

AMENDED IN SENATE JUNE 14, 2011

AMENDED IN ASSEMBLY MAY 9, 2011

AMENDED IN ASSEMBLY APRIL 11, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 45**

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**Introduced by Assembly Member Hill**

December 6, 2010

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An act to amend Sections 5384.1 and 5384.5 of the Public Utilities Code, and to amend Section 23229.1 of, and to add Section 40000.20 to, the Vehicle Code, relating to charter-party carriers of passengers.

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Hill. Charter-party carriers of passengers: alcoholic beverages: open containers.

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, except as specified, requires the driver of any limousine for hire operated by a charter-party carrier of passengers (carrier) under a valid certificate or permit to comply with prescribed requirements relating to alcoholic beverages, including ascertaining whether any passenger is under the age of 21 years, reading to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, requiring such a passenger to sign the statement, and, if a minor passenger, after signing the statement, is

found to be, or to have been, consuming any alcoholic beverage during the course of the ride, immediately terminating the contract of hire and returning the passenger to the point of origin. The act also subjects the carrier to specified civil penalties, based on the number of offenses, for conviction of a driver, or any officer, director, agent, or employee of the carrier, of a violation of the Vehicle Code that prohibits storage of an opened container of an alcoholic beverage in a motor vehicle.

This bill would expand the application of those alcoholic beverage provisions concerning passengers under ~~the age of 21 years~~ *21 years of age* by applying those requirements, except as specified, to the driver of any vehicle ~~used in the transportation of passengers~~ *providing charter bus transportation* for hire operated by a permitted or certificated carrier *when the driver knows, or has reasonable reason to believe, that alcoholic beverages are, or will be, transported on the bus and accessible to passengers. The bill would authorize a driver that terminates a contract of hire because of a minor's consumption of alcohol, rather than dropping off the offending passengers and their party at the point of origin of the ride, to drop the offending passengers and their party off at the customer's home, nearest police station, or any other point mutually agreed to by both parties, as long as the conditions are safe for the driver.* The bill would subject ~~such a the~~ driver *providing charter bus transportation* to existing open container prohibitions and make the 3rd or subsequent violation of a specified open container prohibition by a driver of any vehicle used in the transportation of passengers for hire operating under a valid certificate or permit a misdemeanor. The bill, by creating a new crime, would impose a state-mandated local program.

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. This act shall be known and may be cited as the
- 2 Brett Studebaker Law.

1 SEC. 2. Section 5384.1 of the Public Utilities Code is amended  
2 to read:

3 5384.1. (a) The driver of any ~~vehicle used in the transportation~~  
4 ~~of passengers~~ *limousine* for hire operated by a charter-party carrier  
5 of passengers under a valid certificate or permit shall do all of the  
6 following:

7 (1) The driver shall ascertain whether any passenger is under  
8 ~~the age of 21 years~~ *21 years of age*.

9 (2) If any passenger is under ~~the age of 21 years~~ *21 years of*  
10 *age*, the driver shall read to the passenger a statement that the  
11 consumption of any alcoholic beverage in the vehicle is unlawful,  
12 that no alcoholic beverage may be transported in the passenger  
13 compartment of the vehicle, that all alcoholic beverages are  
14 required to be carried in the vehicle trunk or other locked  
15 compartment, and that, if during the course of the ride any minor  
16 is found to be, or to have been, consuming any alcoholic beverage,  
17 the contract will be terminated and the customer will be brought  
18 back to the point of origin of the ride *or, at the option of the driver,*  
19 *dropped off at the customer's home, nearest police station, or any*  
20 *other point mutually agreed to by both parties, as long as the*  
21 *conditions are safe for the driver.*

22 (3) After reading the statement described in paragraph (2) to  
23 every passenger under ~~the age of 21 years~~ *21 years of age*, the  
24 driver shall require every passenger under ~~the age of 21 years~~ *21*  
25 *years of age* to sign the statement. The ~~operator of the vehicle~~  
26 *limousine operator* shall retain the signed statement for the period  
27 required by the commission.

28 (4) If any minor passenger, after signing a statement pursuant  
29 to paragraph (3), is found to be, or to have been, consuming any  
30 alcoholic beverage during the course of any ride subject to this  
31 section, the driver shall immediately terminate the contract of hire  
32 and shall return the ~~passengers~~ *offending passengers and their*  
33 *party* to the point of origin of the ride *or, at the option of the driver,*  
34 *dropped off at the customer's home, nearest police station, or any*  
35 *other point mutually agreed to by both parties, as long as the*  
36 *conditions are safe for the driver.*

37 (b) *The driver of a vehicle providing charter bus transportation,*  
38 *as defined in Section 5363, for hire operated by a charter-party*  
39 *carrier of passengers under a valid certificate or permit shall do*  
40 *all of the following when the driver knows, or has reasonable*

1 reason to believe, that alcoholic beverages are, or will be,  
2 transported on the bus and accessible to passengers:

3 (1) The driver shall ascertain whether any passenger is under  
4 21 years of age.

5 (2) If any passenger is under 21 years of age, the driver shall  
6 read to the passenger a statement that the consumption of any  
7 alcoholic beverage in the bus is unlawful, that no alcoholic  
8 beverage may be transported in the passenger compartment of the  
9 bus, that all alcoholic beverages are required to be carried in the  
10 vehicle trunk or other locked compartment, and that, if during the  
11 course of the ride any minor is found to be, or to have been,  
12 consuming any alcoholic beverage, the contract will be terminated  
13 and the customer will be brought back to the point of origin of the  
14 ride or, at the option of the driver, dropped off at the customer's  
15 home, nearest police station, or any other point mutually agreed  
16 to by both parties, as long as the conditions are safe for the driver.

17 (3) After reading the statement described in paragraph (2) to  
18 every passenger under 21 years of age, the driver shall require  
19 every passenger under the age of 21 years to sign the statement.  
20 The driver shall retain the signed statement for the period required  
21 by the commission.

22 (4) If any minor passenger, after signing a statement pursuant  
23 to paragraph (3), is found to be, or to have been, consuming any  
24 alcoholic beverage during the course of any ride subject to this  
25 section, the driver shall immediately terminate the contract of hire  
26 and shall return the offending passengers and their party to the  
27 point of origin of the ride or, at the option of the driver, dropped  
28 off at the customer's home, nearest police station, or any other  
29 point mutually agreed to by both parties, as long as the conditions  
30 are safe for the driver.

31 ~~(b)~~

32 (c) Any failure of a driver to comply with subdivision (a) that  
33 results in the conviction of the driver of a violation of Section  
34 23225 of the Vehicle Code, shall be subject to the penalties  
35 prescribed in Section 5384.5.

36 ~~(e)~~

37 (d) Notwithstanding any other provision of law, this section  
38 does not prohibit a parent or legal guardian from consuming  
39 alcoholic beverages in a vehicle ~~used in the transportation~~

1 *charter-party carrier* of passengers for hire while accompanied  
2 by his or her minor children.

3 ~~(d)~~

4 (e) This section does not apply to the driver of any of the  
5 following:

6 (1) A bus, taxicab, or van exempted from this chapter pursuant  
7 to Section 5353.

8 (2) A pupil activity bus, including any motor vehicle specified  
9 in subdivision (k) of Section 545 of the Vehicle Code.

10 (3) A school pupil activity bus, as defined in Section 546 of the  
11 Vehicle Code.

12 ~~(4) A vehicle for a charter-party carrier that has been engaged  
13 to provide transportation for minors accompanied by a legal  
14 guardian or parent.~~

15 SEC. 3. Section 5384.5 of the Public Utilities Code is amended  
16 to read:

17 5384.5. If the driver of any ~~vehicle used in the transportation~~  
18 *charter-party carrier* of passengers for hire operating under a valid  
19 certificate or permit, or any officer, director, agent, or employee  
20 of a charter-party carrier of passengers operating vehicles used in  
21 the transportation of passengers for hire under such a certificate  
22 or permit, is convicted of a violation of Section 23225 of the  
23 Vehicle Code, the commission, after a hearing, shall do the  
24 following:

25 (a) For a first offense, the commission may impose a civil  
26 penalty of not more than two thousand dollars (\$2,000) upon the  
27 carrier, as determined appropriate by the commission.

28 (b) For a second offense, the commission may impose a civil  
29 penalty of not more than two thousand dollars (\$2,000) upon the  
30 carrier or suspend the carrier's certificate or permit for not more  
31 than 30 days, or both, as determined appropriate by the  
32 commission.

33 (c) For a third offense, the commission shall revoke the carrier's  
34 certificate or permit. A third or subsequent offense shall also be  
35 punishable pursuant to Section 40000.20 of the Vehicle Code.

36 SEC. 4. Section 23229.1 of the Vehicle Code is amended to  
37 read:

38 23229.1. (a) Subject to subdivision (b), Sections 23223 and  
39 23225 apply to any charter-party carrier of passengers, as defined  
40 in Section 5360 of the Public Utilities Code, operating a vehicle

1 ~~used in the transportation of passengers~~ for hire when the driver  
2 of the vehicle transports any passenger ~~under the age of 21~~ 21  
3 *years of age.*

4 (b) For purposes of subdivision (a), it is not a violation of  
5 Section 23225 for any charter-party carrier of passengers operating  
6 ~~a vehicle used in the transportation of passengers~~ for hire that is  
7 licensed pursuant to the Public Utilities Code to keep any bottle,  
8 can, or other receptacle containing any alcoholic beverage in a  
9 locked utility compartment within the area occupied by the driver  
10 and passengers.

11 (c) In addition to the requirements of Section 1803, every clerk  
12 of a court in which any driver in subdivision (a) was convicted of  
13 a violation of Section 23225 shall prepare within 10 days after  
14 conviction, and immediately forward to the Public Utilities  
15 Commission at its office in San Francisco, an abstract of the record  
16 of the court covering the case in which the person was convicted.  
17 If sentencing is not pronounced in conjunction with the conviction,  
18 the abstract shall be forwarded to the commission within 10 days  
19 after sentencing, and the abstract shall be certified, by the person  
20 required to prepare it, to be true and correct. For the purposes of  
21 this subdivision, a forfeiture of bail is equivalent to a conviction.

22 SEC. 5. Section 40000.20 is added to the Vehicle Code, to  
23 read:

24 40000.20. A third or subsequent violation of Section 23225,  
25 relating to storage of an opened container of an alcoholic beverage,  
26 by a driver of any vehicle used in the transportation of passengers  
27 for hire, operating under a valid certificate or permit pursuant to  
28 the Passenger Charter-party Carriers' Act (Chapter 8 (commencing  
29 with Section 5351) of Division 2 of the Public Utilities Code), is  
30 a misdemeanor.

31 SEC. 6. 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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