

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TL-18464  
 Transportation Division  
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RESOLUTION

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO: CANCEL THE REGISTRATION OF INTERSTATE AND FOREIGN CARRIERS UPON DETERMINATION OF INSURANCE LAPSE OR TERMINATION; AND SUSPEND THE REGISTRATION OF PRIVATE CARRIERS UPON DETERMINATION OF INSURANCE LAPSE OR TERMINATION; AND SUSPEND AND REVOKE THE REGISTRATION OF PRIVATE CARRIERS ON THE BASIS OF THE RECOMMENDATION OF THE CALIFORNIA HIGHWAY PATROL; AND INCREASE THE INITIAL AND ANNUAL RENEWAL FEES FOR REGISTRATION OF PRIVATE CARRIERS

SUMMARY

Chapter 1144, statutes of 1991 (SB 1227), amended certain relevant sections and added other sections to the Public Utilities Code concerning: 1) cancellation of Interstate and Foreign carrier registrations for failure to maintain insurance; 2) suspension of private carrier registrations for failure to maintain insurance as required by Section 4010; 3) suspension of private carrier registrations on the basis of the recommendation of the California Highway Patrol for failure to comply with safety statutes or regulations or to enroll all drivers in the pull notice system; and 4) an increase in registration fees for private carriers. This resolution will implement Chapter 1144.

STATUTORY REQUIREMENTS

Section 3921, relating to interstate and foreign highway carriers of property and passengers, has been added to the Public Utilities Code to read:

(a) Whenever the Commission determines that the certificate of insurance or surety bond of a carrier or evidence of the carrier's qualification as a self-insurer has lapsed or been terminated, the commission shall suspend, cancel, or revoke the carrier's registration.

(b) The commission shall notify the carrier of any action taken under subdivision (a).

Section 4006 of the Public Utilities Code, relating to private carriers, has been amended to read:

(a) A fee of twenty-five dollars (\$25) shall be paid to the commission for the filing of the initial registration, and an annual renewal fee of twenty dollars (\$20) shall also be paid. The fees required to be paid by carriers of property pursuant to this section shall be deposited in the Transportation Rate Fund. The fees required to be paid by carriers of passengers pursuant to this section shall be deposited in the Public Utilities Commission Transportation Reimbursement Account in the General Fund.

(b) Notwithstanding subdivision (a), the commission may increase the amount of the initial registration fee to not more than thirty-five dollars (\$35) and the amount of the annual renewal fee to not more than thirty dollars (\$30) if the commission finds and determines that to do so is necessary to defray the costs of implementing Section 4022. If the commission increases either fee pursuant to this subdivision, it shall prepare and transmit to the Joint Legislative Budget Committee, the Assembly Committee on Utilities and Commerce, and the Senate Committee on Energy and Public Utilities a report of the amount of the increase instituted together with an audited statement of the receipts and disbursements related to the administration of private carrier registrations.

Section 4010 of the Public Utilities Code, relating to private carriers, has been amended to read:

(a) Registration shall not be granted to any private carrier until there is filed with and accepted by the commission, in the form that it prescribes, a currently effective certificate of insurance or a surety bond evidencing protection against liability imposed by law for the payment of damages for personal injury to, or death of, any person or property damage, or both.

(b) Whenever the commission determines that the certificate of insurance or surety bond of a private carrier has lapsed or been terminated, the commission shall suspend the private carrier's registration.

(c) The commission shall notify the private carrier of any action taken under subdivision (b).

Section 4022, relating to private carriers, has been added to the Public Utilities Code. In that section, the word department refers to the California Highway Patrol and that section now reads:

(a) Upon receipt of a written recommendation from the department that the registration of a private carrier be suspended for failure to either (1) maintain any vehicle of the carrier 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) enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall, pending a hearing in the matter pursuant to subdivision (d), suspend the carrier's registration. The department's written recommendation shall specifically indicate compliance with subdivision (c).

(b) A private carrier whose registration 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 from carriers of property pursuant to this section in the Transportation Rate Fund. The fees required to be paid by carriers of passengers pursuant to this section shall be deposited in the Public Utilities Commission Transportation Reimbursement Account in the General Fund. Upon payment of the fee, the commission shall forward a request for reinspection to the department which shall perform a reinspection within a reasonable time. The commission shall reinstate a carrier's registration suspended under subdivision (a) promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the registration is suspended for another reason or has been revoked.

(c) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the department shall notify the private 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 or revocation of the carrier's registration by the 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 to the commission pursuant to subdivision (a).

(d) Whenever the commission suspends the registration of any private carrier pursuant to subdivision (a), the commission shall furnish the carrier 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. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may terminate the suspension, continue the suspension in effect, or revoke the registration. The commission may revoke the registration of any carrier 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 carrier has not filed a written request for a hearing with the commission.

Section 34505.7 of the Vehicle Code has been added to read:

(a) Upon determining that a private carrier, as defined in Section 4001 of the Public Utilities Code, has either (1) failed to maintain any vehicle of the carrier 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, the 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 (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall make a written recommendation to the Public Utilities Commission that the carrier's registration be suspended. Two consecutive unsatisfactory terminal ratings assigned for failure to comply with the periodic report requirements in Section 1808.1, or cancellation of an employer's enrollment by the Department of Motor Vehicles for nonpayment of fees, constitutes a consistent failure. 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 give written notice to the carrier 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 or revocation of the carrier's registration by the California Public Utilities 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 by 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).

#### DISCUSSION

The Commission must implement Section 4022 of the Public Utilities Code and its suspension and hearing processes for private carriers who fail to meet safety standards. Existing fees are not sufficient to cover the costs of the existing private carrier program apart from implementing Section 4022, and this is not expected to change in future years. Section 4006(b) allows the Commission to increase the registration and renewal fees for private carriers by \$10 if necessary to defray the costs of implementing Section 4022. The staff estimates that the Commission will annually suspend the registrations of 400-500 private carriers under Section 4022. Based on this level of activity, the staff estimates the cost of implementation as \$200,850 annually, on an on-going basis (not including one time start-up costs). Increasing fees for the initial registration from \$25 to \$35 and the renewal fee from \$20 to \$30 (along with expected reinspection fees) will generate additional revenues

estimated at \$184,200 annually. The Commission therefore finds and determines that this fee increase is necessary to defray the costs of implementing Section 4022.

The Commission's prompt action on Highway Patrol recommendations and enforcement of insurance requirements is necessary for the protection of the public. The increase in registration filing fees is necessary for the purpose of providing funding to administer the private carrier safety suspension program. This resolution will permit full implementation of the actions prescribed by the Public Utilities Code and the California Vehicle Code for both private carriers and interstate and foreign carriers as amended by Chapter 1144, statutes of 1991 (SB 1227).

#### FINDING OF FACT

1. It is necessary to increase the initial registration fee from \$25 to \$35 and the renewal fee from \$20 to \$30 for private carriers to defray the costs of implementing Section 4022 of the Public Utilities Code.

#### IT IS ORDERED that:

1. The Executive Director shall cancel the registration of an Interstate or Foreign Highway carrier upon determination that its certificate of insurance or surety bond or evidence of the carrier's qualification as a self-insurer has lapsed or been terminated and notify the carrier of said action.
2. The Executive Director shall suspend the registration of a private carrier upon determination that its certificate of insurance or surety bond has lapsed or been terminated and notify the carrier of said action.
3. The Executive Director shall suspend the registration of any private carrier upon written notification from the California Highway Patrol that: (a) (1) the carrier has failed to maintain any vehicle 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 enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code; and (b) the Patrol recommends that the carrier's registration be suspended; and (c) the Patrol 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 registration 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 under paragraph 3 above, or any revocation under paragraph 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. In addition, the notice of any such suspension shall inform the carrier that if it wishes to contest the Commission's suspension 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 registration will be revoked 90 days after suspension if it has not been reinstated by then and if no hearing has been requested.
5. The Executive Director shall reinstate a Private Carrier registration suspended pursuant to paragraph 4 of 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 a registration that is suspended or subject to suspension for other reasons, or that has been revoked.
  6. After 90 days, any registration suspended pursuant paragraph 3 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 cancellation, suspension or revocation issued under authority of this resolution shall recite that it was issued pursuant to this resolution. Each cancellation, suspension and revocation, when signed by the Executive Director or his designee, shall be deemed to be the order of the Commission.
  8. To implement Section 4022 of the Public Utilities Code, the Executive Director shall increase the amount of the initial registration fee for private carriers from twenty-five dollars (\$25) to thirty-five (\$35) and the annual renewal fee from twenty dollars (\$20) to thirty dollars (\$30).
  9. The Executive Director shall prepare and transmit to the Joint Legislative Budget Committee, the Assembly Committee on Utilities and Commerce, and the Senate Committee on Energy and Public Utilities a report of the amount of the increase instituted in paragraph 8 together with an audited statement of the receipts and disbursements related to the administration of private carrier registrations.

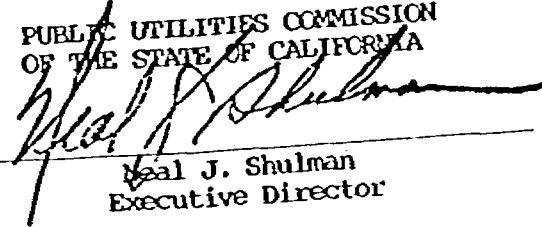
This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on DEC 18 1991.

The following Commissioners approved it.

PATRICIA M. ECKERT  
President  
JOHN B. OHANIAN  
DANIEL Wm. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

  
Neal J. Shulman  
Executive Director