

AMENDED IN ASSEMBLY MARCH 18, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 3151

Introduced by Assembly Member Gipson

February 16, 2024

An act to amend ~~Section 22974.5 of the Business and Professions Code, relating to tobacco products. Sections 34505.9 and 40000.21 of the Vehicle Code, relating to intermodal chassis.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 3151, as amended, Gipson. ~~Tobacco products: retail license: penalty. Intermodal roadability inspection program.~~

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, and that the terminal, following the 2 most recent terminal inspections, has received satisfactory compliance ratings, as specified. 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 (department). Existing law, 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, requires the department to conduct a reinspection within 120 days, as specified, and if the terminal fails the reinspection, to comply with the requirements of the department's terminal inspection program until eligibility to utilize the intermodal eligibility inspection program is reestablished, as specified.

This bill would expand the above provisions to apply to a "port terminal," defined by the bill to mean an ocean marine terminal or other terminal within a port master plan area. The bill would require, instead of authorize, a port terminal to conduct the intermodal roadability inspection program in lieu of the other provisions referred to above, and would delete the conditions relating to the number of chassis based at the ocean marine terminal and the receipt of prior satisfactory compliance ratings. The bill would include container connecting devices, mud flaps, and frame damage to the areas covered by the inspection. The bill would require the inspection to include verification that other specified inspections are current. The bill would require defects noted on an intermodal chassis to be repaired within 10 days after the inspection, and before the intermodal chassis is released from the terminal, the violation of which would be a misdemeanor. The bill would extend the period a port terminal is required to retain inspection records to 6 months. The bill would require the department, if a port terminal fails reinspection, to direct the port terminal operator to conduct additional terminal inspections at 30-day intervals, until the port terminal is in full compliance with intermodal roadability inspection program requirements, as prescribed.

Existing law prohibits an ocean marine terminal provider from threatening, coercing, or otherwise retaliating against a commercial driver for contacting a law enforcement agency with regard to the physical condition of an intermodal chassis or for requesting that the intermodal chassis be reinspected or repaired.

This bill would expand that prohibition to apply to threats, coercion, and other retaliation made by a port terminal operator, independent

equipment provider, trucking company, or any other respondeat superior.

Existing law generally provides that a violation of the Vehicle Code is a criminal offense.

By creating new crimes, and by expanding the crime of perjury, the bill would impose a state-mandated local program.

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.

Under existing law, the Cigarette and Tobacco Products Licensing Act of 2003, the California Department of Tax and Fee Administration administers the statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. Existing law requires a retailer to have a license to engage in the sale of cigarettes or tobacco products and to conspicuously display the license at each retail location in a manner visible to the public. Existing law makes any retailer who fails to display a license as required liable for a penalty of \$500.

This bill would increase that penalty to \$600.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~ 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~~ A port terminal that receives
4 ~~and or~~ dispatches intermodal chassis ~~may~~ shall conduct the
5 intermodal roadability inspection program, as described in this
6 section, in lieu of the inspection required by Section ~~34505.5~~, if
7 the terminal meets all of the following conditions: 34505.5. For
8 purposes of this section, "port terminal" includes an ocean marine
9 terminal or other terminal within a port master plan area.

10 (1) ~~More than 1,000 chassis are based at the ocean marine~~
11 ~~terminal.~~

12 (2) ~~The ocean marine terminal, following the two most recent~~
13 ~~consecutive inspections required by Section 34501.12, has received~~

1 ~~satisfactory compliance ratings, and the terminal has received no~~
2 ~~unsatisfactory compliance ratings as a result of any inspection~~
3 ~~conducted in the interim between the consecutive inspections~~
4 ~~conducted under Section 34501.12.~~

5 ~~(3)~~

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

10 ~~(4)~~

11 (2) The ~~ocean marine port~~ terminal's intermodal roadability
12 inspection program shall consist of all of the following:

13 (A) Each time an intermodal ~~chassis~~ *chassis, whether leased*
14 *on a short-term or long-term basis, owned, or otherwise rented,*
15 *is released from the ocean marine a port terminal, the chassis shall*
16 *be inspected. The inspection shall include, but not be limited to,*
17 *brake adjustment, brake system components and leaks, steering*
18 *and suspension systems, tires and wheels, vehicle connecting*
19 *devices, container connecting devices, mud flaps, frame damage,*
20 *and lights and electrical system, systems, and shall include a visual*
21 *inspection of the chassis to determine that it has not been tampered*
22 *with. The inspection shall also include a verification that the state*
23 *90-day Basic Inspection of Terminals (BIT) inspection and the*
24 *Federal Motor Carrier Safety Administration (FMCSA) annual*
25 *inspection are both current.*

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

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

31 (ii) Date and nature of each inspection.

32 (iii) Signature, under penalty of perjury, of the ~~ocean marine~~
33 *port* terminal operator or an authorized representative that the
34 inspection has been performed.

35 (iv) The inspector shall affix a green tag to a chassis that has
36 passed inspection and a red tag to a chassis that has failed
37 inspection. The tag shall contain the name of the inspector and the
38 date and time that the inspection was completed and shall be placed
39 in a conspicuous location so that it may be viewed from the rear
40 of the vehicle. The tag shall be provided by the ~~marine port~~

1 terminal operator and shall meet specifications determined by the
2 Department of the California Highway Patrol. The provisions of
3 this subparagraph shall also be applicable to an intermodal chassis
4 inspected by a ~~marine port~~ terminal operator pursuant to Section
5 34505.5.

6 (C) Records of each inspection conducted pursuant to
7 subparagraph (A) shall be retained for ~~90 days~~ *six months* at the
8 ~~ocean marine port~~ terminal at which each chassis is ~~based~~ *released*
9 and shall be made available upon request by any authorized
10 employee of the department.

11 (D) Defects noted on any intermodal chassis shall be ~~repaired,~~
12 *repaired within 10 days after the inspection and before the*
13 *intermodal chassis is released from the terminal*, and the repairs
14 shall be recorded on the intermodal chassis maintenance file, before
15 the intermodal chassis is released from the control of the ~~ocean~~
16 ~~marine terminal. No port terminal.~~ A vehicle subject to this section
17 shall *not* be released to a motor carrier or operated on the highway
18 ~~other than to a place of repair~~ until all defects listed during the
19 inspection conducted pursuant to subparagraph (A) have been
20 corrected and attested to by the signature of the operator's
21 authorized representative.

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

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

35 (b) The records maintained pursuant to ~~paragraphs (C) and (E)~~
36 *subparagraphs (C) and (E) of paragraph (2) of subdivision (a)*
37 and Section 34505.5 shall be made available during normal
38 business hours to any motor carrier or driver or the authorized
39 representative thereof who has been engaged to transport an

1 intermodal container on a chassis inspected pursuant to this section
2 or Section 34505.5 from the ~~ocean marine~~ *port* terminal.

3 (c) Any citation issued for the violation of any state or federal
4 law related to the defective condition of an intermodal chassis
5 subject to inspection pursuant to this section or Section 34505.5,
6 that is not owned by that motor carrier or commercial driver, shall
7 be issued to the entity responsible for the inspection and
8 maintenance of the intermodal chassis, unless the officer
9 determines that the defective condition of the intermodal chassis
10 was caused by the failure of the driver to operate a commercial
11 motor vehicle in a safe manner.

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

24 (e) Following a terminal inspection in which the department
25 determines that an operator of an ~~ocean marine~~ *a port* terminal has
26 failed to comply with the requirements of this section, the
27 department shall conduct a reinspection within 120 days as
28 specified in subdivision (h) of Section 34501.12. If the terminal
29 fails the reinspection, the department shall direct the ~~operator to~~
30 ~~comply with the requirements of Section 34505.5 until eligibility~~
31 ~~to utilize the inspection program described in this section is~~
32 ~~reestablished pursuant to subdivision (a).~~ *If any inspection*
33 *operator, in addition to conducting the inspection program*
34 *described by this section, to conduct the inspection required*
35 *pursuant Section 34505.5 at 30-day intervals until the department*
36 *has determined that the port terminal is in full compliance with*
37 *the inspection requirements required by this section. If the*
38 *reinspection results in an unsatisfactory rating due to conditions*
39 *presenting an imminent danger to the public safety or due to the*
40 *operator's repeated failure to inspect and repair intermodal chassis*

1 pursuant to this section, the department shall immediately forward
2 a recommendation to the Department of Motor Vehicles to suspend
3 the operator's motor carrier property permit, and forward a
4 recommendation to the Federal Motor Carrier Safety
5 Administration for administrative or other action deemed necessary
6 against the carrier's interstate operating authority, pursuant to
7 Section 34505.6 or 34505.7.

8 (f) ~~Any~~A driver who believes that an intermodal chassis is in
9 an unsafe operating condition may request that the chassis be
10 reinspected by the entity responsible for the inspection and
11 maintenance of the chassis pursuant to this section or Section
12 34505.5. The request for reinspection, any corrective action taken,
13 or the reason why corrective action was not taken shall be recorded
14 in the intermodal chassis maintenance file.

15 (g) ~~No~~A commercial driver shall *not* be threatened, coerced, or
16 otherwise retaliated against by ~~any ocean marine terminal operator~~
17 *a port terminal operator, independent equipment provider, trucking*
18 *company, or any other respondeat superior*, for contacting a law
19 enforcement agency with regard to the physical condition of an
20 intermodal chassis or for requesting that the intermodal chassis be
21 reinspected or repaired.

22 (h) For the purposes of this section, the following definitions
23 shall apply:

24 (1) "Intermodal chassis" means a trailer designed to carry
25 intermodal freight containers.

26 (2) "Ocean marine terminal" means a terminal, as defined in
27 Section 34515, located at a port facility that engages in the loading
28 and unloading of the cargo of oceangoing vessels.

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

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

36 *SEC. 2. Section 40000.21 of the Vehicle Code is amended to*
37 *read:*

38 40000.21. A violation of any of the following provisions is a
39 misdemeanor, and not an infraction:

1 (a) Subdivision (a) of Section 34506, relating to the hours of
2 service of drivers.

3 (b) Subdivision (b) of Section 34506, relating to the
4 transportation of hazardous materials.

5 (c) Subdivision (c) of Section 34506, relating to schoolbuses.

6 (d) Subdivision (d) of Section 34506, relating to youth buses.

7 (e) Section 34505 or subdivision (e) of Section 34506, relating
8 to tour buses.

9 (f) Section 34505.5 or subdivision (f) of Section 34506, relating
10 to vehicles described in subdivisions (a) to (g), inclusive, of Section
11 34500.

12 (g) Subdivision (a) of Section 34501.3, relating to unlawful
13 scheduling of runs by motor carriers.

14 (h) Subdivision (g) of Section 34506, relating to school pupil
15 activity buses.

16 (i) Subparagraph (D) of paragraph-(4) (2) of subdivision (a) of
17 Section 34505.9, relating to intermodal chassis.

18 *SEC. 3. No reimbursement is required by this act pursuant to*
19 *Section 6 of Article XIII B of the California Constitution because*
20 *the only costs that may be incurred by a local agency or school*
21 *district will be incurred because this act creates a new crime or*
22 *infraction, eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section 17556 of*
24 *the Government Code, or changes the definition of a crime within*
25 *the meaning of Section 6 of Article XIII B of the California*
26 *Constitution.*

27 ~~SECTION 1. Section 22974.5 of the Business and Professions~~
28 ~~Code is amended to read:~~

29 ~~22974.5. Any retailer who fails to display a license as required~~
30 ~~in Section 22972 shall, in addition to any other applicable penalty,~~
31 ~~be liable for a penalty of six hundred dollars (\$600).~~