

**ASSEMBLY BILL**

**No. 2058**

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**Introduced by Assembly Member Pan**

February 23, 2012

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An act to add Section 22928.5 to the Business and Professions Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2058, as introduced, Pan. Intermodal marine terminals.

Existing law imposes certain limitations on charges that may be imposed by intermodal marine terminals on intermodal motor carriers relative to transactions involving cargo shipped by intermodal transport.

This bill would require an intermodal marine terminal that imposes certain financial responsibility requirements on an intermodal motor carrier pursuant to the Uniform Intermodal Interchange and Facilities Access Agreement or with respect to certain hazardous substances to post a notice to that effect at its gate and online, as specified. The bill would prohibit the intermodal marine terminal from imposing other financial responsibility requirements except as may be required by federal law.

This bill would also prohibit an intermodal marine terminal from restricting access by intermodal motor carriers to its terminal under specified circumstances.

This bill would make legislative findings and declarations.

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

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

1 SECTION 1. The Legislature finds and declares that intermodal  
2 motor carriers are subject to additional risks, and subject others to  
3 additional risks, when operating within an intermodal marine  
4 terminal as a result of the movement of intermodal marine  
5 equipment, the nature of intermodal marine terminal operations,  
6 and the diversity of hazardous cargoes handled at an intermodal  
7 marine terminal.

8 SEC. 2. Section 22928.5 is added to the Business and  
9 Professions Code, to read:

10 22928.5. (a) If an intermodal marine terminal requires an  
11 intermodal motor carrier to comply with the minimum financial  
12 responsibility requirements of the Uniform Intermodal Interchange  
13 and Facilities Access Agreement, or any other agreement that  
14 secures equipment interchanges rights of both an intermodal marine  
15 equipment provider and an intermodal motor carrier, in order to  
16 gain access to the terminal, then the terminal shall post a notice at  
17 its gate and online.

18 (b) If oil, poison gas, explosives, hazardous waste, radioactive  
19 materials, or any other hazardous substances classified as  
20 commodities specified by the United States Department of  
21 Transportation in Section 387.9 of Title 49 of the Code of Federal  
22 Regulations are regularly stored, transported, or shipped at an  
23 intermodal marine terminal, then the terminal may require all  
24 intermodal motor carriers to comply with the minimum financial  
25 responsibility requirements for the commodities that are present  
26 in order to gain access to the terminal only after that terminal has  
27 posted the required notice at its gate and online. If additional  
28 minimum financial responsibility requirements are required for  
29 terminal access because of the presence of a certain hazardous  
30 commodity, then those requirements may only be imposed in an  
31 amount that is identical to that which would be required for carriage  
32 of those hazardous substances identified in paragraph (1), (2), (3),  
33 or (4) of subdivision (a) of Section 34631.5 of the Vehicle Code.

34 (c) Except as otherwise allowed by federal law, no minimum  
35 financial responsibility requirements for terminal access for an  
36 intermodal motor carrier shall be adopted by an intermodal marine  
37 terminal other than those described in subdivisions (a) and (b).

1 (d) Nothing in this section, including the presence of any  
2 hazardous substances referenced in subdivision (b), shall be  
3 construed as requiring any intermodal marine terminal to require  
4 any intermodal motor carrier to provide additional minimum  
5 financial responsibility.

6 (e) An intermodal marine terminal operator shall not restrict  
7 access of an intermodal motor carrier to an intermodal marine  
8 terminal under any of the following circumstances:

9 (1) The intermodal motor carrier is using the dispute resolution  
10 process contained in the Uniform Intermodal Interchange and  
11 Facilities Access Agreement to contest a charge, fee, or fine,  
12 including a charge for maintenance and repairs imposed by the  
13 intermodal marine terminal, as long as the dispute resolution  
14 process is ongoing.

15 (2) A specific vehicle or driver is unable to provide proof of  
16 compliance with minimum levels of financial responsibility,  
17 provided that the intermodal motor carrier is otherwise in  
18 compliance with subdivision (a) or (b), if applicable.

19 (3) The failure of an intermodal motor carrier to comply with  
20 the additional minimum financial responsibility requirement under  
21 subdivision (b), if the intermodal marine terminal has failed to  
22 post a notice, as required, for at least 60 days prior to  
23 implementation of the requirement.

24 (f) An intermodal marine terminal may choose to end any  
25 additional minimum financial responsibility requirement at any  
26 time and for any reason. In that case, the intermodal marine  
27 terminal operator shall post a notice at its gate and online to that  
28 effect.

29 (g) For purposes of this section, “post a notice at its gate and  
30 online” means that written notification is posted at the terminal  
31 gate used by intermodal motor carriers and electronic notification  
32 is posted on the terminal’s Internet Web site and is accessible to  
33 the public.

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