

AMENDED IN SENATE JUNE 2, 2015
AMENDED IN SENATE MAY 5, 2015
AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 541

Introduced by Senator Hill

February 26, 2015

An act to amend Sections 5102, 5317.5, 5352, 5387, and 5411.5 of, and to add Sections ~~309.8, 1046, 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: 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. *The Household Goods Carriers Act and the Passenger Charter-party Carriers' Act contain statements of the purposes of those acts and the use of the public highways pursuant to those acts.*

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

This bill would specify activities to be undertaken by the commission to achieve these purposes. The bill would require the commission to assess its capabilities to carry out the specified activities and to report to the Legislature no later than January 1, 2017, which report would be required to contain an analysis of current capabilities and deficiencies, and recommendations to overcome any deficiencies identified.

(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.

Vote: majority. Appropriation: no. Fiscal committee: 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, and
7 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.

1 SEC. 2.— Section 309.8 is added to the Public Utilities Code, to
2 read:

3 309.8.— (a) The commission, in consultation with the
4 Department of Human Resources, shall develop a comprehensive
5 human resources plan for the Transportation Enforcement Branch
6 of the Safety and Enforcement Division, which focuses on staff
7 development, management practices, and leadership. The plan
8 shall include policies to properly and adequately train new
9 employees, provide proper and adequate continuous training, and
10 retain staff and reduce high rates of staff turnover.

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

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

21 (2) The number of complaints received and the average length
22 of time it takes to resolve those complaints.

23 (3) The number of investigations, stings, and other operations
24 undertaken to prohibit the illegal operation of charter-party carriers
25 of passengers, passenger stage corporations, and household goods
26 carriers.

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

29 (5) A method to annually analyze fees assessed on charter-party
30 carriers of passengers, passenger stage corporations, and household
31 goods carriers to determine if those fees are fair and commensurate
32 with services rendered.

33 (c) (1) The commission shall develop a comprehensive strategy
34 to detect, deter, and take enforcement actions against charter-party
35 carriers of passengers, passenger stage corporations, and household
36 goods carriers that are operating illegally. This strategy shall
37 include steps to increase on-the-street enforcement of illegally
38 operating charter-party carriers of passengers, passenger stage
39 corporations, and household goods carriers and, to the extent

1 possible, the commission shall coordinate with state and local law
2 enforcement on enforcement activities.

3 (2) As part of the strategy, the commission shall include
4 strike-force enforcement actions to be conducted at special events,
5 including proms, awards, and sporting events, and a scheduled
6 strategic, focused, enforcement timeline.

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

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

17 (5) The commission shall make best efforts to coordinate with
18 associations representing industries regulated by the Transportation
19 Enforcement Branch to coordinate enforcement of illegal operators.

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

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

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

38 (3) The commission shall ensure that during all normal business
39 hours, commission staff at the Transportation Enforcement Branch
40 is available by phone so that regulated carriers and those applying

1 for authority can easily contact a staff member to ask questions or
2 obtain information.

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

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

15 ~~(g) (1) The commission shall report to the Legislature on~~
16 ~~implementation of this section no later than February 1, 2017, and~~
17 ~~by each February 1, thereafter.~~

18 ~~(2) A report to be submitted pursuant to this subdivision shall~~
19 ~~be submitted in compliance with Section 9795 of the Government~~
20 ~~Code.~~

21 ~~SEC. 3.~~

22 ~~SEC. 2.~~ Section 1046 is added to the Public Utilities Code, to
23 read:

24 1046. (a) For purposes of this section, “peace officer” means
25 all of the following:

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

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

35 (3) Any person regularly employed as an airport law
36 enforcement officer by a city, county, or district operating the
37 airport or by a joint powers agency, created pursuant to Article 1
38 (commencing with Section 6500) of Chapter 5 of Division 7 of
39 Title 1 of the Government Code, operating the airport, if the
40 primary duty of the person is the enforcement of the law in or

1 about properties owned, operated, and administered by the
2 employing agency or when performing necessary duties with
3 respect to patrons, employees, and properties of the employing
4 agency, in or about the properties owned, operated, and
5 administered by the employing agency.

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

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

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

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

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

35 (d) The commission shall coordinate enforcement of this section
36 with those peace officers described in subdivision (a), including
37 undertaking both of the following:

38 (1) Educational outreach to ensure that those peace officers are
39 aware of the requirements of Sections 1031, 1034.5, 1041, 1045,
40 2110, 2112, and 2119.

1 (2) Establishing lines of communication to ensure that the
2 commission is notified if an action is commenced to enforce the
3 requirements of those sections specified in subdivision (b), so that
4 the commission may take appropriate action to enforce the fine
5 and penalty provisions of Chapter 11 (commencing with Section
6 2100).

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

11 *SEC. 3. Section 5102 of the Public Utilities Code is amended*
12 *to read:*

13 5102. (a) The use of the public highways for the transportation
14 of used household goods and personal effects for compensation is
15 a business affected with a public interest. It is the purpose of this
16 chapter to preserve for the public the full benefit and use of public
17 highways consistent with the needs of commerce without
18 unnecessary congestion or wear and tear upon those highways; to
19 secure to the people just, reasonable, and nondiscriminatory rates
20 for transportation by carriers operating upon the highways; to
21 secure full and unrestricted flow of traffic by motor carriers over
22 the highways that will adequately meet reasonable public demands
23 by providing for the regulation of rates of all carriers so that
24 adequate and dependable service by all necessary carriers shall be
25 maintained and the full use of the highways preserved to the public;
26 and to promote fair dealing and ethical conduct in the rendition of
27 services involving or incident to the transportation of household
28 goods and personal effects.

29 (b) *To achieve the purposes of subdivision (a) the commission*
30 *shall do all of the following:*

31 (1) *Prioritize the timely processing of applications and hold*
32 *“application workshops” for potential applicants around the state.*

33 (2) *Enable electronic filing of applications, reports, and fee*
34 *payments.*

35 (3) *Dedicate staff to answering telephone calls, mailings, and*
36 *electronic inquiries from carriers.*

37 (4) *Prioritize the timely processing of consumer complaints.*

38 (5) *Implement electronic case tracking of complaints and their*
39 *disposition.*

1 (6) *Implement a process for appropriate and timely enforcement*
2 *against illegally operating carriers, including by performing*
3 *staff-driven investigations and performing enforcement through*
4 *sting operations and other forms of presence in the field.*

5 (7) *Maintain relationships with, and implement outreach and*
6 *education programs to, local law enforcement, district attorneys,*
7 *and airports.*

8 (8) *Meet with carrier trade associations at least annually.*

9 (9) *Implement a consolidated case tracking system that*
10 *integrates each of the transportation program core functions and*
11 *data collection, administrative compliance details, complaints,*
12 *and investigations.*

13 (c) (1) *The commission shall assess its capabilities to carry out*
14 *the activities in subdivision (b) and report to the Legislature no*
15 *later than January 1, 2017. The report shall contain an analysis*
16 *of current capabilities and deficiencies, and recommendations to*
17 *overcome any deficiencies identified.*

18 (2) *The report shall be submitted in compliance with Section*
19 *9795 of the Government Code.*

20 (3) *Pursuant to Section 10231.5 of the Government Code, this*
21 *subdivision is inoperative on January 1, 2021.*

22 SEC. 4. Section 5317.5 of the Public Utilities Code is amended
23 to read:

24 5317.5. (a) The commission shall ensure that this chapter is
25 enforced and obeyed, and that violations thereof are promptly
26 prosecuted and that penalty moneys due to the state are recovered
27 and collected, and to this end it may sue in the name of the people
28 of the State of California. Upon the request of the commission,
29 the Attorney General or the district attorney of the proper county
30 or city and county may aid in any investigation, hearing, or trial
31 had under this chapter.

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

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

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

3 (c) A peace officer may enforce and assist in the enforcement
4 of Sections 5311 and 5312, resulting from a violation of Section
5 5132, 5133, 5140, or 5286, or more than one of those sections. A
6 peace officer may additionally enforce and assist in the enforcement
7 of Sections 5311.3 and 5314.5. In any case in which an arrest
8 authorized by this subdivision is made for an offense declared to
9 be a misdemeanor, and the person arrested does not demand to be
10 taken before a magistrate, the arresting peace officer may, instead
11 of taking such person before a magistrate, follow the procedure
12 prescribed by Chapter 5C (commencing with Section 853.5) of
13 Title 3 of Part 2 of the Penal Code. The provisions of that chapter
14 shall thereafter apply with reference to any proceeding based upon
15 the issuance of a citation pursuant to this authority.

16 (d) The commission shall coordinate enforcement of this section
17 with those peace officers described in subdivision (a), including
18 undertaking both of the following:

19 (1) Educational outreach to ensure that those peace officers are
20 aware of the requirements of Sections 5132, 5133, 5140, 5286,
21 5311, 5311.3, 5312, and 5314.5.

22 (2) Establishing lines of communication to ensure that the
23 commission is notified if an action is commenced to enforce the
24 requirements of those sections specified in subdivision (c), so that
25 the commission may take appropriate action to enforce the fine
26 and penalty provisions of this article.

27 (e) The Attorney General, a district attorney of the proper county
28 or city and county, or a city attorney may institute and prosecute
29 actions or proceedings for the violation of any law committed in
30 connection with, or arising from, a transaction involving the
31 transportation of household goods and personal effects.

32 *SEC. 5. Section 5352 of the Public Utilities Code is amended*
33 *to read:*

34 5352. (a) The use of the public highways for the transportation
35 of passengers for compensation is a business affected with a public
36 interest. It is the purpose of this chapter to preserve for the public
37 full benefit and use of public highways consistent with the needs
38 of commerce without unnecessary congestion or wear and tear
39 upon the highways; to secure to the people adequate and
40 dependable transportation by carriers operating upon the highways;

1 to secure full and unrestricted flow of traffic by motor carriers
2 over the highways which will adequately meet reasonable public
3 demands by providing for the regulation of all transportation
4 agencies with respect to accident indemnity so that adequate and
5 dependable service by all necessary transportation agencies shall
6 be maintained and the full use of the highways preserved to the
7 public; and to promote carrier and public safety through its safety
8 enforcement regulations.

9 *(b) To achieve the purposes of subdivision (a) the commission*
10 *shall do all of the following:*

11 *(1) Prioritize the timely processing of applications and hold*
12 *“application workshops” for potential applicants around the state.*

13 *(2) Enable electronic filing of applications, reports, and fee*
14 *payments.*

15 *(3) Dedicate staff to answering telephone calls, mailings, and*
16 *electronic inquiries from carriers.*

17 *(4) Prioritize the timely processing of consumer complaints.*

18 *(5) Implement electronic case tracking of complaints and their*
19 *disposition.*

20 *(6) Implement a process for appropriate and timely enforcement*
21 *against illegally operating carriers, including by performing*
22 *staff-driven investigations and performing enforcement through*
23 *sting operations and other forms of presence in the field.*

24 *(7) Maintain relationships with, and implement outreach and*
25 *education programs to, local law enforcement, district attorneys,*
26 *and airports.*

27 *(8) Meet with carrier trade associations at least annually.*

28 *(9) Implement a consolidated case tracking system that*
29 *integrates each of the transportation program core functions and*
30 *data collection, administrative compliance details, complaints,*
31 *and investigations.*

32 *(c) (1) The commission shall assess its capabilities to carry out*
33 *the activities in subdivision (b) and report to the Legislature no*
34 *later than January 1, 2017. The report shall contain an analysis*
35 *of current capabilities and deficiencies, and recommendations to*
36 *overcome any deficiencies identified.*

37 *(2) The report shall be submitted in compliance with Section*
38 *9795 of the Government Code.*

39 *(3) Pursuant to Section 10231.5 of the Government Code, this*
40 *subdivision is inoperative on January 1, 2021.*

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 5387 of the Public Utilities Code is amended
3 to read:

4 5387. (a) It is unlawful for the owner of a charter-party carrier
5 of passengers to permit the operation of a vehicle upon a public
6 highway for compensation without (1) having obtained from the
7 commission a certificate or permit pursuant to this chapter, (2)
8 having complied with the vehicle identification requirements of
9 Section 5385 or 5385.5, and (3) having complied with the accident
10 liability protection requirements of Section 5391.

11 (b) A person who drives a bus for a charter-party carrier without
12 having a current and valid driver's license of the proper class, a
13 passenger vehicle endorsement, or the required certificate shall be
14 suspended from driving a bus of any kind, including, but not
15 limited to, a bus, schoolbus, school pupil activity bus, or transit
16 bus, with passengers for a period of five years pursuant to Section
17 13369 of the Vehicle Code.

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

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

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

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

28 (D) Operates a bus with a permit that was suspended by the
29 commission during a period that the charter-party carrier's liability
30 insurance lapsed for which it has been cited.

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

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

36 (2) The commission shall not issue a new permit or certificate
37 to operate as a charter-party carrier if any officer, director, or owner
38 of that charter-party carrier was an officer, director, or owner of
39 a charter-party carrier that had its authority to operate as a
40 charter-party carrier permanently revoked by the commission or

1 that was permanently barred from receiving a permit or certificate
2 from the commission pursuant to this subdivision.

3 (d) A peace officer, as defined in Section 5417.5, may impound
4 a vehicle of a charter-party carrier of passengers for 30 days
5 pursuant to Section 14602.9 of the Vehicle Code if the peace officer
6 determines that any of the following violations occurred while the
7 driver was operating the vehicle of a charter-party carrier:

8 (1) The driver was operating the vehicle of a charter-party carrier
9 of passengers when the charter-party carrier of passengers did not
10 have a permit or certificate issued by the commission.

11 (2) The driver was operating the vehicle of a charter-party carrier
12 of passengers when the charter-party carrier of passengers was
13 operating with a suspended permit or certificate from the
14 commission.

15 (3) The driver was operating the vehicle of a charter-party carrier
16 of passengers without having a current and valid driver's license
17 of the proper class, a passenger vehicle endorsement, or the
18 required certificate.

19 ~~SEC. 6.~~

20 *SEC. 7.* Section 5411.5 of the Public Utilities Code is amended
21 to read:

22 5411.5. (a) Whenever a peace officer, as defined in Section
23 5417.5, arrests a person for operation of a vehicle of a charter-party
24 carrier of passengers without a valid certificate or permit, the peace
25 officer may impound and retain possession of the vehicle.

26 (b) Whenever a peace officer, as defined in Section 5417.5,
27 arrests a person for operating a vehicle of a charter-party carrier
28 of passengers as a taxicab in violation of an ordinance or resolution
29 of a city, county, or city and county, the peace officer may impound
30 and retain possession of the vehicle.

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

34 (d) The vehicle shall immediately be returned to the owner if
35 the infraction or violation is not prosecuted or is dismissed, the
36 owner is found not guilty of the offense, or it is determined that
37 the vehicle was used in violation of Section 5411 without the
38 knowledge and consent of the owner. The vehicle shall be returned
39 to the owner upon payment of any fine ordered by the court. If the
40 vehicle is seized due to a violation of a person other than the owner

1 of the vehicle, the vehicle shall be returned to the owner after all
2 impoundment fees are paid. After the expiration of six weeks from
3 the final disposition of the criminal case, unless the owner is in
4 the process of making payments to the court, the impounding
5 authority may deal with the vehicle as lost or abandoned property
6 under Section 1411 of the Penal Code.

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

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

19 ~~SEC. 7.~~

20 *SEC. 8.* Section 5417.5 is added to the Public Utilities Code,
21 to read:

22 5417.5. (a) The commission shall ensure that this chapter is
23 enforced and obeyed, and that violations thereof are promptly
24 prosecuted and that penalty moneys due to the state are recovered
25 and collected, and to this end it may sue in the name of the people
26 of the State of California. Upon the request of the commission,
27 the Attorney General or the district attorney of the proper county
28 or city and county may aid in any investigation, hearing, or trial
29 under this chapter. The Attorney General, a district attorney of the
30 proper county or city and county, or a city attorney may institute
31 and prosecute actions or proceedings for the violation of any law
32 committed in connection with, or arising from, a transaction
33 involving a charter-party carrier of passengers.

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

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

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

3 (2) An officer of the Department of the California Highway
4 Patrol.

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

16 (c) A peace officer may enforce and assist in the enforcement
17 of Sections 5411 and 5412 resulting from a violation of Section
18 5371, 5379, 5385, 5385.7, or 5387, or more than one of those
19 sections. A peace officer may additionally enforce and assist in
20 the enforcement of Sections 5411.3 and 5414.5. In any case in
21 which an arrest authorized by this subdivision is made for an
22 offense declared to be a misdemeanor, and the person arrested
23 does not demand to be taken before a magistrate, the arresting
24 peace officer may, instead of taking such person before a
25 magistrate, follow the procedure prescribed by Chapter 5C
26 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal
27 Code. The provisions of that chapter shall thereafter apply with
28 reference to any proceeding based upon the issuance of a citation
29 pursuant to this authority.

30 (d) The commission shall coordinate enforcement of this section
31 with those peace officers described in subdivision (b), including
32 undertaking both of the following:

33 (1) Educational outreach to ensure that those peace officers are
34 aware of the requirements of Sections 5371, 5379, 5385, 5385.7,
35 5387, 5411, 5411.3, 5412, and 5414.5.

36 (2) Establishing lines of communication to ensure that the
37 commission is notified if an action is commenced to enforce the
38 requirements of those sections specified in subdivision (c), so that
39 the commission may take appropriate action to enforce the fine
40 and penalty provisions of this article.

1 (e) The Attorney General, a district attorney of the proper county
2 or city and county, or a city attorney may institute and prosecute
3 actions or proceedings for the violation of any law committed in
4 connection with, or arising from, a transaction involving the
5 transportation of passengers by a charter-party carrier of
6 passengers.

7 ~~SEC. 8.~~

8 *SEC. 9.* Section 14602.9 of the Vehicle Code is amended to
9 read:

10 14602.9. (a) For purposes of this section, “peace officer” means
11 all of the following:

12 (1) An officer of the Department of the California Highway
13 Patrol.

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

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

32 (b) A peace officer may impound a vehicle of a charter-party
33 carrier for 30 days if the officer determines that any of the
34 following violations occurred while the driver was operating the
35 vehicle of the charter-party carrier:

36 (1) The driver was operating the vehicle of a charter-party carrier
37 when the charter-party carrier did not have a permit or certificate
38 issued by the Public Utilities Commission, pursuant to Section
39 5375 of the Public Utilities Code.

1 (2) The driver was operating the vehicle of a charter-party carrier
2 when the charter-party carrier was operating with a suspended
3 permit or certificate from the Public Utilities Commission.

4 (3) The driver was operating the vehicle of a charter-party carrier
5 without having a current and valid driver's license of the proper
6 class, a passenger vehicle endorsement, or the required certificate.

7 (c) A peace officer may impound a vehicle belonging to a
8 passenger stage corporation for 30 days if the officer determines
9 any of the following violations occurred while the driver was
10 operating the vehicle:

11 (1) The driver was operating the vehicle when the passenger
12 stage corporation did not have a certificate of public convenience
13 and necessity issued by the Public Utilities Commission as required
14 pursuant to Article 2 (commencing with Section 1031) of Chapter
15 5 of Part 1 of Division 1 of the Public Utilities Code.

16 (2) The driver was operating the vehicle when the operating
17 rights or certificate of public convenience and necessity of a
18 passenger stage corporation was suspended, canceled, or revoked
19 pursuant to Section 1033.5, 1033.7, or 1045 of the Public Utilities
20 Code.

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

23 (d) Within two working days after impoundment, the
24 impounding agency shall send a notice by certified mail, return
25 receipt requested, to the legal owner of the vehicle, at the address
26 obtained from the department, informing the owner that the vehicle
27 has been impounded. Failure to notify the legal owner within two
28 working days shall prohibit the impounding agency from charging
29 for more than 15 day's impoundment when the legal owner
30 redeems the impounded vehicle. The impounding agency shall
31 maintain a published telephone number that provides information
32 24 hours a day regarding the impoundment of vehicles and the
33 rights of a registered owner to request a hearing.

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

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

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

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

8 (C) When, for a charter-party carrier of passengers, the driver
9 of the vehicle is not the sole registered owner of the vehicle and
10 the vehicle is being released to another registered owner of the
11 vehicle who agrees not to allow the driver to use the vehicle until
12 after the end of the impoundment period and the charter-party
13 carrier has been issued a valid permit from the Public Utilities
14 Commission, pursuant to Section 5375 of the Public Utilities Code.

15 (D) When, for a passenger stage corporation, the driver of the
16 vehicle is not the sole registered owner of the vehicle and the
17 vehicle is being released to another registered owner of the vehicle
18 who agrees not to allow the driver to use the vehicle until after the
19 end of the impoundment period and the passenger stage corporation
20 has been issued a valid certificate of public convenience and
21 necessity by the Public Utilities Commission, pursuant to Article
22 2 (commencing with Section 1031) of Chapter 5 of Part 1 of
23 Division 1 of the Public Utilities Code.

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

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

31 (h) A vehicle removed and seized under subdivision (b) or (c)
32 shall be released to the legal owner of the vehicle or the legal
33 owner's agent prior to the end of the impoundment period if all of
34 the following conditions are met:

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

39 (2) The legal owner or the legal owner's agent pays all towing
40 and storage fees related to the seizure of the vehicle. A lien sale

1 processing fee shall not be charged to the legal owner who redeems
2 the vehicle prior to the 10th day of impoundment. The impounding
3 authority or any person having possession of the vehicle shall not
4 collect from the legal owner of the type specified in paragraph (1),
5 or the legal owner’s agent, any administrative charges imposed
6 pursuant to Section 22850.5 unless the legal owner voluntarily
7 requested a poststorage hearing.

8 (3) (A) The legal owner or the legal owner’s agent presents
9 either lawful foreclosure documents or an affidavit of repossession
10 for the vehicle, and a security agreement or title showing proof of
11 legal ownership for the vehicle. All presented documents may be
12 originals, photocopies, or facsimile copies, or may be transmitted
13 electronically. The impounding agency shall not require a
14 document to be notarized. The impounding agency may require
15 the agent of the legal owner to produce a photocopy or facsimile
16 copy of its repossession agency license or registration issued
17 pursuant to Chapter 11 (commencing with Section 7500) of
18 Division 3 of the Business and Professions Code, or to demonstrate,
19 to the satisfaction of the impounding agency, that the agent is
20 exempt from licensure pursuant to Section 7500.2 or 7500.3 of the
21 Business and Professions Code.

22 (B) Administrative costs authorized under subdivision (a) of
23 Section 22850.5 shall not be charged to the legal owner of the type
24 specified in paragraph (1), who redeems the vehicle unless the
25 legal owner voluntarily requests a poststorage hearing. A city,
26 county, or state agency shall not require a legal owner or a legal
27 owner’s agent to request a poststorage hearing as a requirement
28 for release of the vehicle to the legal owner or the legal owner’s
29 agent. The impounding agency shall not require any documents
30 other than those specified in this paragraph. The impounding
31 agency shall not require any documents to be notarized.

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

35 (i) (1) A legal owner or the legal owner’s agent who obtains
36 release of the vehicle pursuant to subdivision (h) may not release
37 the vehicle to the registered owner of the vehicle or any agents of
38 the registered owner, unless the registered owner is a rental car
39 agency, until after the termination of the impoundment period.

1 (2) The legal owner or the legal owner's agent shall not
2 relinquish the vehicle to the registered owner until the registered
3 owner or that owner's agent presents his or her valid driver's
4 license or valid temporary driver's license to the legal owner or
5 the legal owner's agent. The legal owner or the legal owner's agent
6 shall make every reasonable effort to ensure that the license
7 presented is valid.

8 (3) Prior to relinquishing the vehicle, the legal owner may
9 require the registered owner to pay all towing and storage charges
10 related to the impoundment and any administrative charges
11 authorized under Section 22850.5 that were incurred by the legal
12 owner in connection with obtaining custody of the vehicle.

13 (j) (1) A vehicle removed and seized under subdivision (b) or
14 (c) shall be released to a rental agency prior to the end of the
15 impoundment period if the agency is either the legal owner or
16 registered owner of the vehicle and the agency pays all towing and
17 storage fees related to the seizure of the vehicle.

18 (2) The owner of a rental vehicle that was seized under this
19 section may continue to rent the vehicle upon recovery of the
20 vehicle. However, the rental agency shall not rent another vehicle
21 to the driver of the vehicle that was seized until the impoundment
22 period has expired.

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

28 (k) Notwithstanding any other provision of this section, the
29 registered owner, and not the legal owner, shall remain responsible
30 for any towing and storage charges related to the impoundment,
31 any administrative charges authorized under Section 22850.5, and
32 any parking fines, penalties, and administrative fees incurred by
33 the registered owner.

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

37 (m) For the purposes of this section, a "charter-party carrier"
38 means a charter-party carrier of passengers as defined by Section
39 5360 of the Public Utilities Code.

1 (n) For purposes of this section, a “passenger stage corporation”
2 means a passenger stage corporation as defined by Section 226 of
3 the Public Utilities Code.

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