

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TL-18767
Rail Safety and Carriers Division
December 20, 1996

R E S O L U T I O N

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR, OR HIS DESIGNEE, TO RENEW OR AUTHORIZE THE TRANSFER OF CHARTER-PARTY CARRIER OF PASSENGERS PERMITS AND CERTIFICATES, AND TO MAKE FINDINGS SPECIFIED IN PUBLIC UTILITIES CODE SECTION 5374 NECESSARY TO EXERCISE THIS DELEGATED AUTHORITY.

SUMMARY

Chapter 1154, statutes of 1996, (AB 3020), amended Section 5374 of the Public Utilities (PU) Code concerning the renewal and transfer of charter-party carrier of passengers permits and certificates by allowing the Commission to delegate to its Executive Director, or his designee, the authority to renew or authorize the transfer of charter-party carrier of passengers permits and certificates, and to make findings specified in PU Code Section 5374 necessary to exercise the delegated authority. This resolution implements the provisions of Chapter 1154.

STATUTORY REQUIREMENTS

Section 5374 of the PU Code, relating to charter-party carrier of passengers permits and certificates, has been amended to read:

(a) Before a permit is issued or renewed, the commission shall require the applicant to establish reasonable fitness and financial responsibility to initiate and conduct or continue to conduct the proposed or existing transportation services. The commission shall not issue or renew a permit pursuant to this chapter unless the applicant meets both of the following requirements:

(1) It certifies on a form acceptable to the commission that the applicant will maintain its vehicles in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

(2) It provides for a mandatory controlled substance and alcohol testing certification program as adopted by the commission pursuant to Section 1032.1.

(b) (1) Before a certificate is issued or renewed, the commission shall require the applicant to establish reasonable fitness and financial responsibility to initiate and conduct or continue to conduct the proposed or existing transportation services. The commission shall not issue or renew a certificate pursuant to this chapter unless the applicant meets all of the following requirements:

(A) It is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the Department of the California Highway Patrol governing highway safety.

(B) It is committed to observing the hours of service regulations of state and, where applicable, federal law, for all persons, whether employees or subcarriers, operating vehicles in transportation for compensation under the certificate.

(C) It has a preventive maintenance program in effect for its vehicles used in transportation for compensation that conforms to regulations of the Department of the California Highway Patrol in Title 13 of the California Code of Regulations.

(D) It participates in a program to regularly check the driving records of all persons, whether employees or subcarriers, operating vehicles used in transportation for compensation requiring a class B driver's license under the certificate.

(E) It has a safety education and training program in effect for all employees or subcarriers operating vehicles used in transportation for compensation.

(F) It will maintain its vehicles used in transportation for compensation in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

(G) It has filed with the commission the certificate of workers' compensation insurance coverage or statement required by Section 5378.1.

(H) It has provided the commission an address of an office or terminal where documents supporting the factual matters specified in the showing required by this subdivision may be inspected by the commission and the Department of the California Highway Patrol.

(I) It provides for a mandatory controlled substance and alcohol testing certification program as adopted by the commission pursuant to Section 1032.1.

(2) With respect to subparagraphs (B) and (F) of paragraph (1), the commission may base a finding on a certification by the commission that an applicant has filed, with the commission, a sworn declaration of ability to comply and intent to comply.

(c) In addition to the requirements in subdivision (b), class A and class B charter-party carriers shall meet all other state and, where applicable, federal regulations as prescribed.

(d) The commission may delegate to its executive director or that executive director's designee the authority to renew, or authorize the transfer of, charter-party carrier permits or certificates and to make the findings specified in subdivision (b) that are necessary to that delegated authority.

DISCUSSION

Chapter 1154 allows the Commission to delegate to the Executive Director, or his designee, the authority to renew or to authorize the transfer of charter-party carrier of passengers permits and certificates, and to make findings specified in PU Code Section 5374 necessary to exercise this delegated authority.

Currently, the Commission makes a finding that a charter-party carrier of passengers applicant is fit and financially responsible to conduct such carrier operations. This requirement can impede the continued operations of a carrier during the renewal process because of the time required to place such a matter on the Commission agenda. Staff studies show that a carrier who has met all licensing requirements is sometimes put in the position of either temporarily discontinuing operations or operating illegally for up to two weeks because its authority has expired while its renewal application is on the Commission agenda awaiting approval at the Commission meeting.

P U Code Section 3584(d) authorizes the Commission to delegate to staff the authority to issue or transfer seasonal agricultural carrier permits. Chapter 1154, which adds PU Code Section 5374(d), permits the same delegation for renewal and transfer of charter-party carriers' operating authority. By delegating authority to the staff under the provisions of PU Code Section 5374(d), the Commission can ensure that carriers meeting all necessary renewal requirements are granted continued operating authority in a timely manner. Carriers in compliance would not be denied their right to continue to do business. Delegating this authority will also reduce the time and effort involved in the preparation of agenda items, and will not require any additional positions or funding.

Chapter 1154 was sponsored by the Commission in an effort to streamline the application process for charter-party carrier of passengers permit and certificate applicants, and in an effort to address the concerns of the charter-party carrier industry in California.

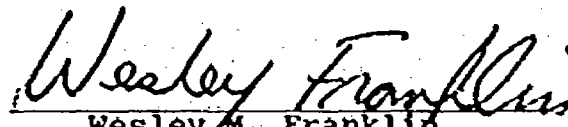
FINDINGS OF FACT:

1. Staff studies show that a charter-party carrier who has met all licensing requirements is sometimes put in the position of either temporarily discontinuing operations or operating illegally because its authority has expired while its renewal application is on the Commission agenda awaiting approval at a Commission meeting.
2. Chapter 1154 allows the Commission to delegate to the Executive Director, or his designee, the authority to renew or authorize the transfer of charter-party carrier of passengers permits and certificates, and to make findings specified in PU Code Section 5374 necessary to exercise this delegated authority.
3. Delegating authority to the staff under the provisions of Chapter 1154 will ensure that charter-party carriers meeting all authority renewal or transfer requirements are allowed to continue operating without interruption.
4. The authority to renew or authorize the transfer of charter-party carrier of passengers permits and certificates, and to make findings specified in PU Code Section 5374 necessary to exercise this authority, should be delegated to the Executive Director or his designee.

IT IS ORDERED THAT:

1. The Executive Director, or his designee, is authorized to renew or to transfer charter-party carrier of passengers permits and certificates, and to make findings specified in PU Code Section 5374 necessary to exercise this delegated authority.
2. This resolution is effective December 20, 1996.

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 the twentieth day of December, 1996. The following Commissioners voted favorably thereon:


Wesley M. Franklin
Executive Director

P. GREGORY CONLON
President

DANIEL Wm. FESSLER
JESSIE J. KNIGHT, JR.
HENRY L. DUQUE
JOSIAH L. NEEPER
Commissioners