

AMENDED IN SENATE JULY 8, 1999
AMENDED IN ASSEMBLY JUNE 1, 1999
AMENDED IN ASSEMBLY APRIL 27, 1999
AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 705

Introduced by Assembly Member Aroner

February 24, 1999

An act to add Chapter 30 (commencing with Section 22935) to Division 8 of the Business and Professions Code, relating to transport escort services.

LEGISLATIVE COUNSEL'S DIGEST

AB 705, as amended, Aroner. Transport escort services: registration.

Existing law does not provide for the registration of transport escort services, as defined.

This bill would provide for the regulation of transport escort services. Specifically, it would require a transport escort service, defined as any person, partnership, association, or corporation that accepts financial compensation or other consideration to accompany or transport minors who are residents of this state to any residential facility or institution located outside this state, to file a verified application for registration with the Secretary of State. The bill would set forth certain fee and bonding requirements for applicants and

would specify certain responsibilities for registrants in the conduct of transport escort services. Fees would be deposited into the Secretary of State’s Business Fees Fund.

Certain of the regulatory requirements, such as the inclusion of a notarized statement in the application for registration—~~containing specified~~ *that contains* information *that the applicant is required to certify as true, but which the applicant knows to be false,* would subject the applicant to a *misdemeanor* penalty of ~~perjury~~, which is a crime. A violation of the bill, *as a whole*, would also be a misdemeanor. By enlarging the scope of an existing crime and creating new crimes, the bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Chapter 30 (commencing with Section
2 22935) is added to Division 8 of the Business and
3 Professions Code, to read:

4

5 CHAPTER 30. TRANSPORT ESCORT SERVICES

6

7 22935. It is the intent of the Legislature to protect the
8 well-being of California children by regulating private
9 individuals and companies that transport or accompany
10 minors to out-of-state facilities or institutions.

11 22936. As used in this chapter:

12 (a) “Transport escort service” means any person,
13 partnership, association, or corporation that accepts
14 financial compensation or other consideration to
15 accompany or transport minors who are residents of
16 California to any residential facility or institution located
17 outside the state.



1 (b) “Minor” means any person under the age of 18
2 years.

3 (c) “Coerce” means to compel or deter an act by use
4 of force or threats.

5 (d) “Intimidate” means to compel or deter an act by
6 intentionally inducing fear.

7 22937. (a) Any transport escort service that operates
8 in this state shall file a verified application for registration
9 with the Secretary of State. Subject to the results of the
10 criminal and child abuse check required by Section 22938,
11 the Secretary of State shall issue a certificate of
12 registration upon receipt of an application on a form
13 prescribed by the Secretary of State and the application
14 fee required by Section 22939. Any transport escort
15 service shall maintain a current certificate of registration.

16 (b) This chapter shall not apply to the following:

17 (1) The transport of minors by any governmental
18 agency or employee.

19 (2) The transport of minors under the jurisdiction of
20 the juvenile court.

21 (3) The transport of minors by family members or
22 relatives.

23 22938. (a) The application of a private individual
24 shall contain the following information:

25 (1) The name, address, and telephone number of the
26 applicant.

27 ~~(2) A notarized statement made under penalty of~~
28 ~~perjury that the applicant is 18 years of age or older and~~
29 ~~an affirmation that the applicant will perform the duties~~
30 ~~of a transport service in compliance with the provisions~~
31 ~~of law governing those services in this state.~~

32 (2) *A notarized statement made by the applicant that*
33 *certifies that he or she is 18 years of age or older and has*
34 *not been convicted of a felony or any crime involving*
35 *child abuse and an affirmation that he or she will perform*
36 *the duties of a transport service in compliance with the*
37 *provisions of law governing those services in this state. A*
38 *person who certifies as true any material matter pursuant*
39 *to this paragraph which that person knows to be false is*
40 *guilty of a misdemeanor.*



1 (3) Proof that the applicant has a valid driver's license
2 and adequate automobile insurance.

3 (4) Proof that the State Department of Social Services
4 has checked the Child Abuse Registry pursuant to
5 paragraph (3) of subdivision (b) of Section 11170 of the
6 Penal Code, and investigated any report concerning the
7 applicant. If the State Department of Social Services finds
8 that any child abuse report is substantiated, it shall inform
9 the Secretary of State, who shall decline to issue a
10 certificate of registration.

11 (5) Proof that the State Department of Social Services
12 has secured from an appropriate law enforcement agency
13 a criminal record of the applicant. If the State
14 Department of Social Services determines that the
15 applicant has been convicted of a crime other than a
16 minor traffic violation, it shall inform the Secretary of
17 State, who shall decline to issue a certificate of
18 registration.

19 (6) Proof that the applicant has obtained a bond of ten
20 thousand dollars (\$10,000) that is executed by an
21 admitted surety insurer and conditioned upon
22 compliance with this chapter and all laws governing the
23 conduct of transport escort services in this state. The bond
24 required by this section shall be in favor of, and payable
25 to, the people of the State of California and shall be for the
26 benefit of any person damaged by an unlawful act by any
27 transport escort service, or any employee or agent
28 thereof, while acting in the capacity of that service.

29 (b) The application of a partnership, association, or
30 corporation shall contain the following information:

31 (1) The names, addresses, and telephone numbers of
32 the general partners, officers, contractors, and
33 employees.

34 (2) A notarized statement made by the applicant
35 ~~under penalty of perjury that certifies~~ that the general
36 partners, associates, officers, employees, and any other
37 individual involved in the transport of minors are at least
38 18 years of age and have not been convicted of a felony
39 or any crime involving child abuse and *an affirmation that*
40 the partnership, association, or corporation will perform



1 the duties of a transport escort service in compliance with
2 the provisions of law governing those services in this state.
3 *A person who certifies as true any material matter*
4 *pursuant to this paragraph which that person knows to be*
5 *false is guilty of a misdemeanor.*

6 (3) Proof that the general partners, associates, officers,
7 employees, and any other individuals involved in the
8 transport of minors have valid driver's licenses and
9 adequate automobile insurance.

10 (4) Proof that the Department of Social Services has
11 checked the Child Abuse Registry pursuant to paragraph
12 (3) of subdivision (b) of Section 11170 of the Penal Code,
13 and investigated any report concerning the general
14 partners, associates, officers, employees, and any other
15 individuals involved in the transport of minors. If the
16 Department of Social Services finds that any child abuse
17 report is substantiated, it shall inform the Secretary of
18 State, who shall decline to issue a certificate of
19 registration.

20 (5) Proof that the State Department of Social Services
21 has secured from an appropriate law enforcement agency
22 a criminal record of the general partners, associates,
23 officers, employees, and any other individuals involved in
24 the transport of minors. If the State Department of Social
25 Services determines that the applicant, or anyone
26 employed by the applicant, has been convicted of a crime
27 other than a minor traffic violation, it shall inform the
28 Secretary of State, who shall decline to issue a certificate
29 of registration.

30 (6) Proof that the applicant has obtained a bond of ten
31 thousand dollars (\$10,000) that is executed by an
32 admitted surety insurer and conditioned upon
33 compliance with this chapter and all laws governing the
34 conduct of transport escort services in this state. The bond
35 required by this section shall be in favor of, and payable
36 to, the people of the State of California and shall be for the
37 benefit of any person damaged by an unlawful act by any
38 transport escort service, or any employee or agent
39 thereof, while acting in the capacity of that service.



1 22939. An applicant shall pay a fee of one hundred
2 dollars (\$100) to the Secretary of State to be deposited
3 into the Business Fees Fund at the time of filing the
4 application.

5 22941. A certificate of registration shall be effective
6 for a period of one year. Thereafter, an applicant shall file
7 a new application and pay the required fee.

8 22942. The Secretary of State shall maintain a register
9 of transport escort services and shall assign a number to
10 each service. Upon renewal of a certificate of registration,
11 the same number shall be assigned, provided there is no
12 lapse in the period of registration. The register and
13 certificates of registration shall be considered public
14 documents, except that any information identifying
15 specific minors shall be considered confidential.

16 22943. A registrant shall be responsible at all times for
17 the good conduct of his or her employees acting within
18 the course or scope of their employment, and any person
19 acting as an independent contractor within the course or
20 scope of the agency relationship with the registrant.

21 22944. (a) No transport escort service shall operate
22 in this state without being registered pursuant to this
23 division.

24 (b) Transport escort services shall not transport or
25 accompany minors outside the State of California without
26 providing the minor's parent or legal guardian with a
27 current copy of the certificate of registration and a
28 description of any and all training received by their
29 employees for the safe transport of minors. A transport
30 escort company shall not transport or accompany minors
31 without obtaining the written permission of the minor's
32 parent or legal guardian.

33 (c) A transport escort service shall explain to any
34 minor it intends to transport, in a manner appropriate to
35 the minor's age and capacity to understand and in the
36 presence of the minor's parent or legal guardian, the
37 nature and purpose of a transport escort service; the
38 name and location of the facility or institution to which it
39 will transport or accompany the minor; and the means by
40 which the minor will be transported. The transport escort



1 service shall not misrepresent its identity or purpose to a
2 minor or his or her parents or legal guardians.

3 (d) Transport escort services shall not coerce or
4 intimidate minors, nor shall they use physical force,
5 mechanical or chemical restraints, or any means of
6 interfering with the minor's ability to see or hear. If a
7 transport escort service reasonably concludes that a
8 minor's behavior or emotional state poses a tangible
9 danger to himself or herself, or others, the transport
10 escort service shall ensure that two employees are
11 available to dedicate their full attention to the supervision
12 of the minor until the minor has regained control.

13 (e) Any transport escort service registrant shall
14 maintain on file, for a period of not less than five years, the
15 following information:

16 (1) The name, date of birth, and address of the minor
17 transported.

18 (2) The date and time that the registrant transported
19 the minor.

20 (3) The name and address of the facility to which the
21 minor was transported, and the name and telephone
22 number of the facility administrator.

23 22945. (a) Any violation of the laws governing
24 transport escort services may result in revocation or
25 suspension of the transport escort service's certificate of
26 registration.

27 (b) The Attorney General shall investigate any
28 complaint that a transport escort service violated this
29 chapter or any other law governing transport escort
30 services.

31 (c) If the Attorney General determines that cause may
32 exist for the revocation or suspension of the certificate of
33 registration, he or she shall set the matter for hearing and
34 give notice to the registrant. The hearing shall be
35 conducted in accordance with Chapter 5 (commencing
36 with Section 11500) of Part 1 of Division 3 of Title 2 of the
37 Government Code, except that the decision of the
38 administrative law judge shall be final. For the purposes
39 of these provisions, the Attorney General shall be deemed
40 to be the agency.



1 (d) If, after the hearing, the administrative law judge
2 directs that the registrant's certificate be suspended or
3 revoked, the Attorney General shall inform the Secretary
4 of State, who shall forthwith revoke or suspend the
5 certificate. If the registrant's certificate is suspended, the
6 administrative law judge shall specify the conditions
7 under which the certificate may be reinstated.

8 (e) Suspension or revocation of a registrant's
9 certification shall not preclude the remedies available in
10 Section 22946.

11 22946. (a) A person claiming to be aggrieved by a
12 violation of this chapter by a transport escort service may
13 bring a civil action for injunctive relief or damages, or
14 both. If the court finds that the defendant has violated a
15 provision of this chapter, it shall award actual damages
16 and reasonable attorney's fees and costs.

17 (b) Any person who recovers damages in any
18 proceeding or action for injuries caused by the actions of
19 a transport escort service acting in that capacity that
20 violated the provisions of law governing transport escort
21 services in this state may recover the amount of damages
22 from the bond required by paragraph (7) of subdivision
23 (a) or (b) of Section 22938.

24 (c) In addition to subdivision (a), a violation of this
25 chapter is a misdemeanor punishable by a fine of not less
26 than two thousand dollars (\$2,000) or more than ten
27 thousand dollars (\$10,000), as to each person with respect
28 to whom a violation occurs, or imprisonment in a county
29 jail for not more than one year.

30 SEC. 2. No reimbursement is required by this act
31 pursuant to Section 6 of Article XIII B of the California
32 Constitution because the only costs that may be incurred
33 by a local agency or school district will be incurred
34 because this act creates a new crime or infraction,
35 eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section
37 17556 of the Government Code, or changes the definition



1 of a crime within the meaning of Section 6 of Article
2 XIII B of the California Constitution.

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