



## ANALYSIS

## CALIFORNIA PUBLIC UTILITIES COMMISSION

### **AB 636 (Jones)** **As Amended July 16, 2009**

#### **SUMMARY**

This bill would require the California Public Utilities Commission (Commission) to permanently revoke the charter-party carrier operating authority of, and refuse to issue any new authority to, any carrier that: (1) operates a bus without holding a permit from the Commission or operates with a suspended permit, (2) knowingly employs a driver to operate a bus, if the driver does not hold the required driver's license or an endorsement for that license to drive a bus, or (3) has one or more buses improperly registered with the Department of Motor Vehicles (DMV). A driver found to have operated a bus, without the proper license or endorsement, would be prohibited from driving a bus for five years. In addition, the bill would authorize the California Highway Patrol (CHP) to impound a bus for 30 days, if the driver violates certain conditions.

#### **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. The suspension provisions in this bill should be limited to those related to public safety issues under Public Utilities Code Section 5378.5, since many suspensions are not related to safety and may just involve paperwork, such as delinquent payment of fees. Thus, the bill could result in the permanent revocation of a carrier, operating during a period of suspension, for failure to redeem a \$20 bad check. Many revocations could occur, and as a consequence, many hearing requests could be filed with the Commission.

#### **ANALYSIS**

- 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 five or six suspension recommendations per year from the CHP.

During 2008, nearly 5,000 suspension notices were issued to charter-party carriers, many of which operate "buses" (i.e., vehicles seating more than 10). Most of the suspensions involved failure to maintain insurance on file (55%) or failure to pay regulatory fees or underpayment of fees (28%). Other reasons included failure to timely return various reports and issuance of bad checks. While maintaining insurance on file unquestionably is critical, the vast majority of the insurance suspensions occur due to delays in submitting insurance information to the Commission. The carrier does in fact have continuous, active insurance coverage. Thus, the bill could result in the permanent revocation of a carrier due to some missing paper work. As a consequence, many hearing requests could be filed with the Commission.

- 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 five year suspension against the driver to operate a bus in the future would be strong deterrents against violating the law.

**PROGRAM BACKGROUND:**

- Commission 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).

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