

T-4

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TL 18257
Transportation Division
Page 1 of 4

R E S O L U T I O N

RESOLUTION RESCINDING RESOLUTION PE-2328, AND DIRECTING THE EXECUTIVE DIRECTOR TO SUSPEND THE OPERATING AUTHORITY OF PASSENGER STAGE CORPORATIONS AND TO DENY, SUSPEND OR REVOKE THE OPERATING AUTHORITY OF CHARTER-PARTY CARRIERS OF PASSENGERS, FOR FAILURE TO PASS HIGHWAY PATROL INSPECTION

With the current emphasis on safety involving passenger transportation, the California Highway Patrol (Patrol) has stepped up its safety inspections of passenger carriers. As a result, the Commission is receiving an increasing number of recommendations from the Patrol for the denial of applications for new or renewal authority, or for the suspension of existing authorities. As yet there have been no recommendations for revocation.

Resolution 2328 directs the Executive Director to suspend the operating authority of passenger stage corporations and charter-party carriers of passengers for safety violations. It imposes a fee of \$50 for reinstatement. There is no code provision for such a fee pertaining to passenger stage corporations, and the amount is incorrect with regard to charter-party carriers.

Resolution 2328 states, in part: "The California Highway Patrol has statutory authority in the area of safety of passenger stage corporations (P.U. Code Section 768) and charter-party carriers of passengers (P.U. Code Section 5371.1)."

However, Section 5371.1 deals only with the issuance of annual Class A certificates, whereas, Section 5380 provides:

5380. (a) Upon notification by the Department of the California Highway Patrol that a charter-party carrier of passengers has failed to comply with the inspection requirements in the Vehicle Code, or has received an unsatisfactory terminal rating, the Commission shall immediately deny, suspend or revoke the carrier's permit or certificate.

(b) Applications for reissue or reinstatement of a permit or certificate denied, suspended, or revoked pursuant to subdivision (a) shall be accompanied by a filing fee of five hundred dollars (\$500).

P.U. Code sections 1033.5 (passenger stage corporations) and 5378(a) (charter-party carriers) also authorize the suspension, cancellation, or revocation of the operating authority of a passenger carrier for safety-related reasons and provide for Commission cooperation with the Patrol.

Prompt action on the Highway Patrol's recommendations is necessary for the protection of the public, and P.U. Code section 5380, covering charter-party carriers, requires the Commission to act "immediately." The proposed resolution would permit the full implementation of the actions prescribed by the Public Utilities Code.

IT IS ORDERED that:

1. Resolution PE-2328 is rescinded.
2. The Executive Director is directed to suspend the operating authority of any Passenger Stage Corporation, upon written notification from the California Highway Patrol that:
 - (a) the carrier has not met safety requirements referenced in Public Utilities Code §1033.5; (b) the Patrol recommends that the carrier's operating authority be suspended; and (c) the Patrol has informed the corporation in writing that:
 - (i) the Patrol has determined that the corporation's safety record is unsatisfactory (and furnished the carrier a copy of any documentation or summary of any other evidence supporting the determination), (ii) this determination may result in a suspension or revocation of the corporation's certificate by the Commission, and (iii) the corporation may request a review of the determination by the Patrol, within five days of the corporation's receipt of the notice of the determination; and (d) the Patrol has conducted a review of its determination, if such review was properly requested.
3. The Executive Director is directed to deny, suspend or revoke the operating authority of any Charter-Party Carrier of Passengers upon written notification from the California Highway Patrol: (a) that the carrier has not met safety requirements referenced in any of the relevant sections of the Public Utilities Code; and (b) recommending that the carrier's operating authority be denied, suspended or revoked.
4. Each such denial, suspension or revocation shall recite that it was issued pursuant to this resolution. Each such denial, suspension or revocation, when signed by the Executive Director, shall be deemed to be the order of the Commission.

5. The Executive Director shall promptly furnish the carrier with written notice of any such denial, suspension, or revocation. The notice of any such denial of renewal authority, or of any such suspension or revocation shall inform the carrier: (a) how it may request a reinspection by the Highway Patrol; and (b) that if it wishes to contest the Commission's action it may obtain a hearing by filing with the Commission's Docket Office an original and five (5) copies of a completed Application for Hearing form. (A blank copy of this form shall accompany the notice sent to the carrier.) On receipt of a completed Application for Hearing form, the ALJ Division shall schedule a hearing, to be held within 21 days from the date the Form was filed (unless the carrier requests a postponement). The notice of any suspension pursuant to this Resolution shall also inform the carrier that its operating authority will be revoked 90 days after suspension, if it has not been reinstated by then and if no hearing has been requested.
6. The Executive Director shall reinstate Passenger Stage Corporations suspended pursuant to this resolution upon written recommendation from the Patrol that the carrier's safety compliance has improved to the satisfaction of the Patrol. However, the Executive Director shall not reinstate operating authority that is then suspended, revoked, or subject to suspension for other reasons.
7. The Executive Director shall reinstate Charter-Party Carriers suspended or revoked pursuant to this resolution upon: (a) the filing of an application for reissuance or reinstatement accompanied by a five hundred dollar (\$500.00) filing fee (P.U. Code Section 5380) and (b) written recommendation from the Patrol. However, the Executive Director shall not reinstate operating authority that is then suspended, revoked, or subject to suspension for other reasons.
8. Charter-Party Carriers who have been denied under this resolution and who wish to obtain operating authority must file a new or "re-issue" application accompanied by a five hundred dollar (\$500.00) filing fee (P.U. Code 5380). The CHP will thereafter conduct an inspection.

9. After 90 days, any operating authority suspended pursuant to this resolution and not eligible for reinstatement pursuant to Patrol recommendation shall be revoked by the Executive Director, unless the carrier has requested a hearing pursuant to paragraph 4 hereof.

This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on OCT 14 1988.

The following Commissioners approved it.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners


Executive Director