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SB-812 Modified limousines and tour buses: standards and inspection. (2015-2016)

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Senate Bill No. 812

CHAPTER 711

An act to amend Sections 27375, 34501, and 34505.1 of the Vehicle Code, relating to transportation.

[Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 812, Hill. Modified limousines and tour buses: standards and inspection.

(1) Existing law, on and after January 1, 2017, requires any person operating a modified limousine that is modified prior to July 1, 2015, to ensure that the vehicle is equipped with one or 2 rear windows that the rear seat passengers or all passengers of the vehicle may open from the inside of the vehicle in case of any fire or other emergency.

This bill would extend the operative date of this requirement to January 1, 2018.

(2) Existing law defines a tour bus to include any bus operated by or for a charter-party carrier of passengers or a passenger stage corporation, with a bus in this respect defined to mean any vehicle designed, used, or maintained for carrying more than 10 persons, including the driver. Existing law provides for the Department of the California Highway Patrol to regulate the safe operation of various classes of vehicles, including tour buses. A violation of various statutes and regulations governing tour buses and operators of tour buses is a crime.

Existing law also requires the department, at least once every 13 months, to inspect every maintenance facility or terminal of any person who at any time operates any bus. Existing law requires that if the bus operation includes more than 100 buses, the inspection shall be without prior notice.

This bill would require the department, if a tour bus has received an unsatisfactory compliance rating, to conduct a followup inspection between 30 and 90 days after the initial inspection during which the unsatisfactory rating was received. The bill would require the department to order a tour bus out of service upon determining during a terminal inspection or at any other time that the condition of a tour bus is such that it has multiple safety violations of a nature that operation of the tour bus could constitute an imminent danger to public safety. The bill would prohibit the tour bus from being operated with passengers until all of the safety violations have been corrected and the department has verified the correction of the safety violations upon a subsequent inspection by the department of the tour bus, which shall occur within five business days of the submission of a reinspection request from the tour bus carrier. By creating a new crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 27375 of the Vehicle Code is amended to read:

27375. (a) Any person who operates a modified limousine shall ensure that the vehicle has at least two rear side doors, as specified in paragraph (2), and one or two rear windows, as specified in paragraph (1), that the rear seat passengers or all passengers of the vehicle may open from the inside of the vehicle in case of any fire or other emergency that may require the immediate exit of the passengers of the vehicle. A limousine subject to this subdivision shall be equipped with both of the following:

(1) (A) Except as provided in subparagraph (B), at least two rear push-out windows that are accessible to all passengers. At least one push-out window shall be located on each side of the vehicle, unless the design of the limousine precludes the installation of a push-out window on one side of the vehicle, in which case the second push-out window shall instead be located in the roof of the vehicle.

(B) If the design of the limousine precludes the installation of even one push-out window on a side of the vehicle, one push-out window shall instead be located in the roof of the vehicle.

(C) The Department of the California Highway Patrol shall establish, by regulation, standards to ensure that window exits are operable and sufficient in emergency situations for limousine passengers. The department shall ensure that these regulations comply with any applicable federal motor vehicle safety standards.

(D) For modified limousines modified prior to July 1, 2015, the requirements of this paragraph shall apply on and after January 1, 2018.

(2) (A) At least two rear side doors that are accessible to all passengers and that may be opened manually by any passenger. At least one rear side door shall be located on each side of the vehicle.

(B) For modified limousines modified on or after July 1, 2015, at least one of these side doors shall be located near the driver's compartment and another near the back of the vehicle.

(C) The rear side doors shall comply with any applicable federal motor vehicle safety standards as deemed necessary by the Department of the California Highway Patrol.

(b) In the case of a fire or other emergency that requires the immediate exit of the passengers from the limousine, the driver of the limousine shall unlock the doors so that the rear side doors can be opened by the passengers from the inside of the vehicle.

(c) An owner or operator of a limousine shall do all of the following:

(1) Instruct all passengers on the safety features of the vehicle prior to the beginning of any trip, including, but not limited to, instructions for lowering the partition between the driver and passenger compartments and for communicating with the driver by the use of an intercom or other onboard or wireless device.

(2) Disclose to the contracting party and the passengers whether the limousine meets the safety requirements described in this section.

(3) If paragraph (1) of subdivision (d) applies, the owner or operator of a limousine shall further disclose to the contracting party and the passengers that the limousine does not meet the safety requirements required in subdivision (a) regarding vehicle escape options because of its exempt status, and therefore may pose a greater risk to passengers should emergency escape be necessary.

(d) (1) Except as provided in paragraph (2), subdivision (a) shall not apply to any limousine manufactured before 1970 that has an active transportation charter-party carrier (TCP) number that was issued by the commission as of August 15, 2013.

(2) Subdivision (a) shall apply to any limousine manufactured before 1970 if it was modified after August 15, 2013.

SEC. 2. Section 34501 of the Vehicle Code is amended to read:

34501. (a) (1) The department shall adopt reasonable rules and regulations that, in the judgment of the department, are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, controlled substances and alcohol testing of drivers by motor carriers, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. The rules and regulations shall not, however, be applicable to schoolbuses, which shall be subject to rules and regulations adopted pursuant to Section 34501.5.

The rules and regulations shall exempt local law enforcement agencies, within a single county, engaged in the transportation of inmates or prisoners when those agencies maintain other motor vehicle operations records which furnish hours of service information on drivers which are in substantial compliance with the rules and regulations. This exemption does not apply to any local law enforcement agency engaged in the transportation of inmates or prisoners outside the county in which the agency is located, if that agency would otherwise be required, by existing law, to maintain driving logs.

(2) The department may adopt rules and regulations relating to commercial vehicle safety inspection and out-of-service criteria. In adopting the rules and regulations, the commissioner may consider the commercial vehicle safety inspection and out-of-service criteria adopted by organizations such as the Commercial Vehicle Safety Alliance, other intergovernmental safety group, or the United States Department of Transportation. The commissioner may provide departmental representatives to that alliance or other organization for the purpose of promoting the continued improvement and refinement of compatible nationwide commercial vehicle safety inspection and out-of-service criteria.

(3) The commissioner shall appoint a committee of 15 members, consisting of representatives of industry subject to the regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department shall cooperate and confer with the advisory committee so appointed. The commissioner shall appoint a separate committee to advise the department on rules and regulations concerning wheelchair lifts for installation and use on buses, consisting of persons who use the wheelchair lifts, representatives of transit districts, representatives of designers or manufacturers of wheelchairs and wheelchair lifts, and representatives of the Department of Transportation.

(4) The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to ensure compliance with this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt regulations for the transportation of hazardous materials in this state, except the transportation of materials which are subject to other provisions of this code, that the department determines are reasonably necessary to ensure the safety of persons and property using the highways. The regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that the shipments are correctly identified and in proper condition for transport.

(c) (1) At least once every 13 months, the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus. If the bus operation includes more than 100 buses, the inspection shall be without prior notice.

(2) This subdivision does not preclude the department from conducting inspections of tour bus operations with fewer than 100 buses without prior notice. To the extent possible, the department shall conduct inspections without prior notice of any tour bus operation, including tour bus operations that have a history of noncompliance with safety laws or regulations, that have received unsatisfactory ratings, or that have had buses ordered out of service for safety violations.

(3) If a tour bus operator receives an unsatisfactory rating, the department shall conduct a followup inspection between 30 and 90 days after the initial inspection during which the unsatisfactory rating was received.

(d) The commissioner shall adopt and enforce regulations which will make the public or private users of any bus aware of the operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspections specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of any vehicle from a maintenance facility or terminal if the vehicle is found in violation of this code or regulations adopted pursuant to this section.

SEC. 3. Section 34505.1 of the Vehicle Code is amended to read:

34505.1. (a) Upon determining that a tour bus carrier or modified limousine carrier has either (1) failed to maintain any vehicle used in transportation for compensation 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, that 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 the United States Department of Transportation or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall recommend to the Public Utilities Commission that the carrier's operating authority be suspended, denied, or revoked, or to the United States Department of Transportation that appropriate administrative action be taken against the carrier's interstate operating authority, whichever is appropriate. For purposes of this subdivision, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the tour bus carrier or modified limousine carrier failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the

carrier's enrollment by the Department of Motor Vehicles for nonpayment of required fees may be determined by the department to be a consistent failure. However, when recommending denial of an application for new or renewal authority, the department need not conclude that the carrier's failure presents an imminent danger to public safety or that it constitutes a consistent failure. The department need only conclude that the carrier's compliance with the safety-related matters described in paragraph (1) of subdivision (a) is sufficiently unsatisfactory to justify a recommendation for denial. The department shall retain a record, by carrier, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the 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, revocation, or denial of the carrier's operating authority by the Public Utilities Commission or the United States Department of Transportation, as appropriate.

(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 is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

(c) Notwithstanding subdivision (a) or (b), upon determining during a terminal inspection or at any other time that the condition of a tour bus is such that it has multiple safety violations of a nature that operation of the tour bus could constitute an imminent danger to public safety, the department shall immediately order the tour bus out of service. The tour bus shall not be subsequently operated with passengers until all of the safety violations have been corrected and the department has verified the correction of the safety violations upon a subsequent inspection by the department of the tour bus, which shall occur within five business days of the submission of a reinspection request from the tour bus carrier to the department.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.