

AMENDED IN ASSEMBLY JUNE 26, 1995

AMENDED IN ASSEMBLY MAY 8, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1683

Introduced by Assembly Member Conroy

February 24, 1995

An act to add Section 16728 to the Business and Professions Code, to amend Sections 211, 212, 214.5, 216, 622, 727, 728.5, 731, 768, 816.5, 1904, 2107.5, 2117, 2119, 4000, 4001, 4005, 4006, 4007, 4010, 4015, 4022, 5001, 5004, 5005, of, to amend the heading of Chapter 2.5 (commencing with Section 4000) of Division 2 of, to add Section 224.6 to, to repeal Sections 213, 214.1, 421.5, 452.1, 452.2, 454.1, 460.5, 586, 726, and 4008.1 of, and to repeal Article 4 (commencing with Section 1061) of Chapter 5 of Part 1 of Division 1, Chapter 1 (commencing with Section 3501), Chapter 2 (commencing with Section 3901), Chapter 2.7 (commencing with Section 4120), Chapter 3 (commencing with Section 4301) and Chapter 5 (commencing with Section 4801) of Division 2 of, the Public Utilities Code, ~~to add Sections 6053 and 6201.9 to,~~ and to add Part 1.55 (commencing with Section 7231) to Division 2 of, the Revenue and Taxation Code, and to amend Sections 290, 1808.1, 1808.3, ~~34501,~~ 34505.6, 34505.7, and 40000.22 of, and to add Division 14.85 (commencing with Section 34600) to, the Vehicle Code, relating to carriers, making an appropriation therefor; *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1683, as amended, Conroy. Public utilities: carriers.

Under existing law, the Public Utilities Commission is vested with regulatory authority over public utilities including highway carriers, household goods carriers, and charter-party carriers. The Federal Aviation Administration Authorization Act of 1994 (P.L. 103-305) preempts state regulation of prices, routes, and services of motor carriers.

This bill would revise various provisions of state law to reflect the federal preemption.

This bill would transfer authority for the regulation of safety with respect to motor carriers of property, as defined by the bill, from the Public Utilities Commission to the Department of the California Highway Patrol. The bill would make related and conforming changes.

~~This bill would impose an excise tax on diesel fuel, to cover the costs of the regulation. The proceeds from the tax would be deposited in the Motor Carrier Safety Improvement Fund, which the bill would create, to be available for appropriation by the Legislature.~~

This bill would ~~also~~ impose a uniform business license tax on motor carriers of property to be deposited in the Motor Carriers Uniform Business License Tax Account, which is appropriated to the Controller for disbursement to cities and counties, *for safety improvements, and for making refunds of the taxes when necessary.*

This bill would impose a state-mandated local program by making it a crime to violate specified provisions of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.



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

1 SECTION 1. This act shall be known and may be cited
2 as the Motor Carrier Safety Improvement Act of 1995.

3 SEC. 1.5. The Legislature finds that the provisions of
4 the Public Utilities Code that authorize the Public
5 Utilities Commission to regulate the rates, routes and
6 services of highway carriers engaged in for-hire
7 transportation of property between points within
8 California have been preempted by federal law (P.L.
9 103-305) and that the certificates of public convenience
10 and necessity and the permits issued by the Public
11 Utilities Commission to highway carriers engaged in
12 California intrastate transportation were made null and
13 void and valueless by that preemptive federal law. It is
14 the intention of the Legislature by this enactment to
15 exercise the power over motor carriers of property
16 authorized by P.L. 103-305.

17 SEC. 2. Section 16728 is added to the Business and
18 Professions Code, to read:

19 16728. Notwithstanding any other provision of law,
20 motor carriers of property may voluntarily elect to
21 participate in uniform cargo liability rules, uniform bills
22 of lading or receipts for property being transported,
23 uniform cargo credit rules, joint line rates or routes,
24 classifications and mileage guides. Motor carriers of
25 property that so elect shall comply with all requirements
26 of Section 11501 of Title 49 of the United States Codes
27 (P.L. 103-305 Section 601(c)) and with federal
28 regulations promulgated pursuant thereto. The
29 Legislature intends by this section to provide to motor
30 carriers of property the antitrust immunity authorized by
31 state action pursuant to Section 11501(h)(3) of Title 49 of
32 the United States Code.

33 SEC. 3. Section 211 of the Public Utilities Code is
34 amended to read:

35 211. "Common carrier" means every person and
36 corporation providing transportation for compensation
37 to or for the public or any portion thereof, except as
38 otherwise provided in this part.



1 “Common carrier” includes:

2 (a) Every railroad corporation; street railroad
3 corporation; express corporation; freight forwarder;
4 dispatch, sleeping car, dining car, drawing-room car,
5 freight, freightline, refrigerator, oil, stock, fruit,
6 car-loaning, car-renting, car-loading, and every other car
7 corporation or person operating for compensation within
8 this state.

9 (b) Every corporation or person, owning, controlling,
10 operating, or managing any vessel used in the
11 transportation of persons or property for compensation
12 between points upon the inland waters of this state or
13 upon the high seas between points within this state,
14 except as provided in Section 212. “Inland waters” as used
15 in this section includes all navigable waters within this
16 state other than the high seas.

17 (c) Every “passenger stage corporation” operating
18 within this state.

19 SEC. 4. Section 212 of the Public Utilities Code is
20 amended to read:

21 212. “Common carrier” shall not include:

22 (a) Any corporation or person owning, controlling,
23 operating, or managing any vessel, by reason of the
24 furnishing of water transportation service between points
25 upon the inland waters of this state or upon the high seas
26 between points within this state for affiliated or parent or
27 subsidiary companies or for the products of other
28 corporations or persons engaged in the same industry, if
29 the water transportation service is furnished in tank
30 vessels or barges specially constructed to hold liquids or
31 fluids in bulk and if the service is not furnished to others
32 not engaged in the same industry.

33 (b) Any corporation or person who operates any vessel
34 for the transportation of persons for compensation,
35 between points in this state if one terminus of every trip
36 operated by the corporation or person is within the
37 boundaries of a United States military reservation and is
38 performed under a contract with an agency of the federal
39 government which specifies the terms of service to be
40 provided; and provided that the corporation or person



1 does not perform any service between termini within this
2 state which are outside of a United States military
3 reservation. For the purposes of this subdivision, the
4 conditions of this exemption shall be reviewed by the
5 Public Utilities Commission annually as of the first day of
6 January of each year.

7 (c) Any corporation or person owning, controlling,
8 operating, or managing any recreational conveyance
9 such as a ski lift, ski tow, J-bar, T-bar, chair lift, aerial
10 tramway, or other device or equipment used primarily
11 while participating in winter sports activities.

12 (d) Any corporation or person furnishing or otherwise
13 providing transportation by horse, mule, or other equine
14 animal for entertainment or recreational purposes.

15 (e) Any motor carrier of property.

16 SEC. 5. Section 213 of the Public Utilities Code is
17 repealed.

18 SEC. 6. Section 214.1 of the Public Utilities Code is
19 repealed.

20 SEC. 7. Section 214.5 of the Public Utilities Code is
21 amended to read:

22 214.5. With respect to a motor vehicle used in the
23 transportation of passengers for compensation by a
24 passenger stage corporation, "owner" means the
25 corporation or person who is registered with the
26 Department of Motor Vehicles as the owner of the
27 vehicle, or who has a legal right to possession of the
28 vehicle pursuant to a lease or rental agreement.

29 SEC. 8. Section 216 of the Public Utilities Code is
30 amended to read:

31 216. (a) "Public utility" includes every common
32 carrier, toll bridge corporation, pipeline corporation, gas
33 corporation, electrical corporation, telephone
34 corporation, telegraph corporation, water corporation,
35 sewer system corporation, and heat corporation, where
36 the service is performed for, or the commodity is
37 delivered to, the public or any portion thereof.

38 (b) Whenever any common carrier, toll bridge
39 corporation, pipeline corporation, gas corporation,
40 electrical corporation, telephone corporation, telegraph



1 corporation, water corporation, sewer system
2 corporation, or heat corporation performs a service for,
3 or delivers a commodity to, the public or any portion
4 thereof for which any compensation or payment
5 whatsoever is received, that common carrier, toll bridge
6 corporation, pipeline corporation, gas corporation,
7 electrical corporation, telephone corporation, telegraph
8 corporation, water corporation, sewer system
9 corporation, or heat corporation, is a public utility subject
10 to the jurisdiction, control, and regulation of the
11 commission and the provisions of this part.

12 (c) When any person or corporation performs any
13 service for, or delivers any commodity to, any person,
14 private corporation, municipality, or other political
15 subdivision of the state, which in turn either directly or
16 indirectly, mediately or immediately, performs that
17 service for, or delivers that commodity to, the public or
18 any portion thereof, that person or corporation is a public
19 utility subject to the jurisdiction, control, and regulation
20 of the commission and the provisions of this part.

21 (d) Ownership or operation of a facility which
22 employs cogeneration technology or produces power
23 from other than a conventional power source or the
24 ownership or operation of a facility which employs
25 landfill gas technology does not make a corporation or
26 person a public utility within the meaning of this section
27 solely because of the ownership or operation of such a
28 facility.

29 (e) Any corporation or person engaged directly or
30 indirectly in developing, producing, transmitting,
31 distributing, delivering, or selling any form of heat
32 derived from geothermal or solar resources or from
33 cogeneration technology to any privately owned or
34 publicly owned public utility, or to the public or any
35 portion thereof, is not a public utility within the meaning
36 of this section solely by reason of engaging in any of those
37 activities.

38 (f) The ownership or operation of a facility which sells
39 compressed natural gas at retail to the public for use only
40 as a motor vehicle fuel, and the selling of compressed



1 natural gas at retail from such a facility to the public for
2 use only as a motor vehicle fuel, does not make the
3 corporation or person a public utility within the meaning
4 of this section solely because of that ownership, operation,
5 or sale.

6 (g) “Public utility” does not include a motor carrier of
7 property.

8 SEC. 9. Section 421.5 of the Public Utilities Code is
9 repealed.

10 SEC. 10. Section 224.6 is added to the Public Utilities
11 Code, to read:

12 224.6. “Motor carrier of property” means a motor
13 carrier as defined in Section 34601 of the Vehicle Code.

14 SEC. 11. Section 452.1 of the Public Utilities Code is
15 repealed.

16 SEC. 12. Section 452.2 of the Public Utilities Code is
17 repealed.

18 SEC. 13. Section 454.1 of the Public Utilities Code is
19 repealed.

20 SEC. 14. Section 460.5 of the Public Utilities Code is
21 repealed.

22 SEC. 15. Section 586 of the Public Utilities Code is
23 repealed.

24 SEC. 16. Section 622 of the Public Utilities Code is
25 amended to read:

26 622. (a) As used in this section, “motor carrier”
27 means:

28 A passenger stage corporation as defined in Section 226.

29 (b) As used in this section, “water carrier” means a
30 common carrier operating upon any waterway in this
31 state between fixed termini or over a regular route.

32 (c) A motor carrier or water carrier may condemn any
33 property necessary for the construction and maintenance
34 of terminal facilities for the receipt, transfer, or delivery
35 of the passengers or property it carries or for other
36 terminal facilities of any such carrier.

37 SEC. 17. Section 726 of the Public Utilities Code is
38 repealed.

39 SEC. 18. Section 727 of the Public Utilities Code is
40 amended to read:



1 727. It is the policy of the state that the use of all
2 waterways, ports, and harbors of this state shall be
3 encouraged, and to that end the commission is directed
4 in the establishment of rates for water carriers applying
5 to business moving between points within this state to fix
6 those rates at such a differential under the rates of
7 competing land carriers that the water carriers shall be
8 able fairly to compete for such business. In fixing the rates
9 there shall be taken into consideration quality and
10 regularity of service and class and speed of vessels.

11 SEC. 19. Section 728.5 of the Public Utilities Code is
12 amended to read:

13 728.5. The commission may establish rates or charges
14 for the transportation of passengers and freight by
15 railroads and other transportation companies, except
16 motor carriers of property, and no railroad or other
17 transportation company, except motor carriers of
18 property, shall charge or demand or collect or receive a
19 greater or less or different compensation for such
20 transportation of passengers or freight, or for any service
21 in connection therewith, between the points named in
22 any tariff of rates established by the commission than the
23 rates, fares and charges which are specified in such tariff.
24 The commission may examine books, records and papers
25 of all railroad and other transportation companies, except
26 motor carriers of property; may hear and determine
27 complaints against railroad and other transportation
28 companies; and may issue subpoenas and all necessary
29 process and send for persons and papers. The commission
30 and each of the commissioners may administer oaths, take
31 testimony and punish for contempt in the same manner
32 and to the same extent as courts of record. The
33 commission may prescribe a uniform system of accounts
34 to be kept by all railroad and other transportation
35 companies, except motor carriers of property.

36 SEC. 20. Section 731 of the Public Utilities Code is
37 amended to read:

38 731. Whenever the commission, after a hearing, finds
39 that any rate or toll for the transportation of property is
40 lower than a reasonable or sufficient rate and that the rate



1 is not justified by actual competitive transportation rates
2 of competing carriers, or the cost of other means of
3 transportation, the commission shall prescribe such rates
4 as will provide an equality of transportation rates for the
5 transportation of property between all such competing
6 agencies of transportation, except motor carriers of
7 property. When in the judgment of the commission a
8 differential is necessary to preserve equality of
9 competitive transportation conditions, a reasonable
10 differential between rates of common carriers by rail and
11 water for the transportation of property may be
12 maintained by such carriers, and the commission may by
13 order require the establishment of such rates.

14 SEC. 21. Section 768 of the Public Utilities Code is
15 amended to read:

16 768. The commission may, after a hearing, require
17 every public utility to construct, maintain, and operate its
18 line, plant, system, equipment, apparatus, tracks, and
19 premises in a manner so as to promote and safeguard the
20 health and safety of its employees, passengers, customers,
21 and the public. The commission may prescribe, among
22 other things, the installation, use, maintenance, and
23 operation of appropriate safety or other devices or
24 appliances, including interlocking and other protective
25 devices at grade crossings or junctions and block or other
26 systems of signaling. The commission may establish
27 uniform or other standards of construction and
28 equipment, and require the performance of any other act
29 which the health or safety of its employees, passengers,
30 customers, or the public may demand. The Department
31 of the California Highway Patrol shall have the primary
32 responsibility for the regulation of the safety of operation
33 of passenger stage corporations. The commission shall
34 cooperate with the Department of the California
35 Highway Patrol to ensure safe operation of these carriers.

36 SEC. 22. Section 816.5 of the Public Utilities Code is
37 amended to read:

38 816.5. Nothing in this article or in Article 6
39 (commencing with Section 851) requires a common
40 carrier by railroad subject to the Interstate Commerce



1 Act (49 U.S.C. Sec. 10101 et seq.) or passenger stage
2 corporation to secure from the commission authority to
3 execute any conditional sales contract for the purchase of
4 motor vehicle or railroad equipment or any note or
5 chattel mortgage on that equipment securing the
6 payment of all, or any part, of the purchase price.

7 SEC. 23. Article 4 (commencing with Section 1061) of
8 Chapter 5 of Part 1 of Division 1 of the Public Utilities
9 Code is repealed.

10 SEC. 24. Section 1904 of the Public Utilities Code is
11 amended to read:

12 1904. The commission shall also charge and collect the
13 following fees:

14 (a) Except as otherwise provided in Sections 1010 and
15 1036 for filing each application for a certificate of public
16 convenience and necessity, or for the mortgage, lease,
17 transfer, or assignment thereof, seventy-five dollars
18 (\$75).

19 (b) For a certificate authorizing an issue of bonds,
20 notes, or other evidences of indebtedness, two dollars
21 (\$2) for each one thousand dollars (\$1,000) of the face
22 value of the authorized issue or fraction thereof up to one
23 million dollars (\$1,000,000), one dollar (\$1) for each one
24 thousand dollars (\$1,000) over one million dollars
25 (\$1,000,000) and up to ten million dollars (\$10,000,000),
26 and fifty cents (\$0.50) for each one thousand dollars
27 (\$1,000) over ten million dollars (\$10,000,000), with a
28 minimum fee in any case of fifty dollars (\$50). No fee
29 need be paid on such portion of any such issue as may be
30 used to guarantee, take over, refund, discharge, or retire
31 any stock, bond, note or other evidence of indebtedness
32 on which a fee has theretofore been paid to the
33 commission. If the commission modified the amount of
34 the issue requested in any case and the applicant
35 thereupon elects not to avail itself of the commission's
36 authorization, no fee shall be paid, and if such fee is paid
37 prior to the issuance of such certificate by the
38 commission, such fee shall be returned.

39 SEC. 25. Section 2107.5 of the Public Utilities Code is
40 amended to read:



1 2107.5. When the commission finds, after hearing,
2 that any person or corporation has knowingly aided or
3 abetted a common carrier in violating Section 458 or has
4 violated Section 459, or any order, decision, rule,
5 regulation, direction, demand, or requirement issued
6 under those provisions, the commission may impose a fine
7 for each violation not to exceed five thousand dollars
8 (\$5,000). In addition to the fine, the commission may
9 impose interest on the fine, not to exceed the maximum
10 rate of interest provided for in Section 1 of Article XV of
11 the Constitution. Interest shall commence to accrue on
12 the date when the payment of the fine becomes
13 delinquent.

14 SEC. 26. Section 2117 of the Public Utilities Code is
15 amended to read:

16 2117. (a) Whenever a written notice to appear has
17 been mailed to the owner of a passenger stage, an exact
18 and legible duplicate copy of the notice, when filed with
19 the magistrate in lieu of a verified complaint, is a
20 complaint to which the defendant may plead guilty.

21 (b) If, however, the defendant fails to appear, does not
22 deposit bail, or pleads other than guilty to the offense
23 charged, a complaint shall be filed which conforms to
24 Chapter 2 (commencing with Section 948) of Title 5 of
25 Part 2 of the Penal Code and which shall be deemed to be
26 an original complaint, and thereafter the proceeding shall
27 be held as provided by law, except that the defendant
28 may, by an agreement in writing, subscribed by the
29 defendant and filed with the court, waive the filing of a
30 verified complaint and elect that the prosecution may
31 proceed upon a written notice to appear.

32 SEC. 27. Section 2119 of the Public Utilities Code is
33 amended to read:

34 2119. Every passenger stage corporation and every
35 officer, director, agent, or employee of a passenger stage
36 corporation, who displays on any vehicle any identifying
37 symbol other than one prescribed by the commission
38 pursuant to Section 1038.5, or who fails to remove an
39 identifying symbol when required by the commission, is
40 guilty of a misdemeanor and is punishable by a fine of not



1 more than one thousand dollars (\$1,000), by
2 imprisonment in the county jail for not more than one
3 year, or by both.

4 SEC. 28. Chapter 1 (commencing with Section 3501)
5 of Division 2 of the Public Utilities Code is repealed.

6 SEC. 29. Chapter 2 (commencing with Section 3901)
7 of Division 2 of the Public Utilities Code is repealed.

8 SEC. 30. The heading of Chapter 2.5 (commencing
9 with Section 4000) of Division 2 of the Public Utilities
10 Code is amended to read:

11

12 CHAPTER 2.5. PRIVATE CARRIERS OF PASSENGERS

13

14 SEC. 31. Section 4000 of the Public Utilities Code is
15 amended to read:

16 4000. This chapter may be cited as the Private
17 Carriers of Passengers Registration Act.

18 SEC. 32. Section 4001 of the Public Utilities Code is
19 amended to read:

20 4001. (a) For purposes of this chapter, “private
21 carrier” means a not-for-hire motor carrier, as defined in
22 Section 408 of the Vehicle Code, who transports
23 passengers and is required to display a carrier
24 identification number pursuant to Section 34507.5 of the
25 Vehicle Code, but does not include persons providing
26 transportation services specified in subdivision (k) or (l)
27 of Section 5353.

28 (b) For purposes of this chapter, “department” means
29 the Department of the California Highway Patrol.

30 SEC. 33. Section 4005 of the Public Utilities Code is
31 amended to read:

32 4005. Except as provided in Section 4008, no private
33 carrier of passengers shall operate a motor vehicle on any
34 public highway in this state unless its operation is
35 currently registered with the commission. The
36 commission shall grant registration upon the filing of the
37 application and the payment of the fee as required by this
38 article, subject to the private carrier of passengers’
39 compliance with this chapter.



1 SEC. 34. Section 4006 of the Public Utilities Code is
2 amended to read:

3 4006. (a) A fee of twenty-five dollars (\$25) shall be
4 paid to the commission for the filing of the initial
5 registration of private carriers of passengers, and an
6 annual renewal fee of twenty dollars (\$20) shall also be
7 paid by private carriers of passengers. The fees required
8 to be paid by carriers of passengers pursuant to this
9 section shall be deposited in the Public Utilities
10 Commission Transportation Reimbursement Account in
11 the General Fund.

12 (b) Notwithstanding subdivision (a), the commission
13 may increase the amount of the initial registration fee to
14 not more than thirty-five dollars (\$35) in the case of
15 private carriers of passengers, and the amount of the
16 annual renewal fee to not more than thirty dollars (\$30)
17 in the case of private carriers of passengers if the
18 commission finds and determines that to do so is
19 necessary to defray the costs of implementing Section
20 4022. If the commission increases the fee pursuant to this
21 subdivision, it shall prepare and transmit to the Joint
22 Legislative Budget Committee, the Assembly
23 Committee on Utilities and Commerce, and the Senate
24 Committee on Energy and Public Utilities a report of the
25 amount of the increase instituted together with an
26 audited statement of the receipts and disbursements
27 related to the administration of private carrier of
28 passengers registrations.

29 SEC. 35. Section 4007 of the Public Utilities Code is
30 amended to read:

31 4007. (a) When the department issues a carrier
32 identification number pursuant to Section 34507.5 of the
33 Vehicle Code, it shall inform the private carrier of
34 passengers concerning the provisions of this chapter and
35 the requirement that the carrier register with the Public
36 Utilities Commission.

37 (b) The department shall periodically, but not less
38 frequently than quarterly, transmit to the commission a
39 list of the persons, firms, and corporations to whom it has
40 issued a carrier identification number. Upon receipt of



1 the list, the commission shall notify the ~~carriers~~ *private*
 2 *carriers of passengers* of the registration requirements
 3 and of the penalties for failure to register.

4 SEC. 36. Section 4008.1 of the Public Utilities Code is
 5 repealed.

6 SEC. 37. Section 4010 of the Public Utilities Code is
 7 amended to read:

8 4010. (a) Registration shall not be granted to any
 9 private carrier of passengers until there is filed with and
 10 accepted by the commission, in the form that it
 11 prescribes, a currently effective certificate of insurance
 12 or a surety bond evidencing protection against liability
 13 imposed by law for the payment of damages for personal
 14 injury to, or death of, any person or property damage, or
 15 both.

16 (b) Whenever the commission determines that the
 17 certificate of insurance or surety bond of a private carrier
 18 of passengers has lapsed or been terminated, the
 19 commission shall suspend the private carrier of
 20 passenger's registration.

21 (c) The commission shall notify the private carrier of
 22 passengers of any action taken under subdivision (b).

23 SEC. 38. Section 4015 of the Public Utilities Code is
 24 amended to read:

25 4015. A private carrier of passengers shall display the
 26 carrier identification number, as required by Section
 27 34507.5 of the Vehicle Code, on the vehicles operated
 28 pursuant to the registration granted under this chapter.

29 SEC. 39. Section 4022 of the Public Utilities Code is
 30 amended to read:

31 4022. (a) Upon receipt of a written recommendation
 32 from the department that the registration of a private
 33 carrier of passengers be suspended for failure to either
 34 (1) maintain any vehicle of the carrier in a safe operating
 35 condition or to comply with the Vehicle Code or with
 36 regulations contained in Title 13 of the California Code of
 37 Regulations relative to motor carrier safety, if that failure
 38 is either a consistent failure or presents an imminent
 39 danger to public safety, or (2) enroll all drivers in the pull
 40 notice system as required by Section 1808.1 of the Vehicle



1 Code, the commission shall, pending a hearing in the
2 matter pursuant to subdivision (d), suspend the carrier's
3 registration. The department's written recommendation
4 shall specifically indicate compliance with subdivision
5 (c).

6 (b) A private carrier of passengers whose registration
7 is suspended pursuant to subdivision (a) may obtain a
8 reinspection of its terminal and vehicles by the
9 department by submitting a written request for
10 reinstatement to the commission and paying a
11 reinstatement fee of one hundred twenty-five dollars
12 (\$125). The fees required to be paid by carriers of
13 passengers pursuant to this section shall be deposited in
14 the Public Utilities Commission Transportation
15 Reimbursement Account in the General Fund. Upon
16 payment of the fee, the commission shall forward a
17 request for reinspection to the department which shall
18 perform a reinspection within a reasonable time. The
19 commission shall reinstate a carrier's registration
20 suspended under subdivision (a) promptly upon receipt
21 of a written recommendation from the department that
22 the carrier's safety compliance has improved to the
23 satisfaction of the department, unless the registration is
24 suspended for another reason or has been revoked.

25 (c) Before transmitting a recommendation pursuant
26 to subdivision (a) to the commission, the department
27 shall notify the private carrier of passengers in writing of
28 all of the following:

29 (1) That the department has determined that the
30 carrier's safety record is unsatisfactory, furnishing a copy
31 of any documentation or summary of any other evidence
32 supporting the determination.

33 (2) That the determination may result in a suspension
34 or revocation of the carrier's registration by the
35 commission.

36 (3) That the carrier may request a review of the
37 determination by the department within five days of its
38 receipt of the notice required under this subdivision. If a
39 review pursuant to this paragraph is requested by the
40 carrier, the department shall conduct and evaluate that



1 review prior to transmitting any notification to the
2 commission pursuant to subdivision (a).

3 (d) Whenever the commission suspends the
4 registration of any private carrier of passengers pursuant
5 to subdivision (a), the commission shall furnish the
6 carrier written notice of the suspension and shall hold a
7 hearing within a reasonable time, not to exceed 21 days,
8 after a written request therefor is filed with the
9 commission, with a copy thereof furnished to the
10 department. At the hearing, the carrier shall show cause
11 why the suspension should not be continued. At the
12 conclusion of the hearing, the commission may terminate
13 the suspension, continue the suspension in effect, or
14 revoke the registration. The commission may revoke the
15 registration of any carrier suspended pursuant to
16 subdivision (a) at any time 90 days or more after its
17 suspension if the commission has not received a written
18 recommendation for reinstatement from the department
19 and the carrier has not filed a written request for a
20 hearing with the commission.

21 SEC. 40. Chapter 2.7 (commencing with Section
22 4120) of Division 2 of the Public Utilities Code is repealed.

23 SEC. 41. Chapter 3 (commencing with Section 4301)
24 of Division 2 of the Public Utilities Code is repealed.

25 SEC. 42. Chapter 5 (commencing with Section 4801)
26 of Division 2 of the Public Utilities Code is repealed.

27 SEC. 43. Section 5001 of the Public Utilities Code is
28 amended to read:

29 5001. This chapter is enacted for the following
30 purpose:

31 (a) Creating a special fund to administer and enforce
32 the commission’s jurisdiction to regulate the rates of
33 transportation agencies carrying property for
34 compensation.

35 (b) This chapter shall not apply to motor carriers of
36 property.

37 SEC. 44. Section 5004 of the Public Utilities Code is
38 amended to read:



1 5004. The following fees shall be paid to the
2 commission with any application filed by any carrier
3 subject to its rate regulatory jurisdiction:

4 (a) One thousand dollars (\$1,000) for filing each
5 application for a permit, except applications for a seasonal
6 permit, as provided in subdivision (d).

7 (b) One hundred fifty dollars (\$150) for filing each
8 application to sell, mortgage, lease, assign, transfer, or
9 otherwise encumber any permit, except that, for the
10 transfer of each permit subsequent to the death of a
11 permittee, and after court approval of the distribution of
12 the estate or when it is not necessary to probate the will
13 or distribute the estate through court, the fee is
14 twenty-five dollars (\$25).

15 SEC. 45. Section 5005 of the Public Utilities Code is
16 amended to read:

17 5005. All fees collected under this chapter; all fees
18 charged and collected for copies of papers, records,
19 transcripts of testimony, or other documents, the cost of
20 which is charged to the Transportation Rate Fund; and all
21 fees collected for the filing of applications pursuant to
22 Section 1010 shall be deposited at least once a month in
23 the State Treasury to the credit of the Transportation
24 Rate Fund, which is continued in existence. The money
25 in the fund shall be in augmentation of the current
26 appropriation for the support of the commission, and shall
27 be expended by the commission for the purpose of
28 administering and enforcing the Household Goods
29 Carriers Act.

30 ~~SEC. 46. Section 6053 is added to the Revenue and~~
31 ~~Taxation Code, to read:~~

32 ~~6053. (a) In addition to taxes imposed by the other~~
33 ~~provisions of this article, for the privilege of selling diesel~~
34 ~~motor vehicle fuel, at retail, a tax at the rate of one-half~~
35 ~~of 1 percent is hereby imposed upon the gross receipts of~~
36 ~~the retailer from sale of diesel motor vehicle fuel at retail~~
37 ~~in this state on and after January 1, 1996.~~

38 ~~(b) This tax is imposed pursuant to the Sales and Use~~
39 ~~Tax Law.~~



1 ~~SEC. 47. Section 6201.9 is added to the Revenue and~~
2 ~~Taxation Code, to read:~~

3 ~~6201.9. (a) In addition to the taxes imposed by other~~
4 ~~provisions of this article, an excise tax is hereby imposed~~
5 ~~on the storage, use, or other consumption in this state of~~
6 ~~diesel motor vehicle fuel purchased from any retailer on~~
7 ~~or after January 1, 1996, for storage, use, or other~~
8 ~~consumption in this state, at the rate of one-half of 1~~
9 ~~percent of the sales price of the property.~~

10 ~~(b) For purposes of this subdivision, "sales price"~~
11 ~~means the price inclusive of all state, local, and federal~~
12 ~~taxes.~~

13 ~~(c) This tax is imposed pursuant to the Sales and Use~~
14 ~~Tax Law.~~

15 SEC. 48. Part 1.55 (commencing with Section 7231) is
16 added to Division 2 of the Revenue and Taxation Code,
17 to read:

18
19 PART 1.55. MOTOR CARRIERS

20
21 CHAPTER 1. MOTOR VEHICLE DIESEL SALES AND USE
22 TAX FUND
23

24 ~~7231. All money collected pursuant to Sections 6053~~
25 ~~and 6201.9 shall be deposited in the Motor Vehicle Diesel~~
26 ~~Sales and Use Tax Fund, which is hereby created.~~

27 ~~7232. Money deposited in the Motor Vehicle Diesel~~
28 ~~Sales and Use Tax Fund shall be transferred to both of the~~
29 ~~following account and fund:~~

30 ~~(a) (1) _____ percent of the money in the fund~~
31 ~~shall be transferred to the Motor Carriers Uniform~~
32 ~~Business License Tax Account, which is hereby created.~~

33 ~~(2) _____ percent of the money in the fund shall be~~
34 ~~transferred to the Motor Carriers Safety Improvement~~
35 ~~Fund, which is hereby created.~~

36 ~~(b) On and after January 1, 1996, any person or~~
37 ~~corporation, subject to the sales tax imposed by Section~~
38 ~~6053 or the use tax imposed by Section 6201.9 required to~~
39 ~~pay any excise or license tax of any kind, character, or~~
40 ~~description whatever imposed by any city or city and~~



1 county, other than an excise or license tax authorized
 2 under Division 2 (commencing with Section 6001), for
 3 the privilege of doing any transportation business therein
 4 may apply to the Controller for a refund of those taxes
 5 from the Motor Carriers Uniform Business License Tax
 6 Account. The Controller shall pay these claims from the
 7 Motor Carriers Uniform Business License Tax Account
 8 prior to other disbursements from the account.

9

10 CHAPTER 2. ~~MOTOR CARRIERS SAFETY IMPROVEMENT~~
 11 ~~FUND-~~

12

13 7233. This chapter is enacted for the purpose of
 14 creating a special fund to cover the cost of administering
 15 and enforcing the acts conferring jurisdiction on the
 16 Department of the California Highway Patrol to regulate
 17 the safety, registration, and insurance requirements of
 18 motor carriers of property, and to cover the costs to the
 19 Department of the California Highway Patrol and other
 20 enforcement agencies to deter commercial motor vehicle
 21 cargo thefts and provide safety and security of highway
 22 carriers and cargoes throughout the state.

23

24 7234. All money or fees deposited in the Motor
 25 Carriers Safety Improvement Fund shall be available for
 26 appropriation by the Legislature to cover costs incurred
 27 by the Department of the California Highway Patrol in
 28 regulating motor carriers of property pursuant to
 29 Division 14.85 (commencing with Section 34600) of the
 30 Vehicle Code, and to cover the costs to the Department
 31 of the California Highway Patrol and other enforcement
 32 agencies to deter commercial motor vehicle cargo thefts
 33 and security of highway carriers and cargoes throughout
 34 the state.

34

35 CHAPTER 3. ~~MOTOR CARRIERS OF PROPERTY UNIFORM~~
 36 ~~BUSINESS LICENSE TAX~~

37

38 7235. (a) This chapter may be cited as the Motor
 Carriers of Property Uniform Business License Tax Act.

39

(b) The Legislature finds and declares that an
 40 adequate transportation system is essential to the welfare



1 of the state, and an important part of the system is service
2 rendered by motor carriers of property.

3 7236. No city or city and county, shall assess, levy, or
4 collect an excise or license tax of any kind, character, or
5 description whatever upon the intercity transportation
6 business conducted on or after the effective date of this
7 chapter, by any motor carrier of property, express
8 corporation, freight forwarder, motor transportation
9 broker, or person, or corporation, owning or operating
10 motor vehicles in the transportation of property upon the
11 public highways. For purposes of this chapter, intercity
12 transportation business includes every service performed
13 in connection with transportation of property by the
14 transportation companies where both the origin point
15 and the destination point of the transported property are
16 not within the exterior boundaries of a single city or city
17 and county.

18 7237. (a) The sales and use tax transfer to, and
19 distribution from, the Motor Carriers Uniform Business
20 License Tax Account in accordance with this part is in lieu
21 of all city or city and county excise or license taxes of any
22 kind, character, or description whatever, upon the
23 intercity transportation business of any motor carrier of
24 property, express corporation, freight forwarder, motor
25 transportation broker, or person, or corporation owning,
26 or operating motor vehicles in the transportation of
27 property upon the public highways.

28 (b) This section does not prohibit the imposition by
29 any city, or city and county, of any excise or license tax
30 authorized under Division 2 (commencing with Section
31 6001).

32 7238. (a) All funds deposited in the Motor Carriers
33 Uniform Business License Tax Account are hereby
34 appropriated to the Controller, who shall make a
35 determination of those cities and cities and counties
36 imposing business license taxes for which refunds have
37 been claimed as provided by subdivision (b) of Section
38 7232 and the amount of the refunds paid, reported for
39 each city or city and county. The Controller, after
40 deducting the direct cost of administering the special



1 ~~account, shall disburse the balance of the account as~~
2 ~~provided in this section.~~

3 ~~(b) On or before the 15th day of February, May,~~
4 ~~August, and November of each year, the balance of the~~
5 ~~funds appropriated by this section shall be disbursed to~~
6 ~~the cities and cities and counties, of this state in the~~
7 ~~proportion that the population of each city and city and~~
8 ~~county bears to the total population of all cities, and cities~~
9 ~~and counties in this state. In determining the amount of~~
10 ~~the disbursements, the Controller shall increase the~~
11 ~~special account by the amount of the refunds paid~~
12 ~~pursuant to subdivision (b) of Section 7232, and~~
13 ~~determine the proportion of the special account as so~~
14 ~~increased to be disbursed to each city or each city and~~
15 ~~county, treating the amounts of the claims as distribution~~
16 ~~to those cities or cities and counties reported to the~~
17 ~~Controller pursuant to subdivision (a).~~

18 ~~(e) If a city or city and county would be entitled to a~~
19 ~~disbursement in an amount less than the total amount of~~
20 ~~claims taken under subdivision (b) of Section 7232, the~~
21 ~~population of the city or city and county and the claims~~
22 ~~shall be excluded by the Controller in computing~~
23 ~~disbursements under this section.~~

24 ~~(d) For purposes of this section, the population of each~~
25 ~~city and each city and county shall be the population~~
26 ~~determined by the Controller pursuant to Section 11005.~~

27 ~~(e) Funds disbursed by the Controller pursuant to this~~
28 ~~section may be used for city or city and county purposes,~~
29 ~~as the case may be, or may, but need not necessarily, be~~
30 ~~used for state purposes.~~

31

32 *CHAPTER 1. MOTOR CARRIERS OF PROPERTY UNIFORM*
33 *BUSINESS LICENSE TAX*

34

35 *7231. (a) This chapter may be cited as the Motor*
36 *Carriers of Property Uniform Business License Tax Act.*

37 *(b) The Legislature finds and declares that a safe and*
38 *efficient transportation system is essential to the welfare*
39 *of the state, and an important part of the system is service*
40 *rendered by motor carriers of property.*



1 7232. (a) Every motor carrier of property shall
 2 annually pay a business license tax to the Department of
 3 the California Highway Patrol. The tax shall be paid by
 4 each carrier at the time it registers with the Department
 5 of the California Highway Patrol, pursuant to the Motor
 6 Carriers of Property Registration Act. The tax paid by
 7 each carrier shall be based on the number of powered
 8 commercial vehicles operated by the carrier and shall
 9 conform to the following table:

10	Fleet Size	UBLT Fee
11	1 Trk/Owner	\$150
12	2-10	285
13	11-20	435
14	21-35	610
15	36-50	810
16	51-Over	1025
17		

18
 19 (b) The “number of powered commercial vehicles
 20 operated by the carrier” as used in this section means all
 21 of the powered vehicles owned, registered to, or leased by
 22 the carrier.

23 7233. No city, county, or city and county, shall assess,
 24 levy, or collect an excise or license tax of any kind,
 25 character, or description whatever upon the
 26 transportation business conducted on or after the
 27 effective date of this chapter, by any motor carrier of
 28 property, express corporation, freight forwarder, motor
 29 transportation broker, or person, or corporation, owning
 30 or operating motor vehicles in the transportation of
 31 property upon the public highways. For purposes of this
 32 chapter, transportation business includes every service
 33 performed in connection with transportation of property
 34 by the transportation companies.

35 7234. (a) The business license tax imposed by this
 36 chapter is in lieu of all city, county, or city and county
 37 excise or license taxes of any kind, character, or
 38 description whatever, upon the transportation business of
 39 any motor carrier of property, express corporation,
 40 freight forwarder, motor transportation broker, or



1 person, or corporation owning, or operating motor
2 vehicles in the transportation of property upon the public
3 highways.

4 (b) This section does not prohibit the imposition by
5 any city, county, or city and county, of any excise or
6 license tax authorized under Division 2 (commencing
7 with Section 6001).

8 7236. (a) All funds collected by the department
9 pursuant to Section 7232 shall be deposited in the State
10 Treasury to the credit of the Motor Carriers Uniform
11 Business License Tax Account, which is hereby created.

12 (b) The Department of the California Highway Patrol
13 shall deposit ____ percent of the funds in the account
14 into the Motor Carriers Safety Improvement Fund and
15 ____ percent of the funds in the account into the
16 Motor Carriers of Property Local Business License Tax
17 Fund.

18 (c) Of the remaining moneys in the account, the
19 amount necessary for the payment of refunds is hereby
20 appropriated, without regard to fiscal years, to the
21 department for that purpose.

22 (d) Any remaining balance in the account shall be
23 transferred to the General Fund on the order of the
24 Controller.

25

26 CHAPTER 2. MOTOR CARRIERS SAFETY IMPROVEMENT
27 FUND

28

29 7237. This chapter is enacted for the purpose of
30 creating a special fund to cover the cost of administering
31 and enforcing the acts conferring jurisdiction on the
32 Department of the California Highway Patrol to regulate
33 the safety, registration, and insurance requirements of
34 motor carriers of property, and to cover the costs to the
35 Department of the California Highway Patrol and other
36 enforcement agencies to deter commercial motor vehicle
37 cargo thefts and provide security of highway carriers and
38 cargoes throughout the state.

39 7238. All money or fees deposited in the Motor
40 Carriers Safety Improvement Fund shall be available for



1 *appropriation by the Legislature to cover costs incurred*
2 *by the Department of the California Highway Patrol in*
3 *regulating motor carriers of property pursuant to*
4 *Division 14.85 (commencing with Section 34600) of the*
5 *Vehicle Code, and to cover the costs to the Department*
6 *of the California Highway Patrol and other enforcement*
7 *agencies to deter commercial motor vehicle cargo thefts*
8 *and security of highway carriers and cargoes throughout*
9 *the state.*

10

11 *CHAPTER 3. MOTOR CARRIERS OF PROPERTY LOCAL*
12 *BUSINESS LICENSE TAX FUND*

13

14 7240. *This chapter is enacted for the purpose of*
15 *creating a special fund to provide business license tax*
16 *revenue for cities, counties, and cities and counties.*

17 7241. *On or before the 15th day of February, May,*
18 *August, and November of each year, the Controller shall*
19 *disburse the balance of the fund to the cities, counties,*
20 *and cities and counties, of this state in the proportion that*
21 *the population of each city, county, and city and county*
22 *bears to the total population of the state.*

23 SEC. 49. Section 290 of the Vehicle Code is amended
24 to read:

25 290. "Department" means the Department of Motor
26 Vehicles except, when used in Chapter 2 (commencing
27 with Section 2100) of Division 2 and in Divisions 11
28 (commencing with Section 21000), 12 (commencing with
29 Section 24000), 13 (commencing with Section 29000), 14
30 (commencing with Section 31600), 14.1 (commencing
31 with Section 32000), 14.3 (commencing with Section
32 32100), 14.5 (commencing with Section 33000), 14.7
33 (commencing with Section 34000), 14.8 (commencing
34 with Section 34500), and 14.85 (commencing with Section
35 34600), it means the Department of the California
36 Highway Patrol.

37 SEC. 50. Section 1808.1 of the Vehicle Code is
38 amended to read:

39 1808.1. (a) The prospective employer of a driver who
40 drives any vehicle specified in subdivision (l) shall obtain



1 a report showing the driver's current public record as
2 recorded by the department. For purposes of this
3 subdivision, a report is current if it was issued less than 30
4 days prior to the date the employer employs the driver.
5 The report shall be reviewed, signed, and dated by the
6 employer and maintained at the employer's place of
7 business until receipt of the pull notice system report
8 pursuant to subdivisions (b) and (c). These reports shall
9 be presented upon request to any authorized
10 representative of the Department of the California
11 Highway Patrol during regular business hours.

12 (b) The employer of a driver who drives any vehicle
13 specified in subdivision (l) shall make a request to the
14 department to participate in ~~a~~ *the department's* pull
15 notice system, which is a process for the purpose of
16 providing the employer with a report showing the
17 driver's current public record as recorded by the
18 department, and any subsequent convictions, failures to
19 appear, accidents, driver's license suspensions, driver's
20 license revocations, or any other actions taken against the
21 driving privilege or certificate, added to the driver's
22 record while the employer's notification request remains
23 valid and uncanceled. *As used in this section,*
24 *participation in the pull notice system means obtaining a*
25 *requester code and enrolling all employed drivers who*
26 *drive any vehicle specified in subdivision (l).*

27 (c) The employer of a driver of any vehicle specified
28 in subdivision (l) shall, additionally, obtain a periodic
29 report from the department at least every six months,
30 except that an employer who enrolls more than 500
31 drivers in the pull notice system under a single requester
32 code shall obtain a report at least every 12 months. The
33 employer shall verify that each employee's driver's
34 license has not been suspended or revoked, the
35 employee's traffic violation point count, and whether the
36 employee has been convicted of a violation of Section
37 23152 or 23153. The report shall be signed and dated by
38 the employer and maintained at the employer's principal
39 place of business. The reports shall be presented upon
40 demand to any authorized representative of the



1 Department of the California Highway Patrol during
2 regular business hours.

3 (d) Upon the termination of a driver's employment,
4 the employer may notify the department to cancel any
5 reports required by this section.

6 (e) For the purposes of the pull notice system and
7 periodic report process required by subdivisions (b) and
8 (c), owners, other than owner-operators, as defined in
9 subdivision (b) of Section 34624, and employers who
10 drive vehicles described in subdivision (l), shall be
11 enrolled as if they were employees. Family members and
12 volunteer drivers who drive vehicles described in
13 subdivision (l) shall also be enrolled as if they were
14 employees.

15 (f) An employer who, after receiving any driving
16 record pursuant to this section, employs or continues to
17 employ as a driver any person against whom a
18 disqualifying action has been taken regarding his or her
19 driving privilege or required driver's certificate, is guilty
20 of a public offense, and upon conviction thereof, shall be
21 punished by imprisonment in the county jail for not more
22 than six months, by a fine of not more than one thousand
23 dollars (\$1,000), or by both that fine and imprisonment.

24 (g) As part of its inspection of bus maintenance
25 facilities and terminals required at least once every 13
26 months pursuant to subdivision (c) of Section 34501, the
27 Department of the California Highway Patrol shall
28 determine whether each transit operator, as defined in
29 Section 99210 of the Public Utilities Code, is then in
30 compliance with this section and Section 12804.6, and
31 shall certify each operator found to be in compliance. No
32 funds shall be allocated under Chapter 4 (commencing
33 with Section 99200) of Part 11 of Division 10 of the Public
34 Utilities Code to a transit operator which the Department
35 of the California Highway Patrol has not certified under
36 this section.

37 (h) A request to participate in the pull notice system
38 established by this section shall be accompanied by a fee
39 determined by the department to be sufficient to defray
40 the entire actual cost to the department for the



1 notification service. For the receipt of subsequent
2 reports, the employer shall also be charged a fee
3 established by the department pursuant to Section 1811.
4 Any employer who qualifies under Section 1812 shall be
5 exempt from any fee required under this section. Failure
6 to pay the fee shall result in automatic cancellation of the
7 employer's participation in the notification services.

8 (i) The department, as soon as feasible, may establish
9 an automatic procedure to provide the periodic reports
10 in subdivision (c) to employers on a regular basis without
11 the need for individual requests.

12 (j) This section shall not be construed to change the
13 definition of "employer," "employee," or "independent
14 contractor" for any other purpose.

15 (k) The employer of a driver who is employed as a
16 casual driver is not required to enter that driver's name
17 in the pull notice system, as otherwise required by
18 subdivision (a). However, the employer of a casual driver
19 shall be in possession of a report of the driver's current
20 public record as recorded by the department, prior to
21 allowing a casual driver to drive any vehicle specified in
22 subdivision (l). A report is current if it was issued less than
23 six months prior to the date the employer employs the
24 driver. As used in this subdivision, a driver is employed as
25 a casual driver when the employer has employed the
26 driver less than 30 days during the preceding six months.
27 For purposes of this subdivision, "casual driver" does not
28 include any driver who operates a vehicle that requires
29 a passenger transportation endorsement.

30 (l) This section applies to any vehicle for the operation
31 of which the driver is required to have a ~~class 1, class 2,~~
32 ~~class A,~~ class A or class B driver's license, a class C license
33 with a hazardous materials endorsement, or a certificate
34 issued pursuant to Section 2512, 12517, 12519, 12520, 12523,
35 or 12523.5, or any passenger vehicle having a seating
36 capacity of not more than 10 persons, including the
37 driver, operated for compensation by a charter-party
38 carrier of passengers or passenger stage corporation
39 pursuant to a certificate of public convenience and



1 necessity or a permit issued by the Public Utilities
2 Commission.

3 ~~(m) The penalties provided in subdivision (f) do not~~
4 ~~apply until July 1, 1993, to any employer of the driver of~~
5 ~~a passenger vehicle having a seating capacity of not more~~
6 ~~than 10 persons, including the driver, operated for~~
7 ~~compensation by a charter party carrier of passengers or~~
8 ~~passenger stage corporation pursuant to a certificate of~~
9 ~~public convenience and necessity or a permit issued by~~
10 ~~the Public Utilities Commission.~~

11 SEC. 51. Section 1808.3 of the Vehicle Code is
12 amended to read:

13 1808.3. Based on the list of owner-operators that the
14 Department of the California Highway Patrol is required,
15 pursuant to subdivision (d) of Section 34624, to
16 periodically submit to the department, the department
17 shall promptly notify the Department of the California
18 Highway Patrol whenever an owner-operator's driving
19 privilege is suspended or revoked.

20 ~~SEC. 52. Section 34501 of the Vehicle Code is~~
21 ~~amended to read:~~

22 34501. (a) (1) ~~The~~ department shall adopt
23 reasonable rules and regulations which, in the judgment
24 of the department, are designed to promote the safe
25 operation of vehicles described in Section 34500,
26 regarding, but not limited to, controlled substances and
27 alcohol testing of drivers by motor carriers, hours of
28 service of drivers, equipment, fuel containers, fueling
29 operations, inspection, maintenance, recordkeeping,
30 accident reports, and drawbridges. The rules and
31 regulations shall not, however, be applicable to
32 schoolbuses, which shall be subject to rules and
33 regulations adopted pursuant to Section 34501.5.

34 The rules and regulations shall exempt local law
35 enforcement agencies, within a single county, engaged in
36 the transportation of inmates or prisoners when those
37 agencies maintain other motor vehicle operations
38 records which furnish hours of service information on
39 drivers which are in substantial compliance with the rules
40 and regulations. This exemption does not apply to any



1 local law enforcement agency engaged in the
2 transportation of inmates or prisoners outside the county
3 in which the agency is located, if that agency would
4 otherwise be required, by existing law, to maintain
5 driving logs.

6 (2) ~~The commissioner shall establish the Statewide
7 Motor Carrier Advisory Committee, consisting of
8 representatives from the department, the Department of
9 Motor Vehicles, the Department of Toxic Substances
10 Control, the Department of Transportation, the State
11 Board of Equalization, the Public Utilities Commission,
12 the California trucking industry, labor, and any other
13 representative, as may be appropriate. The committee
14 shall meet quarterly to discuss issues relevant to motor
15 carrier safety and other issues pertinent to motor carrier
16 operations in the state and, when necessary, to provide
17 recommendations for corrective actions to the Governor.~~

18 (3) ~~The department may inspect any vehicles in
19 maintenance facilities or terminals, as well as any records
20 relating to the dispatch of vehicles or drivers, and the pay
21 of drivers, to assure compliance with this code and
22 regulations adopted pursuant to this section.~~

23 (b) ~~The department, using the definitions adopted
24 pursuant to Section 2402.7, shall adopt regulations for the
25 transportation of hazardous materials in this state, except
26 the transportation of materials which are subject to other
27 provisions of this code, that the department determines
28 are reasonably necessary to ensure the safety of persons
29 and property using the highways. The regulations may
30 include provisions governing the filling, marking,
31 packing, labeling, and assembly of, and containers that
32 may be used for, hazardous materials shipments, and the
33 manner by which the shipper attests that the shipments
34 are correctly identified and in proper conditions for
35 transport.~~

36 (e) ~~At least once every 13 months, the department
37 shall inspect every maintenance facility or terminal of
38 any person who at any time operates any bus. If the bus
39 operation includes more than 100 buses, the inspection
40 shall be without prior notice.~~



1 ~~(d) The commissioner shall adopt and enforce~~
2 ~~regulations which will make the public or private users of~~
3 ~~any bus aware of the operator's last safety rating.~~

4 ~~(e) It is unlawful and constitutes a misdemeanor for~~
5 ~~any person to operate any bus without the inspection~~
6 ~~specified in subdivision (c) having been conducted.~~

7 ~~(f) The department may adopt regulations restricting~~
8 ~~or prohibiting the movement of any vehicle from a~~
9 ~~maintenance facility or terminal if the vehicle is found in~~
10 ~~violation of this code or regulations adopted pursuant to~~
11 ~~this section.~~

12 SEC. 53. Section 34505.6 of the Vehicle Code is
13 amended to read:

14 34505.6. (a) Upon determining that a motor carrier
15 operating any vehicle described in subdivision (a), (b),
16 (e), (f), (g), or (k) of Section 34500 has done either of the
17 following: (1) failed to maintain any vehicle used in
18 transportation for compensation in a safe operating
19 condition or to comply with the Vehicle Code or with
20 regulations contained in Title 13 of the California Code of
21 Regulations relative to motor carrier safety, and, in the
22 department's opinion, that failure presents an imminent
23 danger to public safety or constitutes a consistent failure,
24 or (2) failed to enroll all drivers in the pull notice system
25 as required by Section 1808.1, the department shall deny,
26 suspend, or revoke the carrier's ~~operating authority~~
27 *registration* or recommend to the federal Highway
28 Administration Office of Motor Carriers that appropriate
29 administrative action be taken against the carrier's
30 Interstate Commerce Commission operating authority,
31 whichever is appropriate. For purposes of this
32 subdivision, two consecutive unsatisfactory compliance
33 ratings for an inspected terminal assigned because the
34 motor carrier failed to comply with the periodic report
35 requirements of Section 1808.1 or the cancellation of the
36 carrier's enrollment by the Department of Motor
37 Vehicles for nonpayment of required fees is a consistent
38 failure. The department shall retain a record, by operator,
39 of every recommendation made pursuant to this section.



1 (b) Before transmitting a recommendation pursuant
2 to subdivision (a), the department shall notify the carrier
3 in writing of all of the following:

4 (1) That the department has determined that the
5 carrier's safety record is unsatisfactory, furnishing a copy
6 of any documentation or summary of any other evidence
7 supporting the determination.

8 (2) That the determination may result in a suspension,
9 revocation, or denial of the carrier's operating authority.

10 (3) That the carrier may request a review of the
11 determination by the department within five days of its
12 receipt of the notice required under this subdivision. If a
13 review pursuant to this paragraph is requested by the
14 carrier, the department shall conduct and evaluate that
15 review prior to transmitting any notification pursuant to
16 subdivision (a).

17 SEC. 54. Section 34505.7 of the Vehicle Code is
18 amended to read:

19 34505.7. (a) Upon determining that a private carrier
20 of household goods or of passengers, as defined in Section
21 4001 of the Public Utilities Code, has either (1) failed to
22 maintain any vehicle of the carrier in a safe operating
23 condition or to comply with the Vehicle Code or with
24 regulations contained in Title 13 of the California Code of
25 Regulations relative to motor carrier safety, and, in the
26 department's opinion, the failure presents an imminent
27 danger to public safety or constitutes such a consistent
28 failure as to justify a recommendation to the Public
29 Utilities Commission, or (2) failed to enroll all drivers in
30 the pull notice system as required by Section 1808.1, the
31 department shall make a written recommendation to the
32 Public Utilities Commission that the carrier's registration
33 be suspended. Two consecutive unsatisfactory terminal
34 ratings assigned for failure to comply with the periodic
35 report requirements in Section 1808.1, or cancellation of
36 an employer's enrollment by the Department of Motor
37 Vehicles for nonpayment of fees, constitutes a consistent
38 failure. The department shall retain a record, by operator,
39 of every recommendation made pursuant to this section.



1 (b) Before transmitting a recommendation pursuant
2 to subdivision (a), the department shall give written
3 notice to the carrier of all of the following:

4 (1) That the department has determined that the
5 carrier’s safety record is unsatisfactory, furnishing a copy
6 of any documentation or summary of any other evidence
7 supporting the determination.

8 (2) That the determination may result in a suspension
9 or revocation of the carrier’s registration by the
10 California Public Utilities Commission.

11 (3) That the carrier may request a review of the
12 determination by the department within five days of its
13 receipt of the notice required by this subdivision. If a
14 review pursuant to this paragraph is requested by the
15 carrier, the department shall conduct and evaluate that
16 review prior to transmitting any notification pursuant to
17 subdivision (a).

18 SEC. 55. Division 14.85 (commencing with Section
19 34600) is added to the Vehicle Code, to read:

20
21 DIVISION 14.85. MOTOR CARRIERS OF
22 PROPERTY REGISTRATION ACT

23
24 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

25
26 34600. This division shall be known and may be cited
27 as the Motor Carriers of Property Registration Act.

28 34601. “Motor carrier of property” means a motor
29 carrier, as defined in Section 408, who is required to
30 display ~~a carrier~~ *an* identification number pursuant to
31 Section 34507.5, but does not include household goods
32 carriers, *as defined in Section 5109 of the Public Utilities*
33 *Code* or persons providing transportation of passengers.

34 34602. “Fund” means the Motor ~~Carrier~~ *Carriers*
35 ~~Safety Improvement Fund created by paragraph (2) of~~
36 ~~Subdivision (a) of Section 7232 of the Revenue and~~
37 ~~Taxation Code.~~ *Improvement Fund.*

38 34603. The Department of Motor Vehicles, the Public
39 Utilities Commission, and the State Board of Equalization
40 shall furnish, upon request, whatever information from



1 their records may be required to assist the department in
2 the effective enforcement of this division.

3
4 CHAPTER 2. REGISTRATION
5

6 34620. (a) Except as provided in subdivision (b) and
7 Section 34622, no motor carrier of property shall operate
8 a motor vehicle on any public highway in this state after
9 ~~January 1, 1996~~, unless it has complied with Section
10 34507.5 and has registered with the department its carrier
11 identification authorized or assigned thereunder. The
12 department shall grant registration upon the carrier's
13 written request, compliance with ~~Section 34507.5~~
14 *Sections 34507.5, 34630, and 34640*, and the payment of the
15 fee required by this chapter.

16 (b) Motor carriers of property who were in
17 compliance with the insurance requirements of this state
18 on the day prior to the effective date of this section and
19 continue to be in compliance with those requirements
20 may continue to operate until directed by the
21 department to register as required by subdivision (a).
22 The department shall require all of those carriers to
23 register pursuant to subdivision (a) ~~not later than six~~
24 ~~months after the effective date of this section~~ *on or before*
25 *July 1, 1997*.

26 ~~34621. A fee of thirty-five dollars (\$35) shall be paid to~~
27 ~~the department for the filing of the initial registration;~~
28 ~~and thereafter, an annual renewal fee of twenty-five~~
29 ~~dollars (\$25) shall also be paid. The fees required to be~~
30 ~~paid by carriers of property pursuant to this section shall~~
31 ~~be deposited in the fund.~~

32 *34621. (a) A fee as described in Section 7232 of the*
33 *Revenue and Taxation Code, shall be paid to the*
34 *department for the filing of the initial registration, and*
35 *thereafter on an annual basis. The fees required to be paid*
36 *by carriers of property pursuant to this section shall be*
37 *deposited in the Motor Carriers Uniform Business*
38 *License Tax Account.*



1 (b) The fees described in this section are for all
2 intrastate “motor carriers of property” as defined in
3 Section 34601.

4 34622. This chapter does not apply to any vehicles
5 exempt from the payment of registration fees and to
6 which Section 4001 applies.

7 34623. (a) The department has exclusive jurisdiction
8 for the regulation of safety of operation of motor carriers
9 of property.

10 (b) The registration of a motor carrier of property may
11 be suspended for failure to either (1) maintain any
12 vehicle of the carrier in a safe operating condition or to
13 comply with this code or with regulations contained in
14 Title 13 of the California Code of Regulations relative to
15 motor carrier safety, if that failure is either a consistent
16 failure or presents an imminent danger to public safety,
17 or (2) enroll all drivers in the pull notice system as
18 required by Section 1808.1. The department may,
19 pending a hearing in the matter pursuant to subdivision
20 (d), suspend a carrier’s registration. The department’s
21 written recommendation shall specifically indicate
22 compliance with subdivision (d).

23 (c) A carrier whose registration is suspended pursuant
24 to subdivision (b) may obtain a reinspection of its
25 terminal and vehicles by the department by submitting
26 a written request for reinstatement to the department
27 and paying a reinstatement fee of ~~one hundred~~
28 ~~twenty-five dollars (\$125)~~ *as required by Chapter 6*
29 *(commencing with Section 34660)*. The department shall
30 deposit all reinstatement fees collected from carriers of
31 property pursuant to this section in the fund. Upon
32 payment of the fee, the department shall perform a
33 reinspection within a reasonable time. The department
34 shall reinstate a carrier’s registration suspended under
35 subdivision (b) promptly upon determining that the
36 carrier’s safety compliance has improved to the
37 satisfaction of the department, unless the registration is
38 suspended for another reason or has been revoked.

39 (d) Whenever the department suspends the
40 registration of any carrier pursuant to subdivision (b), the



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

15 34624. (a) The department shall establish a
16 classification of motor carriers of property known as
17 owner-operators.

18 (b) As used in this section and in Sections ~~1808.3~~ *1808.1,*
19 *1808.3,* and 34501.12, an owner-operator is a person who
20 meets all of the following requirements:

21 ~~(1) Holds a class 1, class 2, class A, or class B driver's~~
22 ~~license.~~

23 *(1) Holds a class A or class B driver's license or a class*
24 *C license with a hazardous materials endorsement.*

25 (2) Owns, leases, or otherwise operates not more than
26 one heavy power unit and not more than three towed
27 vehicles.

28 (3) Is licensed as a motor carrier of property by the
29 department under this division.

30 (c) As used in this section, "heavy power unit" is a
31 motor vehicle described in subdivision (a), (b), ~~or (g)~~
32 *(g), or (k)* of Section 34500 and "towed vehicle" is a
33 nonmotorized vehicle described in subdivision (d), (e),
34 ~~(f), or (g)~~ *(g), or (k)* of that section.

35 (d) The department shall forward, at least annually, an
36 updated list of owner-operators, along with their driver's
37 license numbers, to the Department of Motor Vehicles.
38 The department, upon notification by the Department of
39 Motor Vehicles that an owner-operator's driving
40 privilege is suspended or revoked, shall suspend the



1 carrier's ~~license~~ *registration*, unless the carrier, within 15
2 days, shows good cause why the license should not be
3 suspended.

4 (e) This section shall not be construed to change the
5 definition of "employer," "employee," or "independent
6 contractor" for any other purpose.

7
8
9

CHAPTER 3. INSURANCE

10 34630. (a) Registration shall not be granted to any
11 motor carrier of property until there is filed with the
12 department a currently effective certificate of insurance
13 or a surety bond, in the amount required by the federal
14 government for motor carriers of property operating in
15 interstate commerce, evidencing protection against
16 liability imposed by law for the payment of damages for
17 personal injury to, or death of, any person or property
18 damage, or both.

19 ~~(b) Whenever the department determines that the~~
20 ~~certificate of insurance or surety bond of a motor carrier~~
21 ~~of property has lapsed or been terminated, the~~
22 ~~department shall suspend the carrier's registration.~~

23 ~~(e) The department shall notify the motor carrier of~~
24 ~~any action taken under subdivision (b).~~

25 *(b) With the consent of the department, a copy of an*
26 *insurance policy, certified by the company issuing it to be*
27 *a true copy of the original policy, or a photostatic copy*
28 *thereof, or an abstract of the provisions of the policy, or*
29 *a certificate of insurance issued by the company issuing*
30 *the policy, may be filed with the department in lieu of the*
31 *original or a duplicate or counterpart of the policy.*

32 *(c) The protection against liability shall be continued*
33 *in effect during the active life of the registration. The*
34 *policy of insurance or surety bond shall not be cancelable*
35 *on less than 30 days' written notice to the department*
36 *except in the event of cessation of operations as a*
37 *registered carrier as approved by the department.*

38 *(d) The department may establish the rules that are*
39 *necessary to enforce this article.*



1 *(e) Whenever the department determines that the*
2 *certificate of insurance or surety bond of a motor carrier*
3 *of property has lapsed or been terminated, the*
4 *department shall suspend the carrier's registration and*
5 *the carrier shall pay a reinstatement fee as set forth in*
6 *Chapter 6 (commencing with Section 34660).*

7 *(f) The department shall notify the motor carrier of*
8 *any action taken under subdivision (e).*

9

10 CHAPTER 4. WORKER'S COMPENSATION

11

12 34640. (a) Registration shall not be granted to any
13 motor carrier of property until one of the following is filed
14 with the department:

15 (1) A certificate of worker's compensation coverage
16 for its employees issued by an admitted insurer.

17 (2) A certification of consent to self-insure issued by
18 the Director of Industrial Relations, and the identity of
19 the administrator of the carrier's worker's compensation
20 self-insurance plan.

21 (3) A statement, under penalty of perjury, stating that,
22 in its operations as a motor carrier of property, it does not
23 employ any person in any manner so as to become subject
24 to the worker's compensation laws of this state.

25 (b) The worker's compensation certified under
26 paragraph (1) of subdivision (a) shall be effective until
27 canceled. Cancellation shall require an advance notice of
28 not less than 30 days.

29 (c) If, after filing the statement described in
30 paragraph (3) of subdivision (a), the carrier becomes
31 subject to the worker's compensation laws of this state,
32 the carrier shall promptly notify the department that the
33 carrier is withdrawing its statement under paragraph (3)
34 of subdivision (a), and shall simultaneously file the
35 certificate described in either paragraph (1) or (2) of
36 subdivision (a).

37 *(d) Whenever the department determines that the*
38 *certificate of workers compensation insurance or*
39 *certification to self-insure of a motor carrier of property*
40 *has lapsed or been terminated, the department shall*



1 *suspend the carrier's registration and the carrier shall pay*
2 *a reinstatement fee as set forth in Chapter 6*
3 *(commencing with Section 34660).*

4
5 CHAPTER 5. IDENTIFICATION

6
7 34650. A motor carrier of property shall display the
8 carrier identification number, as required by Section
9 34507.5, on any vehicle required to be registered under
10 this division.

11
12 CHAPTER 6. FINES AND PENALTIES

13
14 34660. (a) A motor carrier of property who continues
15 to operate as a carrier after its registration has been
16 suspended by the department is guilty of a misdemeanor,
17 punishable by a fine of not more than two thousand five
18 hundred dollars (\$2,500), or by imprisonment in the
19 county jail for not more than three months, or by both
20 that fine and imprisonment.

21 (b) Each violation of this section is a separate and
22 distinct offense, and, in the case of a continuing violation,
23 each day's continuance of operation as a carrier in
24 violation of this section is a separate and distinct offense.

25 (c) Upon finding that a motor carrier of property is
26 willfully violating this section after being advised that it
27 is not operating in compliance with the laws of this state,
28 the court may issue an injunction to stop the carrier's
29 continued operation.

30 (d) A vehicle operated by a motor carrier of property
31 may be impounded when found upon a highway or public
32 lands whenever the carrier is found to be in violation of
33 this section. A vehicle so impounded may be released
34 upon presentation of proof of compliance with this
35 division.

36 (e) *A reinstatement fee of one hundred twenty-five*
37 *dollars (\$125) shall be paid by any carrier seeking*
38 *reinstatement of registration that has been suspended*
39 *pursuant to this chapter.*



1 34661. Any person or corporation who violates any
2 provision of this division is guilty of a misdemeanor,
3 punishable by a fine of not more than two thousand five
4 hundred dollars (\$2,500), or by imprisonment in the
5 county jail for not more than three months, or by both
6 that fine and imprisonment.

7 SEC. 56. Section 40000.22 of the Vehicle Code is
8 amended to read:

9 40000.22. (a) A violation of subdivision (e) of Section
10 34501, subdivision (f) of Section 34501.12, or subdivision
11 (c) of Section 34501.14, relating to applications for
12 inspections, is a misdemeanor and not an infraction.

13 (b) A violation of Division 14.85 (commencing with
14 Section 34600), relating to motor carriers of property, is
15 a misdemeanor and not an infraction.

16 SEC. 57. No reimbursement is required by this act
17 pursuant to Section 6 of Article XIII B of the California
18 Constitution because the only costs that may be incurred
19 by a local agency or school district will be incurred
20 because this act creates a new crime or infraction,
21 eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section
23 17556 of the Government Code, or changes the definition
24 of a crime within the meaning of Section 6 of Article
25 XIII B of the California Constitution.

26 Notwithstanding Section 17580 of the Government
27 Code, unless otherwise specified, the provisions of this act
28 shall become operative on the same date that the act
29 takes effect pursuant to the California Constitution.

30 *SEC. 58. This act is an urgency statute necessary for*
31 *the immediate preservation of the public peace, health,*
32 *or safety within the meaning of Article IV of the*
33 *Constitution and shall go into immediate effect. The facts*
34 *constituting the necessity are:*

35 *In order to ensure that motor carriers are properly*
36 *insured and operate commercial vehicles in a safe*
37 *manner, as soon as possible, and to ensure a smooth and*
38 *immediate transition to the changed regulatory*



1 *environment precipitated by federal legislation, it is*
2 *necessary that this act take effect immediately.*

O

