

AMENDED IN SENATE FEBRUARY 12, 2016

SENATE BILL

No. 812

Introduced by Senator Hill

(Principal coauthors: Assembly Members Chiu and Ting)

January 4, 2016

An act to amend Section 5373.1 ~~of of~~, and to add Sections 1033.6 and 5374.4 to, the Public Utilities Code, and to amend Sections 612, 34505, 34505.1, and 34513 of, and to add Section 34505.2 to, the Vehicle Code, relating to ~~tour buses~~: *vehicles*.

LEGISLATIVE COUNSEL'S DIGEST

SB 812, as amended, Hill. ~~Four bus inspection fees: charter-party carriers of passengers and passenger stage corporations. Charter-party carriers of passengers and passenger stage corporations.~~

(1) 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. Existing law requires charter-party carriers of passengers, upon initial application and annually thereafter, to pay tour bus terminal inspection fees of \$15 per tour bus, up to a maximum of \$6,500, to offset the costs of inspections of the Department of the California Highway Patrol, and requires the Public Utilities Commission to collect these fees and to deposit fee revenues in the Motor Vehicle Account. Existing law does not impose similar fees on passenger stage corporations. A violation of various statutes

and regulations governing tour buses and operators of tour buses is a crime.

This bill would require the Department of the California Highway Patrol, by regulation, to develop and adopt bus terminal inspection fees applicable to charter-party carriers of passengers and passenger stage corporations that operate one or more tour buses, to replace existing fees, in an amount sufficient to offset the costs to administer the inspection program for these companies, as specified. The bill would require the fees to be collected by the Public Utilities Commission in the case of charter-party carriers of passengers or as otherwise required by the regulations. The bill would make other conforming changes.

This bill would require the Department of the California Highway Patrol, by regulation, to modify its existing tour bus terminal inspection program to ensure that the program is performance-based, with parameters to evaluate and target on-site inspections of tour buses operated by or for charter-party carriers of passengers and passenger stage corporations. The bill would require the tour bus terminal inspection program to prioritize newly acquired tour buses operated by charter-party carriers of passengers and passenger stage corporations, as well as affected companies that are noncompliant or have a history of noncompliance with safety laws or regulations. The bill would also require no fewer than 25% of the total number of tour bus carrier inspections conducted by the department to be unannounced surprise inspections.

This bill would require a charter-party carrier of passengers or a passenger stage corporation, prior to operating a newly acquired tour bus, to first schedule an inspection of the tour bus with, and obtain a satisfactory rating for the tour bus from, the department. The bill would also require the Department of the California Highway Patrol, upon determining 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, to immediately order the tour bus out of service, and would prohibit operation of the tour bus until all of the safety violations have been corrected and the department has verified the correction of the safety violations upon a subsequent inspection of the tour bus. By changing the definition of existing crimes and creating new crimes, the bill would impose a state-mandated local program.

This bill would also require the Department of the California Highway Patrol to conduct a comprehensive review of the statutes and regulations

governing tour buses, as well as buses generally, with the objective of identifying opportunities for simplification, consolidation, avoidance of duplication, and consistent use of terminology, as specified. The bill would require a report containing the department's recommendations for proposed statutory changes to be submitted to the policy committees of both houses of the Legislature with responsibility for transportation matters by January 1, 2018.

(2) Existing law provides for the regulation of passenger stage corporations and charter-party carriers of passengers by the Public Utilities Commission.

This bill would require the commission to monitor the recall notifications of the National Highway Traffic Safety Administration (NHTSA) relative to buses and limousines operated by passenger stage corporations and charter-party carriers of passengers. The bill would require the commission, upon determining that a limousine or bus is the subject of a safety recall, to notify the carrier and order affected vehicles out of service. The bill would prohibit a carrier from operating a limousine or bus that is the subject of a safety recall after being notified by the commission or otherwise becoming aware of the recall. The bill would require carriers to fix the safety defects of an affected vehicle before returning it to service and to submit written documentation to the commission in that regard. The bill would require the commission, upon determining that the safety defects have been fixed, to rescind its out-of-service order and notify the carrier that the vehicle may again be operated. Because a violation of provisions governing passenger stage corporations and charter-party carriers of passengers is a crime, this bill would impose a state-mandated local program by creating new crimes.

(2)

(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.
State-mandated local program: yes.*

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1033.6 is added to the Public Utilities*
 2 *Code, to read:*

3 1033.6. (a) *The commission shall monitor the recall*
 4 *notifications of the National Highway Traffic Safety Administration*
 5 *(NHTSA) relative to buses and limousines operated by passenger*
 6 *stage corporations in this state and shall subscribe to NHTSA's*
 7 *electronic mail notification system.*

8 (b) *Upon determining that a limousine or bus of a passenger*
 9 *stage corporation is the subject of a safety recall by NHTSA, the*
 10 *commission shall immediately notify the affected passenger stage*
 11 *corporation and shall order affected vehicles to be placed out of*
 12 *service.*

13 (c) *A passenger stage corporation shall not operate a limousine*
 14 *or bus that is the subject of a safety recall by NHTSA after being*
 15 *notified by the commission pursuant to subdivision (b), or otherwise*
 16 *becoming aware of the recall, and shall fix the safety defects of*
 17 *an affected vehicle before returning it to service.*

18 (d) *Upon completing necessary repairs to an affected vehicle,*
 19 *the passenger stage corporation shall submit written*
 20 *documentation to the commission. The commission, upon*
 21 *determining that the safety defects have been fixed, shall rescind*
 22 *its out of service order and notify the passenger stage corporation*
 23 *that the vehicle may again be operated.*

24 ~~SECTION 1.~~

25 SEC. 2. Section 5373.1 of the Public Utilities Code is amended
 26 to read:

27 5373.1. (a) Each application for a charter-party carrier of
 28 passengers certificate or permit shall be accompanied by a filing
 29 fee as follows:

30 (1) Class A certificates (new): one thousand five hundred dollars
 31 (\$1,500).

32 (2) Class A certificates (renewal): one hundred dollars (\$100).

33 (3) Class B certificates (new): one thousand dollars (\$1,000).

34 (4) Class B certificates (renewal): one hundred dollars (\$100).

35 (5) Class C certificates (new): one thousand dollars (\$1,000).

36 (6) Class C certificates (renewal): one hundred dollars (\$100).

37 (7) Permits (new): one thousand dollars (\$1,000).

38 (8) Permits (renewal): one hundred dollars (\$100).

1 (b) The commission shall also require each application to be
2 accompanied by a fee to offset the cost of the charter-party carrier
3 bus terminal inspections conducted by the Department of the
4 California Highway Patrol. The fee shall be fifteen dollars (\$15)
5 per tour bus, as defined in Section 612 of the Vehicle Code, or a
6 maximum of six thousand five hundred dollars (\$6,500) for each
7 operating carrier, until the effective date of the new fee structure
8 established by the Department of the California Highway Patrol
9 pursuant to subdivision (b) of Section 34513 of the Vehicle Code.

10 (c) The commission shall require each charter-party carrier that
11 operates tour buses, as defined in Section 612 of the Vehicle Code,
12 to undergo an annual bus terminal inspection conducted by the
13 Department of the California Highway Patrol and to pay an annual
14 fee of fifteen dollars (\$15) per tour bus, or a maximum of six
15 thousand five hundred dollars (\$6,500), to offset the cost of the
16 inspections, until the effective date of the new fee structure
17 established by the Department of the California Highway Patrol
18 pursuant to subdivision (b) of Section 34513 of the Vehicle Code.

19 (d) The commission shall deposit the fees collected pursuant to
20 subdivisions (b) and (c) in the Motor Vehicle Account in the State
21 Transportation Fund to cover the costs of the inspections conducted
22 by the department as specified in subdivisions (b) and (c). The
23 revenues from the fees shall not be used to supplant other sources
24 of funding for, or otherwise support, any other inspection program
25 conducted by the department.

26 *SEC. 3. Section 5374.4 is added to the Public Utilities Code,*
27 *to read:*

28 *5374.4. (a) The commission shall monitor the recall*
29 *notifications of the National Highway Traffic Safety Administration*
30 *(NHTSA) relative to buses and limousines operated by*
31 *charter-party carriers of passengers in this state and shall*
32 *subscribe to NHTSA's electronic mail notification system.*

33 *(b) Upon determining that a limousine or bus of a charter-party*
34 *carrier of passengers is the subject of a safety recall by NHTSA,*
35 *the commission shall immediately notify the affected charter-party*
36 *carrier of passengers and shall order affected vehicles to be placed*
37 *out of service.*

38 *(c) A charter-party carrier of passengers shall not operate a*
39 *limousine or bus that is the subject of a safety recall by NHTSA*
40 *after being notified by the commission pursuant to subdivision (b),*

1 or otherwise becoming aware of the recall, and shall fix the safety
2 defects of an affected vehicle before returning it to service.

3 (d) Upon completing necessary repairs to an affected vehicle,
4 the charter-party carrier of passengers shall submit written
5 documentation to the commission. The commission, upon
6 determining that the safety defects have been fixed, shall rescind
7 its out-of-service order and notify the charter-party carrier of
8 passengers that the vehicle may again be operated.

9 ~~SEC. 2:~~

10 *SEC. 4.* Section 612 of the Vehicle Code is amended to read:

11 612. "Tour bus" means a vehicle designed, used, or maintained
12 for carrying more than 10 persons, including the driver, which is
13 operated by or for a charter-party carrier of passengers, as defined
14 in Section 5360 of the Public Utilities Code, or a passenger stage
15 corporation, as defined in Section 226 of the Public Utilities Code.

16 ~~SEC. 3:~~

17 *SEC. 5.* Section 34505 of the Vehicle Code is amended to read:

18 34505. (a) Tour bus operators shall, in addition to the
19 systematic inspection, maintenance, and lubrication services
20 required of all motor carriers, require each tour bus to be inspected
21 at least every 45 days, or more often if necessary to ensure safe
22 operation. This inspection shall include, but not be limited to, all
23 of the following:

- 24 (1) Brake adjustment.
25 (2) Brake system components and leaks.
26 (3) Steering and suspension systems.
27 (4) Tires and wheels.

28 (b) A tour bus shall not be used to transport passengers until all
29 defects listed during the inspection conducted pursuant to
30 subdivision (a) have been corrected and attested to by the signature
31 of the operator's authorized representative.

32 (c) Records of inspections conducted pursuant to subdivision
33 (a) shall be kept at the operator's maintenance facility or terminal
34 where the tour bus is regularly garaged. The records shall be
35 retained by the operator for one year, and shall be made available
36 for inspection upon request by any authorized employee of the
37 department. Each record shall include, but not be limited to, all of
38 the following:

- 39 (1) Identification of the vehicle, including make, model, license
40 number, or other means of positive identification.

- 1 (2) Date and nature of each inspection and any repair performed.
- 2 (3) Signature of operator's authorized representative attesting
- 3 to the inspection and to the completion of all required repairs.
- 4 (4) Company vehicle number.
- 5 (d) Prior to operating a newly acquired tour bus, a charter-party
- 6 carrier of passengers or a passenger stage corporation shall first
- 7 schedule an inspection of the tour bus with, and obtain a
- 8 satisfactory rating for the tour bus from, the department.

9 ~~SEC. 4.~~

10 *SEC. 6.* Section 34505.1 of the Vehicle Code is amended to
11 read:

12 34505.1. (a) Upon determining that a tour bus carrier or
13 modified limousine carrier has either (1) failed to maintain any
14 vehicle used in transportation for compensation in a safe operating
15 condition or to comply with the Vehicle Code or with regulations
16 contained in Title 13 of the California Code of Regulations relative
17 to motor carrier safety, and, in the department's opinion, that failure
18 presents an imminent danger to public safety or constitutes such
19 a consistent failure as to justify a recommendation to the Public
20 Utilities Commission or the United States Department of
21 Transportation or (2) failed to enroll all drivers in the pull notice
22 system as required by Section 1808.1, the department shall
23 recommend to the Public Utilities Commission that the carrier's
24 operating authority be suspended, denied, or revoked, or to the
25 United States Department of Transportation that appropriate
26 administrative action be taken against the carrier's interstate
27 operating authority, whichever is appropriate. For purposes of this
28 subdivision, two consecutive unsatisfactory compliance ratings
29 for an inspected terminal assigned because the tour bus carrier or
30 modified limousine carrier failed to comply with the periodic report
31 requirements of Section 1808.1 or the cancellation of the carrier's
32 enrollment by the Department of Motor Vehicles for nonpayment
33 of required fees may be determined by the department to be a
34 consistent failure. However, when recommending denial of an
35 application for new or renewal authority, the department need not
36 conclude that the carrier's failure presents an imminent danger to
37 public safety or that it constitutes a consistent failure. The
38 department need only conclude that the carrier's compliance with
39 the safety-related matters described in paragraph (1) of subdivision
40 (a) is sufficiently unsatisfactory to justify a recommendation for

1 denial. The department shall retain a record, by carrier, of every
2 recommendation made pursuant to this section.

3 (b) Before transmitting a recommendation pursuant to
4 subdivision (a), the department shall notify the carrier in writing
5 of all of the following:

6 (1) That the department has determined that the carrier's safety
7 record is unsatisfactory, furnishing a copy of any documentation
8 or summary of any other evidence supporting the determination.

9 (2) That the determination may result in a suspension,
10 revocation, or denial of the carrier's operating authority by the
11 Public Utilities Commission or the United States Department of
12 Transportation, as appropriate.

13 (3) That the carrier may request a review of the determination
14 by the department within five days of its receipt of the notice
15 required under this subdivision. If a review is requested by the
16 carrier, the department shall conduct and evaluate that review prior
17 to transmitting any notification pursuant to subdivision (a).

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

30 ~~SEC. 5.~~

31 *SEC. 7.* Section 34505.2 is added to the Vehicle Code, to read:

32 34505.2. The department shall conduct unannounced surprise
33 inspections of charter-party carriers of passengers and passenger
34 stage corporations operating one or more tour buses in addition to
35 regular scheduled inspections. In each fiscal year, no fewer than
36 25 percent of the total number of tour bus carrier inspections
37 conducted by the department shall be unannounced surprise
38 inspections.

39 ~~SEC. 6.~~

40 *SEC. 8.* Section 34513 of the Vehicle Code is amended to read:

1 34513. (a) The department shall adopt rules and regulations
2 relating to the equipment, maintenance, and operation of tour buses.

3 (b) The department shall, by regulation, develop and adopt a
4 fee structure for bus terminal inspections of charter-party carriers
5 of passengers and passenger stage ~~corporation~~, *corporations*, to
6 be paid by charter-party carriers of passengers and passenger stage
7 corporations that operate one or more tour buses. The fees shall
8 be based upon the number of buses operated by or for a company
9 and shall be collected upon initial application and annually
10 thereafter by the Public Utilities Commission pursuant to Section
11 5373.1 for carriers subject to that section, or as otherwise provided
12 in regulations. The fees shall be in an amount sufficient to offset
13 the costs to administer the inspection program as it pertains to
14 charter-party carriers of passengers and passenger stage
15 corporations, and revenues from the fees shall be deposited in the
16 Motor Vehicle Account in the State Transportation Fund. The
17 revenues from the fees shall not be used to supplant other sources
18 of funding for, or otherwise support, any other inspection program
19 conducted by the department. When developing the regulations,
20 the department shall consider measures that increase efficiencies
21 to limit the financial impact to charter-party carriers of passengers
22 and passenger stage corporations subject to the fees. The
23 department shall adopt the regulations in consultation with
24 appropriate interested parties.

25 (c) The department shall, by regulation, modify its existing tour
26 bus terminal inspection program to ensure that the program is
27 performance-based, with parameters to evaluate and target on-site
28 inspections of buses operated by or for charter-party carriers of
29 passengers and passenger stage corporations. The bus terminal
30 inspection program shall prioritize newly acquired tour buses
31 operated by charter-party carriers of passengers and passenger
32 stage corporations, as well as affected companies that are
33 noncompliant or have a history of noncompliance with safety laws
34 or regulations. It is the intent of the Legislature that, to the greatest
35 extent possible, the bus inspection program shall strive to inspect
36 as many tour buses operated by or for charter-party carriers of
37 passengers and passenger stage corporations as possible.

38 ~~SEC. 7.~~

39 *SEC. 9.* The Department of the California Highway Patrol shall
40 conduct a comprehensive review of the statutes and regulations

1 governing tour buses, as well as buses generally, with the objective
2 of identifying opportunities for simplification, consolidation,
3 avoidance of duplication, and consistent use of terminology. The
4 review shall be conducted in consultation with the Public Utilities
5 Commission, the Office of Legislative Counsel, and interested
6 parties. On or before January 1, 2018, the department shall submit
7 a report containing its recommendations for proposed statutory
8 changes to the policy committees of both houses of the Legislature
9 with responsibility for transportation matters, for potential
10 inclusion, if appropriate in whole or in part, in a future omnibus
11 transportation bill. The report shall be submitted pursuant to
12 Section 9795 of the Government Code.

13 ~~SEC. 8.~~

14 *SEC. 10.* No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.