession of a report of the  
24 driver's current public record as recorded by the  
25 department, prior to allowing a casual driver to drive any  
26 vehicle specified in subdivision ~~(j)~~ *(k)*. A report is  
27 current if it was issued less than six months prior to the  
28 date the employer employs the driver. ~~As used in this~~  
29 ~~subdivision, a~~

30 *For the purposes of this subdivision a driver is*  
31 *employed as a casual driver "casual driver" when the*  
32 *employer has employed the driver less than 30 days*  
33 *during the preceding six months. For purposes of this*  
34 ~~subdivision, "casual~~ *"Casual driver"* does not include any  
35 driver who operates a vehicle that requires a passenger  
36 transportation endorsement.

37 ~~(j)~~

38 *(k)* This section applies to any vehicle for the  
39 operation of which the driver is required to have a class  
40 1, class 2, class A, or class B driver's license, a class C license



1 with a hazardous materials endorsement, or a certificate  
2 issued pursuant to Section 2512, 12517, 12519, 12520, 12523,  
3 or 12523.5, or any passenger vehicle having a seating  
4 capacity of not more than 10 persons, including the  
5 driver, operated for compensation by a charter-party  
6 carrier of passengers or passenger stage corporation  
7 pursuant to a certificate of public convenience and  
8 necessity or a permit issued by the Public Utilities  
9 Commission.

10 *(1) This section may not be construed to change the*  
11 *definition of “employer,” “employee,” or “independent*  
12 *contractor” for any purpose.*

13 SEC. 2. Section 34520 of the Vehicle Code is amended  
14 to read:

15 34520. (a) Motor carriers and drivers shall comply  
16 with the controlled substances and alcohol use and testing  
17 requirements of the United States Secretary of  
18 Transportation as set forth in Part 382 (commencing with  
19 Section 382.101) of Title 49 of the Code of Federal  
20 Regulations.

21 (b) (1) Every motor carrier shall make available for  
22 inspection, upon the request of an authorized employee  
23 of the department, copies of all results and other records  
24 pertaining to controlled substances and alcohol use and  
25 testing conducted pursuant to federal law, as specified in  
26 subdivision (a), including those records contained in  
27 individual driver qualification files.

28 (2) For *the* purposes of complying with the  
29 return-to-duty alcohol or controlled substances test  
30 requirements, or both, of Section 382.309 of Title 49 of the  
31 Code of Federal Regulations and the followup alcohol or  
32 controlled substances test requirements, or both, of  
33 Section 382.311 of that title, the department may use  
34 those test results to monitor drivers who are motor  
35 carriers.

36 (3) No evidence derived from a positive test result in  
37 the possession of a motor carrier shall be admissible in a  
38 criminal prosecution concerning unlawful possession,  
39 sale, or distribution of controlled substances.



1 (c) Any drug or alcohol testing consortium, as defined  
2 in Section 382.107 of Title 49 of the Code of Federal  
3 Regulations, shall mail a copy of all drug and alcohol  
4 positive test result summaries to the department within  
5 three days of the test. This requirement applies only to  
6 drug and alcohol positive tests of those drivers employed  
7 by motor carriers who operate terminals within this state.

8 (d) It is a misdemeanor, punishable by imprisonment  
9 in ~~the~~ a county jail for six months ~~and~~, by a fine not to  
10 exceed five thousand dollars (\$5,000), or by both ~~the~~ that  
11 imprisonment and fine, for any person to willfully violate  
12 this section.

13 As used in this ~~section~~ subdivision, “willfully” has the  
14 same meaning as defined in Section 7 of the Penal Code.

15 (e) This section does not apply to a driver operating  
16 any of the vehicles specified in Section 35002 if that driver  
17 is participating in a ~~substance-abuse~~ *substance-abuse*  
18 detection program sponsored by the driver’s employer.

19 (f) This section does not apply to a peace officer, as  
20 defined in Section 830.1 or 830.2 of the Penal Code, who  
21 is authorized to drive vehicles described in Section 34500  
22 if that peace officer is participating in a ~~substance-abuse~~  
23 *substance-abuse* detection program within the scope of  
24 his or her employment.

