



ANALYSIS

CALIFORNIA PUBLIC UTILITIES COMMISSION

AB 636 (Jones) As Amended April 13, 2009

SUMMARY

This bill would require the Commission to permanently knowingly revoke the charter-party carrier operating authority of any carrier that knowingly employs a driver to operate a bus, if the driver does not hold the required driver's license or endorsement for that license to drive a bus. A driver found to have operated a bus without the proper license or endorsement would be permanently prohibited from driving a bus. Additionally, the bill would require the California Highway Patrol (CHP) to impound a bus for 30 days if an officer determines that the bus is being driven by a driver who does not possess the appropriate license or endorsement, or certificate.

CPUC POSITION AND SUPPORTING ARGUMENTS

SUPPORT. The revocation of a carrier's operating authority for knowingly employing an unqualified driver might appear as overly harsh for a first-time offender. However, the tragic Colusa bus accident demonstrates that additional safeguards need to be in place to prevent unqualified drivers from operating buses. This bill would provide significant sanctions for charter-party carriers and their drivers who jeopardize public safety.

The Commission supports the direction of this bill. However, some technical amendments should be considered as follows: 1) remove the requirement that the Commission revoke the authority of a carrier found to be operating without a permit (since no permit exists to revoke) and 2) remove the requirement that a carrier which has its vehicle impounded shall have a right to an expedited hearing by the Commission. These impounded vehicles should be treated the same as vehicles impounded by public agencies. Thus, the CHP which is the impounding agency per Vehicle Code Sections 14602.6(b) and 22852(a), would be the appropriate agency for hearing recourse.

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- This bill was introduced in response to an October 2008 bus accident near Colusa, California in which 10 passengers (including the bus company owner who was riding as a passenger) were killed and dozens more were injured. Investigation by the CHP disclosed that the driver did not hold the proper driver's license to operate a bus. The company held an active charter-party carrier certificate from the Commission at the time of the accident. Charter-party carriers furnish limousines-for-hire or passenger charter transportation service in motor vehicles. Charter-party carriers do not include vehicles on a set schedule or between fixed termini, taxi

cabs, car rentals, or a city bus. Further, charter-party carriers typically provide different sized vehicles to take a scheduled group of people to another location and/or back. The group would usually reserve the vehicle as a group, and would not reserve a "seat" individually.

- The carrier violated the law by permitting an unqualified driver to operate the involved vehicle. Before employing a driver to operate a bus, a charter-party carrier is required to obtain a DMV report of the driver's driving record to verify the driver's license status. Once employed, the driver's name must be entered into the DMV Pull Notice System (a program for monitoring the driving records of carrier drivers).
- Any applicant for a charter-party carrier permit or certificate that will operate a vehicle seating more than 10, including the driver (a "bus" under the Vehicle Code), must undergo and pass a safety inspection by the CHP. Thereafter, the carrier is subject to an annual inspection of its vehicles, maintenance facilities, and records by the CHP. This includes the carrier's record of compliance with the Pull Notice System.
- Under existing law (Public Utilities Code Section 5378.5), the Commission is required to suspend the charter-party carrier permit or certificate of a carrier upon receipt of a written recommendation of suspension from the CHP. The CHP may make such a recommendation when a carrier (1) fails to maintain any vehicle in a safe operating condition or to comply with the Vehicle Code or CHP regulations relative to motor carrier safety, and that failure is either a consistent failure or presents an imminent danger to public safety, or (2) fails to comply with the DMV Pull Notice System. The carrier's authority is reinstated from suspension if a re-inspection by the CHP discloses that the carrier has corrected the violations. The staff administers the suspensions and reinstatements of permits and certificates under delegated authority from the Commission. The Commission receives no more than 5 or 6 suspension recommendations per year from the CHP.
- It can be a month or more between the time the local CHP inspectors determine that a charter-party carrier should be suspended and when the Commission receives a suspension recommendation from CHP headquarters (which interval includes an opportunity for the carrier to appeal the proposed recommendation with the CHP). The ability of a CHP officer to impound for 30 days a bus being driven by an unqualified driver would provide an immediate partial remedy. The permanent revocation of the charter-party carrier's permit or certificate and the prohibition against the driver ever being authorized to operate a bus in the future would be strong deterrents against violating the law.

PROGRAM BACKGROUND:

- The staff anticipates that it would administer the new provision of law similar to the present suspension program, that is, it would receive from the CHP (through headquarters command) a written statement that a charter-party carrier had knowingly employed an unqualified driver to operate a bus. The staff would then proceed to permanently revoke the carrier's permit or certificate (assuming the Commission delegates this task).

- A possible legal issue is whether a carrier revoked under the bill can reopen under a different legal entity. For example, the principals in a corporation or limited liability company whose permit is revoked might apply for a permit under some other entity. The Commission is working with the author's office to address this issue.

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