

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 145**

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**Introduced by Assembly Member ~~De León~~ *De León***

January 22, 2009

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An act to amend Section 34620 of, and to add Section 34510.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 145, as amended, ~~De León~~ *De León*. Motor carriers: construction trucking services.

(1) Existing law requires the Department of Motor Vehicles to regulate the safe operation of specified vehicles, including commercial motor vehicles and trailer and semitrailer commercial vehicle combinations owned and operated by motor carriers. Existing law also requires every motor carrier of property to comply with specified safety, permit, and liability insurance regulations and to pay the fees required by these provisions.

Existing law also prohibits a motor carrier of property from contracting or subcontracting with, or otherwise engaging the services of, another motor carrier of property, until the contracted motor carrier of property provides certification in the manner prescribed by the above provisions, of compliance with safety inspection, certificate, permit, and financial responsibility requirements. A violation of those provisions is a misdemeanor.

This bill would apply this prohibition to a broker of construction trucking services, as defined, and would prohibit that broker from furnishing construction transportation services to any construction project unless it has secured a surety bond of not less than \$15,000 that meets specified requirements. The bill would make a broker of construction trucking services who violates these provisions guilty of a misdemeanor and subject to a fine of up to \$5,000.

The bill would also create a rebuttable presumption in any civil action brought against a broker of construction trucking services by a motor carrier of property in dump truck equipment with whom the broker contracted during any period of time in which the broker did not have a surety bond in violation of the above-described provisions, that the broker failed to pay to the motor carrier the amount due and owing.

By expanding the scope of an existing crime and creating new crimes, the bill would impose a state-mandated local program.

(2) 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: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 34510.5 is added to the Vehicle Code,  
2 to read:

3 ~~34510.5. (a) The Legislature finds and declares that brokers~~  
4 ~~of construction trucking services are in a unique position to protect~~  
5 ~~the motoring public by ensuring that the safety provisions of this~~  
6 ~~code, which impose safety regulations on motor carriers, including,~~  
7 ~~but not limited to, BIT safety inspections pursuant to Section~~  
8 ~~34501.12, drug and alcohol testing pursuant to Section 34520, the~~  
9 ~~necessity of a motor carrier permit under Section 34620, and~~  
10 ~~liability protection under Section 34631.5, are complied with prior~~  
11 ~~to the commencement of any construction work.~~

12 ~~(b)~~  
13 *34510.5. (a)* A broker of construction trucking services, as  
14 defined in Section 3322 of the Civil Code, shall not furnish  
15 construction transportation services to any construction project

1 unless it has secured a surety bond of not less than fifteen thousand  
2 dollars (\$15,000) executed by an admitted surety insurer. The bond  
3 required by this section shall be in favor of, and payable to, the  
4 people of the State of California, and shall be conditioned upon  
5 the person obtaining a bond that complies with this title and the  
6 payment of all sums due and payable to any individual or group  
7 of individuals when the person or his or her representative, agent,  
8 or employee has received those sums. The surety bond shall ensure  
9 the payment of the claims of a contracted motor carrier of property  
10 in dump truck equipment if the broker fails to pay the contracted  
11 motor carrier within the time period specified in paragraph (1) of  
12 subdivision (a) of Section 3322 of the Civil Code.

13 ~~(e)~~

14 (b) A broker of construction trucking services who furnishes  
15 construction transportation services in violation of this section is  
16 guilty of a misdemeanor and subject to a fine of up to five thousand  
17 dollars (\$5,000).

18 ~~(d)~~

19 (c) In any civil action brought against a broker of construction  
20 trucking services by a motor carrier of property in dump truck  
21 equipment with whom the broker contracted during any period of  
22 time in which the broker did not have a surety bond in violation  
23 of this section, the failure to have the bond shall create a rebuttable  
24 presumption that the broker failed to pay to the motor carrier the  
25 amount due and owing.

26 (d) *For purposes of this section, “a broker of construction*  
27 *trucking services” does not include a facility that meets all the*  
28 *following requirements:*

29 (1) *Arranges for transportation services of its product.*

30 (2) *Primarily handles raw materials to produce a new product.*

31 (3) *Is a rock product operation (such as an “aggregate”*  
32 *operation), a hot mixing asphalt plant, or a concrete, concrete*  
33 *product, or Portland cement product manufacturing facility.*

34 (4) *Does not accept a fee for the arrangement.*

35 SEC. 2. Section 34620 of the Vehicle Code is amended to read:

36 34620. (a) Except as provided in subdivision (b) and Section  
37 34622, a motor carrier of property shall not operate a commercial  
38 motor vehicle on any public highway in this state, unless it has  
39 complied with Section 34507.5 and has registered with the  
40 department its carrier identification number authorized or assigned

1 thereunder, and holds a valid motor carrier permit issued to that  
2 motor carrier by the department. The department shall issue a  
3 motor carrier permit upon the carrier's written request, compliance  
4 with Sections 34507.5, 34630, and 34640, and subdivisions (e)  
5 and (h) of Section 34501.12 for motor carriers listed in that section,  
6 and the payment of the fee required by this chapter.

7 (b) A person shall not contract with, or otherwise engage the  
8 services of, a motor carrier of property, unless that motor carrier  
9 holds a valid motor carrier of property permit issued by the  
10 department. A motor carrier of property or broker of construction  
11 trucking services, as defined in Section 3322 of the Civil Code,  
12 shall not contract or subcontract with, or otherwise engage the  
13 services of, a motor carrier of property, until the contracted motor  
14 carrier of property provides certification in the manner prescribed  
15 by this section, of compliance with subdivision (a). This  
16 certification shall be completed by the contracted motor carrier of  
17 property and shall include a provision requiring the contracted  
18 motor carrier of property to immediately notify the person to whom  
19 they are contracted if the contracted motor carrier of property's  
20 permit is suspended or revoked. A copy of the contracted motor  
21 carrier of property's permit shall accompany the required  
22 certificate. The Department of the California Highway Patrol shall,  
23 by regulation, prescribe the format for the certificate and may make  
24 available an optional specific form for that purpose. The certificate,  
25 or a copy thereof, shall be maintained by each involved party for  
26 the duration of the contract or period of service plus two years,  
27 and shall be presented for inspection at the location designated by  
28 each carrier under Section 34501.10, immediately upon the request  
29 of an authorized employee of the Department of the California  
30 Highway Patrol.

31 SEC. 3. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 the only costs that may be incurred by a local agency or school  
34 district will be incurred because this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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