

DIVISION 14.85. MOTOR CARRIERS OF PROPERTY PERMIT ACT

Chapter 1. General Provisions and Definitions

Designation of Division

34600. This division shall be known and may be cited as the Motor Carriers of Property Permit Act.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Definitions

34601. (a) As used in this division, “motor carrier of property” means any person who operates any commercial motor vehicle as defined in subdivision (c). “Motor carrier of property” does not include a household goods carrier, as defined in Section 5109 of the Public Utilities Code, a household goods carrier transporting used office, store, and institution furniture and fixtures under its household goods carrier permit pursuant to Section 5137 of the Public Utilities Code, persons providing only transportation of passengers, or a passenger stage corporation transporting baggage and express upon a passenger vehicle incidental to the transportation of passengers.

(b) As used in this division, “for-hire motor carrier of property” means a motor carrier of property as defined in subdivision (a) who transports property for compensation.

(c) (1) As used in this division, except as provided in paragraph (2), a “commercial motor vehicle” means any self-propelled vehicle listed in subdivisions (a), (b), (f), (g), and (k) of Section 34500, any motor truck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, and any other motor vehicle used to transport property for compensation.

(2) As used in this division, “commercial motor vehicle” does not include any of the following:

(A) Vehicles identified in subdivision (f) of Section 34500, if the gross vehicle weight rating of the towing vehicle is 10,000 pounds or less.

(B) Vehicles identified in subdivision (g) of Section 34500, if the hazardous material transportation does not require the display of placards under Section 27903, a license under Section 32000.5, or a hazardous waste transporter registration under Section 25163 of the Health and Safety Code, and the vehicle is not operated in commercial use.

(C) Vehicles operated by a household goods carrier, as defined in Section 5109 of the Public Utilities Code, under the household goods carrier permit pursuant to Section 5137 of that code.

(D) Vehicles operated by a household goods carrier to transport used office, store, and institution furniture and fixtures under its household goods carrier permit pursuant to Section 5137 of the Public Utilities Code.

(E) Pickup trucks as defined in Section 471, if the conditions in subparagraphs (A) and (B) are also met.

(F) Two-axle daily rental trucks with a gross vehicle weight rating of less than 26,001 pounds, when operated in noncommercial use.

(G) Motor trucks or two-axle truck tractors, with a gross vehicle weight rating of less than 26,001 pounds, when used solely to tow a camp trailer, trailer coach, fifth-wheel travel trailer, or utility trailer. Vehicle combinations described in

this subparagraph are not subject to Section 27900, 34501.12, or 34507.5.

(d) For purposes of this chapter, “private carrier” means a motor carrier of property, who transports only his or her own property, including, but not limited to, the delivery of goods sold by that carrier.

Amended Sec. 14, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 15.5, Ch. 1008, Stats. 1999. Effective January 1, 2000. Supersedes Ch 1005.

Amended Sec. 25, Ch. 787, Stats. 2000. Effective January 1, 2001.

Motor Carriers Permit Fund

34602. As used in this division, “fund” means the Motor Vehicle Account in the State Transportation Fund.

Amended Sec. 22, Ch. 805, Stats. 2002. Effective January 1, 2003. Operative July 1, 2003.

Furnishing of Records

34603. The Department of the California Highway Patrol, the Public Utilities Commission, and the State Board of Equalization shall furnish, upon request, whatever information from their records may be required to assist the department in the effective development and enforcement of this division.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Rules and Regulations

34604. The department may adopt reasonable rules and regulations necessary to administer this division. The department may also adopt rules and regulations necessary to administer civil sanction proceedings and impose fines for failure to comply with Division 14.8 (commencing with Section 34500), or this division, or regulations adopted pursuant to this code.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Contracts and Fees for Administration of Division

34605. (a) The department may contract with the Office of Administrative Hearings to administer proceedings and impose fines for failure to comply with Division 14.8 (commencing with Section 34500), or this division, or regulations adopted pursuant to this code.

(b) The department and the California Highway Patrol may also contract with the Public Utilities Commission to administer this division in a manner described by the contract, or if permitted by the Department of Motor Vehicles, in a manner as existed on January 1, 1996. This temporary authority shall be terminated on December 31, 1997.

(c) All fees collected under this contract shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

Amended Sec. 23, Ch. 805, Stats. 2002. Effective January 1, 2003. Operative July 1, 2003.

Review of Fees

34606. The fee schedule set forth in Section 7236 of the Revenue and Taxation Code shall be reviewed by the Department of Motor Vehicles and may be lowered should revenue exceed the costs of the Department of Motor Vehicles and the California Highway Patrol to administer and enforce the provisions of this division. The department shall also adjust the uniform business license tax fee by the amounts as are necessary to produce an annual revenue that shall not exceed the amount collected under Section 4304 of the Public

Utilities Code as it existed on June 30, 1996, for the period beginning on July 1, 1995, and ending on June 30, 1996.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Chapter 2. Motor Carrier Permits

Permits Required

34620. (a) Except as provided in subdivision (b) and Section 34622, no motor carrier of property shall operate a commercial motor vehicle on any public highway in this state, unless it has complied with Section 34507.5 and has registered with the department its carrier identification number authorized or assigned thereunder, and holds a valid motor carrier permit issued to that motor carrier by the department. The department shall issue a motor carrier permit upon the carrier's written request, compliance with Sections 34507.5, 34630, 34640, and subdivisions (e) and (h) of Section 34501.12, for motor carriers listed in that section, and the payment of the fee required by this chapter.

(b) No person shall contract with, or otherwise engage the services of, a motor carrier of property, unless that motor carrier holds a valid motor carrier of property permit issued by the department. No motor carrier of property shall contract or subcontract with, or otherwise engage the services of, another motor carrier of property, until the contracted motor carrier of property provides certification in the manner prescribed by this section, of compliance with subdivision (a). This certification shall be completed by the contracted motor carrier of property and shall include a provision requiring the contracted motor carrier of property to immediately notify the person to whom they are contracted if the contracted motor carrier of property's permit is suspended or revoked. A copy of the contracted motor carrier of property's permit shall accompany the required certificate. The Department of the California Highway Patrol shall, by regulation, prescribe the format for the certificate and may make available an optional specific form for that purpose. The certificate, or a copy thereof, shall be maintained by each involved party for the duration of the contract or period of service plus two years, and shall be presented for inspection at the location designated by each carrier under Section 34501.10, immediately upon the request of an authorized employee of the Department of the California Highway Patrol.

Amended Sec. 15, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 4, Ch. 729, Stats. 2003. Effective January 1, 2004.

Amended Sec. 356, Ch. 183, Stats. 2004. Effective January 1, 2005.

Motor Carrier Permit Application

34621. (a) The fee required by Section 7232 of the Revenue and Taxation Code shall be paid to the department upon initial application for a motor carrier permit and for annual renewal.

(b) An application for an original or a renewal motor carrier permit shall contain all of the following information:

(1) The full name of the motor carrier; any fictitious name under which it is doing business; address, both physical and mailing; and business telephone number.

(2) Status as individual, partnership, owner-operator, or corporation, and officers of corporation and all partners.

(3) Name, address, and driver's license number of owner-operator.

(4) California carrier number, number of commercial

motor vehicles in fleet, interstate or intrastate operations, State Board of Equalization, federal Department of Transportation or Interstate Commerce Commission number, as applicable.

(5) Transporter or not a transporter of hazardous materials or petroleum.

(6) Evidence of financial responsibility.

(7) Evidence of workman's compensation coverage, if applicable.

(8) Carrier certification of enrollment in the biennial inspection of terminals (BIT) program under subdivisions (e) and (h) of Section 34501.12, unless otherwise exempted.

(9) Carrier certification of enrollment in a controlled substance and alcohol use and testing (CSAT) program required under Section 34520, unless otherwise exempted.

(10) Any other information necessary to enable the department to determine whether the applicant is entitled to a permit.

Amended Sec. 16, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 5, Ch. 729, Stats. 2003. Effective January 1, 2004.

Exempt Vehicles

34622. This chapter does not apply to any of the following:

(a) Vehicles that are exempt from vehicle registration fees.

(b) A household goods carrier transporting used office, store, and institution furniture and fixtures under its household goods carrier permit pursuant to Section 5137 of the Public Utilities Code.

Amended Sec. 31, Ch. 945, Stats. 1997. Effective January 1, 1998.

Amended Sec. 100, Ch. 1005, Stats. 1999. Effective January 1, 2000.

Suspension of the Motor Carrier Permit

34623. (a) The Department of the California Highway Patrol has exclusive jurisdiction for the regulation of safety of operation of motor carriers of property.

(b) The motor carrier permit of a motor carrier of property may be suspended for failure to do any of the following:

(1) Maintain any vehicle of the carrier in a safe operating condition or to comply with this code or with applicable regulations contained in Title 13 of the California Code of Regulations, if that failure is either a consistent failure or presents an imminent danger to public safety.

(2) Enroll all drivers in the pull notice system as required by Section 1808.1.

(3) Submit any application or pay any fee required by subdivision (e) or (h) of Section 34501.12 within the timeframes set forth in that section.

(c) The motor carrier permit of a motor carrier of property shall be suspended for failure to either (1) comply with the requirements of federal law described in subdivision (a) of Section 34520 of the Vehicle Code, or (2) make copies of results and other records available as required by subdivision (b) of that section. The suspension shall be as follows:

(1) For a serious violation, which is a willful failure to perform substance abuse testing in accordance with state or federal law:

(A) For a first offense, a mandatory five-day suspension.

(B) For a second offense within three years of a first offense, a mandatory three-month suspension.

(C) For a third offense within three years of a first offense,

a mandatory one year suspension.

(2) For a nonserious violation, the time recommended to the department by the Department of the California Highway Patrol.

(3) For the purposes of this subdivision, “willful failure” means any of the following:

(A) An intentional and uncorrected failure to have a controlled substances and alcohol testing program in place.

(B) An intentional and uncorrected failure to enroll an employed driver into the controlled substances and alcohol testing program.

(C) A knowing use of a medically disqualified driver, including the failure to remove the driver from safety-sensitive duties upon notification of the medical disqualification.

(D) An attempt to conceal legal deficiencies in the motor carrier’s controlled substances and alcohol testing program.

(d) The department, pending a hearing in the matter pursuant to subdivision (f), may suspend a carrier’s permit.

(e) (1) A motor carrier whose motor carrier permit is suspended pursuant to subdivision (b) may obtain a reinspection of its terminal and vehicles by the Department of the California Highway Patrol by submitting a written request for reinstatement to the department and paying a reinstatement fee as required by Section 34623.5.

(2) A motor carrier whose motor carrier permit is suspended for failure to submit any application or to pay any fee required by Section 34501.12 shall present proof of having submitted that application or have paid that fee to the Department of the California Highway Patrol before applying for reinstatement of its motor carrier permit.

(3) The department shall deposit all reinstatement fees collected from motor carriers of property pursuant to this section in the fund. Upon receipt of the fee, the department shall forward a request to the Department of the California Highway Patrol, which shall perform a reinspection within a reasonable time, or shall verify receipt of the application or fee or both the application and fee. Following the term of a suspension imposed under Section 34670, the department shall reinstate a carrier’s motor carrier permit suspended under subdivision (b) upon notification by the Department of the California Highway Patrol that the carrier’s safety compliance has improved to the satisfaction of the Department of the California Highway Patrol, or that the required application or fees have been received by the Department of the California Highway Patrol, unless the permit is suspended for another reason or has been revoked.

(f) Whenever the department suspends the permit of any carrier pursuant to subdivision (b), (c), or paragraph (3) of subdivision (i), the department shall furnish the carrier with written notice of the suspension and shall provide for a hearing within a reasonable time, not to exceed 21 days, after a written request is filed with the department. At the hearing, the carrier shall show cause why the suspension should not be continued. Following the hearing, the department may terminate the suspension, continue the suspension in effect, or revoke the permit. The department may revoke the permit of any carrier suspended pursuant to subdivision (b) at any time that is 90 days or more after its suspension if the carrier has not filed a written request for a

hearing with the department or has failed to submit a request for reinstatement pursuant to subdivision (e).

(g) Notwithstanding any other provision of this code, no hearing shall be provided when the suspension of the motor carrier permit is based solely upon the failure of the motor carrier to maintain satisfactory proof of financial responsibility as required by this code, or failure of the motor carrier to submit an application or to pay fees required by Section 34501.12.

(h) A motor carrier of property may not operate a commercial motor vehicle on any public highway in this state during any period its motor carrier of property permit is suspended pursuant to this division.

(i) (1) A motor carrier of property whose motor carrier permit is suspended pursuant to this section or Section 34505.6, which suspension is based wholly or in part on the failure of the motor carrier to maintain any vehicle in safe operating condition, may not lease, or otherwise allow, another motor carrier to operate the vehicles of the carrier subject to the suspension, during the period of the suspension.

(2) A motor carrier of property may not knowingly lease, operate, dispatch, or otherwise utilize any vehicle from a motor carrier of property whose motor carrier permit is suspended, which suspension is based wholly or in part on the failure of the motor carrier to maintain any vehicle in safe operating condition.

(3) The department may immediately suspend the motor carrier permit of any motor carrier that the department determines to be in violation of paragraph (2).

Amended Sec. 17, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 3, Ch. 1006, Stats. 1999. Effective January 1, 2000.

Amended Sec. 4, Ch. 298, Stats. 2001. Effective January 1, 2002.

Amended Sec. 5, Ch. 774, Stats. 2002. Effective September 20, 2002.

Motor Carrier Permit Reinstatement Fee

34623.5. Notwithstanding any other provision of this code, before a permit may be reissued after a suspension has been terminated, there shall, in addition to any other fees required by this code, be paid to the department a fee of one hundred fifty dollars (\$150).

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Owner-Operators

34624. (a) The department shall establish a classification of motor carrier of property known as owner-operators.

(b) As used in this section and in Sections 1808.1 and 34501.12, an owner-operator is a person who meets all of the following requirements:

(1) Holds a class A or class B driver’s license or a class C license with a hazardous materials endorsement.

(2) Owns, leases, or otherwise operates not more than one power unit and not more than three towed vehicles.

(3) Is required to obtain a permit as a motor carrier of property by the department under this division.

(c) (1) As used in this section, “power unit” is a motor vehicle described in subdivision (a), (b), (g), (f), or (k) of Section 34500, or a motortruck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, but does not include those vehicles operated by household goods carriers, as defined in Section 5109 of the Public Utilities

Code or persons providing transportation of passengers. A “towed vehicle” is a nonmotorized vehicle described in subdivision (d), (e), (f), (g), or (k) of that section.

(2) As used in this section, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating of the towing vehicle exceeds 11,500 pounds, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous materials for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which a hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code.

(d) The department, upon suspending or revoking the driving privilege of an owner-operator shall also suspend the owner-operator’s motor carrier permit, unless the owner-operator, within 15 days, shows good cause why the permit should not be suspended.

(e) Every motor carrier who is within the classification established by this section is responsible for notifying all other motor carriers with whom he or she is under contract when the status of the motor carrier changes so that he or she is no longer within the classification established by this section.

(f) This section shall not be construed to change the definition of “employer,” “employee,” or “independent contractor” for any other purpose.

Amended Sec. 18, Ch. 652, Stats. 1997. Effective January 1, 1998.
Amended Sec. 6, Ch. 774, Stats. 2002. Effective September 20, 2002.

Chapter 3. Insurance

Financial Responsibility

34630. (a) A motor carrier permit shall not be granted to any motor carrier of property until there is filed with the department proof of financial responsibility in the form of a currently effective certificate of insurance, issued by a company licensed to write that insurance in this state or by a nonadmitted insurer subject to Section 1763 of the Insurance Code, if the policy represented by the certificate meets the minimum insurance requirements contained in Section 34631.5. The certificate of insurance or surety bond shall provide coverage with respect to the operation, maintenance, or use of any vehicle for which a permit is required, although the vehicle may not be specifically described in the policy, or a bond of surety issued by a company licensed to write surety bonds in this state, or written evidence of self-insurance by providing the self-insured number granted by the department on a form approved by the department.

(b) Proof of financial responsibility shall be continued in effect during the active life of the motor carrier permit. The certificate of insurance shall not be cancelable on less than 30 days’ written notice from the insurer to the department except in the event of cessation of operations as a permitted motor carrier of property.

(c) Whenever the department determines or is notified that the certificate of insurance or surety bond of a motor carrier of property will lapse or be terminated, the department shall suspend the carrier’s permit effective on the date of lapse or termination unless the carrier provides evidence of valid insurance coverage pursuant to subdivision (a). If the carrier’s permit is suspended, the carrier shall pay

a reinstatement fee as set forth in Section 34623.5, and prior to conducting on-highway operations, present proof of financial responsibility pursuant to subdivision (a) in order to have the permit reinstated.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Proof of Financial Responsibility

34631. The proof of financial responsibility required under Section 34630 shall be evidenced by the deposit with the department, covering each vehicle used or to be used under the motor carrier permit applied for, of one of the following:

(a) A certificate of insurance, issued by a company licensed to write insurance in this state, or by a nonadmitted insurer subject to Section 1763 of the Insurance Code, if the policies represented by the certificate comply with Section 34630 and the rules promulgated by the department pursuant to Section 34604.

(b) A bond of a surety company licensed to write surety bonds in the state.

(c) Evidence of qualification of the carrier as a self-insurer as provided for in subdivision (a) of Section 34630. However, any certificate of self-insurance granted to a motor carrier of property shall be limited to serve as proof of financial responsibility under paragraphs (1) and (2) of subdivision (a) of Section 34631.5 minimum limits only and shall not be acceptable as proof of financial responsibility for the coverage required pursuant to paragraph (3) or (4) of subdivision (a) of Section 34631.5.

(d) Evidence on a form that indicates that coverage is provided by a charitable risk pool operating under Section 5005.1 of the Corporations Code, if the registered owner of the vehicle is a nonprofit organization that is exempt from taxation under paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code. The form shall include all of the following:

(1) The name and address of the motor carrier.

(2) The name and address of the charitable risk pool providing the policy for the motor carrier.

(3) The policy number, effective date, and liability limits of the policy.

(4) A statement from the charitable risk pool that the policy meets the requirements of Section 34631.5.

Amended Sec. 19, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 15, Ch. 758, Stats. 2002. Effective January 1, 2003.

Minimum Level of Financial Responsibility: Emergency Moves at Direction of Peace Officer

34631.5. (a) (1) Every motor carrier of property as defined in Section 34601, except those subject to paragraph (2), (3), or (4), shall provide and thereafter continue in effect adequate protection against liability imposed by law upon those carriers for the payment of damages in the amount of a combined single limit of not less than seven hundred fifty thousand dollars (\$750,000) on account of bodily injuries to, or death of, one or more persons, or damage to or destruction of, property other than property being transported by the carrier for any shipper or consignee whether the property of one or more than one claimant in any one accident.

(2) Every motor carrier of property, as defined in Section 34601, who operates only vehicles under 10,000 pounds GVWR and who does not transport any commodity subject to

paragraph (3) or (4), shall provide and thereafter continue in effect adequate protection against liability imposed by law for the payment of damages caused by bodily injuries to or the death of any person; or for damage to or destruction of property of others, other than property being transported by the carrier, in an amount not less than three hundred thousand dollars (\$300,000).

(3) Every intrastate motor carrier of property, as defined in Section 34601, who transports petroleum products in bulk, including waste petroleum and waste petroleum products, shall provide and thereafter continue in effect adequate protection against liability imposed by law upon the carrier for the payment of damages for personal bodily injuries (including death resulting therefrom) in the amount of not less than five hundred thousand dollars (\$500,000) on account of bodily injuries to, or death of, one person; and protection against a total liability of those carriers on account of bodily injuries to, or death of more than one person as a result of any one accident, but subject to the same limitation for each person in the amount of not less than one million dollars (\$1,000,000); and protection in an amount of not less than two hundred thousand dollars (\$200,000) for one accident resulting in damage to or destruction to property other than property being transported by the carrier for any shipper or consignee, whether the property of one or more than one claimant; or a combined single limit in the amount of not less than one million two hundred thousand dollars (\$1,200,000) on account of bodily injuries to, or death of, one or more persons or damage to or destruction of property, or both, other than property being transported by the carrier for any shipper or consignee whether the property of one or more than one claimant in any one accident.

(4) Except as provided in paragraph (3), every motor carrier of property, as defined in Section 34601, that transports any hazardous material, as defined by Section 353, shall provide and thereafter continue in effect adequate protection against liability imposed by law on those carriers for the payment of damages for personal injury or death, and damage to or destruction of property, in amounts of not less than the minimum levels of financial responsibility specified for carriers of hazardous materials by the United States Department of Transportation in Part 387 (commencing with Section 387.1) of Title 49 of the Code of Federal Regulations. The applicable minimum levels of financial responsibility required are as follows:

Commodity Transported:	Combined Single Limit Coverage
(A) Oil listed in Section 172.101 of Title 49 of the Code of Federal Regulations; hazardous waste, hazardous materials and hazardous substances defined in Section 171.8 of Title 49 of the Code of Federal Regulations and listed in Section 172.101 of Title 49 of the Code of Federal Regulations, but not mentioned in (C) or (D).	\$1,000,000

Commodity Transported:	Combined Single Limit Coverage
(B) Hazardous waste as defined in Section 25117 of the Health and Safety Code and in Article 1 (commencing with Section 66261.1) of Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, but not mentioned in (C) or (D).	\$1,000,000
(C) Hazardous substances, as defined in Section 171.8 of Title 49 of the Code of Federal Regulations, or liquefied compressed gas or compressed gas, transported in cargo tanks, portable tanks, or hopper-type vehicle with capacities in excess of 3,500 water gallons.	\$5,000,000
(D) Any quantity of class 1.1, 1.2, or 1.3 explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in Section 173.403 of Title 49 of the Code of Federal Regulations.	\$5,000,000

(b) (1) The protection required under subdivision (a) shall be evidenced by the deposit with the department, covering each vehicle used or to be used in conducting the service performed by each motor carrier of property, an authorized certificate of public liability and property damage insurance, issued by a company licensed to write the insurance in the State of California, or by a nonadmitted insurer subject to Section 1763 of the Insurance Code.

(2) The protection required under subdivision (a) by every motor carrier of property engaged in interstate or foreign transportation of property in or through California, shall be evidenced by the filing and acceptance of a department authorized certificate of insurance, or qualification as a self-insurer as may be authorized by law.

(3) A certificate of insurance, evidencing the protection, shall not be cancelable on less than 30 days' written notice to the department, the notice to commence to run from the date notice is actually received at the office of the department in Sacramento.

(4) Every insurance certificate or equivalent protection to the public shall contain a provision that the certificate or equivalent protection shall remain in full force and effect until canceled in the manner provided by paragraph (3).

(5) Upon cancellation of an insurance certificate or the cancellation of equivalent protection authorized by the Department of Motor Vehicles, the motor carrier permit of any motor carrier of property, shall stand suspended immediately upon the effective date of the cancellations.

(6) No carrier shall engage in any operation on any public highway of this state during the suspension of its permit.

(7) No motor carrier of property, whose permit has been suspended under paragraph (5) shall resume operations unless and until the carrier has filed an insurance certificate or equivalent protection in effect at the time and that meets the standards set forth in this section. The operative rights of

the complying carriers shall be reinstated from suspension upon the filing of an insurance certificate or equivalent protection.

(8) In order to expedite the processing of insurance filings by the department, each insurance filing made should contain the insured's California carrier number, if known, in the upper right corner of the certificate.

(c) (1) Notwithstanding any other provision of law, the operator of a for-hire tow truck who is in compliance with subdivision (a) may perform emergency moves, irrespective of the load carried aboard the vehicle being moved.

(2) For the purposes of paragraph (1), an "emergency move" is limited to one or more of the following activities:

(A) Removal of a disabled or damaged vehicle or combination of vehicles from a highway.

(B) Removal of a vehicle or combination of vehicles from public or private property following a traffic collision.

(C) Removal of a vehicle or combination of vehicles from public or private property to protect public health, safety, or property.

(D) Removal of a vehicle or combination of vehicles from any location for impound or storage, at the direction of a peace officer.

(3) The authority granted under paragraph (1) applies only to the first one-way carriage of property from the scene of the emergency to the nearest safe location. Any subsequent move of that property shall be subject to subdivision (a), including, but not limited to, a requirement that the for-hire tow truck operator have a level of liability protection that is adequate for the commodity being transported by the towed vehicle or combination of vehicles.

(4) Any transportation of property by an operator of an operator of a for-hire tow truck that is not an emergency move, as authorized under paragraph (1), shall be subject to subdivision (a), including, but not limited to, a requirement that the for-hire tow truck operator have a level of liability protection that is adequate for the commodity being transported by the towed vehicle or combination of vehicles.

Amended Sec. 20, Ch. 652, Stats. 1997. Effective January 1, 1998.
Amended Sec. 70.5, Ch. 877, Stats. 1998. Effective January 1, 1999. Super-sedeses Ch. 478.
Amended Sec. 48, Ch. 724, Stats. 1999. Effective January 1, 2000.

Verification of Vehicles Used By Motor Carriers

34632. (a) Every motor carrier of property shall furnish the department annually, as specified by the department, a list, prepared under oath, of all vehicles, described in Section 34601, used in transportation during the preceding year.

(b) If the carrier's insurer informs the department that the carrier has failed to obtain insurance coverage for any vehicle reported on the list, the department shall, in addition to any other applicable penalty provided in this division, suspend the carrier's permit.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Motor Carriers' Employees

34633. Every motor carrier of property with a carrier fleet of 20 or more commercial motor vehicles as defined in Section 34601 shall, under oath, file annually a report with the department indicating the number, classification, and compensation of all employees and owner-operator drivers hired or engaged during the reporting period. The

department shall submit a copy of the report to the administrator of the corporation's workers' compensation self-insurance plan if the corporation is self-insured, or to the carrier's workers' compensation insurer if the carrier's workers' compensation protection is provided by a policy or policies of insurance.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Suspension of Motor Carrier Permit For Worker's Compensation Violation

34634. (a) Upon receipt of a stop order issued by the Director of Industrial Relations pursuant to Section 3710.1 of the Labor Code, the department shall determine whether the motor carrier of property has filed a false statement relative to workers' compensation insurance coverage, in violation of statute, or rules or orders of the department. If, after notice and opportunity to be heard, the department determines that there has been a violation of statute, or rules or orders of the department, the department shall, in addition to any other applicable penalty provided in this division, suspend the carrier's permit.

(b) Upon notification from the Director of Industrial Relations that a final judgment has been entered against any motor carrier of property as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the department shall, 30 days from the date the carrier is mailed the notice pursuant to subdivision (c), revoke the carrier's permit unless the judgment has been satisfied or has been discharged in accordance with the bankruptcy laws of the United States or the carrier requests a hearing pursuant to subdivision (c).

(c) Within seven days of notification from the Director of Industrial Relations that a final judgment has been entered against any motor carrier of property as a result of an award having been made to an employee pursuant to Section 3716.2 of the Labor Code, the department shall furnish to the carrier named in the final judgment written notice of the right to a hearing regarding the revocation of the permit and the procedure to follow to request a hearing. The notice shall state that the department is required to revoke the carrier's permit pursuant to subdivision (b) after 30 days from the date the notice is mailed unless the carrier provides proof that the judgment is satisfied or has been discharged in accordance with the bankruptcy laws of the United States and the department has been so notified seven days prior to the conclusion of the 30-day waiting period. The carrier may request a hearing within 10 days from the date the notice is sent by the department. The request for the hearing shall stay the revocation. The hearing shall be held within 30 days of the receipt of the request. If the department finds that an unsatisfied judgment exists concerning a debt arising under Section 3717 of the Labor Code, the department shall immediately revoke the carrier's permit.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Chapter 4. Workers' Compensation

Worker's Compensation Required

34640. (a) A motor carrier permit shall not be granted to any motor carrier of property until one of the following is filed with the department:

(1) A certificate of workers' compensation coverage for its

employees issued by an admitted insurer.

(2) A certification of consent to self-insure issued by the Director of Industrial Relations, and the identity of the administrator of the carrier's workers' compensation self-insurance plan.

(3) A statement, under penalty of perjury, stating that, in its operations as a motor carrier of property, it does not employ any person in any manner so as to become subject to the workers' compensation laws of this state.

(b) The workers' compensation certified under paragraph (1) of subdivision (a) shall be effective until canceled. The insurer shall provide to the motor carrier of property and to the department a notice of cancellation not less than 30 days in advance of the effective date.

(c) If, after filing the statement described in paragraph (3) of subdivision (a), the carrier becomes subject to the workers' compensation laws of this state, the carrier shall promptly notify the department that the carrier is withdrawing its statement under paragraph (3) of subdivision (a), and shall simultaneously file the certificate described in either paragraph (1) or (2) of subdivision (a).

(d) Whenever the department determines or is notified that the certificate of workers' compensation insurance or certification to self-insure a motor carrier of property will lapse or be terminated, the department shall suspend the carrier's permit effective on the date of the lapse or termination, unless the motor carrier provides evidence of valid insurance coverage pursuant to subdivision (a). If the carrier's permit is suspended, the carrier shall pay a reinstatement fee as set forth in Section 34671, and prior to conducting on-highway operations, present proof of valid insurance coverage pursuant to subdivision (a) in order to have the permit reinstated.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Chapter 6. Fines and Penalties

Operation of Vehicle After Suspension of Permit

34660. (a) A motor carrier of property, after its motor carrier permit has been suspended by the department, who continues to operate as a motor carrier, either independently or for another motor carrier, is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

(b) Each violation of this section is a separate and distinct offense, and, in the case of a continuing violation, each day's continuance of operation as a carrier in violation of this section is a separate and distinct offense.

(c) Upon finding that a motor carrier of property is willfully violating this section after being advised that it is not operating in compliance with the laws of this state, the court may issue an injunction to stop the carrier's continued operation.

(d) A member of the Department of the California Highway Patrol may impound a vehicle or combination of vehicles operated by a motor carrier of property, when the vehicle or combination of vehicles is found upon a highway, any public lands, or an offstreet parking facility and the motor carrier is found to be in violation of this section or of

subdivision (a) of Section 34620. For purposes of this subdivision, the vehicle shall be released to the registered owner or authorized agent only after the registered owner or authorized agent furnishes the Department of the California Highway Patrol with proof of current registration, a currently valid driver's license of the appropriate class to operate the vehicle or combination of vehicles, and proof of compliance with this division. The registered owner or authorized agent is responsible for all towing and storage charges related to the impoundment.

Amended Sec. 22, Ch. 652, Stats. 1997. Effective January 1, 1998.

Penalties For Violations of the Motor Carriers of Property Permit Act

34661. Any person or corporation who violates any provision of this division is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Motor Carrier Sanctions

34670. Any violation of Division 14.8 (commencing with Section 34500) or any violation that results in a suspension or revocation of the motor carrier permit pursuant to Section 34505.6 or 34623, or subdivision (d) of Section 34624, in addition to any other penalties, shall be sanctioned as follows:

(a) If there have been no prior sanctions imposed on the permit holder, the permit shall be suspended for 30 days.

(b) If the permit had been suspended once prior in the previous 36 months, the permit shall be suspended for 60 days.

(c) If the permit had been previously suspended two or more times in the previous 36 months, the permit shall be suspended for 90 days, and a fine of one thousand five hundred dollars (\$1,500) shall be imposed.

Amended Sec. 23, Ch. 652, Stats. 1997. Effective January 1, 1998.

Reinstatement Fee

34671. No motor carrier permit suspended or revoked under the provisions of this code shall be reinstated until a fee of one hundred fifty dollars (\$150) has been paid, and the motor carrier permit holder has met all requirements for the issuance of a permit.

Added Sec. 53, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Dishonored Checks

34672. If a motor carrier permit is paid for by a check that is dishonored by the bank, the permit shall be canceled. The department shall notify the carrier that the check was dishonored and that the permit will be canceled 30 days from the date of notification if the applicant does not make restitution. If the applicant does not make restitution for the dishonored check, and pay the dishonored check fee within 30 days of the notice, the application for a motor carrier permit shall be canceled.

Amended Sec. 18, Ch. 825, Stats. 2001. Effective January 1, 2002.