

AMENDED IN SENATE JULY 3, 2007
AMENDED IN SENATE MAY 24, 2007
AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1612

Introduced by Assembly Member Nava

February 23, 2007

An act to amend Sections 15275, 32000.5, and 34501.12 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as amended, Nava. Vehicles: hazardous materials transportation.

(1) Existing law generally prohibits a person from operating a commercial motor vehicle unless that person has in his or her possession a valid commercial driver's license for the appropriate class, and an endorsement to permit the operation of the vehicle. Existing law requires a hazardous materials endorsement to be issued only to an applicant who complies with specified requirements.

This bill additionally would prohibit a hazardous materials endorsement from being issued to an applicant who has held a commercial driver's license for less than 3 years, ~~or who~~ *and* has been convicted of ~~an offense involving the safe operation of a motor vehicle within the immediately preceding 3 years~~ *a defined serious traffic violation*.

(2) Existing law, the Biennial Inspection of Terminal Program, generally requires the Department of the California Highway Patrol to inspect, at least every 25 months, every terminal of a motor carrier who

operates certain vehicles. A terminal that has attained 2 consecutive satisfactory compliance ratings pursuant to those inspections is eligible for administrative review in lieu of the next required inspection, unless specified circumstances apply.

The bill would prohibit a motor carrier of hazardous materials from being granted administrative review in lieu of those inspections.

(3) Existing law prohibits a motor carrier from operating a vehicle that transports hazardous materials, unless the motor carrier holds a valid licence for the transportation of hazardous materials.

This bill would prohibit the department from issuing a license to transport hazardous materials to a motor carrier with one or more maintenance facilities or terminals subject to the requirements of the Biennial Inspection of Terminals Program, unless the appropriate application and fees for each facility or terminal have been submitted to the department. The bill would prohibit the department from issuing a license to transport hazardous materials to a new applicant until each maintenance facility or terminal of that applicant is inspected and issued a satisfactory rating by the department, except as specified with regard to a maintenance facility or terminal that has been inspected and rated satisfactory by the department within the 25 months prior to the date of application for license.-

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

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

- 1 SECTION 1. Section 15275 of the Vehicle Code is amended
- 2 to read:
- 3 15275. (a) A person shall not operate a commercial motor
- 4 vehicle described in this chapter unless that person has in his or
- 5 her possession a valid commercial driver’s license for the
- 6 appropriate class, and an endorsement issued by the department
- 7 to permit the operation of the vehicle unless exempt from the
- 8 requirement to obtain an endorsement pursuant to subdivision (b)
- 9 of Section 15278.
- 10 (b) (1) An endorsement to drive vehicles specified in this article
- 11 shall be issued only to applicants who are qualified by examinations
- 12 prescribed by the department and who meet the minimum standards
- 13 established in Part 383 (commencing with Section 383.1) of Title
- 14 49 of the Code of Federal Regulations.

1 (2) (A) A hazardous materials endorsement shall be issued only
2 to applicants who comply with paragraph (1) and the requirements
3 set forth in Part 1572 (commencing with Section 1572.1) of Title
4 49 of the Code of Federal Regulations.

5 (B) A hazardous materials endorsement shall not be issued to
6 an applicant who has held a commercial driver's license for less
7 than three years ~~or~~ *and* who has been convicted of ~~an offense~~
8 ~~involving the safe operation of a motor vehicle within the~~
9 ~~immediately preceding three years: a serious traffic violation, as~~
10 ~~defined in subdivision (p) of Section 15210.~~

11 (c) The department may deny, suspend, revoke, or cancel an
12 endorsement to drive vehicles specified in this article when the
13 applicant does not meet the qualifications for the issuance or
14 retention of the endorsement.

15 (d) If the department denies, suspends, revokes, or cancels a
16 hazardous materials endorsement because the department received
17 notification that the applicant poses a security threat pursuant to
18 Part 1572 (commencing with Section 1572.1) of Title 49 of the
19 Code of Federal Regulations, and, upon appeal by the United States
20 Transportation Security Administration, that endorsement is
21 ordered reinstated, the department shall issue or restore the
22 hazardous materials endorsement to the applicant within the period
23 specified under those federal regulations.

24 SEC. 2. Section 32000.5 of the Vehicle Code is amended to
25 read:

26 32000.5. (a) Every motor carrier who directs the transportation
27 of an explosive and any motor carrier who directs the transportation
28 of a hazardous material, who is required to display placards
29 pursuant to Section 27903, and every motor carrier who transports
30 for a fee in excess of 500 pounds of hazardous materials of the
31 type requiring placards pursuant to Section 27903, shall be licensed
32 in accordance with the provisions of this code, unless specifically
33 exempted by this code or regulations adopted pursuant to this code.
34 This license shall be available for examination and shall be
35 displayed in accordance with the regulations adopted by the
36 commissioner.

37 (b) (1) Except as provided in Section 32001, this division shall
38 not apply to any person hauling only hazardous waste, as defined
39 in Section 25115 or 25117 of the Health and Safety Code, and who
40 is registered pursuant to subdivision (a) of Section 25163 of the

1 Health and Safety Code or who is exempt from that registration
2 pursuant to subdivision (b) of that section.

3 (2) Motor carriers that are transporting a hazardous waste and
4 are required to display placards pursuant to Section 27903 shall
5 comply with all provisions of Section 32001 except paragraph (3)
6 of subdivision (c) of that section.

7 (c) This division does not apply to implements of husbandry,
8 as defined in Section 36000.

9 (d) This division does not apply to the hauling of division 1.3
10 explosives classified as special fireworks or to division 1.4
11 explosives classified as common fireworks by the United States
12 Department of Transportation if those fireworks are transported
13 by a motor carrier under the authority of, and in conformance with,
14 a license issued to the motor carrier by the State Fire Marshal
15 pursuant to Part 2 (commencing with Section 12500) of Division
16 11 of the Health and Safety Code. In that case, a copy of the license
17 shall be carried in the vehicle and presented to any peace officer
18 upon request.

19 (e) The department shall not issue a license to transport
20 hazardous materials to a motor carrier with one or more
21 maintenance facilities or terminals subject to the requirements of
22 the Biennial Inspection of Terminals Program, as established
23 pursuant to Section 35401.12, unless the appropriate application
24 and fees for each facility or terminal have been submitted to the
25 department, as required by Section 35401.12.

26 (f) (1) The department shall not issue a license to transport
27 hazardous materials to a new applicant until each maintenance
28 facility or terminal of that applicant is inspected and issued a
29 satisfactory rating by the department.

30 (2) The requirements of paragraph (1) do not apply to a
31 maintenance facility or terminal that was inspected and rated
32 satisfactory by the department within the 25 months prior to the
33 date of application for the license.

34 SEC. 3. Section 34501.12 of the Vehicle Code is amended to
35 read:

36 34501.12. (a) Notwithstanding Section 408, as used in this
37 section and Sections 34505.5 and 34505.6, “motor carrier” means
38 the registered owner of a vehicle described in subdivision (a), (b),
39 (e), (f), or (g) of Section 34500, except in the following
40 circumstances:

1 (1) The registered owner leases the vehicle to another person
2 for a term of more than four months. If the lease is for more than
3 four months, the lessee is the motor carrier.

4 (2) The registered owner operates the vehicle exclusively under
5 the authority and direction of another person. If the operation is
6 exclusively under the authority and direction of another person,
7 that other person may assume the responsibilities as the motor
8 carrier. If not so assumed, the registered owner is the motor carrier.

9 A person who assumes the motor carrier responsibilities of another
10 pursuant to subdivision (b) shall provide to that other person whose
11 motor carrier responsibility is so assumed, a completed copy of a
12 departmental form documenting that assumption, stating the period
13 for which responsibility is assumed, and signed by an agent of the
14 assuming person. A legible copy shall be carried in each vehicle
15 or combination of vehicles operated on the highway during the
16 period for which responsibility is assumed. That copy shall be
17 presented upon request by an authorized employee of the
18 department. The original completed departmental form
19 documenting the assumption shall be provided to the department
20 within 30 days of the assumption. If the assumption of
21 responsibility is terminated, the person who had assumed
22 responsibility shall so notify the department in writing within 30
23 days of the termination.

24 (b) (1) A motor carrier may combine two or more terminals
25 that are not subject to an unsatisfactory compliance rating within
26 the last 36 months for purposes of the inspection required by
27 subdivision (d), subject to all of the following conditions:

28 (A) The carrier identifies to the department, in writing, each
29 terminal proposed to be included in the combination of terminals
30 for purposes of this subdivision prior to an inspection of the
31 designated terminal pursuant to subdivision (d).

32 (B) The carrier provides the department, prior to the inspection
33 of the designated terminal pursuant to subdivision (d), a written
34 listing of all its vehicles of a type subject to subdivision (a), (b),
35 (e), (f), or (g) of Section 34500 that are based at each of the
36 terminals combined for purposes of this subdivision. The listing
37 shall specify the number of vehicles of each type at each terminal.

38 (C) The carrier provides to the department at the designated
39 terminal during the inspection all maintenance records and driver

1 records and a representative sample of vehicles based at each of
2 the terminals included within the combination of terminals.

3 (2) If the carrier fails to provide the maintenance records, driver
4 records, and representative sample of vehicles pursuant to
5 subparagraph (C) of paragraph (1), the department shall assign the
6 carrier an unsatisfactory terminal rating and require a reinspection
7 to be conducted pursuant to subdivision (h).

8 (3) For purposes of this subdivision, the following terms have
9 the following ~~meaning~~ meanings:

10 (A) "Driver records" includes pull notice system records, driver
11 proficiency records, and driver timekeeping records.

12 (B) "Maintenance records" includes all required maintenance,
13 lubrication, and repair records and drivers' daily vehicle condition
14 reports.

15 (C) "Representative sample" means the following, applied
16 separately to the carrier's fleet of motortrucks and truck tractors
17 and its fleet of trailers:

18		Representative
19	Fleet Size	Sample
20	1 or 2	All
21	3 to 8	3
22	9 to 15	4
23	16 to 25	6
24	26 to 50	9
25	51 to 90	14
26	91 or more	20
27		
28		

29 (c) Each motor carrier who, in this state, directs the operation
30 of, or maintains, a vehicle of a type described in subdivision (a)
31 shall designate one or more terminals, as defined in Section 34515,
32 in this state where vehicles can be inspected by the department
33 pursuant to paragraph (4) of subdivision (a) of Section 34501 and
34 where vehicle inspection and maintenance records and driver
35 records will be made available for inspection.

36 (d) (1) The department shall inspect, at least every 25 months,
37 every terminal, as defined in Section 34515, of a motor carrier
38 who, at any time, operates a vehicle described in subdivision (a).

1 (2) The department shall place an inspection priority on those
2 terminals operating vehicles listed in subdivision (g) of Section
3 34500.

4 (3) As used in this section and in Sections 34505.5 and 34505.6,
5 subdivision (f) of Section 34500 includes only those combinations
6 where the gross vehicle weight rating (GVWR) of the towing
7 vehicle exceeds 10,000 pounds, but does not include a pickup
8 truck, and subdivision (g) of Section 34500 includes only those
9 vehicles transporting hazardous material for which the display of
10 placards is required pursuant to Section 27903, a license is required
11 pursuant to Section 32000.5, or for which hazardous waste
12 transporter registration is required pursuant to Section 25163 of
13 the Health and Safety Code. Historical vehicles, as described in
14 Section 5004, vehicles that display special identification plates in
15 accordance with Section 5011, implements of husbandry and farm
16 vehicles, as defined in Chapter 1 (commencing with Section 36000)
17 of Division 16, and vehicles owned or operated by an agency of
18 the federal government are not subject to this section or to Sections
19 34505.5 and 34505.6.

20 (e) (1) It is the responsibility of the motor carrier to schedule
21 with the department the inspection required by subdivision (d).
22 The motor carrier shall submit an application form supplied by the
23 department, accompanied by the required fee. The initial fee, which
24 is nonrefundable, for a carrier that initially enrolls into the program,
25 is six hundred fifty dollars (\$650) per terminal. The initial fee is
26 four hundred dollars (\$400) for a motor carrier that owns, leases,
27 or otherwise operates not more than one heavy power unit and not
28 more than three towed vehicles subject to this section. The renewal
29 fee, which is nonrefundable, is four hundred dollars (\$400) per
30 terminal, except in the case of a motor carrier who owns, leases,
31 or otherwise operates not more than one heavy power unit and not
32 more than three towed vehicles subject to this section, for which
33 the fee shall be one hundred dollars (\$100). Federal, state, and
34 local public entities are exempt from the fee requirements of this
35 section.

36 (2) Except as provided in paragraph (4), the inspection term for
37 each inspected terminal of a motor carrier shall expire 25 months
38 from the date the terminal receives a satisfactory compliance rating,
39 as specified in subdivision (h). Applications and fees for subsequent
40 inspections shall be submitted not earlier than nine months and

1 not later than seven months before the expiration of the motor
2 carrier's then current inspection term. If the motor carrier has
3 submitted the inspection application and the required
4 accompanying fees, but the department is unable to complete the
5 inspection within the 25-month inspection period, then no
6 additional fee shall be required for the inspection requested in the
7 original application.

8 (3) All fees collected pursuant to this subdivision shall be
9 deposited in the Motor Vehicle Account in the State Transportation
10 Fund. An amount equal to the fees collected shall be available for
11 appropriation by the Legislature from the Motor Vehicle Account
12 to the department for the purpose of conducting truck terminal
13 inspections and for the additional roadside safety inspections
14 required by Section 34514.

15 (4) To avoid the scheduling of a renewal terminal inspection
16 pursuant to this section during a carrier's seasonal peak business
17 periods, the current inspection term of a terminal that has paid all
18 required fees and has been rated satisfactory in its last inspection
19 may be reduced by not more than nine months if a written request
20 is submitted by the carrier to the department at least four months
21 prior to the desired inspection month, or at the time of payment of
22 renewal inspection fees in compliance with paragraph (2),
23 whichever date is earlier. A motor carrier may request this
24 adjustment of the inspection term during any inspection cycle. A
25 request made pursuant to this paragraph shall not result in a fee
26 proration and does not relieve the carrier from the requirements
27 of paragraph (2).

28 (f) It is unlawful for a motor carrier to operate a vehicle subject
29 to this section without having submitted an inspection application
30 and the required fees to the department as required by subdivision
31 (e) or (h).

32 (g) (1) It is unlawful for a motor carrier to operate a vehicle
33 subject to this section after submitting an inspection application
34 to the department, without the inspection described in subdivision
35 (d) having been performed and a safety compliance report having
36 been issued to the motor carrier within the 25-month inspection
37 period or within 60 days immediately preceding the inspection
38 period.

39 (2) It is unlawful for a motor carrier to contract or subcontract
40 with, or otherwise engage the services of, another motor carrier,

1 subject to this section, unless the contracted motor carrier has
2 complied with this section. A motor carrier shall not contract or
3 subcontract with, or otherwise engage the services of, another
4 motor carrier until the contracted motor carrier provides
5 certification of compliance with this section. This certification
6 shall be completed in writing by the contracted motor carrier. The
7 certification, or a copy thereof, shall be maintained by each
8 involved party for the duration of the contract or the period of
9 service plus two years, and shall be presented for inspection
10 immediately upon the request of an authorized employee of the
11 department.

12 (h) (1) An inspected terminal that receives an unsatisfactory
13 compliance rating shall be reinspected within 120 days after the
14 issuance of the unsatisfactory compliance rating.

15 (2) A terminal's first required reinspection under this subdivision
16 shall be without charge unless one or more of the following is
17 established:

18 (A) The motor carrier's operation presented an imminent danger
19 to public safety.

20 (B) The motor carrier was not in compliance with the
21 requirement to enroll all drivers in the pull notice program pursuant
22 to Section 1808.1.

23 (C) The motor carrier failed to provide all required records and
24 vehicles for a consolidated inspection pursuant to subdivision (b).

25 (3) If the unsatisfactory rating was assigned for any of the
26 reasons set forth in paragraph (2), the carrier shall submit the
27 required fee as provided in paragraph (4).

28 (4) Applications for reinspection pursuant to paragraph (3) or
29 for second and subsequent consecutive reinspections under this
30 subdivision shall be accompanied by the fee specified in paragraph
31 (1) of subdivision (e) and shall be filed within 60 days of issuance
32 of the unsatisfactory compliance rating. The reinspection fee is
33 nonrefundable.

34 (5) When a motor carrier's Motor Carrier of Property Permit or
35 Public Utilities Commission operating authority is suspended as
36 a result of an unsatisfactory compliance rating, the department
37 shall not conduct a reinspection until requested to do so by the
38 Department of Motor Vehicles or the Public Utilities Commission,
39 as appropriate.

1 (i) It is the intent of the Legislature that the department make
 2 its best efforts to inspect terminals within the resources provided.
 3 In the interest of the state, the Commissioner of the California
 4 Highway Patrol may extend for a period, not to exceed six months,
 5 the inspection terms beginning prior to July 1, 1990.

6 (j) Except as provided in paragraph (5), to encourage motor
 7 carriers to attain continuous satisfactory compliance ratings, the
 8 department may establish and implement an incentive program
 9 consisting of the following:

10 (1) After the second consecutive satisfactory compliance rating
 11 assigned to a motor carrier terminal as a result of an inspection
 12 conducted pursuant to subdivision (d), and after each consecutive
 13 satisfactory compliance rating thereafter, an appropriate certificate,
 14 denoting the number of consecutive satisfactory ratings, shall be
 15 awarded to the terminal, unless the terminal has received an
 16 unsatisfactory compliance rating as a result of an inspection
 17 conducted in the interim between the consecutive inspections
 18 conducted under subdivision (d), or the motor carrier is rated
 19 unsatisfactory by the department following a controlled substances
 20 and alcohol testing program inspection. The certificate authorized
 21 under this paragraph shall not be awarded for performance in the
 22 administrative review authorized under paragraph (2). However,
 23 the certificate shall include a reference to any administrative
 24 reviews conducted during the period of consecutive satisfactory
 25 compliance ratings.

26 (2) Unless the department's evaluation of the motor carrier's
 27 safety record indicates a declining level of compliance, a terminal
 28 that has attained two consecutive satisfactory compliance ratings
 29 assigned following inspections conducted pursuant to subdivision
 30 (d) is eligible for an administrative review in lieu of the next
 31 required inspection, unless the terminal has received an
 32 unsatisfactory compliance rating as a result of an inspection
 33 conducted in the interim between the consecutive inspections
 34 conducted under subdivision (d). An administrative review shall
 35 consist of all of the following:

36 (A) A signed request by a terminal management representative
 37 requesting the administrative review in lieu of the required
 38 inspection containing a promise to continue to maintain a
 39 satisfactory level of compliance for the next 25-month inspection
 40 term.

1 (B) A review with a terminal management representative of the
2 carrier's record as contained in the department's files. If a terminal
3 has been authorized a second consecutive administrative review,
4 the review required under this subparagraph is optional, and may
5 be omitted at the carrier's request.

6 (C) Absent any cogent reasons to the contrary, upon completion
7 of the requirements of subparagraphs (A) and (B), the safety
8 compliance rating assigned during the last required inspection shall
9 be extended for 25 months.

10 (3) Not more than two administrative reviews may be conducted
11 consecutively. At the completion of the 25-month inspection term
12 following a second administrative review, a terminal inspection
13 shall be conducted pursuant to subdivision (d). If this inspection
14 results in a satisfactory compliance rating, the terminal shall again
15 be eligible for an administrative review in lieu of the next required
16 inspection. If the succession of satisfactory ratings is interrupted
17 by a rating of other than satisfactory, irrespective of the reason for
18 the inspection, the terminal shall again attain two consecutive
19 satisfactory ratings to become eligible for an administrative review.

20 (4) As a condition for receiving the administrative reviews
21 authorized under this subdivision in lieu of inspections, and in
22 order to ensure that compliance levels remain satisfactory, the
23 motor carrier shall agree to accept random, unannounced
24 inspections by the department.

25 (5) Notwithstanding paragraphs (1) to (4), inclusive, a motor
26 carrier of hazardous materials shall not be granted administrative
27 review pursuant to this subdivision in lieu of a terminal inspection
28 pursuant to subdivision (d).

29 (k) This section shall be known, and may be cited, as the
30 Biennial Inspection of Terminals Program or BIT.

O