

Original T-1

MEMORANDUM

DATE : November 30, 1987

TO : The Commission  
(For Meeting of December 17, 1987)

FROM : Norman Kelley, Director  
Transportation Division

FILE NO.: 362.1 (For Resolution No. 18249)

SUBJECT : Implementation of the Amended Motor Transportation  
Brokers' Act

RECOMMENDATION: The Commission should establish interim rules and regulations to govern motor transportation brokers (MTBs) until a new general order is adopted to regulate such operations.

BACKGROUND: Assembly Bill 678 (AB 678) which was signed by the Governor on September 18, 1987, amended Chapter 5 of Division 2 of the Public Utilities Code pertaining to the Motor Transportation Brokers' Act and will be effective on January 1, 1988.

DISCUSSION: The Code provisions require the Commission to establish regulations governing the licensing and operation of MTBs. The provisions of AB 678 become effective on January 1, 1988. The Transportation Division plans to seek input from the industry to develop a general order to govern MTBs but it will not be possible to complete this process before the amended Act becomes effective.

The Transportation Division has prepared interim rules to temporarily govern MTBs and implement the new procedures required by AB 678. We recommend that the attached resolution be adopted to make these interim rules effective January 1, 1988.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

TL  
Resolution 18249  
Transportation Division

( RESOLUTION ADOPTING INTERIM RULES AND REGULATIONS )  
( TO IMPLEMENT THE MOTOR TRANSPORTATION BROKERS' ACT )

Assembly Bill (AB) 678 (Chapter 740, Statutes 1987), amended Chapter 5 of Division 2 of the Public Utilities Code (Code) pertaining to the Motor Transportation Brokers' Act and will be effective on January 1, 1988.

The major changes from the existing Code sections are to:

1. Prohibit the issuance of a Motor Transportation Broker's license ( MTB ) to an applicant who regularly is a shipper, consignor, or consignee, unless the applicant held a license on June 30, 1987.

2. Exempt any broker which does not issue invoices or handle money for a motor carrier from the bonding requirement.

3. Specify what an invoice is to contain, and require the broker to transmit the full amount of the motor carrier's filed rate to the motor carrier.

4. Prohibit a person or entity which holds both authority as a motor carrier and a broker from charging a lower rate for brokered service than the rate filed by that person as a carrier if there is a likelihood of confusion between the person's business identity as a broker and as a carrier.

5. Limit the broker's commission to not more than 10% of the motor carrier's applicable rate for the transportation service provided.

6. Prohibit motor transportation brokers from engaging the services of any unauthorized motor carriers.

7. Prohibit a motor transportation broker from charging or receiving any compensation from a motor carrier if the shipper, consignor, or consignee owns or controls the broker.

8. Authorize the Commission to suspend or revoke a motor transportation broker's license, or to impose civil penalties on the broker for the offering for sale of transportation by a carrier at a rate less than the filed rate of the carrier.

As a result of the passage of AB 678 it will be necessary for the Commission to adopt a general order to govern the licensing and operation of MTB's. The Transportation Division will develop this general order in cooperation with the industry and the public in a future proceeding. Meanwhile, rules must be adopted to allow existing brokers to continue their operations and to allow others to obtain licenses when the amended MTB Act becomes effective on January 1, 1988.

#### Findings of Fact

1. AB 678, which becomes effective on January 1, 1988, will require a new general order to establish rules to govern the licensing and operations of motor transportation brokers.
2. A new general order cannot be prepared and adopted in time to implement the new Code requirements.
3. Until a general order can be prepared and adopted, temporary rules are needed to allow for the licensing of MTB's and to regulate their operations.

#### Conclusion of Law

The interim rules and regulations for motor transportation brokers in the Appendix to this resolution are necessary and should be adopted.

#### IT IS ORDERED that:

1. The interim rules and regulations contained in the Appendix to this resolution are adopted to govern the licensing and operations of motor transportation brokers.
2. These interim rules and regulations will apply to motor transportation broker licenses issued and operations conducted on or after January 1, 1988.
3. These interim rules and regulations will remain in effect until further order of this Commission.
4. Persons or corporations meeting the requirements of the Motor Transportation Brokers' Act and the interim rules adopted by this resolution are found and determined to be fit, willing, and able to act as brokers for transportation as authorized by the license issued.
5. The Executive Director of this Commission is authorized to issue motor transportation broker licenses to persons and corporations meeting the requirements of the Motor Transportation Brokers' Act and the attached interim rules, and to suspend or revoke the operating authority of those in violation of the requirements of the Act or interim rules.

This resolution is effective today.


I hereby certify that the foregoing resolution was duly introduced, passed and adopted at a regular meeting of the Public Utilities Commission of the State of California, held on

DEC 17 1987

The following Commissioners voted favorably.

STANLEY W. HULETT  
President

DONALD VIAL  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners



---

VICTOR R. WEISSER,  
Executive Director

Commissioner Frederick R. Duda,  
being necessarily absent, did not  
participate.

**RULES AND REGULATIONS GOVERNING THE LICENSING AND OPERATIONS  
OF MOTOR TRANSPORTATION BROKERS OF PROPERTY**

**RULE 1 ---APPLICATION**

A. These interim rules and regulations are issued to implement the Motor Transportation Brokers' Act (Sections 4801 through 4875 of the Public Utilities Code, as amended by AB 678, September, 1987) and apply to motor transportation brokers of property in California intrastate commerce. These rules and regulations do not apply when the motor carrier transporting or offering to transport the property is a passenger stage corporation engaged in transporting baggage or express incidental to the transportation of passengers or a cement carrier, cement contract carrier, dump truck carrier, or household goods carrier.

**RULE 2 --- LICENSE REQUIREMENTS**

A. Applications for a motor transportation broker's license shall be made in writing on a form furnished by the Commission's Transportation Division. The applications shall include a certification by the applicants that they do not regularly act as a shipper, consignee, or consignor of freight and are not otherwise legally prohibited from engaging in operations as a motor transportation broker.

B. A filing fee of five hundred dollars (\$500) shall accompany each application for a motor transportation broker's license. Such filing fee is not refundable.

C. No motor transportation broker license will be issued until the applicant has on file with the Commission a surety bond of not less than \$15,000, in a form approved by the Commission guaranteeing that all money received for the payment of transportation charges will be paid to the motor carrier providing the transportation. Exemption from this bond requirement may be granted by the Commission in accordance with Section 4824, subdivision (c) of the Public Utilities Code.

D. Motor transportation broker licenses are not transferable, except as provided in Public Utilities Code Section 4828. Applications for transfer are subject to paragraphs A., B., and C. above. A motor transportation broker which is a corporation, after informing the Commission of any change in control as required in Section 4829 of the Public Utilities Code, shall submit a new application in accordance with SECTION 4829 and paragraphs A., B., and C. above.

**RULE 3 --- ENGAGEMENT OF UNAUTHORIZED MOTOR CARRIERS**

A. Unauthorized motor carriers shall not be engaged by the motor transportation broker. It shall be the responsibility of the motor transportation broker actually engaging the services of the motor carrier to comply with this requirement.

**RULE 4 --- WRITTEN AGREEMENTS**

A. Prior to, or within five days after providing any brokerage service, a written agreement shall be executed with the motor carrier providing the transportation of property. Failure of the motor transportation broker to execute the required agreement shall constitute a violation of these rules, but shall not be cause for rejection or denial of any claim by the surety.

B. All written agreements shall include:

(1) The name and address of the surety providing the bond required in Rule 2, and the expiration date of such bond.

(2) The motor carrier's and motor transportation broker's "T" file numbers assigned by the Commission.

(3) The amount to be paid to the motor transportation broker shall not exceed 10 percent of the motor carrier's applicable rate for the transportation service.

(4) All other terms of such agreement, which must conform to all applicable laws, rules or orders.

(5) Signatures of both the motor transportation broker and the motor carrier.

C. A copy of each agreement shall be retained and preserved by all parties thereto, subject to the Commission's inspection, for a period of not less than three years from the date of termination of the agreement.

**RULE 5 --- PAYMENT TO MOTOR CARRIERS**

A. A motor transportation broker which issues invoices on behalf of a motor carrier shall remit to the motor carrier performing the transportation service the full amount of the motor carrier's filed rate, in accordance with the motor carrier's applicable tariff credit rules, or in the event that no such rules apply, within 15 days after completion of the shipment, excluding Saturdays, Sundays, and holidays.

**RULE 6 --- LICENSE SUSPENSION AND/OR REVOCATION**

A. Pursuant to Section 4824 of the Public Utilities Code, the license of any motor transportation broker shall stand suspended immediately upon the effective date of the cancellation of the surety bond required by Rule 2.

B. The license of any motor transportation broker may be suspended or revoked under the provisions of Section 4870 and/or 4875 of the Public Utilities Code, or for violation of other Commission rules or regulations.

C. The license held by any motor transportation broker shall be subject to revocation whenever the license of such broker has been suspended for thirty consecutive days under the provisions of these rules.

D. No motor transportation broker shall engage in any brokerage service subject to the Motor Transportation Brokers' Act during the suspension or after the revocation of its license.

E. No motor transportation broker whose license has been suspended shall resume operations unless and until such broker has been notified, in writing, that the suspended broker's license has been reinstated by the Commission.

**PUBLIC UTILITIES COMMISSION  
STATE OF CALIFORNIA  
TRANSPORTATION DIVISION**