

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TL-18336  
Transportation Division  
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R E S O L U T I O N

RESOLUTION RESCINDING RESOLUTION TL-18266 AND REVISING PROCEDURES UNDER WHICH THE EXECUTIVE DIRECTOR DENIES, SUSPENDS AND REVOKES THE OPERATING AUTHORITIES OF PASSENGER CARRIERS AND PROPERTY CARRIERS ON THE BASIS OF THE RECOMMENDATION OF THE CALIFORNIA HIGHWAY PATROL

Resolution TL-18266 directs the Executive Director to deny, suspend or revoke the operating authorities of passenger carriers and property carriers on the basis of the recommendation of the California Highway Patrol. Chapter 1216, statutes of 1989 (AB 2097) amended certain relevant sections and added other sections to the Public Utilities Code. This resolution will reflect the changes contained in the new legislation and continuing statutes.

Section 768 reads, in part: "The Department of the California Highway Patrol shall have the primary responsibility for the regulation of the safety of operation of passenger stage corporations, highway common carriers, and other motor carriers. The Commission shall cooperate with the Department of the California Highway Patrol to ensure safe operation of the carriers."

Sections 1033.5 (passenger stage corporations) and 5378 (a) (charter-party carriers) authorize the suspension or revocation of the operating authority of these carriers for safety-related reasons as shown by the records of the Commission, the Department of Motor Vehicles, the Highway Patrol or the carrier.

Sections 1070 (highway common carriers and cement carriers) and 3774 (highway permit carriers) authorize the suspension or revocation of the operating authority of these carriers for safety-related reasons as shown by the records of the Commission, the Department of Motor Vehicles, the Highway Patrol or the carrier.

Section 1033.7 now reads:

(a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, if that failure is either a consistent failure or presents an imminent danger to

public safety, or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the Commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the corporation's certificate. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A corporation whose certificate is suspended pursuant to subdivision (a) may obtain a reinspection of its terminal and vehicles by the department, by submitting a written request for reinstatement to the Commission and paying a reinstatement fee of one hundred twenty-five dollars (\$125). The Commission shall deposit all reinstatement fees collected pursuant to this subdivision in the Public Utilities Commission Transportation Reimbursement Account. The Commission shall forward a request for reinstatement to the department which shall perform a reinspection within a reasonable time. The Commission shall reinstate a corporation's certificate suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the Commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the Commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the Commission pursuant to subdivision (a).

(d) Whenever the Commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the Commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days after a written request therefor is filed with the Commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the Commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate. The Commission may revoke the certificate of any passenger stage corporation suspended pursuant to subdivision (a)

at any time 90 days or more after its suspension if the Commission has not received a written recommendation for reinstatement from the department and the corporation has not filed a written request for a hearing with the Commission.

Sections 1070.5 (highway common carriers and cement carriers), 3774.5 (highway permit carriers), 5285.5 (household goods carriers), and 5378.5 (charter-party carriers), now all read essentially the same as 1033.7, the difference being the type of carrier named.

Section 5378.6 reads:

(a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that a new or renewal application for a charter-party carrier certificate or permit be denied either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety or (2) for failure to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code, the commission shall deny the application. The department's written recommendation shall specifically indicate compliance with subdivision (b).

(b) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the applicant for the charter-party carrier certificate or permit of all of the following in writing:

(1) That the department has determined that the applicant's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a denial of the applicant's certificate or permit by the commission.

(3) That the applicant may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. The department shall, upon request, conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(c) Whenever the commission denies an application for renewal pursuant to subdivision (a), the commission shall furnish the charter-party carrier written notice of the denial and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the denial was improper or unwarranted. At the conclusion of the hearing, the commission may, in addition to any other remedy provided in this part, reverse the denial, or sustain the denial.

(d) Any applicant for a charter-party carrier certificate or permit denied pursuant to subdivision (a), whose denial has not been reversed as a result of the hearing provided for in subdivision (c), that wishes to obtain a certificate or permit shall reapply for the desired authority.

Section 34505.1 of the California Vehicle Code now reads: (a) Upon determining that a tour bus operator has either (1) failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes such a consistent failure as to justify a recommendation to the Public Utilities Commission or the Interstate Commerce Commission or (2) failed to comply with the pull notice system or periodic report requirements required by Section 1808.1, the department shall recommend to the Public Utilities Commission or the Interstate Commerce Commission that the carrier's operating authority be suspended, denied, or revoked, whichever is appropriate. However, when recommending denial of an application for new or renewal authority, the department need not conclude that the carrier's failure presents an imminent danger to public safety or that it constitutes a consistent failure. The department need only conclude that the carrier's compliance with the safety-related matters described in paragraph (1) of subdivision (a) is sufficiently unsatisfactory to justify a recommendation for denial. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension, revocation, or denial of the carrier's operating authority by the California Public Utilities Commission or the Interstate Commerce Commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

Section 34505.6 of the California Vehicle Code now reads: (a) Upon determining that a motor carrier operating any vehicle described in subdivision (a), (b), (d), (e), (f), or (g) of Section 34500 has either (1) failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes such a consistent failure as

to justify a recommendation to the Public Utilities Commission or the Interstate Commerce Commission, or (2) failed to comply with the pull notice system or periodic report requirements required by Section 1808.1, the department shall recommend to the Public Utilities Commission or the Interstate Commerce Commission that the carrier's operating authority be suspended, denied, or revoked, whichever is appropriate. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension, revocation, or denial of the carrier's operating authority by the California Public Utilities Commission or the Interstate Commerce Commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

Prompt action on Highway Patrol recommendations is necessary for the protection of the public. The proposed resolution would permit the full implementation of the actions prescribed by the Public Utilities Code and the California Vehicle Code for both passenger carriers and property carriers.

IT IS ORDERED that:

1. Resolution TL-18266 is rescinded.
2. The Executive Director shall suspend the the operating authority of any Passenger Stage Corporation, Charter Party Carrier, Highway Common Carrier, Cement Carrier, Highway Permit Carrier or Household Goods Carrier upon written notification from the California Highway Patrol that: (a) (1) the carrier has failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and that failure is either a consistent failure or presents an imminent danger to public safety, or (2) has failed to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code; and (b) the Patrol recommends that the carrier's operating authority be suspended; and (c) the Patrol has informed the carrier in writing that: (1) the Patrol determined that the carrier's safety record is

unsatisfactory (and furnished the carrier a copy of any documentation or summary of any evidence supporting the determination), and (2) this determination may result in suspension or revocation of the carrier's authority by the Commission, and (3) the carrier may request a review of the determination by the Patrol, within five days of the carrier's receipt of the notice of the determination; and (d) the Patrol has conducted and evaluated a review of its determination, if such review was properly requested.

3. The Executive Director shall deny any application for new or renewal charter party carrier authority upon receipt of written notification from the Highway Patrol that: (a) (1) the carrier has failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, or (2) the carrier has failed to comply with the pull notice system or periodic report requirements required by Section 1808.1 of the Vehicle Code; and (b) the Patrol recommends that the authority be denied; and (c) the Patrol has informed the carrier in writing that: (1) the Patrol determined that the carrier's safety record is unsatisfactory (and furnished the carrier a copy of any documentation or summary of any evidence supporting the determination), and (2) this determination may result in suspension or revocation of the carrier's authority by the Commission, and (3) the carrier may request a review of the determination by the Patrol, within five days of the carrier's receipt of the notice of the determination; and (d) the Patrol has conducted and evaluated a review of its determination, if such review was properly requested.
4. The Executive Director shall promptly furnish the carrier with written notice of any suspension, revocation or denial under paragraphs 2 or 3 above, or 6 below. The notice of any such suspension shall inform the carrier that it may obtain a reinspection by the Highway Patrol by submitting a written request for reinstatement to the Commission and paying a reinstatement fee of \$125. The notice of any such denial shall inform the carrier that it may reapply for the desired authority. In addition, the notice of any such suspension or of any such denial of renewal authority shall inform the carrier: 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, with a copy thereof furnished to the California Highway Patrol. (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.

The Executive Director shall reinstate a Passenger Stage Corporation, Charter-Party Carrier, Highway Common Carrier, Cement Carrier, Highway Permit Carrier or Household Goods Carrier 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 or subject to suspension for other reasons, or that has been revoked.

6. 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.
7. Each denial, suspension or revocation issued under authority of this resolution 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.

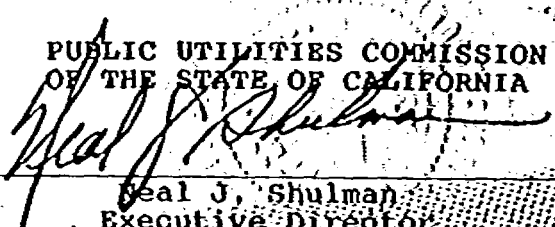
This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on MAY 22 1990.

The following Commissioners approved it.

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

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

  
Neal J. Shulman  
Executive Director

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

# **CORRECTION**

**THIS DOCUMENT HAS  
BEEN REPHOTOGRAPHED**

**TO ASSURE**

**LEGIBILITY**



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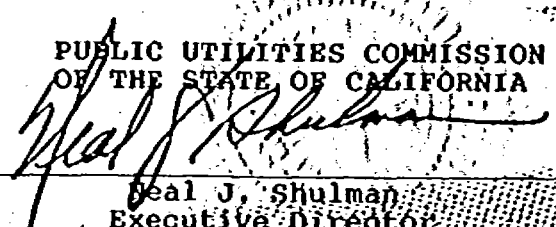
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