

AMENDED IN ASSEMBLY JANUARY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1352

Introduced by Assembly Member Longville

February 26, 1999

An act to add and repeal Part 4.7 (commencing with Section 13991) of Division 3 of Title 2 of the Government Code, relating to vehicles, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1352, as amended, Longville. Vehicles: California Trucking-~~Commission~~ Advisory Board.

(1) Existing law does not provide for a specific program or entity for the education of the public concerning highway safety in relation to motor vehicle interactions with trucks.

This bill would create the California Trucking Advisory Board with a prescribed membership and would prescribe the powers, duties, and responsibilities of the board in carrying out the provisions of the bill. The board would be authorized to publish and disseminate materials, develop educational programs, and perform any other activities required to educate the public concerning highway safety in relation to motor vehicle interactions with trucks.

The bill would authorize the board to levy an assessment based on the total number of trucks owned or leased by a trucking company, not to exceed \$5 per truck owned or leased by each company, would require the funds so levied to be deposited in the California Trucking Advisory Board Account,

which the bill would create in the State Transportation Fund, and would continuously appropriate the money in the account to the board for expenditure for the purposes of carrying out the provisions of the bill.

The bill would require the Director of Motor Vehicles to perform certain activities to supervise the board and conduct elections for membership on the board.

The bill, except as necessary to conduct a referendum election regarding implementation of the bill, would not become operative until the trucking companies, as specified, vote in favor of the bill, as prescribed. The bill would also provide for the suspension and termination of the operation of its provisions and for concluding the operations of the board.

The bill would impose a state-mandated local program by creating new crimes.

The provisions of the bill would be repealed upon the occurrence of certain events described in the bill.

(2) 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.

~~(1) Existing law does not provide for a specific program or entity for the education of the public concerning highway safety in relation to motor vehicle interactions with trucks.~~

~~This bill would create the California Trucking Commission with a prescribed membership and would prescribe the powers, duties, and responsibilities of the commission in carrying out the provisions of the bill. The commission would be authorized to publish and disseminate materials, develop educational programs, and perform any other activities required to educate the public concerning highway safety in relation to motor vehicle interactions with trucks.~~

~~The bill would authorize the commission to levy an assessment based on the total number of trucks owned by a trucking company, not to exceed \$100 per year, and would authorize the expenditure of the funds so levied for purposes of carrying out the provisions of the bill.~~



~~The bill, except as necessary to conduct an election, would not become operative until the trucking companies, as specified, vote by referendum in favor of the bill, as prescribed. The bill would also provide for the suspension and termination of the operation of its provisions and for concluding the operations of the commission.~~

~~The bill would impose a state-mandated local program by creating new crimes.~~

~~The provisions of the bill would be repealed upon the occurrence of certain events described in the bill.~~

~~(2) 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~~ yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 ~~SECTION 1. Part 4.7 (commencing with Section~~
2 ~~SECTION 1. Part 4.7 (commencing with Section~~
3 ~~13991) is added to Division 3 of Title 2 of the Government~~
4 ~~Code, to read:~~

5
6 *PART 4.7. CALIFORNIA TRUCKING ADVISORY*
7 *BOARD*

8
9 *CHAPTER 1. DECLARATIONS AND GENERAL PROVISIONS*

10
11 *13991. The Legislature finds and declares all of the*
12 *following:*

13 *(a) The trucking industry performs an invaluable*
14 *service for the citizens of California by delivering food*
15 *and goods to every home, school, business, and*
16 *community.*

17 *(b) Trucks transport nearly 100 percent of all goods*
18 *and products needed by California's 33 million citizens.*



1 (c) More than 70 percent of California's communities
2 receive all freight by truck.

3 (d) The trucking industry employs one of every 13
4 Californians and has an annual payroll of more than 26
5 billion dollars (\$26,000,000,000).

6 (e) The trucking industry is committed to safe travel
7 for all motorists on California's roads and highways.

8 (f) The trucking accident rate in California has been
9 reduced by more than 38 percent over the past decade,
10 while truck miles traveled have increased by more than
11 40 percent.

12 (g) California's professional truck drivers are among
13 the safest in the world.

14 (h) Hundreds of professional truck drivers have
15 performed extraordinary acts of courage and heroism
16 while aiding and rescuing injured and stranded motorists.

17 (i) Trucks are vital to the economic well-being of the
18 state.

19 (j) A majority of the communities in the state rely
20 solely on trucks as a means of receiving goods, including
21 medical supplies and food.

22 (k) The trucking industry pays a third of the taxes used
23 for the highways of this state.

24 (l) It is the duty of the trucking industry and the state
25 to educate motorists on how to share the road with trucks.

26 13991.2. (a) The purpose of the advisory board
27 created under this part is to educate motorists on topics
28 relating to highway safety and sharing the road with
29 trucks.

30 (b) The education of motorists on topics relating to
31 highway safety and sharing the road with trucks in this
32 state is hereby declared to be affected with a public
33 interest. This part is enacted in the exercise of the police
34 power of this state for the purpose of protecting the
35 health, peace, safety, and general welfare of the people
36 of this state.

37 13991.4. No action taken by the advisory board
38 created under this part, or by any individual in
39 accordance with this part or with the rules and
40 regulations adopted pursuant to this part, is a violation of



1 Chapter 2 (commencing with Section 16700) of Part 2 of
2 Division 7 of the Business and Professions Code
3 (commonly known as the Cartwright Act), the Unfair
4 Practices Act (Chapter 4 (commencing with Section
5 17000) of that Part 2), or any statutory or common law
6 against monopolies or combinations in restraint of trade.

7 13991.6. This part shall be liberally construed. If any
8 provision of this part or the application thereof to any
9 person or circumstances is held to be invalid, the
10 invalidity shall not affect other provisions or applications
11 of the part that can be given effect without the invalid
12 provision or application, and to this end the provisions of
13 this part are severable.

14 13991.8. It is hereby declared as a matter of legislative
15 determination that members of the advisory board
16 created under this part are intended to represent and
17 further the interest of the particular industry concerned
18 and that this representation and furtherance is intended
19 to serve the public interest. Accordingly, the Legislature
20 finds that, with respect to persons who are elected or
21 appointed to the advisory board, the particular industry
22 concerned is tantamount to, and constitutes, the public
23 generally within the meaning of Section 87103 of the
24 Government Code.

25 13991.9. The advisory board form of administration
26 created by this part is uniquely situated to provide the
27 trucking industry the opportunity to avail itself of the
28 benefits of collective action in the broad field of public
29 information and education, and the research necessary to
30 achieve the purposes stated in this chapter.

31

32

CHAPTER 2. DEFINITIONS

33

34 13992. Unless the context otherwise requires, the
35 definitions in this chapter govern the construction of this
36 part.

37 13992.1. "Books and records" means books, records,
38 contracts, documents, memoranda, papers,
39 correspondence, or other written data pertaining to
40 matters relating to the activities subject to this part.



1 13992.2. "Board" means the California Trucking
2 Advisory Board created under this part.

3 13992.3. "Director" means the Director of Motor
4 Vehicles.

5 13992.4. "Person" means an individual, partnership,
6 corporation, limited liability company, firm, company, or
7 other entity doing business in California.

8 13992.5. "Trucking company" means any person who
9 is subject to the Motor Carriers of Property Permit Act
10 (Division 14.85 (commencing with Section 34600) of the
11 Vehicle Code).

12 13992.6. "Research" means any economic, cultural, or
13 biological search, inquiry, examination, investigation, or
14 experimentation, or any other search, inquiry,
15 examination, investigation, or experimentation.

16
17 CHAPTER 3. THE CALIFORNIA TRUCKING ADVISORY
18 BOARD
19

20 13993. (a) There is in state government the
21 California Trucking Advisory Board. The board is
22 composed of nine members, as follows:

23 (1) Three members shall be elected by and from
24 trucking companies that owned or leased less than 25
25 trucks during the preceding year.

26 (2) Three members shall be elected by and from
27 trucking companies that owned or leased not less than 25,
28 but not more than 100, trucks during the preceding year.

29 (3) Three members shall be elected by and from
30 trucking companies that owned or leased more than 100
31 trucks during the preceding year.

32 (b) Each member of the board shall be an owner of a
33 trucking company that comes within the category of
34 company, as described in subdivision (a), that the
35 member was elected to represent, or the designee of that
36 owner.

37 (c) Each member shall be certified in this state as a
38 carrier of motor freight.

39 (d) The members shall be elected by a majority vote
40 under the process described in Section 13997.6.



1 13993.1. (a) *The director may require the board to*
2 *correct or cease any existing activity or function that is*
3 *determined by the director not to be in the public interest*
4 *or that is in violation of this part.*

5 (b) *If the board refuses or fails to cease these activities*
6 *or functions or to make corrections required by the*
7 *director, the director may, upon written notice, suspend*
8 *all or a portion of the activities or functions of the board*
9 *until the cessation or correction of the activities or*
10 *functions, as required by the director, has been*
11 *accomplished by the board.*

12 (c) *Any actions of the board in violation of the written*
13 *notice are without legal force or effect. The director, to*
14 *the extent feasible, shall issue the written notice prior to*
15 *the board entering into any contractual relationship*
16 *affecting the existing or proposed activities or functions*
17 *that are the subject of the written notice.*

18 (d) *At the same time the written notice is provided to*
19 *the board, the director shall notify the board in writing of*
20 *the specific acts that the director determines are not in*
21 *the public interest or are in violation of this part, the*
22 *director's reasons for requiring a cessation or correction*
23 *of specific existing or proposed activities or functions, and*
24 *the director's recommendations with respect to any*
25 *action that will make the activities or functions*
26 *acceptable.*

27 13993.2. *The board or the director may bring an*
28 *action for judicial relief from the director's written notice,*
29 *or from noncompliance by the board with the written*
30 *notice, as the case may be, in a court of competent*
31 *jurisdiction, which may issue a temporary restraining*
32 *order, permanent injunction, or other applicable relief.*

33 13993.3. *When the director is required to concur in a*
34 *decision of the board, the director shall concur, refuse to*
35 *concur, or request additional information from the board*
36 *within 15 working days from the date the director*
37 *receives notification of the decision.*

38 13993.4. *The board shall reimburse the director for all*
39 *expenses incurred by the director in carrying out his or*
40 *her duties and responsibilities pursuant to this part.*



1 *However, a court may, if it finds that the director has*
2 *acted arbitrarily or capriciously in restricting the*
3 *activities or functions of the board, relieve the board of*
4 *the responsibility for the payment of the director's legal*
5 *costs with regard to that action.*

6 *13993.5. (a) An alternate member for each member*
7 *of the board shall be elected or appointed in the same*
8 *manner and for the same term as the member.*

9 *(b) Except as provided in Section 13994, an alternate*
10 *member shall, in the absence of the member for whom he*
11 *or she is an alternate, serve in the place of the member*
12 *and shall have and exercise all of the rights, privileges,*
13 *and powers of the member when serving on the board.*

14 *(c) If the status of a member changes so that the*
15 *member becomes ineligible to serve, or in the event of*
16 *the death, removal, resignation, or disqualification of a*
17 *member, the alternate member shall act as a member of*
18 *the board until a qualified successor is elected.*

19 *13993.6. Any vacancy on the board that occurs due to*
20 *a change in the status of a member, or because of the*
21 *death, removal, resignation, or disqualification of a*
22 *member, shall be filled for the unexpired portion of the*
23 *term by a majority vote of the remaining members of the*
24 *board. The new member shall possess all of the same*
25 *qualifications set forth in this chapter that are required*
26 *for the person whose office he or she is to occupy.*

27 *13993.7. (a) Each member shall maintain the status*
28 *required under subdivisions (b) and (c) of Section 13993*
29 *throughout his or her term of office, including, but not*
30 *limited to, payment of all required fees and maintenance*
31 *of all required business licenses.*

32 *(b) Not more than one member and one alternate*
33 *member shall be persons employed by, or connected in*
34 *a proprietary capacity with, the same corporation, firm,*
35 *partnership, association, or business organization. Any*
36 *alternate serving on the board who is employed by, or*
37 *connected in a proprietary capacity with, a person*
38 *serving as a member of the board from the same*
39 *corporation, firm, partnership, association, or business*
40 *organization, shall serve as an alternate to the member.*



1 13993.8. (a) *The term of office of each member shall*
2 *be four years, commencing with the beginning of the year*
3 *following the date of election, except that the terms of the*
4 *initial members shall commence on the date of election.*

5 (b) *No member may serve more than three*
6 *consecutive four-year terms.*

7 13993.9. *The board shall be and is hereby declared to*
8 *be a corporate body. It may sue and be sued, enter into*
9 *contracts, adopt a seal, and have and possess all of the*
10 *powers of a corporation. Copies of its proceedings,*
11 *records, and acts when authenticated, shall be prima facie*
12 *evidence of the truth of all statements therein.*

13 13994. *A quorum of the board shall be five members.*
14 *Notwithstanding Section 13993.5, any alternate member*
15 *may serve in the absence of any member if the member's*
16 *alternate is also absent and the action is necessary to*
17 *establish a quorum. Except as provided in Section 13999.6,*
18 *the vote of a majority of the members present at a*
19 *meeting at which there is a quorum constitutes an act of*
20 *the board.*

21 13994.1. *The director or his or her representatives*
22 *shall be notified of and may attend each meeting of the*
23 *board and any committee meeting of the board.*

24 13994.2. *Each member of the board or each alternate*
25 *member serving in the place of a member may receive*
26 *per diem of not more than one hundred dollars (\$100) per*
27 *day, as established by the board, and may also receive*
28 *necessary traveling expenses and meal allowances, as*
29 *approved by the board. The per diem, traveling expenses,*
30 *and allowances may be paid for each day spent in actual*
31 *attendance at, or in traveling to and from, meetings of the*
32 *board or committees of the board, or on special*
33 *assignment for the board, as approved by the board.*

34 13994.3. (a) *All funds received by the board shall be*
35 *deposited in the California Trucking Advisory Board*
36 *Account, which is hereby created in the State*
37 *Transportation Fund. Notwithstanding Section 13340, all*
38 *money in the account is hereby continuously*
39 *appropriated, without regard to fiscal years, to the board*
40 *for expenditure for the purposes of this part. Money*



1 received by the board under this section shall be
2 disbursed by order of the board through an agent
3 designated by the board for that purpose.

4 (b) The agent shall be bonded by a fidelity bond,
5 executed by a surety company authorized to transact
6 business in this state, in favor of the board, in the amount
7 of not less than twenty-five thousand dollars (\$25,000).

8 13994.4. (a) The state is not liable for the acts of the
9 board or its contracts. Payments of all claims arising by
10 reason of the administration of this part or acts of the
11 board are limited to the funds collected by the board.

12 (b) No member of the board, alternate member, or
13 any employee or agent thereof, is personally liable for the
14 contracts of the board. No member of the board, alternate
15 member, or any employee or agent thereof, is responsible
16 individually in any way to any other person for errors in
17 judgment, mistakes, or other acts, either of commission or
18 of omission, as principal, agent, or employee, except for
19 his or her own individual acts of dishonesty or crime. No
20 member of the board, alternate member, or any
21 employee or agent thereof, is responsible individually for
22 any act or omission of any other member of the board,
23 alternate member, or any employee or agent thereof.

24 (c) Liability is several and not joint, and no member
25 of the board, alternate member, or any employee or
26 agent thereof, is liable for the default of any other
27 member of the board, alternate member, or any
28 employee or agent thereof.

29

30 CHAPTER 4. POWERS AND DUTIES OF THE BOARD

31

32 13995. The powers and duties of the board include,
33 but are not limited to, all of those specified in this chapter.

34 13995.1. The board may adopt and, from time to time,
35 alter, rescind, modify, and amend bylaws, regulations,
36 operating procedures, and orders for carrying out this
37 part, including regulations for appeals from any bylaw,
38 regulation, operating procedure, or order of the board.

39 13995.2. The board may administer and enforce this
40 part and do and perform all acts and exercise all powers



1 incidental to, or in connection with, or deemed
2 reasonably necessary for, the proper implementation of
3 this part.

4 13995.3. The board may appoint its own officers,
5 including a chairperson, one or more vice chairpersons,
6 and other officers as it deems necessary. The officers shall
7 have the powers and duties delegated to them by the
8 board.

9 13995.4. (a) The board may employ a person to serve
10 at the pleasure of the board as president and chief
11 executive officer of the board, and other personnel,
12 including legal counsel, necessary to carry out this part.

13 (b) If any person employed by the board engages in
14 any conduct that the director determines is not in the
15 public interest or that is in violation of this part, the
16 director shall notify the board of the conduct and request
17 that corrective and, if appropriate, disciplinary action be
18 taken by the board. If the board fails or refuses to correct
19 the situation or to take disciplinary action satisfactory to
20 the director, the director may suspend or discharge the
21 person.

22 (c) The board may retain a management firm or the
23 staff from any board, commission, or committee of the
24 state or federal government to perform the functions
25 prescribed by this section under the control of the board.

26 13995.5. The board may fix the compensation for all of
27 its employees.

28 13995.6. The board may appoint committees
29 composed of both members and nonmembers of the
30 board to advise the board in carrying out this part.

31 13995.7. The board may establish offices and incur
32 expenses, enter into any and all contracts and
33 agreements, create liabilities, and borrow funds in
34 advance of receipt of assessments as may be necessary, in
35 the opinion of the board, for the proper administration
36 and enforcement of this part and the performance of its
37 duties.

38 13995.8. (a) The board shall keep accurate books,
39 records, and accounts of all of its dealings that shall be



1 *subject to an annual audit by an auditing firm selected by*
2 *the board with the concurrence of the director.*

3 *(b) A summary of the audit shall be reported to all*
4 *persons subject to this part, a copy of which shall also be*
5 *submitted to the director. In addition, the director may,*
6 *as he or she determines necessary, conduct or cause to be*
7 *conducted a fiscal and compliance audit of the board.*

8 *13995.9. (a) The board may present facts to, and*
9 *negotiate with state, federal, and foreign agencies on*
10 *matters that affect this part.*

11 *(b) The board may not lobby the Legislature.*

12 *13996. The board may enter into contracts to receive*
13 *or render services in formulating and conducting plans*
14 *and programs and any other contracts or agreements that*
15 *the board may deem necessary for carrying out this part.*

16 *13996.1. The board may conduct, and contract with*
17 *others to conduct, research, including the study, analysis,*
18 *accumulation, and dissemination of information obtained*
19 *from the research or elsewhere, regarding this part.*

20 *13996.2. (a) The board may publish and disseminate*
21 *materials, develop educational programs, and perform*
22 *any other activities required to educate the public*
23 *concerning highway safety in relation to motor vehicle*
24 *interactions with trucks.*

25 *(b) The board may develop a request for proposals for,*
26 *and may contract with public or private entities for,*
27 *development of strategies to implement the activities*
28 *authorized under subdivision (a).*

29 *13996.3. The board may accept contributions or*
30 *match private, state, or federal funds, and employ or*
31 *make contributions of funds to other persons or state or*
32 *federal agencies, for purposes of carrying out this part.*

33 *13996.4. The board may publish and distribute,*
34 *without charge, bulletins or other communications to*
35 *persons subject to this part.*

36 *13996.5. The board shall establish an assessment rate*
37 *sufficient to defray its costs under this part, but not more*
38 *than five dollars (\$5) per truck owned or leased by each*
39 *trucking company.*



1 13996.6. *The board shall adopt an annual budget*
2 *according to generally accepted accounting practices.*
3 *The director shall concur in the adoption of the budget*
4 *prior to the encumbrance of funds, except for any*
5 *obligations incurred pursuant to Section 13995.5.*

6 13996.7. *The board shall submit to the director, for his*
7 *or her concurrence, an annual statement of*
8 *contemplated activities authorized pursuant to this part.*

9 13996.8. *The board and the director shall keep*
10 *confidential and shall not disclose, except when required*
11 *by a court order after a hearing in a judicial proceeding*
12 *involving this part, all lists in their possession of persons*
13 *subject to this part.*

14 13996.9. *The board may investigate and prosecute*
15 *civil violations of this part and file complaints with*
16 *appropriate law enforcement agencies or officers for*
17 *suspected criminal violations of this part.*

18

19 CHAPTER 5. IMPLEMENTATION AND VOTING PROCEDURES

20

21 13997. (a) *Not later than March 1, 2001, the director*
22 *shall establish a list of trucking companies eligible to vote*
23 *on the implementation of this part. In establishing the list,*
24 *the director may require trucking companies and others*
25 *to submit the names and mailing addresses of all known*
26 *trucking companies. The director may request the*
27 *assistance of the State Board of Equalization in gathering*
28 *the information. Notwithstanding any other provision of*
29 *law, the State Board of Equalization shall provide the*
30 *director the information that shall be used only for*
31 *purposes specified in this part. The request for the*
32 *information shall be in writing.*

33 (b) *Any trucking company whose name does not*
34 *appear on the list may have its name placed on the list by*
35 *filing with the director a signed statement identifying*
36 *itself as a trucking company. The absence of a trucking*
37 *company's name from the list does not exempt the person*
38 *from paying assessments and does not invalidate any*
39 *votes conducted pursuant to this part.*



1 (c) Proponents and opponents of the board may
2 contact trucking companies on the lists in a form and
3 manner prescribed by the director so long as all expenses
4 associated with the contacts are paid in advance.

5 13997.1. This part, except as necessary to conduct an
6 implementation referendum vote, shall not become
7 operative until the director finds, in a referendum vote
8 conducted by the director, that at least 40 percent of the
9 total number of trucking companies from the list
10 established by the director pursuant to this chapter
11 participate and that either of the following has occurred:

12 (a) Sixty-five percent of the trucking companies who
13 voted in the referendum voted in favor of this part, and
14 the trucking companies so voting conducted not less than
15 51 percent of the total trucking business conducted
16 during the preceding fiscal year by all of the trucking
17 companies who voted in the referendum.

18 (b) A majority of the trucking companies who voted
19 in the referendum voted in favor of this part, and the
20 trucking companies so voting conducted 65 percent or
21 more of the total trucking business conducted in the
22 preceding fiscal year by all of the trucking companies
23 who voted in the referendum.

24 13997.2. The director shall establish a period, which
25 shall not be less than 10 days or more than 60 days, to
26 conduct the referendum and may prescribe additional
27 procedures that may be necessary to conduct the
28 referendum. If the initial period established is less than 60
29 days, the director may extend the period, except that the
30 total referendum period shall not exceed 60 days.

31 13997.3. The nonreceipt of a ballot by any trucking
32 company shall not invalidate a referendum.

33 13997.4. If the director finds that a favorable vote has
34 been given as provided in Section 13997.1, the director
35 shall certify and give notice of the favorable vote to all
36 affected trucking companies whose names and addresses
37 are on file with the director.

38 13997.5. (a) If the director finds that a favorable vote
39 has not been given as provided in Section 13997.1, the
40 director shall do one of the following:



1 (1) *Certify and declare this part inoperative.*

2 (2) *Conduct another implementation referendum*
3 *vote one year or more after the previous referendum has*
4 *been held.*

5 (b) *If the director finds that a favorable vote has not*
6 *been given as provided in Section 13997.1 after a second*
7 *implementation referendum vote has been held, the*
8 *director shall certify and declare this part inoperative.*

9 13997.6. (a) *Upon certification of the board, the*
10 *director shall contact all trucking companies by mail or*
11 *call meetings of the trucking companies for the purpose*
12 *of nominating persons for inclusion on a ballot for election*
13 *to the board. All trucking companies on the director's list*
14 *shall be provided written notice of any election meetings*
15 *at least 10 days prior to the meeting date.*

16 (b) *The director shall develop a ballot form that*
17 *contains the names of all persons who have presented the*
18 *director with a nomination petition containing the*
19 *signatures of representatives of at least three eligible*
20 *trucking companies from the category of trucking*
21 *companies specified in Section 13993 from which the*
22 *nominee is seeking election.*

23 (c) *After the director deems the ballot form to be*
24 *complete, he or she shall mail the form to each trucking*
25 *company on the list, with return requested on a date to*
26 *be determined by the director.*

27 (d) *The members elected to the board shall be the*
28 *three persons in each of the three categories specified in*
29 *Section 13993 who receive the most votes in that category.*

30 13997.7. *Subsequent to the initial implementation*
31 *referendum vote and the first election of boarders, the*
32 *board shall establish procedures for the purpose of*
33 *providing persons subject to this part with access to*
34 *trucking companies on the board's list of trucking*
35 *companies for purposes related to an election or*
36 *referendum or an act or determination of the board.*
37 *Access to trucking companies shall not include actual*
38 *release or disclosure of the board's confidential list of*
39 *trucking companies.*

1 13997.8. (a) Prior to the referendum vote conducted
2 by the director pursuant to Section 13997.1, the
3 proponents of the board shall deposit with the director
4 the amount that the director deems necessary to defray
5 the expenses of preparing the necessary list and
6 information and conducting the vote.

7 (b) Any funds that are not used to carry out Section
8 13997.1 shall be returned to the proponents of the board
9 who deposited the funds with the director.

10 (c) Upon the establishment of the board, the board
11 may reimburse the proponents of the board for any funds
12 deposited with the director that were used in carrying out
13 Section 13997.1 and for any legal expenses and costs
14 incurred in establishing the board.

15

16 CHAPTER 6. ASSESSMENTS AND RECORDS

17

18 13998. (a) The board shall establish the assessment
19 authorized under Section 13996.5 for the fiscal year not
20 later than January 1 of each year or as soon thereafter as
21 is possible.

22 (b) The assessment shall be based on the total number
23 of trucks owned or leased by the trucking company.

24 (c) The trucking company shall pay the assessment to
25 the board at the time and in the manner prescribed by the
26 board.

27 13998.1. Any person requesting an exemption from
28 this part shall file an affidavit with the board attesting that
29 it is not a trucking company. The affidavit shall contain all
30 of the information required by the board. The board shall
31 review the affidavit, conduct any additional investigation
32 it deems appropriate, and approve or deny the affidavit.
33 Approval of the affidavit does not exempt the person
34 from the requirements of Section 13998.2.

35 13998.2. Every trucking company shall keep a
36 complete and accurate record of all transactions
37 involving that business. The records shall be in simple
38 form and contain any information that the board may
39 prescribe. The records shall be retained by the trucking
40 company for a period of two years and shall be offered and



1 submitted for inspection at any reasonable time upon
2 written demand of the board or its duly authorized agent.

3 13998.3. (a) All proprietary information obtained by
4 the board or the director from trucking companies is
5 confidential and shall not be disclosed except when
6 required by court order after a hearing in a judicial
7 proceeding involving this chapter.

8 (b) Information on volume shipments, product value,
9 and any other related information that is required for
10 reports to governmental agencies, financial reports to the
11 board, or aggregate sales and inventory information, and
12 any other information that the board requires that gives
13 only totals, but excludes individual trucking company
14 information, may be disclosed by the board.

15 (c) The board may request that the Governor, by
16 general or special order, authorize examination by the
17 State Board of Equalization of records maintained by the
18 board, if a reciprocal arrangement exists between the
19 board and the State Board of Equalization. The
20 information so obtained pursuant to the order of the
21 Governor shall not be made public except to the extent
22 and in the manner that the order authorizes that it be
23 made public.

24 13998.4. Any assessment that is levied under this
25 chapter is a personal debt of every trucking company so
26 assessed.

27 13998.5. Any trucking company that fails to file a
28 return or pay any assessment within the time required by
29 the board shall pay to the board a penalty of 10 percent
30 of the amount of the assessment determined to be due
31 and, in addition, pay 11.5 percent interest per month on
32 the unpaid balance.

33 13998.6. When the trucking company is a corporation,
34 all of the directors and officers of the corporation in their
35 capacity as individuals shall be included, and any liability
36 for violating this part, including but not limited to, failing
37 to pay assessments or to collect assessments, shall also
38 include identical liability upon each director or officer of
39 the corporation.

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CHAPTER 7. ACTIONS AND PENALTIES

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13999. It is a misdemeanor for any person to do any of the following:

(a) Refuse to render a report, statement, or record required by the board.

(b) Furnish a false report, statement, or record required by the board.

(c) Secrete, destroy, or alter records required to be kept under this part.

13999.1. The board shall establish procedures for the purpose of granting individuals aggrieved by its actions or determinations an informal hearing before the board, or before a committee of the board designated for this purpose. Appeals from decisions of the board may be made to the director. The determination of the director shall be subject to judicial review upon petition filed with the appropriate superior court.

13999.2. (a) The board may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties and for the obtaining of injunctive relief or specific performance regarding this part and the rules and regulations adopted pursuant to this part. A court shall issue to the board any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this part or any rule or regulation of the board, including, but not limited to, the nonpayment of assessments. The board shall not be required to post a bond as a condition for the issuance of any writ of attachment or injunctive relief.

(b) A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of that code is not required. Injunctive relief shall be granted pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law



1 *specified in Sections 526 and 527 of that code is not*
2 *required.*

3 *(c) Upon entry of any final judgment on behalf of the*
4 *board against any defendant, the court shall enjoin the*
5 *defendant from conducting any type of business*
6 *regarding the trucking industry until there is full*
7 *compliance and satisfaction of the judgment. Upon a*
8 *favorable judgment for the board, it is entitled to receive*
9 *reimbursement for any reasonable attorney's fees and*
10 *other actual related costs. Venue for these actions may be*
11 *established at the domicile or place of business of the*
12 *defendant or in the county of the principal office of the*
13 *board. The board may be sued only in the county of its*
14 *principal office.*

15 *13999.3. The repeal or suspension and termination of*
16 *this part shall not do any of the following:*

17 *(a) Affect or waive any right, duty, obligation, or*
18 *liability which has arisen or which may thereafter arise in*
19 *connection with this part.*

20 *(b) Release or extinguish any violation of this part.*

21 *(c) Affect or impair any right or remedies of the board*
22 *with respect to any violation.*

23

24 *CHAPTER 8. CONTINUATION AND TERMINATION*

25

26 *13999.4. (a) Beginning 10 years after the*
27 *implementation of this part, and every 10 years*
28 *thereafter, the director shall hold a hearing to determine*
29 *whether operation of this part should be continued. If the*
30 *director finds after the hearing that a substantial question*
31 *exists among the trucking companies assessed under this*
32 *part regarding whether operation of this part should be*
33 *continued, the director shall submit the part for approval*
34 *utilizing the voting procedures provided in Sections*
35 *13397 to 13397.3, inclusive.*

36 *(b) If the director finds that a favorable vote has been*
37 *given, the director shall so certify and this part shall*
38 *remain in operation.*

39 *(c) If the director finds that a favorable vote has not*
40 *been given, the director shall so certify and declare the*



1 operation of this part suspended upon expiration of the
2 fiscal year.

3 13999.5. If a referendum is conducted as the result of
4 a petition pursuant to Section 13999.6, the hearing
5 pursuant to Section 13999.4 shall be conducted every 10th
6 year following the industry petitioned referendum.

7 13999.6. (a) Upon a finding by a two-thirds vote of
8 the board that the operation of this part has not tended
9 to effectuate its declared purposes, the board may
10 recommend to the director that the operation of this part
11 be suspended. However, any suspension shall not become
12 effective until the expiration of the fiscal year.

13 (b) The director shall, upon receipt of the
14 recommendation, or may, after a public hearing to
15 review a petition filed with the director requesting a
16 suspension signed by not less than 20 percent of the
17 trucking companies who conducted not less than 20
18 percent of the total volume of trucking business in the
19 immediately preceding fiscal year, hold a referendum
20 among the trucking companies to determine if the
21 operations of the board shall be suspended. However, the
22 director shall not hold a referendum as a result of the
23 petition, unless the petitioner shows, by a preponderance
24 of the evidence, in a manner prescribed by the director,
25 that the operation of this part has not tended to effectuate
26 its declared purposes.

27 (c) The director shall establish a referendum period,
28 that shall not be less than 10 days or more than 60 days.
29 The director may prescribe additional procedures as may
30 be necessary to conduct the referendum. At the close of
31 the established referendum period, the director shall
32 tabulate the ballots filed during the period. If at least 40
33 percent of the total number of trucking companies from
34 the list established by the director participate in the
35 referendum, the director shall suspend the operation of
36 this part if the director finds either one of the following
37 has occurred:

38 (1) Sixty-five percent or more of the trucking
39 companies who voted in the referendum voted in favor
40 of suspension, and the trucking companies so voting



1 conducted a majority of the trucking business conducted
2 in the preceding fiscal year by all of the trucking
3 companies who voted in the referendum.

4 (2) A majority of the trucking companies who voted in
5 the referendum voted in favor of suspension, and the
6 trucking companies so voting conducted 65 percent or
7 more of the total trucking business conducted in the
8 preceding fiscal year by all of the trucking companies
9 who voted in the referendum.

10 13999.7. (a) The director shall terminate the board at
11 the end of the then current fiscal year if the director finds
12 that the termination of the board is requested in writing,
13 within a 90-day period, by at least 51 percent of the
14 eligible trucking companies that conducted at least 51
15 percent of the total trucking business.

16 (b) The trucking company originating the request
17 shall file a written notice with the director in a manner
18 that establishes the date the request is initiated. Any
19 person may withdraw his or her name from the petition
20 requesting the termination prior to the time the request
21 is presented to the director.

22 (c) The signatures to the petition requesting the
23 termination need not all be appended to one sheet of
24 paper. Each trucking company signing the petition shall
25 specify his or her place of business in a manner that will
26 enable the location to be readily ascertained.

27 (d) The petition shall bear a copy of the notice of
28 intention to terminate the board. Signatures shall be
29 secured within the time limit specified in this section.

30 13999.8. After the effective date of suspension, the
31 operation of the board shall be concluded and the funds
32 remaining held by the board and not required to defray
33 the expenses of concluding and terminating operations of
34 the board, shall be returned upon a pro rata basis to all
35 trucking companies from whom assessments were
36 collected in the immediately preceding fiscal year.
37 However, if the board finds that the amounts so
38 returnable are so small as to make impractical the
39 computation and remitting of the prorated refund to these
40 trucking companies, the remaining funds shall be



1 *withdrawn from the approved depository and paid to an*
2 *appropriate program conducted by the University of*
3 *California or the California State University, another*
4 *state agency, or a federal agency which deals with the*
5 *purposes of this part. If that program does not exist, the*
6 *funds shall be paid to the State Treasury as unclaimed*
7 *trust funds.*

8 *13999.9. (a) Upon suspension of the operation of this*
9 *part pursuant to subdivision (b) of Section 13997.5,*
10 *subdivision (b) of Section 13999.4, or subdivision (c) of*
11 *Section 13999.6, both of the following shall occur:*

12 *(1) The board shall mail a copy of the notice of*
13 *suspension to all persons affected by the suspension*
14 *whose names and addresses are on file.*

15 *(2) The director shall notify the Secretary of State in*
16 *writing of the fact that the operation of the part has been*
17 *suspended and is to be repealed under subdivision (b).*

18 *(b) This part shall remain in effect only until January*
19 *1 following the date that the notice required under*
20 *paragraph (2) of subdivision (a) is received by the*
21 *Secretary of State, and as of that date is repealed, unless*
22 *a later enacted statute, which is enacted on or before that*
23 *January 1, deletes or extends that date.*

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



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All matter omitted in this version of the bill appears in the bill as introduced in the Assembly, February 26, 1999 (JR 11)

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