

ASSEMBLY BILL

No. 1575

Introduced by Assembly Member O'Donnell

February 22, 2019

An act to amend Section 34505.9 of the Vehicle Code, relating to intermodal chassis.

LEGISLATIVE COUNSEL'S DIGEST

AB 1575, as introduced, O'Donnell. Intermodal chassis.

Existing law authorizes an ocean marine terminal that receives and dispatches intermodal chassis, as defined, to conduct an intermodal roadability inspection program in lieu of other provisions that require every operator of certain types of vehicles to cause the vehicle to be inspected at least every 90 days, or more often to ensure safe operation. Existing law establishes criteria for an ocean marine terminal to meet in order to be eligible to conduct the inspection program, including, among others, that more than 1,000 chassis are based at the ocean marine terminal. Existing law specifies what is required to be inspected on the chassis, including, among other things, the brake system components, suspension systems, and vehicle connecting devices. Existing law requires the signature, under penalty of perjury, of the ocean marine terminal operator or an authorized representative that the inspection has been performed. Existing law requires records of inspections of those intermodal chassis be kept at the relevant ocean marine terminal for 90 days. Existing law establishes a terminal inspection program administered by the Department of the California Highway Patrol. Existing law provides that following a terminal inspection in which the department determines that an operator of an ocean marine terminal has failed to comply with the requirements of the intermodal roadability

inspection program, the department shall conduct a reinspection within 120 days. Existing law generally provides that a violation of the Vehicle Code is a criminal offense.

This bill would require, rather than authorize an ocean marine terminal to conduct the inspection program and would delete the conditions for inspection, and thus would require an inspection to be conducted on any chassis based at the ocean marine terminal. The bill would require a chassis to be inspected whether it is leased, owned, or rented, and would include frame damage on the chassis as a component to be inspected. The bill would require the signature certifying that the inspection has been completed to be made by the ocean marine terminal operator or an authorized mechanic representative. The bill would require defects noted on the chassis to be repaired within 10 days after the inspection and prior to leaving the terminal. The bill would require inspection records to be retained at the relevant terminal for 2 years, and reinspections to be performed within 30 days. By creating new crimes, and by expanding the crime of perjury, this bill would impose a state-mandated local program. The bill would also make technical, nonsubstantive changes to those provisions.

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 34505.9 of the Vehicle Code is amended
- 2 to read:
- 3 34505.9. (a) An ocean marine terminal that receives and
- 4 dispatches intermodal chassis ~~may~~ *shall* conduct the intermodal
- 5 roadability inspection program, as described in this section, in lieu
- 6 of the inspection required by Section 34505.5, ~~if the terminal meets~~
- 7 ~~all of the following conditions:~~ *the chassis is based at the ocean*
- 8 *marine terminal.*
- 9 ~~(1) More than 1,000 chassis are based at the ocean marine~~
- 10 ~~terminal.~~

1 ~~(2) The ocean marine terminal, following the two most recent~~
2 ~~consecutive inspections required by Section 34501.12, has received~~
3 ~~satisfactory compliance ratings, and the terminal has received no~~
4 ~~unsatisfactory compliance ratings as a result of any inspection~~
5 ~~conducted in the interim between the consecutive inspections~~
6 ~~conducted under Section 34501.12.~~

7 ~~(3)~~

8 (1) Each intermodal chassis exiting the ocean marine terminal
9 shall have a current decal and supporting documentation in
10 accordance with Section 396.17 of Title 49 of the Code of Federal
11 Regulations.

12 ~~(4)~~

13 (2) The ocean marine terminal's intermodal roadability
14 inspection program shall consist of all of the following:

15 (A) Each time an intermodal ~~chassis~~ *chassis, whether leased,*
16 *owned, or rented,* is released from the ocean marine terminal, the
17 chassis shall be inspected. The inspection shall include, but not be
18 limited to, brake adjustment, brake system components and leaks,
19 suspension systems, tires and wheels, vehicle connecting devices,
20 *frame damage,* and lights and electrical system, and shall include
21 a visual inspection of the chassis to determine that it has not been
22 tampered with.

23 (B) Each inspection shall be recorded on a daily roadability
24 inspection report that shall include, but not be limited to, all of the
25 following:

26 (i) Positive identification of the intermodal chassis, including
27 company identification number and vehicle license plate number.

28 (ii) Date and nature of each inspection.

29 (iii) Signature, under penalty of perjury, of the ocean marine
30 terminal operator or an authorized representative *mechanic* that
31 the inspection has been performed.

32 (iv) The inspector shall affix a green tag to a chassis that has
33 passed inspection and a red tag to a chassis that has failed
34 inspection. The tag shall contain the name of the inspector and the
35 date and time that the inspection was completed and shall be placed
36 in a conspicuous location so that it may be viewed from the rear
37 of the vehicle. The tag shall be provided by the marine terminal
38 operator and shall meet specifications determined by the
39 Department of the California Highway Patrol. The provisions of
40 this subparagraph shall also be applicable to an intermodal chassis

1 inspected by a marine terminal operator pursuant to Section
2 34505.5.

3 (C) Records of each inspection conducted pursuant to
4 subparagraph (A) shall be retained for ~~90 days~~ *two years* at the
5 ocean marine terminal at which each chassis is based and shall be
6 made available upon request by any authorized employee of the
7 department.

8 (D) Defects noted on any intermodal chassis shall be ~~repaired,~~
9 *repaired within 10 days after the inspection and prior to leaving*
10 *the terminal*, and the repairs shall be recorded on the intermodal
11 chassis maintenance file, before the intermodal chassis is released
12 from the control of the ocean marine terminal. No vehicle subject
13 to this section shall be released to a motor carrier or operated on
14 the highway ~~other than to a place of repair~~ until all defects listed
15 during the inspection conducted pursuant to subparagraph (A) have
16 been corrected and attested to by the signature of the operator's
17 authorized representative.

18 (E) Records of maintenance or repairs performed pursuant to
19 the inspection in subparagraph (A) shall be maintained at the ocean
20 marine terminal for two years and shall be made available upon
21 request of the department. Repair records may be retained in a
22 computer system if printouts of those records are provided to the
23 department upon request.

24 (F) Individuals performing ocean marine terminal roadability
25 inspections pursuant to this section shall be qualified, at a
26 minimum, as set forth in Section 396.19 of Title 49 of the Code
27 of Federal Regulations. Evidence of each inspector's qualification
28 shall be retained by the ocean marine terminal operator for the
29 period during which the inspector is performing intermodal
30 roadability inspections.

31 (b) The records maintained pursuant to ~~paragraphs~~
32 *subparagraphs (C) and (E) of paragraph (2) of subdivision (a)*
33 and Section 34505.5 shall be made available during normal
34 business hours to any motor carrier or driver or the authorized
35 representative thereof who has been engaged to transport an
36 intermodal container on a chassis inspected pursuant to this section
37 or Section 34505.5 from the ocean marine terminal.

38 (c) Any citation issued for the violation of any state or federal
39 law related to the defective condition of an intermodal chassis
40 subject to inspection pursuant to this section or Section 34505.5,

1 that is not owned by that motor carrier or commercial driver, shall
2 be issued to the entity responsible for the inspection and
3 maintenance of the intermodal chassis, unless the officer
4 determines that the defective condition of the intermodal chassis
5 was caused by the failure of the driver to operate a commercial
6 motor vehicle in a safe manner.

7 (d) Any provision contained in a contract between the registered
8 owner or lessee of an intermodal chassis subject to inspection
9 pursuant to this section, or any other entity responsible for the
10 inspection and maintenance of the intermodal chassis, and any
11 motor carrier or any contract between a motor carrier and another
12 motor carrier engaged to transport an intermodal container on a
13 chassis subject to inspection pursuant to this section that contains
14 a hold harmless or indemnity clause concerning defects in the
15 physical condition of that chassis shall be void as against public
16 policy. This subdivision shall not apply to damage to the intermodal
17 chassis caused by the negligent or willful failure of the motor
18 carrier to operate a commercial motor vehicle in a safe manner.

19 (e) Following a terminal inspection in which the department
20 determines that an operator of an ocean marine terminal has failed
21 to comply with the requirements of this section, the department
22 shall conduct a reinspection within ~~120 days~~ *30 days*, as specified
23 in subdivision (h) of Section 34501.12. If the terminal fails the
24 reinspection, the department shall direct the operator to comply
25 with the requirements of Section 34505.5 until eligibility to utilize
26 the inspection program described in this section is reestablished
27 pursuant to subdivision (a). If any inspection results in an
28 unsatisfactory rating due to conditions presenting an imminent
29 danger to the public safety or due to the operator's repeated failure
30 to inspect and repair intermodal chassis pursuant to this section,
31 the department shall immediately forward a recommendation to
32 the Department of Motor Vehicles to suspend the operator's motor
33 carrier property permit, and forward a recommendation to the
34 Federal Motor Carrier Safety Administration for administrative or
35 other action deemed necessary against the carrier's interstate
36 operating authority, pursuant to Section 34505.6 or 34505.7.

37 (f) ~~Any~~ A driver who believes that an intermodal chassis is in
38 an unsafe operating condition may request that the chassis be
39 reinspected by the entity responsible for the inspection and
40 maintenance of the chassis pursuant to this section or Section

1 34505.5. The request for reinspection, any corrective action taken,
2 or the reason why corrective action was not taken shall be recorded
3 in the intermodal chassis maintenance file.

4 (g) ~~No~~ A commercial driver shall *not* be threatened, coerced, or
5 otherwise retaliated against by any ocean marine terminal operator
6 for contacting a law enforcement agency with regard to the physical
7 condition of an intermodal chassis or for requesting that the
8 intermodal chassis be reinspected or repaired.

9 (h) For the purposes of this section, the following definitions
10 shall apply:

11 (1) “Intermodal chassis” means a trailer designed to carry
12 intermodal freight containers.

13 (2) “Ocean marine terminal” means a terminal, as defined in
14 Section 34515, located at a port facility that engages in the loading
15 and unloading of the cargo of oceangoing vessels.

16 (i) ~~Nothing in this section shall~~ *This section does not* relieve a
17 commercial driver or commercial motor carrier of any duty
18 imposed by state or federal law related to the safe operation of a
19 commercial motor vehicle.

20 (j) ~~Nothing in this section shall~~ *This section does not* affect the
21 rights, duties, and obligations set forth in Section 2802 of the Labor
22 Code.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.