

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 529

Introduced by Assembly Member Lowenthal

February 20, 2013

An act to amend, repeal, and add Sections 7235 and 7236 of the Revenue and Taxation Code, and to amend Section 34622 of, to repeal Section 34606 of, and to amend, repeal, and add Sections 34501.12, 34505.5, 34505.6, 34515, 34601, 34623, and 40000.22 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 529, as amended, Lowenthal. Vehicles: motor carriers: inspections and fees.

Existing law establishes the Biennial Inspection of Terminals Program (BIT) to ensure the safe operation of certain vehicles by a motor carrier through the inspection of these vehicles at the motor carrier's terminal by the Department of the California Highway Patrol. Existing law defines a motor carrier, for this purpose, as the registered owner of, and in some cases the lessee or person exclusively authorizing and directing the operation of, specified vehicles. Existing law requires, within 30 days of establishing a terminal, a motor carrier to schedule an inspection by submitting to the department an application for a terminal inspection accompanied by the payment of a fee the amount of which is based on the number of vehicles in a terminal or the "terminal fleet size." Existing law requires the department to inspect every terminal at least once every 25 months and defines a terminal as the location or locations designated by the motor carrier where subject vehicles and specific records are available for inspection.

This bill would revise and recast these provisions as the Basic Inspection of Terminals (BIT) program. The bill would define motor carrier for this purpose as the registered owner, lessee, licensee, or bailee of specified vehicles. The bill would authorize the department to conduct terminal inspections at any time. The bill would require the department, on or before January 1, 2016, to implement a performance-based truck terminal inspection priority system similar to that used by the Federal Motor Carrier Safety Administration that would require the department to place an inspection priority on motor carrier terminals never previously inspected by the department. Nonpriority terminals would not be required to be inspected less than 6 years since their last inspection.

Existing law provides that it is a misdemeanor for a motor carrier to operate a vehicle without having submitted an inspection application and the required fees to the department, as specified.

This bill would revise those provisions to make it a misdemeanor for a motor carrier to operate any of specified types of vehicles without identifying to the department all terminals in this state where vehicles may be inspected by the department and where vehicle inspection and maintenance records and driver records will be made available for inspection. The bill would require the lessor of certain vehicles to make vehicles available for inspection upon request of an authorized representative of the department in the course of inspecting the terminal of the lessee. The bill would make a violation of these provisions a misdemeanor. The bill would make it a misdemeanor for a motor carrier to operate or cause to be operated any of specified vehicles unless the motor carrier is knowledgeable of, and in compliance with, all applicable statutes and regulations.

By expanding the provisions of existing law, the violation of which is an offense, this bill would impose a state-mandated local program.

The bill would require a motor carrier to make vehicles and records available for inspection upon request by the department and to pay a carrier inspection fee, the amount to be based on the size of the motor carrier's fleet. The bill would impose a penalty for failure to pay the fee. The bill would make other technical and conforming changes to the BIT 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.

~~Existing law establishes the Biennial Inspection of Terminals Program to ensure the safe operation of certain vehicles by a motor carrier through the inspection of these vehicles at the motor carrier's terminal by the Department of the California Highway Patrol. Existing law imposes certain fees on a motor carrier of property, and requires that the Department of the California Highway Patrol recommend that the Department of Motor Vehicles suspend or revoke a motor carrier's permit if it determines that the motor carrier failed to pay specified fees.~~

~~This bill would declare the intent of the Legislature to enact legislation to streamline the commercial truck inspection system and to transfer duties relating to the accounting of motor carrier fees to the Department of Motor Vehicles.~~

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

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

1 SECTION 1. Section 7235 of the Revenue and Taxation Code
2 is amended to read:

3 7235. (a) The Safety Fee imposed by this chapter shall be paid
4 by all motor carriers of property, as defined in Section 34601 of
5 the Vehicle Code.

6 (b) *This section shall remain in effect only until January 1, 2016,*
7 *and as of that date is repealed, unless a later enacted statute, that*
8 *is enacted before January 1, 2016, deletes or extends that date.*

9 SEC. 2. Section 7235 is added to the Revenue and Taxation
10 Code, to read:

11 7235. (a) *The Safety Fee and Carrier Inspection Fee imposed*
12 *by this chapter shall be paid by all motor carriers of property, as*
13 *defined in Section 34601 of the Vehicle Code.*

14 (b) *This section shall become operative on January 1, 2016.*

15 SEC. 3. Section 7236 of the Revenue and Taxation Code is
16 amended to read:

17 7236. (a) Uniform business license tax fee payments collected
18 by the Department of Motor Vehicles pursuant to Section 7232
19 shall be deposited in the State Treasury to the credit of the General
20 Fund. All other funds collected by the Department of Motor
21 Vehicles pursuant to Section 7232 shall be deposited in the State

1 Treasury to the credit of the Motor Vehicle Account in the State
2 Transportation Fund. The following fees shall be paid to the
3 department:

4 (1) For-hire motor carriers of property shall pay, according to
5 the following schedule, fees indicated as the safety fee and uniform
6 business license tax fee, based on the size of their motor vehicle
7 fleet.

8 (2) Private carriers of property with a fleet size of 10 or less
9 motor vehicles shall pay a fee of thirty-five dollars (\$35). Private
10 carriers of property with a fleet size of 11 or more motor vehicles
11 shall pay, according to the following schedule, fees indicated as
12 the safety fee, based on the size of their motor vehicle fleet. Any
13 carrier that does not pay a uniform business license tax fee shall
14 not operate as a for-hire motor carrier.

15 (3) A seasonal permit may be issued to a motor carrier of
16 property upon payment of fees indicated as the safety fee and
17 one-twelfth of the fee indicated as the uniform business license
18 tax fee, rounded to the next dollar, for each month the permit is
19 valid. The original seasonal permit shall be valid for a period of
20 not less than six months, and may be renewed upon payment of a
21 five-dollar (\$5) fee, and one-twelfth of the fee indicated as a
22 uniform business license tax fee for each additional month of
23 operation.
24

25	Fleet Size—Commercial		Uniform
26	Motor Vehicles Fee	Safety Fee	Business
27			License Tax
28	1	\$60	\$60
29	2-4	\$75	\$125
30	5-10	\$200	\$275
31	11-20	\$240	\$470
32	21-35	\$325	\$650
33	36-50	\$430	\$880
34	51-100	\$535	\$1,075
35	101-200	\$635	\$1,300
36	201-500	\$730	\$1,510
37	501-1,000	\$830	\$1,715
38	1,001-2,000	\$930	\$1,900
39	2,001-over	\$1,030	\$2,000
40			

1 Notwithstanding the above fee schedule, motor carriers of
2 property with 10 or fewer trucks shall not pay fees higher than
3 they would have paid under the fee structure in place as of January
4 1, 1996. Notwithstanding Section 34606 of the Vehicle Code, fees
5 for these carriers shall not be subject to an increase by the
6 Department of Motor Vehicles.

7 (b) Funds derived from safety fees shall remain in the Motor
8 Vehicle Account in the State Transportation Fund and shall be
9 available for appropriation by the Legislature to cover costs
10 incurred by the Department of Motor Vehicles and the Department
11 of the California Highway Patrol in regulating motor carriers of
12 property pursuant to Division 14.85 (commencing with Section
13 34600) of the Vehicle Code.

14 (c) It is the intent of the Legislature that the fee schedule
15 established in subdivision (a) shall not discriminate against small
16 fleet or individual vehicle operators or result in a disproportionate
17 share of those fees being assigned to small fleet or individual
18 vehicle operators.

19 (d) *This section shall remain in effect only until January 1, 2016,*
20 *and as of that date is repealed, unless a later enacted statute, that*
21 *is enacted before January 1, 2016, deletes or extends that date.*

22 *SEC. 4. Section 7236 is added to the Revenue and Taxation*
23 *Code, to read:*

24 *7236. (a) Uniform business license tax fee payments collected*
25 *by the Department of Motor Vehicles pursuant to Section 7232*
26 *shall be deposited in the State Treasury to the credit of the General*
27 *Fund. All other funds collected by the Department of Motor*
28 *Vehicles pursuant to Section 7232 shall be deposited in the State*
29 *Treasury to the credit of the Motor Vehicle Account in the State*
30 *Transportation Fund. The following fees shall be paid to the*
31 *department:*

32 *(1) For-hire motor carriers of property shall pay, according to*
33 *the schedule in subdivision (c), fees indicated as the safety fee,*
34 *Carrier Inspection Fee, and uniform business license tax fee, based*
35 *on the size of their motor vehicle fleet.*

36 *(2) (A) Private carriers of property with a fleet size of 10 or*
37 *less motor vehicles shall pay a safety fee of thirty-five dollars*
38 *(\$35). Private carriers of property with a fleet size of 11 or more*
39 *motor vehicles shall pay, according to the schedule in subdivision*
40 *(c), fees indicated as the safety fee, based on the size of their motor*

1 vehicle fleet. Any carrier that does not pay a uniform business
 2 license tax fee shall not operate as a for-hire motor carrier.

3 (B) Private carriers of property shall pay, according to the
 4 schedule of fees in subdivision (c), fees indicated as the carrier
 5 inspection fee based on the size of the motor vehicle fleet.

6 (b) "Fleet size" as used in this section, does not include vehicles
 7 described in subdivision (e) of Section 34500.

8 (c) (1) A seasonal permit may be issued to a motor carrier of
 9 property upon payment of fees indicated as the safety fee and
 10 one-twelfth of the fee indicated as the uniform business license tax
 11 fee, rounded to the next dollar, for each month the permit is valid.
 12 The original seasonal permit shall be valid for a period of not less
 13 than six months, and may be renewed upon payment of a five-dollar
 14 (\$5) fee, and one-twelfth of the fee indicated as a uniform business
 15 license tax fee for each additional month of operation.

16	Fleet Size	Safety	Uniform	Carrier
17	Commercial	Fee	Business	Inspection
18	Vehicles Fee	Fee	License Tax	Fee
19	1	\$60	\$60	\$130
20	2-4	\$75	\$125	\$152
21	5-10	\$200	\$275	\$252
22	11-20	\$240	\$470	\$573
23	21-35	\$325	\$650	\$743
24	36-50	\$430	\$880	\$961
25	51-100	\$535	\$1,075	\$1,112
26	101-200	\$635	\$1,300	\$1,463
27	201-500	\$730	\$1,510	\$1,512
28	501-1,000	\$830	\$1,715	\$1,600
29	1,001-2,000	\$930	\$1,900	\$1,800
30	2,001-over	\$1,030	\$2,000	\$2,114

31
 32
 33 (2) Notwithstanding the fee schedule in paragraph (1), except
 34 for the carrier inspection fee, motor carriers of property with 10
 35 or fewer trucks shall not pay fees higher than they would have
 36 paid under the fee schedule applicable as of January 1, 1996.

37 (d) Failure to pay fees required by this section, within the
 38 appropriate timeframe, shall result in additional delinquent fees
 39 as follows:

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

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

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

7 (e) Funds derived from safety fees shall remain in the Motor
8 Vehicle Account in the State Transportation Fund and shall be
9 available for appropriation by the Legislature to cover costs
10 incurred by the Department of Motor Vehicles and the Department
11 of the California Highway Patrol in regulating and inspecting
12 motor carriers of property pursuant to Division 14.8 (commencing
13 with Section 34500) and Division 14.85 (commencing with Section
14 34600) of the Vehicle Code.

15 (f) All Carrier Inspection Fees collected pursuant to this section
16 shall be deposited in the Motor Vehicle Account in the State
17 Transportation Fund. An amount equal to the Carrier Inspection
18 Fees collected shall be made available for appropriation by the
19 Legislature from the Motor Vehicle Account to the department for
20 the purpose of conducting truck terminal inspections and roadside
21 safety inspections required by Section 34514 of the Vehicle Code.

22 (g) It is the intent of the Legislature that the fee schedule
23 established in subdivision (c) shall not discriminate against small
24 fleet or individual vehicle operators or result in a disproportionate
25 share of those fees being assigned to small fleet or individual
26 vehicle operators.

27 (h) This section shall become operative on January 1, 2016.

28 SEC. 5. Section 34501.12 of the Vehicle Code is amended to
29 read:

30 34501.12. (a) Notwithstanding Section 408, as used in this
31 section and Sections 34505.5 and 34505.6, “motor carrier” means
32 the registered owner of a vehicle described in subdivision (a), (b),
33 (e), (f), or (g) of Section 34500, except in the following
34 circumstances:

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

38 (2) The registered owner operates the vehicle exclusively under
39 the authority and direction of another person. If the operation is
40 exclusively under the authority and direction of another person,

1 that other person may assume the responsibilities as the motor
2 carrier. If not so assumed, the registered owner is the motor carrier.
3 A person who assumes the motor carrier responsibilities of another
4 pursuant to subdivision (b) shall provide to that other person whose
5 motor carrier responsibility is so assumed, a completed copy of a
6 departmental form documenting that assumption, stating the period
7 for which responsibility is assumed, and signed by an agent of the
8 assuming person. A legible copy shall be carried in each vehicle
9 or combination of vehicles operated on the highway during the
10 period for which responsibility is assumed. That copy shall be
11 presented upon request by an authorized employee of the
12 department. The original completed departmental form
13 documenting the assumption shall be provided to the department
14 within 30 days of the assumption. If the assumption of
15 responsibility is terminated, the person who had assumed
16 responsibility shall so notify the department in writing within 30
17 days of the termination.

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

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

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

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

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

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

3 (A) "Driver records" includes pull notice system records, driver
4 proficiency records, and driver timekeeping records.

5 (B) "Maintenance records" includes all required maintenance,
6 lubrication, and repair records and drivers' daily vehicle condition
7 reports.

8 (C) "Representative sample" means the following, applied
9 separately to the carrier's fleet of motortrucks and truck tractors
10 and its fleet of trailers:

11	Fleet Size	Representative Sample
12	1 or 2	All
13	3 to 8	3
14	9 to 15	4
15	16 to 25	6
16	26 to 50	9
17	51 to 90	14
18	91 or more	20
19		
20		
21		

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

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

32 (2) The department shall place an inspection priority on those
33 terminals operating vehicles listed in subdivision (g) of Section
34 34500.

35 (3) As used in this section and in Sections 34505.5 and 34505.6,
36 subdivision (f) of Section 34500 includes only those combinations
37 where the gross vehicle weight rating (GVWR) of the towing
38 vehicle exceeds 10,000 pounds, but does not include a pickup
39 truck, and subdivision (g) of Section 34500 includes only those
40 vehicles transporting hazardous material for which the display of

1 placards is required pursuant to Section 27903, a license is required
 2 pursuant to Section 32000.5, or for which hazardous waste
 3 transporter registration is required pursuant to Section 25163 of
 4 the Health and Safety Code. Historical vehicles, as described in
 5 Section 5004, vehicles that display special identification plates in
 6 accordance with Section 5011, implements of husbandry and farm
 7 vehicles, as defined in Chapter 1 (commencing with Section 36000)
 8 of Division 16, and vehicles owned or operated by an agency of
 9 the federal government are not subject to this section or to Sections
 10 34505.5 and 34505.6.

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

18 (2) (A) The fee for each terminal is set forth in the following
 19 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

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

35 (3) Except as provided in paragraph (5), the inspection term for
 36 each inspected terminal of a motor carrier shall expire 25 months
 37 from the date the terminal receives a satisfactory compliance rating,
 38 as specified in subdivision (h). Applications and fees for subsequent
 39 inspections shall be submitted not earlier than nine months and
 40 not later than seven months before the expiration of the motor

1 carrier's then current inspection term. If the motor carrier has
2 submitted the inspection application and the required
3 accompanying fees, but the department is unable to complete the
4 inspection within the 25-month inspection period, then no
5 additional fee shall be required for the inspection requested in the
6 original application.

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

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

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

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

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

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

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

38 (f) It is unlawful for a motor carrier to operate a vehicle subject
39 to this section without having submitted an inspection application

1 and the required fees to the department as required by subdivision
2 (e) or (h).

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

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

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

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

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

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

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

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

39 (4) Applications for reinspection pursuant to paragraph (3) or
40 for second and subsequent consecutive reinspections under this

1 subdivision shall be accompanied by the fee specified in paragraph
2 (2) of subdivision (e) and shall be filed within 60 days of issuance
3 of the unsatisfactory compliance rating. The reinspection fee is
4 nonrefundable.

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

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

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

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

36 (2) Unless the department's evaluation of the motor carrier's
37 safety record indicates a declining level of compliance, a terminal
38 that has attained two consecutive satisfactory compliance ratings
39 assigned following inspections conducted pursuant to subdivision
40 (d) is eligible for an administrative review in lieu of the next

1 required inspection, unless the terminal has received an
2 unsatisfactory compliance rating as a result of an inspection
3 conducted in the interim between the consecutive inspections
4 conducted under subdivision (d). An administrative review shall
5 consist of all of the following:

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

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

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

20 (3) Not more than two administrative reviews may be conducted
21 consecutively. At the completion of the 25-month inspection term
22 following a second administrative review, a terminal inspection
23 shall be conducted pursuant to subdivision (d). If this inspection
24 results in a satisfactory compliance rating, the terminal shall again
25 be eligible for an administrative review in lieu of the next required
26 inspection. If the succession of satisfactory ratings is interrupted
27 by a rating of other than satisfactory, irrespective of the reason for
28 the inspection, the terminal shall again attain two consecutive
29 satisfactory ratings to become eligible for an administrative review.

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

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

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

3 (l) *The department shall, on or before January 1, 2016, adopt*
4 *regulations establishing a performance-based truck terminal*
5 *inspection priority selection system.*

6 (m) *This section shall remain in effect only until January 1,*
7 *2016, and as of that date is repealed, unless a later enacted statute,*
8 *that is enacted before January 1, 2016, deletes or extends that*
9 *date.*

10 SEC. 6. *Section 34501.12 is added to the Vehicle Code, to*
11 *read:*

12 34501.12. (a) *Vehicles and the operation thereof, subject to*
13 *this section, are those described in subdivision (a), (b), (e), (f),*
14 *(g), (j), or (k) of Section 34500.*

15 (b) *It is unlawful for a motor carrier to operate any vehicle of*
16 *a type described in subdivision (a) without identifying to the*
17 *department all terminals, as defined in Section 34515, in this state*
18 *where vehicles may be inspected by the department pursuant to*
19 *paragraph (4) of subdivision (a) of Section 34501 and where*
20 *vehicle inspection and maintenance records and driver records*
21 *will be made available for inspection. Motor carriers shall make*
22 *vehicles and records available for inspection upon request by an*
23 *authorized representative of the department. If a motor carrier*
24 *fails to provide vehicles and records, an unsatisfactory terminal*
25 *rating shall be issued by the department.*

26 (1) *The number of vehicles that will be selected for inspection*
27 *by the department at a terminal shall be based on terminal fleet*
28 *size and applied separately to a terminal fleet of power units and*
29 *trailers, according to the following schedule:*

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

40

1 (2) *The lessor of any vehicle described in subdivision (a) shall*
2 *make vehicles available for inspection upon request of an*
3 *authorized representative of the department in the course of*
4 *inspecting the terminal of the lessee. This section does not affect*
5 *whether the lessor or driver provided by the lessor is an employee*
6 *of the authorized carrier lessee, and compliance with this section*
7 *and its attendant administrative requirements does not imply an*
8 *employee-employer relationship.*

9 (c) (1) *The department may inspect any terminal, as defined in*
10 *Section 34515, of a motor carrier who, at any time, operates any*
11 *vehicle described in subdivision (a).*

12 (2) *The department shall adopt rules and regulations*
13 *establishing a performance-based truck terminal inspection*
14 *selection priority system. In adopting the rules and regulations,*
15 *the commissioner shall consider methodologies consistent with*
16 *those used by the Federal Motor Carrier Safety Administration,*
17 *including those related to the quantitative analysis of safety-related*
18 *motor carrier performance data, collected during the course of*
19 *inspection or enforcement contact by authorized representatives*
20 *of the department or any authorized federal, state, or local safety*
21 *official, in the categories of driver fatigue, driver fitness, vehicle*
22 *maintenance, and controlled substances and alcohol use. The*
23 *department shall also incorporate other safety-related data in this*
24 *system, including citations and accident information. The*
25 *department shall prioritize for selection those motor carrier*
26 *terminals never previously inspected by the department, those*
27 *identified by the inspection priority selection system, and those*
28 *terminals operating vehicles listed in subdivision (g) of Section*
29 *34500. Those terminals not identified as a priority are not required*
30 *to be inspected more often than one time every six years since last*
31 *assigned a safety compliance rating of satisfactory as the result*
32 *of a terminal inspection conducted by the department pursuant to*
33 *this section or Section 34501.*

34 (3) *As used in this section and Section 34505.6, subdivision (f)*
35 *of Section 34500 includes only those combinations where the gross*
36 *vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000*
37 *pounds, but does not include a pickup truck or any combination*
38 *never operated in commercial use, and subdivision (g) of Section*
39 *34500 includes only those vehicles transporting hazardous material*
40 *for which the display of placards is required pursuant to Section*

1 27903, a license is required pursuant to Section 32000.5, or for
2 which hazardous waste transporter registration is required
3 pursuant to Section 25163 of the Health and Safety Code.
4 Notwithstanding Section 5014.1, vehicles that display special
5 identification plates in accordance with Section 5011, historical
6 vehicles, as described in Section 5004, implements of husbandry
7 and farm vehicles, as defined in Chapter 1 (commencing with
8 Section 36000) of Division 16, and vehicles owned or operated by
9 an agency of the federal government are not subject to this section
10 or Section 34505.6.

11 (d) It is unlawful for a motor carrier to operate, or cause to be
12 operated, any vehicle which is subject to this section, Section
13 34520, or Division 14.85 (commencing with Section 33000), unless
14 the motor carrier is knowledgeable of, and in compliance with,
15 all applicable statutes and regulations.

16 (e) It is unlawful for a motor carrier to contract or subcontract
17 with, or otherwise engage the services of, another motor carrier,
18 subject to this section, unless the contracted motor carrier has
19 complied with subdivision (d). A motor carrier shall not contract
20 or subcontract with, or otherwise engage the services of, another
21 motor carrier until the contracted motor carrier provides
22 certification of compliance with subdivision (d). This certification
23 shall be completed in writing by the contracted motor carrier in
24 a manner prescribed by the department. The certification, or a
25 copy of the certification, shall be maintained by each involved
26 party for the duration of the contract or the period of service plus
27 two years, and shall be presented for inspection immediately upon
28 the request of an authorized employee of the department. The
29 certifications required by this subdivision and subdivision (b) of
30 34620 may be combined.

31 (f) (1) An inspected terminal that receives an unsatisfactory
32 compliance rating shall be reinspected by the department within
33 120 days after the issuance of the unsatisfactory compliance rating.

34 (2) When a motor carrier's Motor Carrier of Property Permit
35 or Public Utilities Commission operating authority is suspended
36 as a result of an unsatisfactory compliance rating, the department
37 shall not conduct a reinspection for permit or authority
38 reinstatement until requested to do so by the Department of Motor
39 Vehicles or the Public Utilities Commission, as appropriate.

1 (g) A motor carrier issued an unsatisfactory terminal rating
2 may request a review of the rating within five business days of
3 receipt of the notification of the rating. The department shall
4 conduct and evaluate the review within 10 business days of the
5 request.

6 (h) The department shall publish performance-based inspection
7 completion data and make the data available for public review.

8 (i) This section shall be known, and may be cited, as the Basic
9 Inspection of Terminals program or BIT program.

10 (j) This section shall become operative on January 1, 2016.

11 SEC. 7. Section 34505.5 of the Vehicle Code is amended to
12 read:

13 34505.5. (a) Every motor carrier operating any vehicle
14 described in subdivision (a), (b), (e), (f), or (g) of Section 34500,
15 except those vehicles exempted under Section 34501.12, shall, as
16 a part of the systematic inspection, maintenance, and lubrication
17 services required of all motor carriers, require the vehicle or
18 vehicles for which it is responsible pursuant to Section 34501.12
19 to be inspected at least every 90 days, or more often if necessary
20 to ensure safe operation. Vehicles which are out of service for
21 periods greater than 90 calendar days are not required to be
22 inspected at 90-day intervals if they are inspected before operation
23 on the highway. This inspection shall include, but not be limited
24 to, all of the following:

- 25 (1) Brake adjustment.
- 26 (2) Brake system components and leaks.
- 27 (3) Steering and suspension systems.
- 28 (4) Tires and wheels.
- 29 (5) Vehicle connecting devices.

30 (b) No vehicle subject to this section shall be operated on the
31 highway other than to a place of repair until all defects listed during
32 the inspection conducted pursuant to subdivision (a) have been
33 corrected and attested to by the signature of the motor carrier's
34 authorized representative.

35 (c) Records of inspections conducted pursuant to subdivision
36 (a) shall be kept at the motor carrier's terminals, as designated in
37 accordance with Section 34501.12. The records shall be retained
38 by the motor carrier for two years, and shall be made available for
39 inspection upon request by any authorized employee of the

1 department. Each record shall include, but not be limited to, all of
2 the following:

3 (1) Identification of the vehicle, including make, model, license
4 number, company vehicle number, or other means of positive
5 identification.

6 (2) Date and nature of each inspection and any repair performed.

7 (3) Signature of the motor carrier's authorized representative
8 attesting to the inspection and to the completion of all required
9 repairs.

10 (d) Printouts of inspection and maintenance records maintained
11 in computer systems shall be accepted in lieu of signed inspection
12 or repair records if the printouts include the information required
13 in paragraphs (1) and (2) of subdivision (c).

14 (e) Notwithstanding subdivisions (a) to (d), inclusive, records
15 of 90-day inspections need not be retained in California for
16 interstate vehicles which are not physically based in California.
17 However, when these vehicles are present in California, they are
18 subject to inspection by the department. If the inspection results
19 indicate maintenance program deficiencies, the department may
20 require the motor carrier to produce the maintenance records or
21 copies of those records for inspection within 10 working days.

22 (f) *This section shall remain in effect only until January 1, 2016,*
23 *and as of that date is repealed, unless a later enacted statute, that*
24 *is enacted before January 1, 2016, deletes or extends that date.*

25 *SEC. 8. Section 34505.5 is added to the Vehicle Code, to read:*

26 *34505.5. (a) Every motor carrier operating any vehicle*
27 *described in subdivision (a), (b), (e), (f), (g), (j), or (k) of Section*
28 *34500, except those vehicles exempted under Section 34501.12,*
29 *shall, as a part of the systematic inspection, maintenance, and*
30 *lubrication services required of all motor carriers, require the*
31 *vehicle or vehicles for which it is responsible pursuant to Section*
32 *34501.12 to be inspected at least every 90 days, or more often if*
33 *necessary to ensure safe operation. Vehicles which are out of*
34 *service for periods greater than 90 calendar days are not required*
35 *to be inspected at 90-day intervals if they are inspected before*
36 *operation on the highway. This inspection shall include, but not*
37 *be limited to, all of the following:*

38 (1) *Brake adjustment.*

39 (2) *Brake system components and leaks.*

40 (3) *Steering and suspension systems.*

1 (4) *Tires and wheels.*

2 (5) *Vehicle connecting devices.*

3 (b) *No vehicle subject to this section shall be operated on the*
4 *highway other than to a place of repair until all defects listed*
5 *during the inspection conducted pursuant to subdivision (a) have*
6 *been corrected and attested to by the signature of the motor*
7 *carrier's authorized representative.*

8 (c) *Records of inspections conducted pursuant to subdivision*
9 *(a) shall be kept at the motor carrier's terminals, as designated*
10 *in accordance with Section 34501.12. The records shall be retained*
11 *by the motor carrier for two years, and shall be made available*
12 *for inspection upon request by any authorized employee of the*
13 *department. Each record shall include, but not be limited to, all*
14 *of the following:*

15 (1) *Identification of the vehicle, including make, model, license*
16 *number, company vehicle number, or other means of positive*
17 *identification.*

18 (2) *Date and nature of each inspection and any repair*
19 *performed.*

20 (3) *Signature of the motor carrier's authorized representative*
21 *attesting to the inspection and to the completion of all required*
22 *repairs.*

23 (d) *Printouts of inspection and maintenance records maintained*
24 *in computer systems shall be accepted in lieu of signed inspection*
25 *or repair records if the printouts include the information required*
26 *in paragraphs (1) and (2) of subdivision (c).*

27 (e) *Notwithstanding subdivisions (a) to (d), inclusive, records*
28 *of 90-day inspections need not be retained in California for*
29 *interstate vehicles which are not physically based in California.*
30 *However, when these vehicles are present in California, they are*
31 *subject to inspection by the department. If the inspection results*
32 *indicate maintenance program deficiencies, the department may*
33 *require the motor carrier to produce the maintenance records or*
34 *copies of those records for inspection within 10 working days.*

35 (f) *This section shall become operative on January 1, 2016.*

36 SEC. 9. *Section 34505.6 of the Vehicle Code is amended to*
37 *read:*

38 34505.6. (a) *Upon determining that a motor carrier of property*
39 *who is operating any vehicle described in subdivision (a), (b), (e),*
40 *(f), (g), or (k) of Section 34500, or any motortruck of two or more*

1 axles that is more than 10,000 pounds gross vehicle weight rating,
2 on a public highway, has done any of the following, the department
3 shall recommend that the Department of Motor Vehicles suspend
4 or revoke the carrier's motor carrier permit, or for interstate
5 operators, the department shall recommend to the Federal Motor
6 Carrier Safety Administration that appropriate administrative action
7 be taken against the carrier:

8 (1) Failed to maintain any vehicle of a type described above in
9 a safe operating condition or to comply with the Vehicle Code or
10 with applicable regulations contained in Title 13 of the California
11 Code of Regulations, and, in the department's opinion, that failure
12 presents an imminent danger to public safety or constitutes a
13 consistent failure so as to justify a suspension or revocation of the
14 motor carrier's motor carrier permit.

15 (2) Failed to enroll all drivers in the pull-notice system as
16 required by Section 1808.1.

17 (3) Failed to submit any application or pay any fee required by
18 subdivision (e) or (h) of Section 34501.12 within the timeframes
19 set forth in that section.

20 (b) Upon determining that a household goods carrier, or a
21 household goods carrier transporting used office, store, or
22 institution furniture and fixtures under its household goods carrier
23 permit issued under Section 5137 of the Public Utilities Code,
24 operating any vehicle described in subdivision (a), (b), (e), (f), (g),
25 or (k) of Section 34500 on a public highway has done any of the
26 following, the department shall recommend that the Public Utilities
27 Commission deny, suspend, or revoke the carrier's operating
28 authority, or for interstate operators, the department shall
29 recommend to the Federal Motor Carrier Safety Administration
30 that appropriate administrative action be taken against the carrier:

31 (1) Failed to maintain any vehicle used in transportation for
32 compensation in a safe operating condition or to comply with the
33 Vehicle Code or with applicable regulations contained in Title 13
34 of the California Code of Regulations, and, in the department's
35 opinion, that failure presents an imminent danger to public safety
36 or constitutes a consistent failure so as to justify a suspension,
37 revocation, or denial of the motor carrier's operating authority.

38 (2) Failed to enroll all drivers in the pull-notice system as
39 required by Section 1808.1.

1 (3) Failed to submit any application or pay any fee required by
2 subdivision (e) or (h) of Section 34501.12 within the timeframes
3 set forth in that section.

4 (c) For purposes of this section, two consecutive unsatisfactory
5 compliance ratings for an inspected terminal assigned because the
6 motor carrier failed to comply with the periodic report requirements
7 of Section 1808.1 or the cancellation of the carrier's enrollment
8 by the Department of Motor Vehicles for the nonpayment of
9 required fees is a consistent failure. The department shall retain a
10 record, by operator, of every recommendation made pursuant to
11 this section.

12 (d) Before transmitting a recommendation pursuant to
13 subdivision (a), the department shall notify the carrier in writing
14 of all of the following:

15 (1) That the department has determined that the carrier's safety
16 record or compliance with Section 1808.1 or subdivision (e) or (h)
17 of Section 34501.12 is unsatisfactory, furnishing a copy of any
18 documentation or summary of any other evidence supporting the
19 determination.

20 (2) That the determination may result in a suspension,
21 revocation, or denial of the carrier's motor carrier permit by the
22 Department of Motor Vehicles, suspension, revocation, of the
23 motor carrier's operating authority by the California Public Utilities
24 Commission, or administrative action by the Federal Motor Carrier
25 Safety Administration.

26 (3) That the carrier may request a review of the determination
27 by the department within five days of its receipt of the notice
28 required under this subdivision. If a review pursuant to this
29 paragraph is requested by the carrier, the department shall conduct
30 and evaluate that review prior to transmitting any notification
31 pursuant to subdivision (a) or (b).

32 (e) Upon receipt of a written recommendation from the
33 department that a motor carrier permit or operating authority be
34 suspended, revoked, or denied, the Department of Motor Vehicles
35 or Public Utilities Commission, as appropriate, shall, pending a
36 hearing in the matter pursuant to Section 34623 or appropriate
37 Public Utilities Commission authority, suspend the motor carrier
38 permit or operating authority. The written recommendation shall
39 specifically indicate compliance with subdivision (d).

1 (f) This section shall remain in effect only until January 1, 2016,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2016, deletes or extends that date.

4 SEC. 10. Section 34505.6 is added to the Vehicle Code, to
5 read:

6 34505.6. (a) Upon determining that a motor carrier of property
7 who is operating any vehicle described in subdivision (a), (b), (e),
8 (f), (g), (j), or (k) of Section 34500, or any motortruck of two or
9 more axles that is more than 10,000 pounds gross vehicle weight
10 rating, on a public highway, has done either of the following, the
11 department shall recommend that the Department of Motor
12 Vehicles suspend or revoke the carrier's motor carrier permit, or,
13 for interstate operators, the department shall recommend to the
14 Federal Motor Carrier Safety Administration that appropriate
15 administrative action be taken against the carrier:

16 (1) Failed to maintain any vehicle of a type described above in
17 a safe operating condition or to comply with the Vehicle Code or
18 with applicable regulations contained in Title 13 of the California
19 Code of Regulations, and, in the department's opinion, that failure
20 presents an imminent danger to public safety or constitutes a
21 consistent failure so as to justify a suspension or revocation of the
22 motor carrier's motor carrier permit.

23 (2) Failed to enroll all drivers in the pull-notice system as
24 required by Section 1808.1.

25 (b) Upon determining that a household goods carrier, or a
26 household goods carrier transporting used office, store, or
27 institution furniture and fixtures under its household goods carrier
28 permit issued under Section 5137 of the Public Utilities Code,
29 operating any vehicle described in subdivision (a), (b), (e), (f), (g),
30 (j), or (k) of Section 34500 on a public highway, has done either
31 of the following, the department shall recommend that the Public
32 Utilities Commission deny, suspend, or revoke the carrier's
33 operating authority, or for interstate operators, the department
34 shall recommend to the Federal Motor Carrier Safety
35 Administration that appropriate administrative action be taken
36 against the carrier:

37 (1) Failed to maintain any vehicle used in transportation for
38 compensation in a safe operating condition or to comply with the
39 Vehicle Code or with applicable regulations contained in Title 13
40 of the California Code of Regulations, and, in the department's

1 *opinion, that failure presents an imminent danger to public safety*
2 *or constitutes a consistent failure so as to justify a suspension,*
3 *revocation, or denial of the motor carrier's operating authority.*

4 *(2) Failed to enroll all drivers in the pull-notice system as*
5 *required by Section 1808.1.*

6 *(c) For purposes of this section, two consecutive unsatisfactory*
7 *compliance ratings for an inspected terminal assigned because*
8 *the motor carrier failed to comply with the periodic report*
9 *requirements of Section 1808.1 or the cancellation of the carrier's*
10 *enrollment by the Department of Motor Vehicles for the*
11 *nonpayment of required fees is a consistent failure. The department*
12 *shall retain a record, by operator, of every recommendation made*
13 *pursuant to this section.*

14 *(d) Before transmitting a recommendation pursuant to*
15 *subdivision (a), the department shall notify the carrier in writing*
16 *of all of the following:*

17 *(1) That the department has determined that the carrier's safety*
18 *record or compliance with Section 1808.1 is unsatisfactory,*
19 *furnishing a copy of any documentation or summary of any other*
20 *evidence supporting the determination.*

21 *(2) That the determination may result in a suspension,*
22 *revocation, or denial of the carrier's motor carrier permit by the*
23 *Department of Motor Vehicles, suspension, revocation, of the*
24 *motor carrier's operating authority by the California Public*
25 *Utilities Commission, or administrative action by the Federal*
26 *Motor Carrier Safety Administration.*

27 *(3) That the carrier may request a review of the determination*
28 *by the department within five days of its receipt of the notice*
29 *required under this subdivision. If a review pursuant to this*
30 *paragraph is requested by the carrier, the department shall conduct*
31 *and evaluate that review prior to transmitting any notification*
32 *pursuant to subdivision (a) or (b).*

33 *(e) Upon receipt of a written recommendation from the*
34 *department that a motor carrier permit or operating authority be*
35 *suspended, revoked, or denied, the Department of Motor Vehicles*
36 *or Public Utilities Commission, as appropriate, shall, pending a*
37 *hearing in the matter pursuant to Section 34623 or appropriate*
38 *Public Utilities Commission authority, suspend the motor carrier*
39 *permit or operating authority. The written recommendation shall*
40 *specifically indicate compliance with subdivision (d).*

1 (f) *This section shall become operative on January 1, 2016.*

2 *SEC. 11. Section 34515 of the Vehicle Code is amended to*
3 *read:*

4 34515. (a) As used in this division and in regulations adopted
5 pursuant to this division, “maintenance facility or terminal” means
6 any place or places where a vehicle of a type listed in Section
7 34500 is regularly garaged or maintained, or from which it is
8 operated or dispatched. “Maintenance facility or terminal” may
9 include a private business or residence.

10 (b) For the purpose of the inspections required by Section
11 34501.12, “terminal” means the location or locations in this state
12 that are designated by a motor carrier, where subject vehicles may
13 be inspected by the department pursuant to paragraph (4) of
14 subdivision (a) of Section 34501, and where vehicle maintenance
15 and inspection records and drivers’ records will be made available
16 for inspection.

17 (c) *This section shall remain in effect only until January 1, 2016,*
18 *and as of that date is repealed, unless a later enacted statute, that*
19 *is enacted before January 1, 2016, deletes or extends that date.*

20 *SEC. 12. Section 34515 is added to the Vehicle Code, to read:*

21 34515. (a) As used in this division and in regulations adopted
22 pursuant to this division, “maintenance facility or terminal” means
23 any place or places where a vehicle of a type listed in Section
24 34500 is regularly garaged or maintained, or from which it is
25 operated or dispatched. “Maintenance facility or terminal”
26 includes a private business or residence.

27 (b) For the purpose of the inspections conducted pursuant to
28 Section 34501.12, “terminal” means the location or locations in
29 this state that are designated by a motor carrier, where subject
30 vehicles may be inspected by the department and where vehicle
31 maintenance and inspection records and drivers’ records will be
32 made available for inspection.

33 (c) *This section shall become operative on January 1, 2016.*

34 *SEC. 13. Section 34601 of the Vehicle Code is amended to*
35 *read:*

36 34601. (a) As used in this division, “motor carrier of property”
37 means any person who operates any commercial motor vehicle as
38 defined in subdivision (c). “Motor carrier of property” does not
39 include a household goods carrier, as defined in Section 5109 of
40 the Public Utilities Code, a household goods carrier transporting

1 used office, store, and institution furniture and fixtures under its
2 household goods carrier permit pursuant to Section 5137 of the
3 Public Utilities Code, persons providing only transportation of
4 passengers, or a passenger stage corporation transporting baggage
5 and express upon a passenger vehicle incidental to the
6 transportation of passengers.

7 (b) As used in this division, “for-hire motor carrier of property”
8 means a motor carrier of property as defined in subdivision (a)
9 who transports property for compensation.

10 (c) (1) As used in this division, except as provided in paragraph
11 (2), a “commercial motor vehicle” means any self-propelled vehicle
12 listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500,
13 any motor truck of two or more axles that is more than 10,000
14 pounds gross vehicle weight rating, and any other motor vehicle
15 used to transport property for compensation.

16 (2) As used in this division, “commercial motor vehicle” does
17 not include any of the following:

18 (A) Vehicles identified in subdivision (f) of Section 34500, if
19 the gross vehicle weight rating of the towing vehicle is 10,000
20 pounds or less.

21 (B) Vehicles identified in subdivision (g) of Section 34500, if
22 the hazardous material transportation does not require the display
23 of placards under Section 27903, a license under Section 32000.5,
24 or a hazardous waste transporter registration under Section 25163
25 of the Health and Safety Code, and the vehicle is not operated in
26 commercial use.

27 (C) Vehicles operated by a household goods carrier, as defined
28 in Section 5109 of the Public Utilities Code, under the household
29 goods carrier permit pursuant to Section 5137 of that code.

30 (D) Vehicles operated by a household goods carrier to transport
31 used office, store, and institution furniture and fixtures under its
32 household goods carrier permit pursuant to Section 5137 of the
33 Public Utilities Code.

34 (E) Pickup trucks as defined in Section 471, if the conditions
35 in subparagraphs (A) and (B) are also met.

36 (F) Two-axle daily rental trucks with a gross vehicle weight
37 rating of less than 26,001 pounds, when operated in noncommercial
38 use.

39 (G) Motor trucks or two-axle truck tractors, with a gross vehicle
40 weight rating of less than 26,001 pounds, when used solely to tow

1 a camp trailer, trailer coach, fifth-wheel travel trailer, or utility
2 trailer. Vehicle combinations described in this subparagraph are
3 not subject to Section 27900, 34501.12, or 34507.5.

4 (d) For purposes of this chapter, “private carrier” means a motor
5 carrier of property, who transports only his or her own property,
6 including, but not limited to, the delivery of goods sold by that
7 carrier.

8 (e) *This section shall remain in effect only until January 1, 2016,*
9 *and as of that date is repealed, unless a later enacted statute, that*
10 *is enacted before January 1, 2016, deletes or extends that date.*

11 SEC. 14. Section 34601 is added to the Vehicle Code, to read:

12 34601. (a) As used in this division, “motor carrier of property”
13 means any person who operates any commercial motor vehicle as
14 defined in subdivision (c). “Motor carrier of property” does not
15 include a household goods carrier, as defined in Section 5109 of
16 the Public Utilities Code, a household goods carrier transporting
17 used office, store, and institution furniture and fixtures under its
18 household goods carrier permit pursuant to Section 5137 of the
19 Public Utilities Code, persons providing only transportation of
20 passengers, or a passenger stage corporation transporting baggage
21 and express upon a passenger vehicle incidental to the
22 transportation of passengers.

23 (b) As used in this division, “for-hire motor carrier of property”
24 means a motor carrier of property as defined in subdivision (a)
25 who transports property for compensation.

26 (c) (1) As used in this division, except as provided in paragraph
27 (2), a “commercial motor vehicle” means any self-propelled
28 vehicle listed in subdivisions (a), (b), (f), (g), and (k) of Section
29 34500, any motortruck of two or more axles that is more than
30 10,000 pounds gross vehicle weight rating, and any other motor
31 vehicle used to transport property for compensation.

32 (2) As used in this division, “commercial motor vehicle” does
33 not include any of the following:

34 (A) Vehicles identified in subdivision (f) of Section 34500, if the
35 gross vehicle weight rating of the towing vehicle is 10,000 pounds
36 or less.

37 (B) Vehicles identified in subdivision (g) of Section 34500, if
38 the hazardous material transportation does not require the display
39 of placards under Section 27903, a license under Section 32000.5,
40 or a hazardous waste transporter registration under Section 25163

1 of the Health and Safety Code, and the vehicle is not operated in
 2 commercial use.

3 (C) Vehicles operated by a household goods carrier, as defined
 4 in Section 5109 of the Public Utilities Code, under the household
 5 goods carrier permit pursuant to Section 5137 of that code.

6 (D) Vehicles operated by a household goods carrier to transport
 7 used office, store, and institution furniture and fixtures under its
 8 household goods carrier permit pursuant to Section 5137 of the
 9 Public Utilities Code.

10 (E) Pickup trucks as defined in Section 471, if the conditions in
 11 subparagraphs (A) and (B) are also met.

12 (F) Two-axle daily rental trucks with a gross vehicle weight
 13 rating of less than 26,001 pounds, when not operated in
 14 noncommercial use.

15 (G) Vehicles never operated in commercial use, including
 16 motortrucks or two-axle truck tractors, with a gross vehicle weight
 17 rating of less than 26,001 pounds, when operated singly, or, when
 18 used to tow a camp trailer, trailer coach, fifth-wheel travel trailer,
 19 trailer designed to transport watercraft, or a utility trailer, never
 20 operated in commercial use. Vehicle combinations described in
 21 this subparagraph are not subject to Section 27900, 34501.12, or
 22 34507.5.

23 (d) For purposes of this chapter, “private carrier” means a
 24 motor carrier of property, who transports only his or her own
 25 property, including, but not limited to, the delivery of goods sold
 26 by that carrier.

27 (e) This section shall become operative on January 1, 2016.

28 SEC. 15. Section 34606 of the Vehicle Code is repealed.

29 ~~34606. The fee schedule set forth in Section 7236 of the~~
 30 ~~Revenue and Taxation Code shall be reviewed by the Department~~
 31 ~~of Motor Vehicles and may be lowered should revenue exceed the~~
 32 ~~costs of the Department of Motor Vehicles and the California~~
 33 ~~Highway Patrol to administer and enforce the provisions of this~~
 34 ~~division. The department shall also adjust the uniform business~~
 35 ~~license tax fee by the amounts as are necessary to produce an~~
 36 ~~annual revenue that shall not exceed the amount collected under~~
 37 ~~Section 4304 of the Public Utilities Code as it existed on June 30,~~
 38 ~~1996, for the period beginning on July 1, 1995, and ending on June~~
 39 ~~30, 1996.~~

1 *SEC. 16. Section 34622 of the Vehicle Code is amended to*
2 *read:*

3 34622. This chapter does not apply to any of the following:

4 (a) Vehicles *described in Section 5004 or 5011, and those that*
5 *are exempt from vehicle registration fees.*

6 (b) A household goods carrier transporting used office, store,
7 and institution furniture and fixtures under its household goods
8 carrier permit pursuant to Section 5137 of the Public Utilities Code.

9 *SEC. 17. Section 34623 of the Vehicle Code is amended to*
10 *read:*

11 34623. (a) The Department of the California Highway Patrol
12 has exclusive jurisdiction for the regulation of safety of operation
13 of motor carriers of property.

14 (b) The motor carrier permit of a motor carrier of property may
15 be suspended for failure to do any of the following:

16 (1) Maintain any vehicle of the carrier in a safe operating
17 condition or to comply with this code or with applicable regulations
18 contained in Title 13 of the California Code of Regulations, if that
19 failure is either a consistent failure or presents an imminent danger
20 to public safety.

21 (2) Enroll all drivers in the pull notice system as required by
22 Section 1808.1.

23 (3) Submit any application or pay any fee required by
24 subdivision (e) or (h) of Section 34501.12 within the timeframes
25 set forth in that section.

26 (c) The motor carrier permit of a motor carrier of property shall
27 be suspended for failure to either (1) comply with the requirements
28 of federal law described in subdivision (a) of Section 34520 of the
29 Vehicle Code, or (2) make copies of results and other records
30 available as required by subdivision (b) of that section. The
31 suspension shall be as follows:

32 (1) For a serious violation, which is a willful failure to perform
33 substance abuse testing in accordance with state or federal law:

34 (A) For a first offense, a mandatory five-day suspension.

35 (B) For a second offense within three years of a first offense, a
36 mandatory three-month suspension.

37 (C) For a third offense within three years of a first offense, a
38 mandatory one year suspension.

39 (2) For a nonserious violation, the time recommended to the
40 department by the Department of the California Highway Patrol.

1 (3) For the purposes of this subdivision, “willful failure” means
2 any of the following:
3 (A) An intentional and uncorrected failure to have a controlled
4 substances and alcohol testing program in place.
5 (B) An intentional and uncorrected failure to enroll an employed
6 driver into the controlled substances and alcohol testing program.
7 (C) A knowing use of a medically disqualified driver, including
8 the failure to remove the driver from safety-sensitive duties upon
9 notification of the medical disqualification.
10 (D) An attempt to conceal legal deficiencies in the motor
11 carrier’s controlled substances and alcohol testing program.
12 (d) The department, pending a hearing in the matter pursuant
13 to subdivision (f), may suspend a carrier’s permit.
14 (e) (1) A motor carrier whose motor carrier permit is suspended
15 pursuant to subdivision (b) may obtain a reinspection of its terminal
16 and vehicles by the Department of the California Highway Patrol
17 by submitting a written request for reinstatement to the department
18 and paying a reinstatement fee as required by Section 34623.5.
19 (2) A motor carrier whose motor carrier permit is suspended
20 for failure to submit any application or to pay any fee required by
21 Section 34501.12 shall present proof of having submitted that
22 application or have paid that fee to the Department of the California
23 Highway Patrol before applying for reinstatement of its motor
24 carrier permit.
25 (3) The department shall deposit all reinstatement fees collected
26 from motor carriers of property pursuant to this section in the fund.
27 Upon receipt of the fee, the department shall forward a request to
28 the Department of the California Highway Patrol, which shall
29 perform a reinspection within a reasonable time, or shall verify
30 receipt of the application or fee or both the application and fee.
31 Following the term of a suspension imposed under Section 34670,
32 the department shall reinstate a carrier’s motor carrier permit
33 suspended under subdivision (b) upon notification by the
34 Department of the California Highway Patrol that the carrier’s
35 safety compliance has improved to the satisfaction of the
36 Department of the California Highway Patrol, or that the required
37 application or fees have been received by the Department of the
38 California Highway Patrol, unless the permit is suspended for
39 another reason or has been revoked.

1 (f) Whenever the department suspends the permit of any carrier
2 pursuant to subdivision (b), (c), or paragraph (3) of subdivision
3 (i), the department shall furnish the carrier with written notice of
4 the suspension and shall provide for a hearing within a reasonable
5 time, not to exceed 21 days, after a written request is filed with
6 the department. At the hearing, the carrier shall show cause why
7 the suspension should not be continued. Following the hearing,
8 the department may terminate the suspension, continue the
9 suspension in effect, or revoke the permit. The department may
10 revoke the permit of any carrier suspended pursuant to subdivision
11 (b) at any time that is 90 days or more after its suspension if the
12 carrier has not filed a written request for a hearing with the
13 department or has failed to submit a request for reinstatement
14 pursuant to subdivision (e).

15 (g) Notwithstanding any other provision of this code, no hearing
16 shall be provided when the suspension of the motor carrier permit
17 is based solely upon the failure of the motor carrier to maintain
18 satisfactory proof of financial responsibility as required by this
19 code, or failure of the motor carrier to submit an application or to
20 pay fees required by Section 34501.12.

21 (h) A motor carrier of property may not operate a commercial
22 motor vehicle on any public highway in this state during any period
23 its motor carrier of property permit is suspended pursuant to this
24 division.

25 (i) (1) A motor carrier of property whose motor carrier permit
26 is suspended pursuant to this section or Section 34505.6, which
27 suspension is based wholly or in part on the failure of the motor
28 carrier to maintain any vehicle in safe operating condition, may
29 not lease, or otherwise allow, another motor carrier to operate the
30 vehicles of the carrier subject to the suspension, during the period
31 of the suspension.

32 (2) A motor carrier of property may not knowingly lease,
33 operate, dispatch, or otherwise utilize any vehicle from a motor
34 carrier of property whose motor carrier permit is suspended, which
35 suspension is based wholly or in part on the failure of the motor
36 carrier to maintain any vehicle in safe operating condition.

37 (3) The department may immediately suspend the motor carrier
38 permit of any motor carrier that the department determines to be
39 in violation of paragraph (2).

1 (j) *This section shall remain in effect only until January 1, 2016,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2016, deletes or extends that date.*

4 SEC. 18. *Section 34623 is added to the Vehicle Code, to read:*

5 34623. (a) *The Department of the California Highway Patrol*
6 *has exclusive jurisdiction for the regulation of safety of operation*
7 *of motor carriers of property.*

8 (b) *The motor carrier permit of a motor carrier of property may*
9 *be suspended for failure to do either of the following:*

10 (1) *Maintain any vehicle of the carrier in a safe operating*
11 *condition or to comply with this code or with applicable regulations*
12 *contained in Title 13 of the California Code of Regulations, if that*
13 *failure is either a consistent failure or presents an imminent danger*
14 *to public safety.*

15 (2) *Enroll all drivers in the pull-notice system as required by*
16 *Section 1808.1.*

17 (c) *The motor carrier permit of a motor carrier of property shall*
18 *be suspended for failure to either (1) comply with the requirements*
19 *of federal law described in subdivision (a) of Section 34520 of the*
20 *Vehicle Code, or (2) make copies of results and other records*
21 *available as required by subdivision (b) of that section. The*
22 *suspension shall be as follows:*

23 (1) *For a serious violation, which is a willful failure to perform*
24 *substance abuse testing in accordance with state or federal law:*

25 (A) *For a first offense, a mandatory five-day suspension.*

26 (B) *For a second offense within three years of a first offense, a*
27 *mandatory three-month suspension.*

28 (C) *For a third offense within three years of a first offense, a*
29 *mandatory one year suspension.*

30 (2) *For a nonserious violation, the time recommended to the*
31 *department by the Department of the California Highway Patrol.*

32 (3) *For the purposes of this subdivision, “willful failure” means*
33 *any of the following:*

34 (A) *An intentional and uncorrected failure to have a controlled*
35 *substances and alcohol testing program in place.*

36 (B) *An intentional and uncorrected failure to enroll an employed*
37 *driver into the controlled substances and alcohol testing program.*

38 (C) *A knowing use of a medically disqualified driver, including*
39 *the failure to remove the driver from safety-sensitive duties upon*
40 *notification of the medical disqualification.*

1 (D) *An attempt to conceal legal deficiencies in the motor*
2 *carrier's controlled substances and alcohol testing program.*

3 (d) *The department, pending a hearing in the matter pursuant*
4 *to subdivision (f), may suspend a carrier's permit.*

5 (e) (1) *A motor carrier whose motor carrier permit is suspended*
6 *pursuant to subdivision (b) may obtain a reinspection of its*
7 *terminal and vehicles by the Department of the California Highway*
8 *Patrol by submitting a written request for reinstatement to the*
9 *department and paying a reinstatement fee as required by Section*
10 *34623.5.*

11 (2) *The department shall deposit all reinstatement fees collected*
12 *from motor carriers of property pursuant to this section in the*
13 *fund. Upon receipt of the fee, the department shall forward a*
14 *request to the Department of the California Highway Patrol, which*
15 *shall perform a reinspection within a reasonable time, or shall*
16 *verify receipt of the application or fee or both the application and*
17 *fee. Following the term of a suspension imposed under Section*
18 *34670, the department shall reinstate a carrier's motor carrier*
19 *permit suspended under subdivision (b) upon notification by the*
20 *Department of the California Highway Patrol that the carrier's*
21 *safety compliance has improved to the satisfaction of the*
22 *Department of the California Highway Patrol, unless the permit*
23 *is suspended for another reason or has been revoked.*

24 (f) *Whenever the department suspends the permit of any carrier*
25 *pursuant to subdivision (b), (c), or paragraph (3) of subdivision*
26 *(i), the department shall furnish the carrier with written notice of*
27 *the suspension and shall provide for a hearing within a reasonable*
28 *time, not to exceed 21 days, after a written request is filed with*
29 *the department. At the hearing, the carrier shall show cause why*
30 *the suspension should not be continued. Following the hearing,*
31 *the department may terminate the suspension, continue the*
32 *suspension in effect, or revoke the permit. The department may*
33 *revoke the permit of any carrier suspended pursuant to subdivision*
34 *(b) at any time that is 90 days or more after its suspension if the*
35 *carrier has not filed a written request for a hearing with the*
36 *department or has failed to submit a request for reinstatement*
37 *pursuant to subdivision (e).*

38 (g) *Notwithstanding any other provision of this code, a hearing*
39 *shall not be provided if the suspension of the motor carrier permit*
40 *is based solely upon the failure of the motor carrier to maintain*

1 *satisfactory proof of financial responsibility as required by this*
2 *code.*

3 *(h) A motor carrier of property may not operate a commercial*
4 *motor vehicle on any public highway in this state during any period*
5 *its motor carrier of property permit is suspended pursuant to this*
6 *division.*

7 *(i) (1) A motor carrier of property whose motor carrier permit*
8 *is suspended pursuant to this section or Section 34505.6, which*
9 *suspension is based wholly or in part on the failure of the motor*
10 *carrier to maintain any vehicle in safe operating condition, may*
11 *not lease, or otherwise allow, another motor carrier to operate*
12 *the vehicles of the carrier subject to the suspension, during the*
13 *period of the suspension.*

14 *(2) A motor carrier of property may not knowingly lease,*
15 *operate, dispatch, or otherwise utilize any vehicle from a motor*
16 *carrier of property whose motor carrier permit is suspended, which*
17 *suspension is based wholly or in part on the failure of the motor*
18 *carrier to maintain any vehicle in safe operating condition.*

19 *(3) The department may immediately suspend the motor carrier*
20 *permit of any motor carrier that the department determines to be*
21 *in violation of paragraph (2).*

22 *(j) This section shall become operative on January 1, 2016.*

23 *SEC. 19. Section 40000.22 of the Vehicle Code is amended to*
24 *read:*

25 *40000.22. (a) A violation of subdivision (e) of Section 34501,*
26 *subdivision (f) of Section 34501.12, or subdivision (c) of Section*
27 *34501.14, relating to applications for inspections, is a misdemeanor*
28 *and not an infraction.*

29 *(b) A violation of Division 14.85 (commencing with Section*
30 *34600), relating to motor carriers of property, is a misdemeanor*
31 *and not an infraction.*

32 *(c) This section shall remain in effect only until January 1, 2016,*
33 *and as of that date is repealed, unless a later enacted statute, that*
34 *is enacted before January 1, 2016, deletes or extends that date.*

35 *SEC. 20. Section 40000.22 is added to the Vehicle Code, to*
36 *read:*

37 *40000.22. (a) A violation of subdivision (e) of Section 34501,*
38 *subdivision (b) or (d) of Section 34501.12, or subdivision (c) of*
39 *Section 34501.14, relating to applications for inspections, is a*
40 *misdemeanor and not an infraction.*

1 **(b)** A violation of Division 14.85 (commencing with Section
2 34600), relating to motor carriers of property, is a misdemeanor
3 and not an infraction.

4 **(c)** This section shall become operative on January 1, 2016.

5 **SEC. 21.** No reimbursement is required by this act pursuant
6 to Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 ~~SECTION 1.~~ It is the intent of the Legislature to enact
15 legislation to streamline the commercial truck inspection system
16 and to transfer duties relating to the accounting of motor carrier
17 fees to the Department of Motor Vehicles.