

**BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
REQUEST FOR APPROVAL OF PROPOSED LEGISLATION**

DEPARTMENT: <b>MOTOR VEHICLES</b>	CONTROL NO. B-05-36
TITLE: Motor Carrier Permit Program - Electronic Submission of Insurance Information	

**SUMMARY:** This proposal would revise statute to clearly allow the DMV to electronically accept insurance information under the Motor Carrier of Property Permit Program (MCP).

**IDENTIFICATION OF PROBLEM:** Current statute, Vehicle Code Sections 34630 and 34631.5 can be interpreted to require the submission of a paper document. Without a change in statute, electronic filing of insurance data may be interpreted as an invalid form of evidence of insurance.

**PROPOSED SOLUTION:** Amend the above Vehicle Code sections to:  
 (1) specify that the submission of insurance information would be *in* a form approved by the department, rather than *on* a form approved by the department; and,  
 (2) remove the word "written" from the provisions specifying how insurance cancellations must be submitted.

**PROGRAM BACKGROUND/LEGISLATIVE HISTORY:** Intrastate motor carriers of property (firms, other than household goods carriers, which transport property by truck) are required to obtain a Motor Carrier Permit to operate in California. To obtain a permit, carriers are required to provide evidence of liability and workers' compensation insurance. Current law requires insurance companies to submit a certificate of insurance on a form approved by the department and require each notice of cancellation of insurance to be a written notice.

The Motor Carrier Permit Branch at DMV is currently accepting workers' compensation certificates electronically via e-mail from the State Compensation Insurance Fund (SCIF), which is 80% of the total workers' compensation insurance data collected in the Motor Carrier Permit Branch. This does not include liability insurance filings. There are an estimated 700 insurance companies that annually file 80,000 insurance certificates with the Motor Carrier Permit Branch. The current insurance workload requires five (5) PYs; however, the carrier base has grown an average of 14% annually while staff has decreased.

The DMV's vehicle registration program has been collecting evidence of insurance information voluntarily from the majority of insurance companies for vehicle registration purposes under current statute. Recent legislation, SB 1500, Speier (Ch. 920, Stats. 04) requires all insurance companies to begin submitting private passenger liability policy information electronically, effective January 1, 2006.

**JUSTIFICATION:**

Legislation is needed as without a statutory change any electronic filing of insurance could be interpreted as invalid forms of evidence of insurance. Continuing the acceptance of electronic filings without statutory authority risks a legal challenge.

Other alternatives, such as returning to a fully paper-based process, would increase costs as the DMV would be required to maintain sufficient staff to key in the information from the paper documents into the Motor Carrier Permit record.

SUGGESTED AUTHOR:	APPROVED AUTHOR:	GOVERNOR'S OFFICE USE
DEPARTMENT DIRECTOR: DATE	AGENCY SECRETARY: DATE	

As the requirements under the Motor Carrier Permit program are statutorily specified, it should be the responsibility of the state to implement processes to implement electronic filings of insurance for the Motor Carrier Permits. Although the motor carrier industry could sponsor this legislation, it would be inappropriate as the subject pertains to an internal DMV process.

Because many of the DMV's responsibilities are specified in statute, the DMV is limited in making administrative changes in its processes and procedures. Although the proposed amendment language appears minor, it is nonetheless a needed statutory change.

**ARGUMENTS PRO AND CON (Program and Fiscal):**

Pro:

- Evidence of insurance would be filed more quickly; resulting in the Motor Carrier Permits being issued more quickly.
- More timely issuance of the Motor Carrier Permit removes the risk of a carrier not being able to operate due to delays in the receipt of the permit.
- Insurance companies would save paper and postage by filing electronically.
- With the current workload growth and inability to hire more employees, it would be most effective to have insurance companies send their insurance data electronically where the Motor Carrier Permit program could automatically input them into the database.

Con:

- It may be cost prohibitive for smaller insurance companies to program their databases for electronic filings (although this proposal does not mandate electronic filings). Those companies that do implement electronic filing may pass those costs on to their insured through higher premiums.

**PROBABLE SUPPORT AND OPPOSITION:** The department anticipates that the California Trucking Association, motor carriers, and insurance companies would be supportive of any enhancement to the Motor Carrier Permit program that would ensure the timely issuance of a Motor Carrier Permit.

As this proposal would not make electronic filing a mandatory requirement, the DMV does not expect opposition to this statutory change.

**FISCAL IMPACT:** The costs associated with this proposal are estimated to be less than \$10,000 and, thus, would be absorbable. The DMV would utilize existing resources to enhance the current process of collecting insurance information electronically.

**ECONOMIC IMPACT:** This proposal would have little impact on California's economy. Although it would create minor benefits for both the state and motor carriers, the lack of this statutory change would not have a discernible negative effect on the transportation of goods within California.

**FINDINGS FROM OTHER STATES:**

Texas – Effective November 1, 2004, insurance must be filed electronically for intrastate motor carrier authority. This information is collected via the Internet for registration purposes.

Florida – Although Florida does not require proof of insurance for intrastate motor carrier authority, it is mandatory that insurance for vehicle registration purposes be filed electronically.

New York – Currently, New York does not have the means to collect insurance electronically for intrastate motor carriers, but is looking into electronic filings for the future.

Illinois – Illinois collects insurance certificates electronically and on paper. They are trying to get all insurance companies to file electronically.

**OTHER AFFECTED AGENCIES AND THEIR ROLES/VIEWS:** With the more timely issuance of Motor Carrier Permits, some carriers may receive their permits sooner and not risk operating without a permit while waiting. The CHP may see a minor drop in the issuance of citations for operating without a valid Motor Carrier Permit.

**APPOINTMENTS:** None.

**DMV PROPOSAL B-05-36**  
**MOTOR CARRIER PERMIT PROGRAM - ELECTRONIC SUBMISSION OF INSURANCE**

**Draft Language**

SECTION 1. Section 34630 of the Vehicle Code is amended to read:

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~~ in 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.

SEC. 2. Section 34631.5 of the Vehicle Code is amended to read:

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; or 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 subparagraph (C) or (D).	\$1,000,000
(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 subparagraph (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 division 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 has a level of liability protection that is adequate for the commodity being transported by the towed vehicle or combination of vehicles.