

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RESOLUTION TL 18329*
Transportation Division
April 11, 1990

R E S O L U T I O N

(Res. TL-18329) RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SUSPEND OPERATING AUTHORITIES OF HIGHWAY COMMON CARRIERS, CEMENT CARRIERS, HIGHWAY PERMIT CARRIERS, AND HOUSEHOLD GOODS CARRIERS UPON NOTIFICATION BY THE DMV THAT AN OWNER-OPERATOR'S DRIVING PRIVILEGE IS SUSPENDED OR REVOKED AND FOR FAILURE TO PROVIDE INFORMATION REQUIRED TO IMPLEMENT P.U. CODE SEC. 3557.

In 1988 the California Legislature enacted Public Utilities (P.U.) Code Section 3557 as part of Chapter 1586 (A.B. 2706, Katz). The legislature amended Section 3557 in 1989 (Chap. 1216, A.B. 2097, Lempert). PU Code Section 3557 requires the Public Utilities Commission to periodically submit a list of owner-operators, along with their driver's license numbers, to the Department of Motor Vehicles. The statute also mandates that the Commission suspend owner-operator authority(s) when notified by the Department of Motor Vehicles that the owner-operator's driving privilege has been suspended or revoked, unless the carrier within 15 days shows good cause as to why the operating authority should not be suspended.

In response to this legislation, on September 22, 1989, the Transportation Division staff (Staff) mailed a questionnaire to highway carriers requesting them to furnish information necessary to carry out the provisions of the statute. On November 22, 1989, Staff mailed a second request to those carriers who had not responded. As of March 2, 1990, approximately 10% of the highway carrier population had not responded to the staff's request for information. Carriers that do not complete the questionnaire should be suspended.

We believe the intent of Section 3557 was to include as "owner-operators" certain persons who hold operating authority from the Commission in the name of a partnership or a corporation, as well as persons who hold operating authority under their individual names. We further believe that section 3557 should be construed liberally to achieve its purpose of keeping off the road drivers whose driving privilege has been suspended or revoked. Therefore we concur with Staff's use of the questionnaire which will identify as owner-operators certain persons holding operating authority in the name of partnerships or corporations as well as under individual names.

The Executive Director should be authorized to suspend the operating authorities of highway carriers identified as owner-operators by the Staff questionnaire upon notification by the Department of Motor Vehicles that the owner-operator's driving privilege has been suspended or revoked, unless the carrier within 15 days shows good cause as to why the operating authority should not be suspended. This delegation of authority is necessary to implement the provisions of P.U. Code Section 3557.

In exercising this delegated authority, the Executive Director and Staff should observe the following guidelines: Any claim that the owner-operator is not guilty of the underlying traffic violation or offense that led to the suspension of his or her driver's license shall not constitute good cause where the owner-operator raised the claim of innocence, or should have raised the claim of innocence, before any court or the Department of Motor Vehicles. Good cause may consist of adequate proof that the owner-operator will not drive during the period of suspension of his or her driver's license and that the owner-operator's vehicle(s) will be driven by another person or persons with valid driving privilege(s). Because we wish to further limit this delegation of authority, we will, after some experience in implementing this program, but before the end of the year, provide further guidelines for exercise of this delegated authority.

The Executive Director should reinstate highway carrier operating authority which was suspended as a result of the notification by the Department of Motor Vehicles described above, upon written confirmation from the Department of Motor Vehicles that the owner-operator's driving privilege has been reinstated, unless the carrier's authority is then suspended, revoked, or subject to suspension for other reasons.

IT IS ORDERED that:

1. After the Staff has had sufficient time to process the responses to its second request for answers to its questionnaire, the Executive Director shall suspend the operating authorities of Highway Common Carriers, Cement Carriers, Highway Permit Carriers, and Household Goods Carriers (hereinafter called highway carriers) who have not completed the Staff questionnaire necessary to implement P.U. Code Section 3557. The Executive Director shall revoke such operating authorities if such carriers do not complete the Staff questionnaire within the next 90 days after suspension.
2. Upon notification by the Department of Motor Vehicles that an owner-operator's driving privilege has been suspended or revoked, the Executive Director shall promptly notify the owner-operator that his or her highway carrier operating authority will be suspended unless the highway carrier shows good cause within 15 days as to why the operating authority should not be suspended. The notice shall inform the owner-operator that the suspension of his or her highway carrier operating authority is due to the suspension or revocation of the owner-operator's driver's license. The notice shall also inform the owner-operator/highway carrier that if it wishes to show good cause why its highway carrier authority should not be suspended, it must do so by writing the Commission's License Section, Attn: Owner-operator Unit, at 505 Van Ness Ave., San Francisco, CA 94102. The notice shall further inform the highway carrier that, to be timely, any showing of good cause must be received by the Commission within 15 calendar days after the date of the notice.

3. If the highway carrier does not attempt to show good cause in writing within 15 days, the Executive Director shall suspend the highway carrier's operating authority and send the carrier a notice that its authority has been suspended due to the suspension or revocation of the owner-operator's driver's license.

4. If at any time prior to suspending the operating authority of an owner-operator under P.U. Code Section 3557, the Commission receives written confirmation from the Department of Motor Vehicles that the owner-operator's driving privilege has been reinstated or that the owner-operator's driving privilege has not been suspended or revoked, the Executive Director shall not suspend the operating authority, unless the highway carrier's operating authority is then subject to suspension for other reasons.

5. If the carrier attempts to show good cause, but its explanation is unacceptable to Staff, the Executive Director shall suspend the operating authority and notify the carrier.

6. Upon receipt of timely written notification from the highway carrier showing good cause acceptable to the Staff as to why the carrier's operating authority should not be suspended, Staff shall stay the suspension. The Staff shall then ask the carrier to meet with Staff within a reasonable time, not to exceed 21 days after the written showing was received, to confirm the existence of good cause. After conclusion of the meeting with Staff, the Executive Director shall promptly furnish the carrier written notice to invoke or terminate the proposed suspension. If the carrier does not meet with the Staff, the Executive Director shall suspend the carrier's operating authority and notify the carrier that it has been suspended pursuant to P.U. Code Section 3557 and because it failed to meet with Staff to confirm the existence of good cause for not suspending its operating authority.

7. In carrying out their delegated responsibilities under this Resolution, the Executive Director and Staff shall observe the following guidelines: Any claim that the owner-operator is not guilty of the underlying traffic violation or offense that led to the suspension of his or her driver's license shall not constitute good cause where the owner-operator raised the claim of innocence, or should have raised the claim of innocence, before any court or the Department of Motor Vehicles. Good cause may consist of adequate proof that the owner-operator will not drive during the period of suspension of his or her driver's license and that the owner-operator's vehicle(s) will be driven by another person or persons with valid driving privilege(s).

8. In the case of any highway carrier that attempts to show good cause, if the DMV does not give the Commission written notice that the owner-operator's driving privilege has been reinstated or that the owner-operator's driving privilege has not been suspended or revoked, Staff shall prepare a resolution for Commission ratification of the Executive Director's action in either suspending or not suspending the highway carrier's operating authority, for consideration at the next practicable Commission meeting.

9. If any highway carrier is suspended pursuant to P.U. Code Section 3557 and wishes to contest the action taken, the carrier may file a formal application to have its suspension lifted, in accordance with the Commission's Rules of Practice and Procedure.

10. The Executive Director shall reinstate highway carrier operating authority which was suspended pursuant to notification by the Department of Motor Vehicles under P.U. Code Section 3557 upon written confirmation from the Department of Motor Vehicles that the owner-operator's driving privilege has been reinstated or that the owner-operator's driving privilege has not been suspended or revoked, unless the highway carrier's operating authority is then suspended, revoked, or subject to suspension for other reasons.

11. The Commission ratifies use of the Staff's questionnaire which identifies as "owner-operators" certain persons who hold highway carrier operating authority from this Commission in the name of a partnership or corporation as well as in their own name.

12. Each suspension or revocation issued under authority of this resolution shall recite that it was issued pursuant to this resolution. Each such suspension or revocation, when signed by the Executive Director, shall be deemed to be the order of the Commission.

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 APR 11 1990. The following Commissioners voted favorably.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners


Executive Director