

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **INITIAL STATEMENT OF REASONS**

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5  
AMEND ARTICLE 3, SECTIONS 1212.5, 1218,  
ARTICLE 7.5, SECTION 1239 AND ARTICLE 8, SECTION 1264,  
AND ADD ARTICLE 6, SECTIONS 1231.3

### **MODIFIED LIMOUSINE BUS INSPECTION CONSISTENCY – WITH FEES (CHP-R-2017-14)**

#### **PURPOSE OF REGULATORY ACTION**

Section 2402 of the California Vehicle Code (CVC) authorizes the Commissioner of the California Highway Patrol (CHP) to make and enforce regulations as necessary to carry out the duties of the CHP. Section 34500.4 CVC requires the CHP to adopt regulations applicable to the operation of modified limousines, consistent with the established inspection program administered by the Department and applicable to the operation of buses, and includes a fee to offset the cost of the annual terminal inspection program to the CHP. Section 34501.2 CVC requires the Department to adopt drivers' hours-of-service (HOS) requirements for drivers of vehicles described in Section 34500 CVC including modified limousines, consistent with regulations adopted by the United States Department of Transportation, as those regulations now exist or are hereafter amended.

Section 378(b) CVC defines a modified limousine as any vehicle which has been modified, altered, or extended in a manner that increases the overall wheelbase of the vehicle, exceeding the original equipment manufacturer's published wheelbase dimension for the base model and year of the vehicle, in any amount sufficient to accommodate additional passengers, operated by a charter party carrier of passengers or a passenger stage corporation. A modified limousine has a seating capacity of not more than ten passengers including the driver, and is used in the transportation of passengers for hire. While existing statutory vehicle equipment requirements are applicable to all vehicles operated on California highways, modified limousines are largely unregulated relative to equipment requirements, drivers' HOS limits, and safety of operation.

In 2013, at least two limousines transporting passengers on a for-hire, pre-arranged basis, were engulfed by fire during the passenger transportation process, causing loss of life and injury to passengers. As a result, Senate Bill (SB) 109 (Corbett, Chapter 752, Statutes of 2013) and SB 611 (Hill, Chapter 860, Statutes of 2014) were enacted to address the absence of regulations for modified limousine drivers and modified limousine operators.

This rulemaking is initiated in order to fulfill statutory requirements contained in Section 34500.4 CVC. The rulemaking will adopt drivers' HOS requirements applicable to drivers of modified limousines, establish the applicability of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service (OOS) criteria, establish an annual modified limousine

terminal inspection fee which will offset the cost of the inspection program to the CHP, establish annual modified limousine terminal inspection requirements consistent with the existing annual bus terminal inspection program, and include definition amendments in support of the aforementioned requirements.

Verbiage included in Section 1231.3 of the Proposed Text restates or duplicates, in whole or in part, language contained in identified authoritative or reference sections requiring, necessitating, or permitting the promulgation of these regulations. The duplicated language is necessary in order to clarify and make specific requirements for the submission of terminal inspection fees by motor carriers operating modified limousines and to make clear required terminal inspections shall be conducted by authorized employees of the CHP.

## **SECTION BY SECTION OVERVIEW**

### **Title 13 California Code of Regulations (CCR), Division 2, Chapter 6.5, Motor Carrier Safety Regulations.**

#### **Article 3, General Driving Requirements**

##### **Section 1212.5. Maximum Driving and On-Duty Time.**

Section 34501.2 CVC mandates regulations adopted under Section 34501 CVC, including HOS limits for all drivers of vehicles engaged in interstate or intrastate commerce. This includes drivers of modified limousines. Amendments to Section 1212.5 are necessary to comply with the requirements of Section 34501.2 CVC, and for passenger and public safety. The CHP has determined these requirements are consistent with driving limits applicable to drivers of buses, consistent with federal drivers' HOS limits applicable to drivers of vehicles transporting passengers, and are the most appropriate driving and on-duty limits applicable to drivers of modified limousines and motor carriers operating modified limousines.

**Subsection (a)(1)** is amended to include intrastate modified limousine drivers in HOS limit requirements.

**Subsection (a)(1)(A)** is amended to subject all intrastate drivers transporting passengers who are subject to drivers' HOS limits, including modified limousine drivers, to the same 10-hour maximum driving limit following at least eight consecutive hours off-duty applicable to drivers of buses. These limits are consistent with federal requirements for drivers of passenger-carrying vehicles.

**Subsection (a)(1)(B)** is amended to restrict all intrastate drivers transporting passengers who are subject to drivers' HOS limits, including modified limousine drivers, to the same prohibition from driving after 15 hours on-duty following at least eight hours off-duty as drivers of buses. These limits are consistent with federal requirements for drivers of passenger-carrying vehicles.

**Subsection (b)(1)** is added to specify modified limousine drivers engaged in interstate transportation shall comply with drivers' HOS limits contained in Title 49, Code of Federal Regulations, Part 395.5, applicable to drivers of passenger-carrying vehicles.

### **Section 1218. Fueling Restrictions.**

This section is amended to include modified limousines in the fueling requirements and restrictions established and currently in effect for buses. This is necessary to ensure compliance with the requirements of Section 34500.4 CVC. The CHP has determined this requirement is the most appropriate standard and necessary to ensure the safety of passengers during modified limousine fueling.

### **Section 1231.3. Terminal Inspection Program.**

The addition of Section 1231.3 is necessary to comply with the requirements of Section 34500.4 CVC, to adopt regulations to implement an annual modified limousine terminal inspection program, adopt regulations consistent with the established annual bus terminal inspection program, and establish a fee which will offset the cost of the inspection program to the CHP. These requirements and fees have been determined by the CHP to meet the mandates of Section 34500.4 CVC and are the most appropriate standards to meet the statutory mandate.

**Subsection (a)** is necessary to provide clarification regarding the statutory requirement contained in Section 34500.4 CVC that every terminal from which a modified limousine is operated be inspected at least one time every 13 months. The subsection clarifies the mandated terminal inspection will be conducted by authorized employees of the CHP. Statutory language contained in Section 34500.4 CVC is duplicated in whole or in part in order to make clear the responsibility to conduct the required modified limousine terminal inspection remains with the CHP. This standard has been determined by the CHP to meet the requirements of Section 34500.4 CVC, and falls solely within the purview of the CHP which is charged with regulatory oversight for operation of modified limousines.

**Subsection (b)** is necessary to ensure motor carriers operating modified limousines retain inspection reports completed by the CHP, as a result of required terminal inspections, for not less than three years. This requirement has been determined by the CHP to be consistent with similar federal requirements, in support of requirements to make the reports available to specified parties, and to facilitate the CHP in determining ongoing compliance of the motor carrier with terminal inspection requirements.

**Subsection (b)(1)** is necessary to mandate motor carriers operating modified limousines provide reports completed as a result of required terminal inspections to passengers, potential customers, and the CHP immediately upon request. This requirement has been determined by the CHP to be the best method to ensure interested parties and the CHP are provided the opportunity to review the compliance history of the motor carrier, in the interest of passenger and public safety.

**Subsection (c)** is necessary to meet the requirements of Section 34500.4 CVC related to the establishment of a fee which will offset the cost of the annual modified limousine terminal inspection program to the CHP and ensure the fee is collected as required. The fee schedule is

based on the number of modified limousines operated by the motor carrier. This fee has been determined by the CHP to be the most appropriate fee to meet the statutory requirements and considers the motor carrier's fleet size in the interest of fairness to the modified limousine industry. The modified limousine carrier inspection fee is consistent with the carrier inspection fee currently applicable to property transportation carriers subject to similar inspections.

**Subsection (c)(1)** is necessary to clarify the submission requirements of the annual modified limousine terminal inspection program fee. The subsection requires the fee to be submitted with an initial application for a permit, certificate, or operating authority to operate a modified limousine and annually with the equipment list required by Section 1042 or 5384.2 of the Public Utilities Code. This standard has been determined by the CHP to be the most appropriate clarification and set of requirements related to the submission of the required fee to ensure compliance with Section 34500.4 CVC.

**Subsection (d)** is necessary to clarify that fees submitted as required are nonrefundable. This has been determined by the CHP to be appropriate to ensure fees submitted as required are not refunded as the result of a subsequent change in motor carrier status.

**Subsection (e)** is necessary to establish a standard for the number of vehicles to be inspected during a modified limousine terminal inspection. This standard has been determined by the CHP to provide the CHP an appropriate opportunity to determine compliance with vehicle condition and maintenance requirements during terminal inspections and to be consistent with vehicle inspection sample requirements applicable to property transportation terminal inspections conducted as required by Section 34501.12 CVC.

## **Article 7.5, Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria**

### **Section 1239. Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria.**

**Subsection (a)(1)** is necessary to ensure that, in addition to generally applicable portions of the adopted OOS criteria, those portions specifically applicable to buses are also applicable to modified limousines in the interest of passenger safety. Portions of the OOS criteria which are applicable to buses, but not generally applicable to other commercial vehicles include, but are not limited to, those relative to emergency exits, electrical cables, loose seating, and exhaust system leaks and discharge location. The inclusion of modified limousines in these requirements has been determined by the CHP to be the most appropriate standard for modified limousines and to ensure modified limousines are not operated without required emergency exits, with inoperable emergency exits, or with exhaust leaks or discharge which endanger passenger safety.

### **Section 1264. Passenger Compartments.**

**Subsection (a)** is amended to include modified limousines in the requirement for vehicles with a passenger compartment which is separated from the driver compartment to be equipped with a signaling device which can be activated by the passengers to gain the attention of the driver. The

amendment is necessary to ensure passengers in modified limousines are provided with a method to get the driver's attention in the interest of passenger safety. This requirement has been determined by the CHP to be the best method to ensure passengers in a passenger compartment of a modified limousine are provided with a specific means to notify the driver of any emergency or circumstance, including one which may require the passengers to exit the vehicle in any manner, including, but not limited to, through the use of push-out side window emergency exits.

**Subsection (c)** is amended to include modified limousines in the requirement for cracked or broken glass with sharp or jagged edges to be removed and replaced with approved safety glazing material. This is necessary to ensure passenger safety. This standard has been determined by the CHP to be the most appropriate standard for modified limousines and consistent with the same standard applicable to other passenger transportation vehicles.

### **STUDIES/RELATED FACTS**

None.

### **CONSULTATION WITH OFFICIALS**

None.

### **LOCAL MANDATE**

These regulations do not impose any new mandate on local agencies or school districts.

### **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

#### **Creation or Elimination of Jobs in the State of California**

The CHP evaluated whether jobs would be affected in the State of California. There is no indication that businesses operating vehicles, subject to the modified limousine terminal safety inspections and safety regulations, will result in hiring more personnel, and it is not anticipated it will lead to layoffs or downsizing as a direct result of this rulemaking action. The CHP anticipates the adoption of modified limousine terminal safety inspections and safety regulations will not affect jobs. The CHP has determined this rulemaking action will neither create, nor eliminate jobs in the State of California, nor result in the elimination of existing businesses or create or expand businesses in the State of California. Based on the above findings, this proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## **Creation, Expansion, or Elimination of Businesses in the State of California**

The CHP evaluated whether businesses would be affected in the State of California. Pursuant to Section 34500.4 CVC, CHP is required to establish an inspection fee in an amount sufficient to offset the cost to administer the inspection program. The CHP established a fee schedule based on the number of modified limousines operated by the motor carrier. This fee has been determined by the CHP to be the most appropriate fee to meet the statutory requirements and considers the motor carrier's fleet size in the interest of fairness to the modified limousine industry. The modified limousine carrier inspection fee is consistent with the carrier inspection fee currently applicable to property transportation carriers subject to similar inspections. The CHP anticipates an annual cost between \$130.00 and \$1,600.00, inclusive, for each motor carrier who operates a modified limousine. The cost to each motor carrier will vary based on the motor carrier's fleet size and may vary annually if the fleet size increases or decreases. The CHP anticipates the costs for compliance with additional safety regulations will be insignificant. Additionally, the CHP has made the initial determination this proposed regulatory action will not affect the creation of new businesses, the expansion of existing businesses, or the elimination of existing businesses.

## **Benefits of the Regulation**

The CHP has evaluated the potential benefits of this proposed regulatory action. The CHP has made an initial determination that this proposed regulatory action:

- Will have no effect on housing costs;
- Will not impose new mandates upon local agencies or school districts;
- Will involve no nondiscretionary costs or savings to any local agency, no cost to any local agency or school district for which Sections 17500-17630 of the Government Code require reimbursement, nor costs or savings in federal funding to the state;
- Will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California;
- Will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states; and
- Will continue to provide a nonmonetary benefit to the protection and safety of public health, employees, and safety to the environment by providing a regulatory basis for enforcement efforts as they relate to modified limousine safety.

## **FISCAL IMPACT TO THE STATE**

The CHP estimates the annual cost to administer the inspection program to be \$42,089.37. This is based on similar inspection programs conducted by the CHP, including those for: tour buses, school buses, school pupil activity buses, and other buses without operating authority. This estimate takes into account duty hours accumulated during inspection categories such as maintenance program records, driver records, vehicle inspection, scheduling, and travel. Those hours are then factored with inspection personnel's hourly salary rates. The CHP estimates the average cost per modified limousine inspection to be approximately \$97.20. Pursuant to Section 34500.4 CVC, the CHP is required to establish an inspection fee in an amount sufficient to offset the cost to administer the inspection program. The CHP established a fee schedule based on the number of modified limousines operated by the motor carrier. This fee schedule has been determined by the CHP to be the most appropriate fee to meet the statutory requirements and considers the motor carrier's fleet size in the interest of fairness to the modified limousine industry. The modified limousine carrier inspection fee is consistent with the carrier inspection fee currently applicable to property transportation carriers subject to similar inspections. The California Public Utilities Commission (CPUC) provided the CHP a list of modified limousines as of March 9, 2017. The list identified 433 modified limousines subject to the proposed regulations. Utilizing the fee schedule, the CHP estimates the CPUC will collect approximately \$41,397.72 annually in fees directed to offset the cost to administer the inspection program. The remaining cost difference of \$691.65 to administer the inspection program will be absorbed within the CHP's existing budget and resources with no increase in spending authority or inspection resources.

Section 34500.4 CVC further requires the fee be collected by the CPUC and deposited into the Motor Vehicle Account in the State Transportation Fund. The CHP contacted the CPUC and requested an estimation of the additional cost they may incur through the collection process of the fees. The CPUC estimated their incremental fiscal impact to be minor and absorbable.

The CHP has determined these regulation amendments will result in:

- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and
- No impact on the competitiveness of this state to retain businesses, as state, provincial, and national governments throughout North America have already adopted these requirements.

## **ALTERNATIVES**

The CHP has not identified any alternative, including the no-action alternative, which would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the CHP has not identified any alternative which would be more cost effective and less burdensome to affected persons other than the action being proposed.