

AMENDED IN SENATE AUGUST 31, 2009

AMENDED IN ASSEMBLY APRIL 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 951

Introduced by Assembly Member Lieu
(Coauthor: Assembly Member Jones)

February 26, 2009

An act to amend Sections 5378, 5378.5, 5411, 5411.3, 5412, 5412.2, 5413, 5413.5, and 5414 of the Public Utilities Code, relating to charter-party carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 951, as amended, Lieu. Charter-party carriers.

The Passenger Charter-Party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission. The act imposes a maximum fine of not more than \$1,000 in its general penalty provision for any violation or failure to comply with the act, an order or other requirement of the commission, or an operating permit or certificate, or aiding and abetting such a violation. The act also imposes maximum fines, and in certain cases, minimum fines for specific violations of the act, including, for conviction of operating a charter-party carrier of passengers or a taxicab without a valid certificate or permit, a maximum mandatory fine of \$2,500 for a first conviction, or \$5,000 for a subsequent conviction.

This bill would revise that general penalty to set a minimum fine of \$1,000 and a maximum fine of \$5,000. The bill, for conviction of

operating a charter-party carrier of passengers or a taxicab without a valid certificate, would increase mandatory fines for charter-party carriers of passengers, subjecting them to a maximum fine of \$10,000 for a first conviction and \$25,000 for a subsequent conviction. The bill would also increase a number of other existing fees, fines, and penalties for specific violations of the act.

The bill would become operative only if AB 636 of the 2009–10 Regular Session is enacted and becomes operative on or before January 1, 2010.

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 5378 of the Public Utilities Code is
2 amended to read:
3 5378. (a) The commission may cancel, revoke, or suspend any
4 operating permit or certificate issued pursuant to this chapter upon
5 any of the following grounds:
6 (1) The violation of any of the provisions of this chapter, or of
7 any operating permit or certificate issued thereunder.
8 (2) The violation of any order, decision, rule, regulation,
9 direction, demand, or requirement established by the commission
10 pursuant to this chapter.
11 (3) The conviction of the charter-party carrier of passengers of
12 any misdemeanor under this chapter while holding operating
13 authority issued by the commission or the conviction of the carrier
14 or its officers of a felony while holding operating authority issued
15 by the commission, limited to robbery, burglary, larceny, fraud,
16 or intentional dishonesty for personal gain.
17 (4) The rendition of a judgment against the charter-party carrier
18 of passengers for any penalty imposed under this chapter.
19 (5) The failure of a charter-party carrier of passengers to pay
20 any fee imposed upon the carrier within the time required by law.
21 (6) On request of the holder of the permit or certificate.
22 (7) Failure of a permit or certificate holder to operate and
23 perform reasonable service. That failure may include repeated
24 violations of the Vehicle Code or of regulations contained in Title
25 13 of the California Code of Regulations relative to motor vehicle
26 safety, by employees of the permitholder or certificate holder, that

1 support an inference of unsafe operation or willful neglect of the
2 public safety by the permitholder or certificate holder.

3 (8) Consistent failure of the charter-party carrier of passengers
4 to maintain its vehicles in a safe operating condition and in
5 compliance with the Vehicle Code and with regulations contained
6 in Title 13 of the California Code of Regulations relative to motor
7 vehicle safety, as shown by the records of the commission, the
8 Department of Motor Vehicles, the Department of the California
9 Highway Patrol, or the carrier.

10 (9) The knowing and willful filing of a false report that
11 understates revenues and fees.

12 (b) The commission may levy a civil penalty of up to seven
13 thousand five hundred dollars (\$7,500) upon the holder of an
14 operating permit or certificate issued pursuant to this chapter, for
15 any of the grounds specified in subdivision (a), as an alternative
16 to canceling, revoking, or suspending the permit or certificate. The
17 commission may also levy interest upon the civil penalty, which
18 shall be calculated as of the date on which the civil penalty is
19 unpaid and delinquent. The commission shall deposit at least
20 monthly all civil penalties and interest collected pursuant to this
21 section into the General Fund.

22 SEC. 2. Section 5378.5 of the Public Utilities Code is amended
23 to read:

24 5378.5. (a) Upon receipt of a written recommendation from
25 the Department of the California Highway Patrol that the certificate
26 or permit of a charter-party carrier be suspended either (1) for
27 failure to maintain any vehicle used in transportation for
28 compensation in a safe operating condition or to comply with the
29 Vehicle Code or with regulations contained in Title 13 of the
30 California Code of Regulations relative to motor carrier safety if
31 that failure is either a consistent failure or presents an imminent
32 danger to public safety, or (2) for failure to enroll all drivers in the
33 pull notice system as required by Section 1808.1 of the Vehicle
34 Code, the commission shall, pending a hearing in the matter
35 pursuant to subdivision (d), suspend the carrier's certificate or
36 permit. The written recommendation shall specifically indicate
37 compliance with subdivision (c).

38 (b) A carrier whose certificate or permit is suspended pursuant
39 to subdivision (a) may obtain a reinspection of its terminal and
40 vehicles by the department, by submitting a written request for

1 reinstatement to the commission and paying a reinstatement fee
2 of one thousand dollars (\$1,000). The commission shall deposit
3 all reinstatement fees collected pursuant to this subdivision in the
4 Public Utilities Commission Transportation Reimbursement
5 Account. The commission shall then forward a request for
6 reinspection to the department which shall then perform a
7 reinspection within a reasonable time. The commission shall
8 reinstate a carrier's certificate or permit suspended under
9 subdivision (a) promptly upon receipt of a written recommendation
10 from the department that the carrier's safety compliance has
11 improved to the satisfaction of the department, unless the certificate
12 or permit is suspended for another reason, or has been revoked.

13 (c) Before transmitting a recommendation pursuant to
14 subdivision (a) to the commission, the Department of the California
15 Highway Patrol shall notify the charter-party carrier in writing of
16 all of the following:

17 (1) That the department has determined that the carrier's safety
18 record is unsatisfactory, furnishing a copy of any documentation
19 or summary of any other evidence supporting the determination.

20 (2) That the determination may result in suspension or
21 revocation of the carrier's certificate or permit by the commission.

22 (3) That the carrier may request a review of the determination
23 by the department within five days of its receipt of the notice
24 required under this subdivision. If a review pursuant to this
25 paragraph is requested by the carrier, the department shall conduct
26 and evaluate that review prior to transmitting any notification to
27 the commission pursuant to subdivision (a).

28 (d) Whenever the commission suspends the certificate or permit
29 of any charter-party carrier pursuant to subdivision (a), the
30 commission shall furnish the carrier written notice of the
31 suspension and shall hold a hearing within a reasonable time, not
32 to exceed 21 days, after a written request therefor is filed with the
33 commission, with a copy thereof furnished to the Department of
34 the California Highway Patrol. At the hearing, the carrier shall
35 show cause why the suspension should not be continued. At the
36 conclusion of the hearing, the commission may, in addition to any
37 other penalty provided in this chapter, terminate the suspension,
38 continue the suspension in effect, or revoke the certificate or
39 permit. The commission may revoke the certificate or permit of
40 any carrier suspended pursuant to subdivision (a) at any time 90

1 days or more after its suspension if the commission has not
2 received a written recommendation for reinstatement from the
3 department and the carrier has not filed a written request for a
4 hearing with the commission.

5 (e) If the commission, after a hearing, finds that a charter-party
6 carrier has continued to operate as such a carrier after its certificate
7 or permit has been suspended pursuant to subdivision (a), the
8 commission shall do one of the following:

9 (1) Revoke the operating certificate or permit of the carrier.

10 (2) Impose upon the holder of the certificate or permit a civil
11 penalty of not less than one thousand five hundred dollars (\$1,500)
12 nor more than seven thousand five hundred dollars (\$7,500) for
13 each day of unlawful operations.

14 SEC. 3. Section 5411 of the Public Utilities Code is amended
15 to read:

16 5411. Every charter-party carrier of passengers and every
17 officer, director, agent, or employee of any charter-party carrier
18 of passengers who violates or who fails to comply with, or who
19 procures, aids, or abets any violation by any charter-party carrier
20 of passengers of any provision of this chapter, or who fails to obey,
21 observe, or comply with any order, decision, rule, regulation,
22 direction, demand, or requirement of the commission, or of any
23 operating permit or certificate issued to any charter-party carrier
24 of passengers, or who procures, aids, or abets any charter-party
25 carrier of passengers in its failure to obey, observe, or comply with
26 any such order, decision, rule, regulation, direction, demand,
27 requirement, or operating permit or certificate, is guilty of a
28 misdemeanor and is punishable by fine of not less than one
29 thousand dollars (\$1,000) and not more than five thousand dollars
30 (\$5,000) or by imprisonment in the county jail for not more than
31 three months, or both.

32 SEC. 4. Section 5411.3 of the Public Utilities Code is amended
33 to read:

34 5411.3. Every charter-party carrier of passengers, and every
35 officer, director, agent, or employee of a charter-party carrier of
36 passengers, who displays on any vehicle any identifying symbol
37 other than one prescribed by the commission pursuant to Section
38 5385, or who fails to remove an identifying symbol when required
39 by the commission, is guilty of a misdemeanor and is punishable
40 by a fine of not more than two thousand five hundred dollars

1 (\$2,500), by imprisonment in the county jail for not more than one
2 year, or by both.

3 SEC. 5. Section 5412 of the Public Utilities Code is amended
4 to read:

5 5412. Every corporation or person other than a charter-party
6 carrier of passengers, who knowingly and willfully, either
7 individually, or acting as an officer, agent, or employee of a
8 corporation, copartnership, or any other person other than a
9 charter-party carrier of passengers, violates any provision of this
10 chapter or fails to observe, obey, or comply with any order,
11 decision, rule, regulation, direction, demand, or requirement of
12 the commission, or who procures, aids, or abets any charter-party
13 carrier of passengers in its violation of this chapter, or in its failure
14 to obey, observe, or comply with any such order, decision, rule,
15 regulation, direction, demand, or requirement, is guilty of a
16 misdemeanor, and is punishable by a fine of not more than two
17 thousand dollars (\$2,000) or by imprisonment in the county jail
18 for not more than three months, or both.

19 SEC. 6. Section 5412.2 of the Public Utilities Code is amended
20 to read:

21 5412.2. (a) When a person is convicted of the offense of
22 operating a taxicab without a valid certificate or permit, in addition
23 to any other penalties provided by law, if the court determines the
24 operator has the ability to pay, the court shall impose a mandatory
25 fine not exceeding two thousand five hundred dollars (\$2,500) for
26 a first conviction or five thousand dollars (\$5,000) for a subsequent
27 conviction.

28 (b) When a person is convicted of the offense of operating a
29 charter-party carrier of passengers without a valid certificate or
30 permit, in addition to any other penalties provided by law, if the
31 court determines the operator has the ability to pay, the court shall
32 impose a mandatory fine not exceeding ten thousand dollars
33 (\$10,000) for a first conviction or twenty-five thousand dollars
34 (\$25,000) for a subsequent conviction.

35 (c) As used in this section, "taxicab" means a passenger vehicle
36 designed for carrying not more than eight persons, excluding the
37 driver, and used to carry passengers for hire. "Taxicab" shall not
38 include a charter-party carrier of passengers within the meaning
39 of this chapter.

1 SEC. 7. Section 5413 of the Public Utilities Code is amended
2 to read:

3 5413. Every charter-party carrier of passengers and every
4 officer, director, agent, or employee of any charter-party carrier
5 of passengers who violates or who fails to comply with, or who
6 procures, aids, or abets, any violation by any charter-party carrier
7 of passengers of any provision of this chapter, or who fails to obey,
8 observe, or comply with any order, decision, rule, regulation,
9 direction, demand, or requirement of the commission, or of any
10 operating permit or certificate issued to any charter-party carrier
11 of passengers, or who procures, aids, or abets any charter-party
12 carrier of passengers in its failure to obey, observe, or comply with
13 any such order, decision, rule, regulation, direction, demand,
14 requirement, or operating permit, or certificate, is subject to a
15 penalty of not more than two thousand dollars (\$2,000) for each
16 offense.

17 SEC. 8. Section 5413.5 of the Public Utilities Code is amended
18 to read:

19 5413.5. (a) Whenever the commission, after hearing, finds
20 that any person or corporation is operating as a charter-party carrier
21 of passengers, including a charter-party carrier operating a
22 limousine, without a valid certificate or permit, or fails to include
23 in any written or oral advertisement the number of the certificate
24 or permit required by Section 5386, the commission may impose
25 a fine of not more than seven thousand five hundred dollars
26 (\$7,500) for each violation. The commission may assess the person
27 or corporation an amount sufficient to cover the reasonable expense
28 of investigation incurred by the commission. The commission may
29 assess interest on any fine or assessment imposed, to commence
30 on the day the payment of the fine or assessment becomes
31 delinquent. All fines, assessments, and interest collected shall be
32 deposited at least once each month in the General Fund.

33 (b) Whenever the commission, after hearing, finds that any
34 person or corporation is operating a charter-party carrier of
35 passengers as a taxicab without a valid certificate or permit in
36 violation of an ordinance or resolution of a city, county, or city
37 and county, the commission may impose a fine of not more than
38 five thousand dollars (\$5,000) for each violation. The commission
39 may assess the person or corporation an amount sufficient to cover
40 the reasonable expense of investigation incurred by the

1 commission. The commission may assess interest on any fine or
2 assessment imposed, to commence on the day the payment of the
3 fine or assessment becomes delinquent. All fines, assessments,
4 and interest collected shall be deposited at least once each month
5 in the General Fund.

6 SEC. 9. Section 5414 of the Public Utilities Code is amended
7 to read:

8 5414. Every corporation or person other than a charter-party
9 carrier of passengers who knowingly and willfully, either
10 individually, or acting as an officer, agent, or employee of a
11 corporation, copartnership, or any other person other than a
12 charter-party carrier of passengers, violates any provision of this
13 chapter or fails to observe, obey, or comply with any order,
14 decision, rule, regulation, direction, demand, or requirement of
15 the commission, or who procures, aids, or abets any charter-party
16 carrier of passengers in its violation of this chapter, or in its failure
17 to obey, observe, or comply with any such order, decision, rule,
18 regulation, direction, demand, or requirement, is subject to a
19 penalty of not more than two thousand dollars (\$2,000) for each
20 offense.

21 SEC. 10. *This act shall become operative only if Assembly Bill*
22 *636 of the 2009–10 Regular Session is enacted and becomes*
23 *operative on or before January 1, 2010.*