

AMENDED IN SENATE JUNE 19, 2013

AMENDED IN SENATE JUNE 12, 2013

AMENDED IN SENATE MAY 13, 2013

SENATE BILL

No. 338

Introduced by Senator Hill

(Coauthor: Senator Yee)

(Coauthors: Assembly Members Campos, Fong, Mullin, and Ting)

February 20, 2013

An act to amend Section 5374 of the Public Utilities Code, relating to charter-party carriers of passengers, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 338, as amended, Hill. Charter-party carriers of passengers: *limousines*: fire extinguishers.

The California Constitution establishes the Public Utilities Commission with jurisdiction over all public utilities, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission; that is cognate and germane to the regulation of public utilities. Charter-party carriers of passengers, as defined, are subject to the jurisdiction and control of the commission under the Passenger Charter-Party Carriers' Act. The act defines a charter-party carrier of passengers, subject to certain exceptions, to mean every person that is engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway.

The Passenger Charter-Party Carriers’ Act requires a charter-party carrier of passengers to obtain from the commission a certificate that public convenience and necessity require the operation or a permit issued by the commission, and to operate within the state on a prearranged basis, as defined. The act prohibits the commission from issuing or renewing a permit unless the applicant has met specified requirements, including the requirement that it will maintain its vehicles used in transportation for compensation in a safe operating condition. A violation of these provisions is a crime.

This bill would require a charter-party carrier of passengers to equip each of its ~~vehicles~~ *limousines* with 2 readily accessible and fully charged fire extinguishers, as specified. Because a violation of this provision would be a crime, this bill 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 5374 of the Public Utilities Code is
 2 amended to read:
 3 5374. (a) (1) Before a permit or certificate is issued or
 4 renewed, the commission shall require the applicant to establish
 5 reasonable fitness and financial responsibility to initiate and
 6 conduct or continue to conduct the proposed or existing
 7 transportation services. The commission shall not issue or renew
 8 a permit or certificate pursuant to this chapter unless the applicant
 9 meets all of the following requirements:
 10 (A) It is financially and organizationally capable of conducting
 11 an operation that complies with the rules and regulations of the
 12 Department of the California Highway Patrol governing highway
 13 safety.

1 (B) It is committed to observing the hours of service regulations
2 of state and, where applicable, federal law, for all persons, whether
3 employees or subcarriers, operating vehicles in transportation for
4 compensation under the certificate.

5 (C) It has a preventive maintenance program in effect for its
6 vehicles used in transportation for compensation that conforms to
7 regulations of the Department of the California Highway Patrol
8 in Title 13 of the California Code of Regulations.

9 (D) It participates in a program to regularly check the driving
10 records of all persons, whether employees or subcarriers, operating
11 vehicles used in transportation for compensation.

12 (E) It has a safety education and training program in effect for
13 all employees or subcarriers operating vehicles used in
14 transportation for compensation.

15 (F) It will maintain its vehicles used in transportation for
16 compensation in a safe operating condition and in compliance with
17 the Vehicle Code and with regulations contained in Title 13 of the
18 California Code of Regulations relative to motor vehicle safety.

19 (G) It has equipped each of its vehicles, *as defined in subdivision*
20 *(i) of Section 5371.4*, with two readily accessible and fully charged
21 fire extinguishers having at least a 2A10BC 5lb rating, maintained
22 in efficient operating condition, and securely mounted in the
23 driver's compartment and in the vehicle's trunk *or luggage*
24 *compartment* in a conspicuous place or a clearly marked area in
25 each of those two locations.

26 (H) It has filed with the commission the certificate of workers'
27 compensation insurance coverage or statement required by Section
28 5378.1.

29 (I) It has provided the commission an address of an office or
30 terminal where documents supporting the factual matters specified
31 in the showing required by this subdivision may be inspected by
32 the commission and the Department of the California Highway
33 Patrol.

34 (J) It provides for a mandatory controlled substance and alcohol
35 testing certification program as adopted by the commission
36 pursuant to Section 1032.1.

37 (K) Subparagraphs (C), (F), and (I) do not apply to a
38 charter-party carrier of passengers engaged in the provision of a
39 hired driver service when a rented motor vehicle is being operated
40 by the hired driver.

1 (2) With respect to subparagraphs (B) and (F) of paragraph (1),
2 the commission may base a finding on a certification by the
3 commission that an applicant has filed, with the commission, a
4 sworn declaration of ability to comply and intent to comply.

5 (3) The commission may require, as a precondition to the
6 issuance of a permit or certificate, the procurement of a
7 performance bond sufficient to facilitate the collection of fines,
8 penalties, and restitution related to enforcement actions that can
9 be taken against the applicant.

10 (b) In addition to the requirements in subdivision (a),
11 charter-party carriers shall meet all other state and, where
12 applicable, federal regulations as prescribed.

13 (c) The commission may delegate to its executive director or
14 that executive director’s designee the authority to issue, renew, or
15 authorize the transfer of, charter-party carrier permits or certificates
16 and to make the findings specified in subdivision (a) that are
17 necessary to that delegated authority.

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 SEC. 3. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 In order to ensure that passengers of charter-party carriers are
32 protected with fire extinguishers at the earliest possible time, it is
33 necessary for this act to take effect immediately.