

**ASSEMBLY BILL**

**No. 311**

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**Introduced by Assembly Member Baca**

February 8, 1995

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An act to amend Section 7108.6 of the Business and Professions Code, relating to dump truck carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 311, as introduced, Baca. Dump truck carriers.

Under existing law, a licensed contractor is required to pay all transportation charges submitted by a dump truck carrier, duly licensed and subject to regulation by the Public Utilities Commission, as specified. The payment is required to be made, unless otherwise agreed to in writing by the parties and subject to the approval of the Public Utilities Commission. A violation of this section constitutes a cause for disciplinary action, as specified, but does not constitute grounds for a civil action. However, a civil action may be maintained under any other provision of law.

This bill would instead provide that a licensed contractor is required to pay all transportation charges submitted by a duly authorized motor carrier of property in dump truck equipment, as specified.

This bill would delete the provisions that payment shall be made, unless otherwise agreed to in writing by the parties and subject to the approval of the Public Utilities Commission and that nonpayment does not constitute grounds for a civil action.

This bill would also provide that in the event that there is a good faith dispute over a portion of the charges claimed, the contractor may withhold payment of no more than the disputed amount, and that a violation of this section in addition to constituting a cause for disciplinary action also subjects the contractor licensee to a penalty of 2% of the amount due per month for every month that payment is outstanding and attorney’s fees and costs in an action for the collection of moneys not paid.

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

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

1 SECTION 1. Section 7108.6 of the Business and  
2 Professions Code is amended to read:  
3 7108.6. ~~All A licensed contractors are~~ *contractor is*  
4 *required to pay all transportation charges submitted by*  
5 *a duly authorized motor carrier of property in dump*  
6 ~~truck carrier, duly licensed and subject to regulation by~~  
7 ~~the Public Utilities Commission, equipment~~ *by the 20th*  
8 *day following the last day of the calendar month in which*  
9 *the transportation was performed, provided that if the*  
10 *charges, including all necessary documentation, are*  
11 *submitted by the fifth day following the last day of the*  
12 *calendar month in which the transportation was*  
13 *performed. The payment shall be made, unless otherwise*  
14 ~~agreed to in writing by the parties and subject to the~~  
15 ~~approval of the Public Utilities Commission.~~ *In the event*  
16 *that there is a good faith dispute over a portion of the*  
17 *charges claimed, the contractor may withhold payment*  
18 *of no more than the disputed amount. Any A violation of*  
19 *this section constitutes a cause for disciplinary action*  
20 *under Section 7120, but does not constitute grounds for a*  
21 *civil action. However, this section shall not be construed*  
22 ~~to prohibit the bringing of a civil action under any other~~  
23 ~~provision of law and shall also subject the contractor~~  
24 *licensee to a penalty of 2 percent of the amount due per*  
25 *month for every month that payment is outstanding. In*  
26 *an action for the collection of moneys not paid in*



1 *accordance with this section, the prevailing party shall be*  
2 *entitled to his or her attorney's fees and costs.*  
3 This section applies to all private works of  
4 improvement and to all public works of improvement.

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