

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 541

Introduced by Senator Hill

February 26, 2015

An act to amend Sections 5317.5, 5387, and 5411.5 of, and to add Sections 309.8, 1046, and 5417.5 to, the Public Utilities Code, and to amend Section 14602.9 of the Vehicle Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Hill. Public Utilities Commission: ~~transportation companies.~~ *for-hire transportation carriers: enforcement.*

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over the transportation of passengers and property by transportation companies, to the extent not preempted by federal law.

This bill would require the commission, in consultation with the Department of Human Resources, to develop a comprehensive human resources plan for the Transportation Enforcement Branch of the Safety and Enforcement Division. The bill would require the commission to implement a program to monitor the performance of the Transportation Enforcement Branch and to develop a comprehensive strategy to detect, deter, and take enforcement actions against charter-party carriers of passengers, passenger stage corporations, and household goods carriers that are operating illegally. The bill would also require the commission to develop and implement a plan to improve technology capabilities to enhance customer service at the Transportation Enforcement Branch and develop a budget plan for the Transportation Enforcement Branch. The bill would require the commission to report to the Legislature by

January 1, 2017, and by each January 1 thereafter on the commission's implementation of these requirements.

(2) A passenger stage corporation, as defined, which operates between fixed termini or over a regular route, is a common carrier subject to regulation by the commission pursuant to the Public Utilities Act. The Public Utilities Act, with certain exceptions, requires that a passenger stage corporation obtain a certificate of public convenience and necessity from the commission to operate on any public highway in the state and requires it to display an identifying symbol issued by the commission. The Public Utilities Act makes any public utility that violates the Public Utilities Act, or that fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime and makes it a misdemeanor for a person or corporation to hold out to the public that the person or corporation is in operation as a passenger stage corporation without having a valid certificate issued by the commission. The Public Utilities Act authorizes the commission to impose various fines and penalties for any violation of the act or an order, decision, rule, direction, demand, or requirement of the commission. The Public Utilities Act provides that the Department of the California Highway Patrol (CHP) has the primary responsibility for regulating the safety of operation of passenger stage corporations and requires the commission to cooperate with the CHP to ensure safe operation of these carriers.

A charter-party carrier of passengers, as defined, is subject to the jurisdiction and control of the commission under the Passenger Charter-party Carriers' Act. The Passenger Charter-party Carriers' Act requires a charter-party carrier of passengers to (A) obtain a certificate of public convenience and necessity or a permit issued by the commission, (B) operate within the state on a prearranged basis, as defined, (C) comply with specified vehicle identification requirements, and (D) comply with accident liability protection requirements. The Passenger Charter-party Carriers' Act additionally prohibits a charter-party carrier of passengers from advertising its services, or in any manner representing its services, as being a taxicab or taxi service. The Passenger Charter-party Carriers' Act makes violation of these requirements a crime. The Passenger Charter-party Carriers' Act authorizes the commission to impose fines and penalties for violations of the act.

This bill would authorize peace officers, defined to include sheriffs, police officers, CHP officers, and airport law enforcement officers, to

enforce and assist in the enforcement of criminal violations of the Public Utilities Act, with respect to passenger stage corporations, and the Passenger Charter-party Carriers' Act, with respect to charter-party carriers of passengers. The bill would require the commission to coordinate enforcement of those acts with those peace officers through educational outreach and establishing lines of communications that ensure that the commission is notified if an action is commenced so that the commission may take appropriate action to enforce the fine and penalty provisions of the acts. The bill would require the commission to ensure that the Passenger Charter-party Carriers' Act is enforced and obeyed and that violations are promptly prosecuted and that penalty moneys due to the state are recovered and collected. The bill would authorize the Attorney General, a district attorney, or a city attorney to institute and prosecute actions or proceedings for the violation of the Passenger Charter-party Carriers' Act.

(3) The Passenger Charter-party Carriers' Act authorizes a CHP officer to impound a bus of a charter-party carrier of passengers for 30 days if the officer determines that (A) the driver was operating the bus when the carrier did not have a permit or certificate issued by the commission or the carrier's permit or certificate was suspended, or (B) the driver was operating the bus without having a current and valid driver's license of the proper class, a passenger vehicle endorsement, or the required certificate. A provision of the Vehicle Code also authorizes a CHP officer to impound a bus of a charter-party carrier of passengers for 30 days if the officer makes any of the determinations described above.

This bill would authorize a peace officer, defined to include sheriffs, police officers, and airport law enforcement officers, in addition to CHP officers, to impound any vehicle of a charter-party carrier of passengers for 30 days in those circumstances. The bill would revise the Vehicle Code to authorize a peace officer, identically defined, to impound any vehicle of a charter-party carrier of passengers for 30 days in those circumstances and authorize a peace officer to impound a vehicle belonging to a passenger stage corporation for 30 days if the officer determines (A) the driver was operating the vehicle when the passenger stage corporation did not have a required certificate of public convenience and necessity issued by the commission, (B) the driver was operating the vehicle when the operating rights or certificate of public convenience and necessity of a passenger stage corporation was suspended, canceled, or revoked, or (C) the driver was operating the

vehicle without having a current and valid driver's license of the proper class.

The Passenger Charter-party Carriers' Act additionally authorizes certain peace officers, when making an arrest for operating a charter-party carrier of passengers without a valid certificate or permit or when making an arrest for operating a charter-party carrier of passengers as a taxicab in violation of an ordinance or resolution of a city, county, or city and county, to impound and retain possession of the vehicle.

This bill would limit the authority to impound a vehicle pursuant to this provision to a sheriff, police officer, CHP officer, or airport law enforcement officer.

(4) A household goods carrier, as defined, which transports household goods and personal effects over any public highway in the state for compensation, is subject to regulation by the commission pursuant to the Household Goods Carriers Act. The Household Goods Carriers Act requires that a household goods carrier obtain a permit from the commission to transport household goods entirely within the state and obtain a valid operating authority issued by the Federal Motor Carrier Safety Administration to transport household goods and personal effects from this state to another or from another state to this state. The Household Goods Carriers Act additionally requires a household goods carrier to comply with specified vehicle identification requirements and comply with accident liability protection requirements. The Household Goods Carriers Act makes a violation of the requirements of the act a misdemeanor, authorizes the commission to impose fines and penalties for violations of the act, and requires the commission to ensure that the act is enforced and obeyed, that violations are promptly prosecuted and that penalty moneys due to the state are recovered and collected.

This bill would authorize peace officers, defined to include sheriffs, police officers, and CHP officers, to enforce and assist in the enforcement of criminal violations of the Household Goods Carriers Act. The bill would require the commission to coordinate enforcement of the Household Goods Carriers Act with those peace officers through educational outreach and establishing lines of communications that ensure that the commission is notified if an action is commenced so that the commission may take appropriate action to enforce the fine and penalty provisions of the Household Goods Carriers Act.

~~The California Constitution establishes the Public Utilities Commission, with jurisdiction over public utilities, and authorizes the commission to fix rates and establish rules for, among other things, the transportation of passengers and property by transportation companies.~~

~~This bill would express the intent of the Legislature to enact legislation to improve the regulation of transportation companies by the Public Utilities Commission.~~

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

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

1 SECTION 1. (a) *The Transportation Enforcement Branch of*
2 *the Safety and Enforcement Division of the state’s Public Utilities*
3 *Commission has regulatory oversight of various for-hire*
4 *transportation carriers, including limousines, airport shuttles,*
5 *charter buses, and moving companies. The Transportation*
6 *Enforcement Branch administers licensing, enforces state law,*
7 *and manages consumer complaints to ensure the reliable and safe*
8 *transport of passengers and goods within the state.*

9 (b) *The California State Auditor’s Report 2013-130 concluded*
10 *that the Transportation Enforcement Branch does not adequately*
11 *ensure that passenger carriers operate safely. Among the numerous*
12 *problems cited by the California State Auditor are that the branch*
13 *does not have formal policies for dealing with complaints against*
14 *carriers, it does not resolve complaints in a timely manner, it does*
15 *not have adequate investigatory techniques, and it fails to properly*
16 *account for fees paid by carriers. In addition, the California State*
17 *Auditor concluded that without major improvements to its*
18 *management processes, the branch has little ability to resolve its*
19 *deficiencies.*

20 (c) *While the commission is undertaking an internal process to*
21 *implement the California State Auditor’s recommendations, it is*
22 *in the public interest for the Legislature to further ensure that the*
23 *Transportation Enforcement Branch improves its performance to*
24 *ensure passenger safety.*

25 SEC. 2. *Section 309.8 is added to the Public Utilities Code, to*
26 *read:*

27 309.8. (a) *The commission, in consultation with the*
28 *Department of Human Resources, shall develop a comprehensive*

1 *human resources plan for the Transportation Enforcement Branch*
2 *of the Safety and Enforcement Division, which focuses on staff*
3 *development, management practices, and leadership. The plan*
4 *shall include policies to properly and adequately train new*
5 *employees, provide proper and adequate continuous training, and*
6 *retain staff and reduce high rates of staff turnover.*

7 (b) *The commission shall implement a program to monitor the*
8 *performance of the Transportation Enforcement Branch of the*
9 *Safety and Enforcement Division to ensure that applications for*
10 *permits and certificates are processed in a timely manner, ensure*
11 *investigations are completed properly and in a timely manner, and*
12 *ensure that the branch is taking appropriate enforcement actions.*
13 *The program shall include, but shall not be limited to, the following*
14 *performance measurements:*

15 (1) *The average length of time it takes to process an application*
16 *for a permit or certificate.*

17 (2) *The number of complaints received and the average length*
18 *of time it takes to resolve those complaints.*

19 (3) *The number of investigations, stings, and other operations*
20 *undertaken to prohibit the illegal operation of charter-party*
21 *carriers of passengers, passenger stage corporations, and*
22 *household goods carriers.*

23 (4) *The average length of time it takes to complete an*
24 *investigation and the disposition of the investigations completed.*

25 (5) *A method to annually analyze fees assessed on charter-party*
26 *carriers of passengers, passenger stage corporations, and*
27 *household goods carriers to determine if those fees are fair and*
28 *commensurate with services rendered.*

29 (c) (1) *The commission shall develop a comprehensive strategy*
30 *to detect, deter, and take enforcement actions against charter-party*
31 *carriers of passengers, passenger stage corporations, and*
32 *household goods carriers that are operating illegally. This strategy*
33 *shall include steps to increase on-the-street enforcement of illegally*
34 *operating charter-party carriers of passengers, passenger stage*
35 *corporations, and household goods carriers and, to the extent*
36 *possible, the commission shall coordinate with state and local law*
37 *enforcement on enforcement activities.*

38 (2) *As part of the strategy, the commission shall include*
39 *strike-force enforcement actions to be conducted at special events,*

1 *including proms, awards, and sporting events, and a scheduled*
2 *strategic, focused, enforcement timeline.*

3 *(3) As part of the strategy, the commission shall establish a*
4 *formal method for acknowledging and investigating consumer*
5 *complaints regarding charter-party carriers of passengers.*
6 *Acknowledgment shall include written acknowledgment of receipt*
7 *of a complaint.*

8 *(4) The strategy shall include steps to take enforcement actions*
9 *against unpermitted, or illegally operating, charter-party carriers*
10 *of passengers, passenger stage corporations, and household goods*
11 *carriers that are advertising their services, either electronically*
12 *or in print.*

13 *(5) The commission shall make best efforts to coordinate with*
14 *associations representing industries regulated by the*
15 *Transportation Enforcement Branch to coordinate enforcement*
16 *of illegal operators.*

17 *(6) As part of the strategy, the commission shall detail how it*
18 *will coordinate with the Board of Equalization to enforce the*
19 *collection of penalty payments, the Department of Industrial*
20 *Relations to enforce provisions related to workers' compensation,*
21 *and the Department of Motor Vehicles to enforce provisions related*
22 *to vehicle insurance.*

23 *(d) (1) The commission shall develop and implement a plan to*
24 *improve technology capabilities to enhance customer service at*
25 *the Transportation Enforcement Branch that allow for complete*
26 *online application and renewal, vehicle registration, vehicle*
27 *insurance compliance, and consumer complaints.*

28 *(2) To the extent possible, the commission shall work to*
29 *streamline the way charter-party carriers of passengers, passenger*
30 *stage corporations, and household goods carriers submit*
31 *information, reports, and applications. This shall include annual*
32 *reports to the commission, quarterly revenue reports to the*
33 *commission, and reports to the Department of the California*
34 *Highway Patrol.*

35 *(3) The commission shall ensure that during all normal business*
36 *hours, commission staff at the Transportation Enforcement Branch*
37 *is available by phone so that regulated carriers and those applying*
38 *for authority can easily contact a staff member to ask questions*
39 *or obtain information.*

1 (e) *The commission shall, on an annual basis, meet with industry*
2 *associations regulated by the Transportation Enforcement Branch,*
3 *to ensure that there are coordinated efforts to improve customer*
4 *service and enforcement to halt illegal operators.*

5 (f) *The commission shall develop a budget plan for the*
6 *Transportation Enforcement Branch to ensure that revenues and*
7 *expenditures are appropriately aligned. As part of the budget plan,*
8 *the commission shall categorize revenues and expenditures by*
9 *carrier type and shall also categorize which specific expenditures*
10 *are for enforcement activities. The budget plan shall also include*
11 *guidelines for maintaining a reasonable reserve for economic*
12 *uncertainties.*

13 (g) (1) *The commission shall report to the Legislature on*
14 *implementation of this section no later than January 1, 2017, and*
15 *by each January 1, thereafter.*

16 (2) *A report to be submitted pursuant to this subdivision shall*
17 *be submitted in compliance with Section 9795 of the Government*
18 *Code.*

19 SEC. 3. *Section 1046 is added to the Public Utilities Code, to*
20 *read:*

21 1046. (a) *For purposes of this section, “peace officer” means*
22 *all of the following:*

23 (1) *Any sheriff, undersheriff, or deputy sheriff, employed in that*
24 *capacity, of a county; any chief of police of a city or chief, director,*
25 *or chief executive officer of a consolidated municipal public safety*
26 *agency that performs police functions; and any police officer,*
27 *employed in that capacity and appointed by the chief of police or*
28 *chief, director, or chief executive of a public safety agency, of a*
29 *city.*

30 (2) *An officer of the Department of the California Highway*
31 *Patrol.*

32 (3) *Any person regularly employed as an airport law*
33 *enforcement officer by a city, county, or district operating the*
34 *airport or by a joint powers agency, created pursuant to Article*
35 *1 (commencing with Section 6500) of Chapter 5 of Division 7 of*
36 *Title 1 of the Government Code, operating the airport, if the*
37 *primary duty of the person is the enforcement of the law in or about*
38 *properties owned, operated, and administered by the employing*
39 *agency or when performing necessary duties with respect to*
40 *patrons, employees, and properties of the employing agency, in*

1 *or about the properties owned, operated, and administered by the*
2 *employing agency.*

3 *(b) A peace officer may, with respect to a passenger stage*
4 *corporation, enforce and assist in the enforcement of Sections*
5 *2110 and 2112, resulting from a violation of Section 1031, 1041,*
6 *or 1045, or more than one of those sections. A peace officer may*
7 *additionally enforce and assist in the enforcement of Sections*
8 *1034.5 and 2119. In any case in which an arrest authorized by*
9 *this subdivision is made for an offense declared to be a*
10 *misdemeanor, and the person arrested does not demand to be taken*
11 *before a magistrate, the arresting peace officer may, instead of*
12 *taking such person before a magistrate, follow the procedure*
13 *prescribed by Chapter 5C (commencing with Section 853.5) of*
14 *Title 3 of Part 2 of the Penal Code. The provisions of that chapter*
15 *shall thereafter apply with reference to any proceeding based upon*
16 *the issuance of a citation pursuant to this authority.*

17 *(c) A peace officer may impound a vehicle operated by a*
18 *passenger stage corporation pursuant to Section 14602.9 of the*
19 *Vehicle Code if the peace officer determines that any of the*
20 *following violations occurred while the driver was operating the*
21 *vehicle:*

22 *(1) The driver was operating the vehicle when the passenger*
23 *stage corporation did not have a certificate of public convenience*
24 *and necessity issued by the commission as required pursuant to*
25 *this article.*

26 *(2) The driver was operating the vehicle when the operating*
27 *rights or certificate of public convenience and necessity of a*
28 *passenger stage corporation was suspended, canceled, or revoked*
29 *pursuant to Section 1033.5, 1033.7, or 1045.*

30 *(3) The driver was operating the vehicle without having a*
31 *current and valid driver's license of the proper class.*

32 *(d) The commission shall coordinate enforcement of this section*
33 *with those peace officers described in subdivision (a), including*
34 *undertaking both of the following:*

35 *(1) Educational outreach to ensure that those peace officers*
36 *are aware of the requirements of Sections 1031, 1034.5, 1041,*
37 *1045, 2110, 2112, and 2119.*

38 *(2) Establishing lines of communication to ensure that the*
39 *commission is notified if an action is commenced to enforce the*
40 *requirements of those sections specified in subdivision (b), so that*

1 *the commission may take appropriate action to enforce the fine*
2 *and penalty provisions of Chapter 11 (commencing with Section*
3 *2100).*

4 *(e) The Legislature finds and declares that this section is*
5 *intended to facilitate and enhance the commission's performance*
6 *of its functions pursuant to Section 2101 and not diminish the*
7 *commission's authority or responsibility pursuant to that section.*

8 *SEC. 4. Section 5317.5 of the Public Utilities Code is amended*
9 *to read:*

10 5317.5. *(a) The commission shall ensure that this chapter is*
11 *enforced and obeyed, and that violations thereof are promptly*
12 *prosecuted and—penalties that penalty moneys due to the state*
13 *therefor are recovered and collected, and to this end it may sue in*
14 *the name of the people of the State of California. Upon the request*
15 *of the commission, the Attorney General or the district attorney*
16 *of the proper county or city and county may aid in any*
17 *investigation, hearing, or trial had under this chapter. The*

18 *(b) For purposes of this section, "peace officer" means all of*
19 *the following:*

20 *(1) Any sheriff, undersheriff, or deputy sheriff, employed in that*
21 *capacity, of a county; any chief of police of a city or chief, director,*
22 *or chief executive officer of a consolidated municipal public safety*
23 *agency that performs police functions; and any police officer,*
24 *employed in that capacity and appointed by the chief of police or*
25 *chief, director, or chief executive of a public safety agency, of a*
26 *city.*

27 *(2) An officer of the Department of the California Highway*
28 *Patrol.*

29 *(c) A peace officer may enforce and assist in the enforcement*
30 *of Sections 5311 and 5312, resulting from a violation of Section*
31 *5132, 5133, 5140, or 5286, or more than one of those sections. A*
32 *peace officer may additionally enforce and assist in the*
33 *enforcement of Sections 5311.3 and 5314.5. In any case in which*
34 *an arrest authorized by this subdivision is made for an offense*
35 *declared to be a misdemeanor, and the person arrested does not*
36 *demand to be taken before a magistrate, the arresting peace officer*
37 *may, instead of taking such person before a magistrate, follow the*
38 *procedure prescribed by Chapter 5C (commencing with Section*
39 *853.5) of Title 3 of Part 2 of the Penal Code. The provisions of*

1 *that chapter shall thereafter apply with reference to any proceeding*
2 *based upon the issuance of a citation pursuant to this authority.*

3 *(d) The commission shall coordinate enforcement of this section*
4 *with those peace officers described in subdivision (a), including*
5 *undertaking both of the following:*

6 *(1) Educational outreach to ensure that those peace officers*
7 *are aware of the requirements of Sections 5132, 5133, 5140, 5286,*
8 *5311, 5311.3, 5312, and 5314.5.*

9 *(2) Establishing lines of communication to ensure that the*
10 *commission is notified if an action is commenced to enforce the*
11 *requirements of those sections specified in subdivision (c), so that*
12 *the commission may take appropriate action to enforce the fine*
13 *and penalty provisions of this article.*

14 *(e) The Attorney General, a district attorney of the proper county*
15 *or city and county, or a city attorney may institute and prosecute*
16 *actions or proceedings for the violation of any law committed in*
17 *connection with, or arising from, a transaction involving the*
18 *transportation of household goods and personal effects.*

19 *SEC. 5. Section 5387 of the Public Utilities Code is amended*
20 *to read:*

21 5387. (a) It is unlawful for the owner of a charter-party carrier
22 of passengers to permit the operation of a vehicle upon a public
23 highway for compensation without (1) having obtained from the
24 commission a certificate or permit pursuant to this chapter, (2)
25 having complied with the vehicle identification requirements of
26 Section 5385 or 5385.5, and (3) having complied with the accident
27 liability protection requirements of Section 5391.

28 (b) A person who drives a bus for a charter-party carrier without
29 having a current and valid driver's license of the proper class, a
30 passenger vehicle endorsement, or the required certificate shall be
31 suspended from driving a bus of any kind, including, but not
32 limited to, a bus, schoolbus, school pupil activity bus, or transit
33 bus, with passengers for a period of five years pursuant to Section
34 13369 of the Vehicle Code.

35 (c) (1) A charter-party carrier shall have its authority to operate
36 as a charter-party carrier permanently revoked by the commission
37 or be permanently barred from receiving a permit or certificate
38 from the commission if it commits any of the following acts:

39 (A) Operates a bus without having been issued a permit or
40 certificate from the commission.

1 (B) Operates a bus with a permit that was suspended by the
 2 commission pursuant to Section 5378.5.

3 (C) Commits three or more liability insurance violations within
 4 a two-year period for which it has been cited.

5 (D) Operates a bus with a permit that was suspended by the
 6 commission during a period that the charter-party carrier’s liability
 7 insurance lapsed for which it has been cited.

8 (E) Knowingly employs a busdriver who does not have a current
 9 and valid driver’s license of the proper class, a passenger vehicle
 10 endorsement, or the required certificate to drive a bus.

11 (F) Has one or more buses improperly registered with the
 12 Department of Motor Vehicles.

13 (2) The commission shall not issue a new permit or certificate
 14 to operate as a charter-party carrier if any officer, director, or owner
 15 of that charter-party carrier was an officer, director, or owner of
 16 a charter-party carrier that had its authority to operate as a
 17 charter-party carrier permanently revoked by the commission or
 18 that was permanently barred from receiving a permit or certificate
 19 from the commission pursuant to this subdivision.

20 ~~An officer of the Department of the California Highway~~
 21 ~~Patrol~~ *A peace officer, as defined in Section 5417.5, may impound*
 22 ~~a bus vehicle~~ *of a charter-party carrier of passengers for 30 days*
 23 *pursuant to Section 14602.9 of the Vehicle Code if the peace*
 24 *officer determines that any of the following violations occurred*
 25 *while the ~~busdriver~~ driver was operating the ~~bus~~ vehicle of a*
 26 *charter-party carrier:*

27 (1) The driver was operating the ~~bus vehicle~~ of a charter-party
 28 carrier *of passengers* when the charter-party carrier *of passengers*
 29 did not have a permit or certificate issued by the commission.

30 (2) The driver was operating the ~~bus vehicle~~ of a charter-party
 31 carrier *of passengers* when the charter-party carrier *of passengers*
 32 was operating the ~~bus~~ with a suspended permit or certificate from
 33 the commission.

34 (3) The driver was operating the ~~bus vehicle~~ of a charter-party
 35 carrier *of passengers* without having a current and valid driver’s
 36 license of the proper class, a passenger vehicle endorsement, or
 37 the required certificate.

38 *SEC. 6. Section 5411.5 of the Public Utilities Code is amended*
 39 *to read:*

1 5411.5. (a) Whenever a peace officer, as defined in ~~Chapter~~
2 ~~4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal~~
3 ~~Code, Section 5417.5,~~ arrests a person for operation of a *vehicle*
4 *of a* charter-party carrier of passengers without a valid certificate
5 or permit, the peace officer may impound and retain possession
6 of the vehicle.

7 (b) Whenever a peace officer, as defined in ~~Chapter 4.5~~
8 ~~(commencing with Section 830) of Title 3 of Part 2 of the Penal~~
9 ~~Code, Section 5417.5,~~ arrests a person for operating a *vehicle of*
10 *a* charter-party carrier of passengers as a taxicab in violation of an
11 ordinance or resolution of a city, county, or city and county, the
12 peace officer may impound and retain possession of the vehicle.

13 (c) If the vehicle is seized from a person who is not the owner
14 of the vehicle, the impounding authority shall immediately give
15 notice to the owner by first-class mail.

16 (d) The vehicle shall immediately be returned to the owner if
17 the infraction or violation is not prosecuted or is dismissed, the
18 owner is found not guilty of the offense, or it is determined that
19 the vehicle was used in violation of Section 5411 without the
20 knowledge and consent of the owner. The vehicle shall be returned
21 to the owner upon payment of any fine ordered by the court. If the
22 vehicle is seized due to a violation of a person other than the owner
23 of the vehicle, the vehicle shall be returned to the owner after all
24 impoundment fees are paid. After the expiration of six weeks from
25 the final disposition of the criminal case, unless the owner is in
26 the process of making payments to the court, the impounding
27 authority may deal with the vehicle as lost or abandoned property
28 under Section 1411 of the Penal Code.

29 (e) At any time, a person may make a motion in superior court
30 for the immediate return of the vehicle on the ground that there
31 was no probable cause to seize it or that there is some other good
32 cause, as determined by the court, for the return of the vehicle. A
33 proceeding under this section is a limited civil case.

34 (f) No peace officer, however, may impound any vehicle owned
35 or operated by a nonprofit organization exempt from taxation
36 pursuant to Section 501(c)(3) of the Internal Revenue Code which
37 serves youth or senior citizens and provides transportation
38 incidental to its programs or services or a rented motor vehicle
39 that is being operated by a hired driver of a charter-party carrier
40 of passengers that is providing hired driver service.

1 SEC. 7. Section 5417.5 is added to the Public Utilities Code,
2 to read:

3 5417.5. (a) The commission shall ensure that this chapter is
4 enforced and obeyed, and that violations thereof are promptly
5 prosecuted and that penalty moneys due to the state are recovered
6 and collected, and to this end it may sue in the name of the people
7 of the State of California. Upon the request of the commission, the
8 Attorney General or the district attorney of the proper county or
9 city and county may aid in any investigation, hearing, or trial
10 under this chapter. The Attorney General, a district attorney of
11 the proper county or city and county, or a city attorney may
12 institute and prosecute actions or proceedings for the violation of
13 any law committed in connection with, or arising from, a
14 transaction involving a charter-party carrier of passengers.

15 (b) For purposes of this section, “peace officer” means all of
16 the following:

17 (1) Any sheriff, undersheriff, or deputy sheriff, employed in that
18 capacity, of a county; any chief of police of a city or chief, director,
19 or chief executive officer of a consolidated municipal public safety
20 agency that performs police functions; and any police officer,
21 employed in that capacity and appointed by the chief of police or
22 chief, director, or chief executive of a public safety agency, of a
23 city.

24 (2) An officer of the Department of the California Highway
25 Patrol.

26 (3) Any person regularly employed as an airport law
27 enforcement officer by a city, county, or district operating the
28 airport or by a joint powers agency, created pursuant to Article
29 1 (commencing with Section 6500) of Chapter 5 of Division 7 of
30 Title 1 of the Government Code, operating the airport, if the
31 primary duty of the person is the enforcement of the law in or about
32 properties owned, operated, and administered by the employing
33 agency or when performing necessary duties with respect to
34 patrons, employees, and properties of the employing agency, in
35 or about the properties owned, operated, and administered by the
36 employing agency.

37 (c) A peace officer may enforce and assist in the enforcement
38 of Sections 5411 and 5412 resulting from a violation of Section
39 5371, 5379, 5385, 5385.7, or 5387, or more than one of those
40 sections. A peace officer may additionally enforce and assist in

1 *the enforcement of Sections 5411.3 and 5414.5. In any case in*
2 *which an arrest authorized by this subdivision is made for an*
3 *offense declared to be a misdemeanor, and the person arrested*
4 *does not demand to be taken before a magistrate, the arresting*
5 *peace officer may, instead of taking such person before a*
6 *magistrate, follow the procedure prescribed by Chapter 5C*
7 *(commencing with Section 853.5) of Title 3 of Part 2 of the Penal*
8 *Code. The provisions of that chapter shall thereafter apply with*
9 *reference to any proceeding based upon the issuance of a citation*
10 *pursuant to this authority.*

11 *(d) The commission shall coordinate enforcement of this section*
12 *with those peace officers described in subdivision (b), including*
13 *undertaking both of the following:*

14 *(1) Educational outreach to ensure that those peace officers*
15 *are aware of the requirements of Sections 5371, 5379, 5385,*
16 *5385.7, 5387, 5411, 5411.3, 5412, and 5414.5.*

17 *(2) Establishing lines of communication to ensure that the*
18 *commission is notified if an action is commenced to enforce the*
19 *requirements of those sections specified in subdivision (c), so that*
20 *the commission may take appropriate action to enforce the fine*
21 *and penalty provisions of this article.*

22 *(e) The Attorney General, a district attorney of the proper county*
23 *or city and county, or a city attorney may institute and prosecute*
24 *actions or proceedings for the violation of any law committed in*
25 *connection with, or arising from, a transaction involving the*
26 *transportation of passengers by a charter-party carrier of*
27 *passengers.*

28 *SEC. 8. Section 14602.9 of the Vehicle Code is amended to*
29 *read:*

30 *14602.9. (a) ~~An officer of the Department of the California~~*
31 *~~Highway Patrol~~ For purposes of this section, “peace officer”*
32 *means all of the following:*

33 *(1) An officer of the Department of the California Highway*
34 *Patrol.*

35 *(2) Any sheriff, undersheriff, or deputy sheriff, employed in that*
36 *capacity, of a county; any chief of police of a city or chief, director,*
37 *or chief executive officer of a consolidated municipal public safety*
38 *agency that performs police functions; and any police officer,*
39 *employed in that capacity and appointed by the chief of police or*

1 *chief, director, or chief executive of a public safety agency, of a*
 2 *city.*

3 (3) *Any person regularly employed as an airport law*
 4 *enforcement officer by a city, county, or district operating the*
 5 *airport or by a joint powers agency, created pursuant to Article*
 6 *1 (commencing with Section 6500) of Chapter 5 of Division 7 of*
 7 *Title 1 of the Government Code, operating the airport, if the*
 8 *primary duty of the person is the enforcement of the law in or about*
 9 *properties owned, operated, and administered by the employing*
 10 *agency or when performing necessary duties with respect to*
 11 *patrons, employees, and properties of the employing agency, in*
 12 *or about the properties owned, operated, and administered by the*
 13 *employing agency.*

14 (b) *A peace officer may impound a ~~bus~~ vehicle of a charter-party*
 15 *carrier for 30 days if the officer determines that any of the*
 16 *following violations occurred while the ~~bus~~ driver was operating*
 17 *the ~~bus~~ of a vehicle of the charter-party carrier:*

18 (1) *The driver was operating the ~~bus~~ vehicle of a charter-party*
 19 *carrier when the charter-party carrier did not have a permit or*
 20 *certificate issued by the Public Utilities Commission, pursuant to*
 21 *Section 5375 of the Public Utilities Code.*

22 (2) *The driver was operating the ~~bus~~ vehicle of a charter-party*
 23 *carrier when the charter-party carrier was operating the ~~bus~~ with*
 24 *a suspended permit or certificate from the Public Utilities*
 25 *Commission.*

26 (3) *The driver was operating the ~~bus~~ vehicle of a charter-party*
 27 *carrier without having a current and valid driver's license of the*
 28 *proper class, a passenger vehicle endorsement, or the required*
 29 *certificate.*

30 ~~(b)~~

31 (c) *A peace officer may impound a vehicle belonging to a*
 32 *passenger stage corporation for 30 days if the officer determines*
 33 *any of the following violations occurred while the driver was*
 34 *operating the vehicle:*

35 (1) *The driver was operating the vehicle when the passenger*
 36 *stage corporation did not have a certificate of public convenience*
 37 *and necessity issued by the Public Utilities Commission as required*
 38 *pursuant to Article 2 (commencing with Section 1031) of Chapter*
 39 *5 of Part 1 of Division 1 of the Public Utilities Code.*

1 (2) *The driver was operating the vehicle when the operating*
2 *rights or certificate of public convenience and necessity of a*
3 *passenger stage corporation was suspended, canceled, or revoked*
4 *pursuant to Section 1033.5, 1033.7, or 1045 of the Public Utilities*
5 *Code.*

6 (3) *The driver was operating the vehicle without having a*
7 *current and valid driver's license of the proper class.*

8 (d) Within two working days after impoundment, the
9 impounding agency shall send a notice by certified mail, return
10 receipt requested, to the legal owner of the vehicle, at the address
11 obtained from the department, informing the owner that the vehicle
12 has been impounded. Failure to notify the legal owner within two
13 working days shall prohibit the impounding agency from charging
14 for more than 15 day's impoundment when the legal owner
15 redeems the impounded vehicle. The impounding agency shall
16 maintain a published telephone number that provides information
17 24 hours a day regarding the impoundment of vehicles and the
18 rights of a registered owner to request a hearing.

19 ~~(e)~~

20 (e) The registered and legal owner of a vehicle that is removed
21 and seized under subdivision ~~(a)~~ (b) or (c) or his or her agent shall
22 be provided the opportunity for a storage hearing to determine the
23 validity of, or consider any mitigating circumstances attendant to,
24 the storage, in accordance with Section 22852.

25 ~~(d)~~

26 (f) (1) The impounding agency shall release the vehicle to the
27 registered owner or his or her agent prior to the end of the
28 impoundment period under any of the following circumstances:

29 (A) When the vehicle is a stolen vehicle.

30 (B) When the vehicle is subject to bailment and is driven by an
31 unlicensed employee of a business establishment, including a
32 parking service or repair garage.

33 (C) When, *for a charter-party carrier of passengers*, the driver
34 of the vehicle is not the sole registered owner of the vehicle and
35 the vehicle is being released to another registered owner of the
36 vehicle who agrees not to allow the driver to use the vehicle until
37 after the end of the impoundment period and the charter-party
38 carrier has been issued a valid permit from the Public Utilities
39 Commission, pursuant to Section 5375 of the Public Utilities Code.

1 (D) When, for a passenger stage corporation, the driver of the
2 vehicle is not the sole registered owner of the vehicle and the
3 vehicle is being released to another registered owner of the vehicle
4 who agrees not to allow the driver to use the vehicle until after
5 the end of the impoundment period and the passenger stage
6 corporation has been issued a valid certificate of public
7 convenience and necessity by the Public Utilities Commission,
8 pursuant to Article 2 (commencing with Section 1031) of Chapter
9 5 of Part 1 of Division 1 of the Public Utilities Code.

10 (2) A vehicle shall not be released pursuant to this subdivision
11 without presentation of the registered owner's or agent's currently
12 valid driver's license to operate the vehicle and proof of current
13 vehicle registration, or upon order of a court.

14 (e)

15 (g) The registered owner or his or her agent is responsible for
16 all towing and storage charges related to the impoundment, and
17 any administrative charges authorized under Section 22850.5.

18 (f)

19 (h) A vehicle removed and seized under subdivision ~~(a)~~ (b) or
20 (c) shall be released to the legal owner of the vehicle or the legal
21 owner's agent prior to the end of the impoundment period if all of
22 the following conditions are met:

23 (1) The legal owner is a motor vehicle dealer, bank, credit union,
24 acceptance corporation, or other licensed financial institution
25 legally operating in this state, or is another person who is not the
26 registered owner and holds a security interest in the vehicle.

27 (2) The legal owner or the legal owner's agent pays all towing
28 and storage fees related to the seizure of the vehicle. A lien sale
29 processing fee shall not be charged to the legal owner who redeems
30 the vehicle prior to the 10th day of impoundment. The impounding
31 authority or any person having possession of the vehicle shall not
32 collect from the legal owner of the type specified in paragraph (1),
33 or the legal owner's agent, any administrative charges imposed
34 pursuant to Section 22850.5 unless the legal owner voluntarily
35 requested a poststorage hearing.

36 (3) (A) The legal owner or the legal owner's agent presents
37 either lawful foreclosure documents or an affidavit of repossession
38 for the vehicle, and a security agreement or title showing proof of
39 legal ownership for the vehicle. All presented documents may be
40 originals, photocopies, or facsimile copies, or may be transmitted

1 electronically. The impounding agency shall not require a
2 document to be notarized. The impounding agency may require
3 the agent of the legal owner to produce a photocopy or facsimile
4 copy of its repossession agency license or registration issued
5 pursuant to Chapter 11 (commencing with Section 7500) of
6 Division 3 of the Business and Professions Code, or to demonstrate,
7 to the satisfaction of the impounding agency, that the agent is
8 exempt from licensure pursuant to Section 7500.2 or 7500.3 of the
9 Business and Professions Code.

10 (B) Administrative costs authorized under subdivision (a) of
11 Section 22850.5 shall not be charged to the legal owner of the type
12 specified in paragraph (1), who redeems the vehicle unless the
13 legal owner voluntarily requests a poststorage hearing. A city,
14 county, or state agency shall not require a legal owner or a legal
15 owner’s agent to request a poststorage hearing as a requirement
16 for release of the vehicle to the legal owner or the legal owner’s
17 agent. The impounding agency shall not require any documents
18 other than those specified in this paragraph. The impounding
19 agency shall not require any documents to be notarized.

20 (C) As used in this paragraph, “foreclosure documents” means
21 an “assignment” as that term is defined in subdivision (o) of
22 Section 7500.1 of the Business and Professions Code.

23 ~~(g)~~

24 (i) (1) A legal owner or the legal owner’s agent who obtains
25 release of the vehicle pursuant to subdivision ~~(f)~~ (h) may not release
26 the vehicle to the registered owner of the vehicle or any agents of
27 the registered owner, unless the registered owner is a rental car
28 agency, until after the termination of the impoundment period.

29 (2) The legal owner or the legal owner’s agent shall not
30 relinquish the vehicle to the registered owner until the registered
31 owner or that owner’s agent presents his or her valid driver’s
32 license or valid temporary driver’s license to the legal owner or
33 the legal owner’s agent. The legal owner or the legal owner’s agent
34 shall make every reasonable effort to ensure that the license
35 presented is valid.

36 (3) Prior to relinquishing the vehicle, the legal owner may
37 require the registered owner to pay all towing and storage charges
38 related to the impoundment and any administrative charges
39 authorized under Section 22850.5 that were incurred by the legal
40 owner in connection with obtaining custody of the vehicle.

1 ~~(h)~~

2 (j) (1) A vehicle removed and seized under subdivision ~~(a)~~ (b)
3 or (c) shall be released to a rental agency prior to the end of the
4 impoundment period if the agency is either the legal owner or
5 registered owner of the vehicle and the agency pays all towing and
6 storage fees related to the seizure of the vehicle.

7 (2) The owner of a rental vehicle that was seized under this
8 section may continue to rent the vehicle upon recovery of the
9 vehicle. However, the rental agency shall not rent another vehicle
10 to the driver of the vehicle that was seized until the impoundment
11 period has expired.

12 (3) The rental agency may require the person to whom the
13 vehicle was rented to pay all towing and storage charges related
14 to the impoundment and any administrative charges authorized
15 under Section 22850.5 that were incurred by the rental agency in
16 connection with obtaining custody of the vehicle.

17 ~~(i)~~

18 (k) Notwithstanding any other provision of this section, the
19 registered owner, and not the legal owner, shall remain responsible
20 for any towing and storage charges related to the impoundment,
21 any administrative charges authorized under Section 22850.5, and
22 any parking fines, penalties, and administrative fees incurred by
23 the registered owner.

24 ~~(j)~~

25 (l) The impounding agency is not liable to the registered owner
26 for the improper release of the vehicle to the legal owner or the
27 legal owner's agent provided the release complies with this section.

28 ~~(k) For the purposes of this section, a "bus" means a bus as~~
29 ~~defined by Section 233 or a tour bus as defined by Section 612.~~

30 ~~(l)~~

31 (m) For the purposes of this section, a "charter-party carrier"
32 means a charter-party carrier *of passengers* as defined by Section
33 5360 of the Public Utilities Code.

34 (n) *For purposes of this section, a "passenger stage*
35 ~~corporation" means a passenger stage corporation as defined by~~
36 ~~Section 226 of the Public Utilities Code.~~

1 ~~SECTION 1.—It is the intent of the Legislature to enact~~
2 ~~legislation to improve the regulation of transportation companies~~
3 ~~by the Public Utilities Commission.~~

O