

Resolution TL-18467
Transportation Division
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RESOLUTION

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO: SUSPEND THE OPERATING AUTHORITY OF AND IMPOSE FINES ON A CARRIER WHO FILES A FALSE STATEMENT RELATIVE TO ITS WORKERS' COMPENSATION STATUS PURSUANT TO THE ISSUANCE OF A STOP ORDER BY THE DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) AND AN INVESTIGATION BY THE COMMISSION; AND REVOKE THE OPERATING AUTHORITY OF A CARRIER WHO IS THE SUBJECT OF A COMPLAINT FROM THE DIR DUE TO A FINAL JUDGMENT ENTERED AGAINST IT FOR WORKERS' COMPENSATION VIOLATIONS; AND RELEASE CARRIER INFORMATION TO DIR RELEVANT TO THE ENFORCEMENT OF WORKERS' COMPENSATION LAWS; AND PROHIBIT THE ISSUANCE AND TRANSFERENCE OF ANY CERTIFICATE OR PERMIT TO ANY PERSON OR CORPORATION AGAINST WHOM A FINAL JUDGMENT HAS BEEN ENTERED AND WHOSE NAME HAS BEEN TRANSMITTED TO THE COMMISSION BY DIR.

SUMMARY

Chapter 1071, statutes of 1991 (AB 410), amended certain relevant sections and added other sections to the Public Utilities Code concerning: 1) suspension of operating authority and imposition of fines on a carrier who files a false statement relative to its workers' compensation status pursuant to the issuance of a stop order by DIR and an investigation by the Commission; 2) revocation of the operating authority of a carrier who is the subject of a complaint from the Department of Industrial Relations (DIR) due to a final judgment entered against it for workers' compensation violations; 3) release of carrier information to DIR relevant to the enforcement of the workers' compensation laws; and 4) prohibition of the issuance or transference of any certificate or permit to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the Commission by DIR. This resolution will implement Chapter 1071.

STATUTORY REQUIREMENTS

Section 324 has been added to the Public Utilities Code to read:

The executive director of the commission may release to the Director of Industrial Relations any information concerning any person, corporation, or other entity under the jurisdiction and control of the commission relevant to the enforcement of the workers' compensation laws of this state.

Section 1031.5 has been added to the Public Utilities Code to read:

The commission shall not issue or authorize the transfer of any certificate under this article to any person, firm, or corporation or to any officer or director of the firm, corporation, or other entity against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

Section 1033.8 has been added to the Public Utilities Code to read:

(a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the passenger stage corporation has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any passenger stage corporation as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date notice to the corporation is mailed, revoke the corporation's certificate of public convenience and necessity, unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the corporation requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any passenger stage corporation as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish to the corporation named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the corporation's certificate of public convenience and necessity to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the corporation provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the corporation of a right to a hearing and the procedures to follow to request a hearing. The corporation may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the corporation's certificate of public convenience and necessity.

Section 1061.5 has been added to the Public Utilities Code to read:

The commission shall not issue or authorize the transfer of any certificate under this article to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

Section 1070.6 has been added to the Public Utilities Code to read:

(a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the highway common carrier or cement carrier has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway common carrier or cement carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date notice to the carrier is mailed, revoke the carrier's certificate of public convenience and necessity, unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway common carrier or cement carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish to the corporation named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the carrier's certificate of public convenience and necessity to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the corporation provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's certificate of public convenience and necessity.

Section 3553.1 has been added to the Public Utilities Code to read:

The commission shall not issue or authorize the transfer of any permit under this chapter to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

Section 3774.6 has been added to the Public Utilities Code to read:

(a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the highway permit carrier has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway permit carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date the carrier is mailed the notice, revoke the carrier's permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any highway permit carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish to the carrier named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the carrier's permit to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's permit.

Section 5135.6 has been added to the Public Utilities Code to read:

The commission shall not issue or authorize the transfer of any permit under this chapter to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

Section 5285.5 has been added to the Public Utilities Code to read:

(a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the household goods carrier has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any household goods carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date the carrier is mailed the notice, revoke the carrier's permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any household goods carrier as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish the carrier named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission is required to revoke the carrier's permit to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier may request a hearing within 10 days from the date the notice is sent by the commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's permit.

Section 5373.5 has been added to the Public Utilities Code to read:

The commission shall not issue or authorize the transfer of any certificate or permit under this chapter to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

Section 5378.7 has been added to the Public Utilities Code to read:

(a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the commission shall investigate to determine whether the charter-party carrier of passengers has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the commission. If, after notice and opportunity to be heard, the commission determines that there has been a violation of statute, or rules or orders of the commission, the commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

(b) Upon receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any charter-party carrier of passengers as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall, 30 days from the date the carrier is mailed the notice, revoke the carrier's permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any charter-party carrier of passengers as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the commission shall furnish the carrier named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the commission must revoke the carrier's permit to operate pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedures to follow to request a hearing. The carrier shall have 10 days from the date the notice is sent by the commission to request a hearing. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the commission finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the commission shall immediately revoke the carrier's permit.

DISCUSSION

The Commission must implement Chapter 1071. With the cooperation and assistance of the Department of Industrial Relations, the Commission will execute the new regulatory remedies concerning violations of the workers' compensation programs which are required under the Public Utilities Code as well as participate in a cooperative effort with the Department of Industrial Relations to ensure the maximum protection for workers allowed by law.

The Commission's prompt action, upon receipt of the Department of Industrial Relations' stop orders and final judgments, is necessary to protect the integrity of the workers' compensation programs supported by the Commission. This resolution will implement the actions prescribed by the Public Utilities Code and the Labor Code for the specified carriers as enacted by Chapter 1071, statutes of 1991 (AB 410).

IT IS ORDERED that:

1. The Executive Director shall, upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, investigate to determine whether the passenger stage corporation, highway common carrier, cement carrier, highway permit carrier, household goods carrier, or charter-party carrier of passengers has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the Commission. If the Executive Director determines that the carrier has filed a false statement relative to workers' compensation insurance coverage, the Executive Director shall furnish to the carrier named in the stop order written notice of the right to a hearing regarding the false statement and the procedure to follow to request a hearing. The notice shall state that the Executive Director is required to impose appropriate penalties on the carrier, which may include a fine in accordance with the informal citation forfeiture procedure and suspension of the carrier's operating authority, after 30 days from the date the notice is mailed unless the carrier provides proof that the stop order has been rescinded by DIR or the carrier provides proof of workers' compensation insurance coverage and the Commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall inform the carrier of the

maximum amount of the fine and that once his operating authority is suspended, it will remain in suspension until the carrier either provides proof of workers' compensation insurance coverage or proof that the stop order has been rescinded by DIR. If the carrier's operating authority remains in suspension for 90 days, it will be revoked. The notice shall also inform the carrier of a right to a hearing and the procedure to follow to request a hearing. The carrier must request a hearing within 10 days from the date the notice is sent by the Commission. The request for the hearing shall stay the suspension and fine. If, after hearing, it is determined that there has been a violation of statute, or rules or orders of the Commission, the Commission shall impose appropriate penalties, which may include a fine and suspension of operating authority for a violation.

2. The Executive Director, within seven days of receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against any passenger stage corporation, highway common carrier, cement carrier, highway permit carrier, household goods carrier, or charter-party carrier of passengers as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, shall furnish to the carrier named in the final judgment written notice of the right to a hearing regarding the complaint and the procedure to follow to request a hearing. The notice shall state that the Executive Director is required to revoke the carrier's certificate of public convenience and necessity or permit to operate pursuant to subdivision Sections 1033.8 (b) (c), 1070.6 (b) (c), 3774.6 (b) (c), 5285.5 (b) (c), and 5378.7 (b) (c) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the Commission has been so notified seven days prior to the conclusion of the 30-day waiting period. The notice shall also inform the carrier of a right to a hearing and the procedure to follow to request a hearing. The carrier must request a hearing within 10 days from the date the notice is sent by the Commission. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If, after hearing, it is determined that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the Commission shall immediately revoke the carrier's certificate of public convenience and necessity or permit.
3. The Executive Director, after receipt of a complaint from the Director of Industrial Relations that a final judgment has been entered against a passenger stage corporation, highway common carrier, cement carrier, highway permit carrier, household goods carrier, or charter-party carrier of passengers as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, shall, 30 days from the date notice to the carrier is mailed, revoke the carrier's certificate of public convenience and necessity or permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing.
4. The Executive Director may release to the Director of Industrial Relations any information concerning any person, corporation, or other entity under the jurisdiction and control of the Commission relevant to the enforcement of the workers' compensation laws of this state.

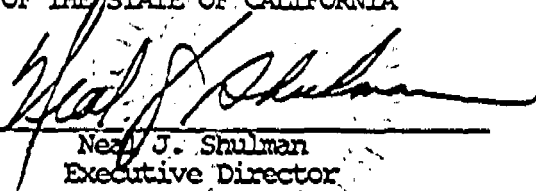
5. The Executive Director shall not issue or authorize the transfer of any passenger stage corporation, highway common carrier, cement carrier, highway permit carrier, household goods carrier, or charter-party carrier of passengers certificate of public convenience and necessity or permit to any person or corporation against whom a final judgment has been entered and whose name has been transmitted to the Commission pursuant to Section 3716.4 of the Labor Code, unless that judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States.

This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on February 5, 1992.

The following Commissioners approved it.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA


Neal J. Shulman
Executive Director

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