

Assembly Bill No. 1612

CHAPTER 514

An act to amend Sections 32000.5 and 34501.12 of, and to add Section 35780.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, Nava. Vehicles: hazardous materials: permits.

(1) Existing law, the Biennial Inspection of Terminals 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 at any terminal from which specified hazardous materials carrying vehicles are operated.

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

This bill would prohibit the department from issuing a license to transport hazardous materials to a motor carrier unless each terminal from which hazardous materials carrying vehicles are operated is in compliance with the Biennial Inspection of Terminals Program and is currently rated satisfactory. The department would be required to adopt rules and regulations providing for a temporary license to transport hazardous materials for carriers who have not been issued an unsatisfactory rating for specified inspections conducted within the previous 3 years.

(3) Existing law authorizes the Department of Transportation or local authorities, as applicable, to issue special permits to operate or move vehicles of specified size, weight, or load.

This bill would authorize the Department of Transportation or a local authority, as applicable, to issue a special permit authorizing the applicant to operate or move a vehicle carrying a load, lying in the horizontal position, of stacked trusses or wall panels that are used as single width components in the manufacture of a finished product, if certain requirements are met.

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

SECTION 1. Section 32000.5 of the Vehicle Code is amended to read:

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

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

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

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

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

(e) (1) The department shall not issue a license to transport hazardous materials to a motor carrier unless each terminal from which hazardous materials carrying vehicles are operated is in compliance with the requirements of Section 34501.12 and is currently rated satisfactory.

(2) The department shall adopt rules and regulations that provide for a temporary license to transport hazardous materials for carriers who, within the previous three years, have not been issued an unsatisfactory rating for an inspection conducted pursuant to Section 34501, 34501.12, or 34520.

(3) It is the intent of the Legislature that a carrier's license to transport hazardous materials should not be unreasonably hindered as a result of the department's verification and issuance process.

SEC. 2. Section 34501.12 of the Vehicle Code is amended to read:

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

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

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier. A person who assumes the motor carrier responsibilities of another pursuant to subdivision (b) shall provide to that other person whose motor carrier responsibility is so assumed, a completed copy of a departmental form documenting that assumption, stating the period for which responsibility is assumed, and signed by an agent of the assuming person. A legible copy shall be carried in each vehicle or combination of vehicles operated on the highway during the period for which responsibility is assumed. That copy shall be presented upon request by an authorized employee of the department. The original completed departmental form documenting the assumption shall be provided to the department within 30 days of the assumption. If the assumption of responsibility is terminated, the person who had assumed responsibility shall so notify the department in writing within 30 days of the termination.

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

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

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

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

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

(3) For purposes of this subdivision, the following terms have the following meanings:

(A) “Driver records” includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) “Maintenance records” includes all required maintenance, lubrication, and repair records and drivers’ daily vehicle condition reports.

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

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

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

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

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

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee contained in paragraph (2), for each terminal the motor carrier operates. This fee shall be submitted within 30 days of establishing a terminal. All fees submitted under paragraph (2) are nonrefundable.

(2) (A) The fee for each terminal is set forth in the following table:

Terminal fleet size	Required fee per terminal
1	\$ 270
2	\$ 375
3 to 8	\$ 510
9 to 15	\$ 615
16 to 25	\$ 800
26 to 50	\$1,040
51 to 90	\$1,165
91 or more	\$1,870

(B) In addition to the fee specified in subparagraph (A), the motor carrier shall submit an additional fee of three hundred fifty dollars (\$350) for each of its terminals not previously inspected under the section.

(3) Except as provided in paragraph (5), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

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

(5) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in compliance with paragraph (3), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (3).

(6) Failure to pay a fee required by this section, within the appropriate timeframe, shall result in additional delinquent fees as follows:

(A) For a delinquency period of more than 30 days, the penalty is 60 percent of the required fee.

(B) For a delinquency period of one to two years, the penalty is 80 percent of the required fee.

(C) For a delinquency period of more than two years, the penalty is 160 percent of the required fee.

(7) Federal, state, and local public entities are exempt from the fee requirement of this section.

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

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

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

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

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

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

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

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

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

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (2) of subdivision (e) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall not conduct a reinspection for permit or authority reinstatement until requested to do so

by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

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

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

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

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

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

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

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

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term following a second administrative review, a terminal inspection shall be conducted

pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by a rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

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

(5) Notwithstanding paragraphs (1) to (4), inclusive, a motor carrier of hazardous materials shall not be granted administrative review pursuant to this subdivision in lieu of a terminal inspection pursuant to subdivision (d) at any terminal from which hazardous materials carrying vehicles identified by paragraph (3) of subdivision (d) are operated.

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

SEC. 3. Section 35780.5 is added to the Vehicle Code, to read:

35780.5. (a) Notwithstanding Section 320.5, the Department of Transportation or a local authority, with respect to highways under their respective jurisdictions, may, upon application, issue a special permit authorizing the applicant to operate or move a vehicle carrying a load, lying in the horizontal position, of stacked trusses or wall panels that are used as single width components in the manufacture of a finished product, that exceeds the maximum width specified by this code, if the load does not exceed 12 feet in width and the permittee complies with the regulations of the Department of Transportation or a local authority, as the case may be, governing the transportation of these loads.

(b) Under conditions prescribed by the Department of Transportation or the local authority, the Department of Transportation or local authority may accept applications and issue permits directly to an applicant or permit service, by any of the following processes:

- (1) In writing.
- (2) By an authorized facsimile process.
- (3) Through an authorized computer and modem connection.

(c) The special permit allowed pursuant to this section shall, under conditions prescribed by the Department of Transportation or a local authority, be granted on either a per trip or annual basis.

(d) As used in this section, “truss” means a designed and manufactured assemblage of structural elements typically arranged in a triangle or combination of triangles to form a rigid framework and used as a structural support in buildings.

(e) As used in this section, “wall panel” means a designed and manufactured assemblage of structural elements constructed in the same manner as site-built walls to form a rigid framework and used as a structural support in buildings, which may have attached various types of sheathing

products including wood structural panels, foam panels, and gypsum board that do not exceed more than one foot beyond the main structural elements.

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