

**State of California
Office of Administrative Law**

In re:
California Highway Patrol

Regulatory Action:

Title 13, California Code of Regulations

Adopt sections: 1231.3

Amend sections: 1212.5, 1218, 1239, 1264

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Sections 11346.1 and
11349.6

OAL Matter Number: 2017-0719-05

OAL Matter Type: Emergency (E)

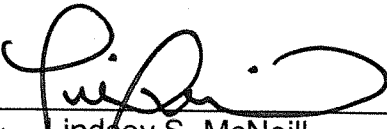
This emergency rulemaking action by the Department of the California Highway Patrol establishes requirements for a modified limousine terminal inspection program and establishes a terminal inspection fee.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 7/31/2017 and (with the exception of section 1231.3) will expire on 1/30/2018. The Certificate of Compliance for this action is due no later than 1/29/2018.

Pursuant to Vehicle Code Section 34500.4(b)(3), section 1231.3 shall remain in effect for no more than one year, by which time final regulations shall be adopted.

Date: July 31, 2017



Lindsey S. McNeill
Attorney

For: Debra M. Cornez
Director

Original: Joe Farrow
Copy: Joseph Mosinski

NOTICE OF PUBLICATION OF REGULATIONS SUBMISSION

EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS Z-	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER 2017-0719-05E	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUL 31 2017
3:12 PM

AGENCY WITH RULEMAKING AUTHORITY
California State Transportation Agency / Department of the California Highway Patrol

AGENCY FILE NUMBER (if any)
CHP-R-2017-12

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Modified Limousine Bus Inspection Consistency - With Fees	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 1231.3
	AMEND 1200 , 1212.5, 1218, 1239, and 1264
TITLE(S) 13	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) ONLY SECTION 1231.3 submitted pursuant to vehicle code section 34500.4(b)(3)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State §100 Changes Without Regulatory Effect Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify)

7. CONTACT PERSON Joseph Mosinski	TELEPHONE NUMBER (916) 843-3400	FAX NUMBER (Optional) (916) 322-3154	E-MAIL ADDRESS (Optional) cvsregs@chp.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 07-19-17
TYPED NAME AND TITLE OF SIGNATORY E. L. Falat, Chief	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 31 2017

Office of Administrative Law

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

EMERGENCY TEXT

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-2017-12)**

Existing text: Times New Roman 12 point font.
Additions: Times New Roman 12 point font with single underline.
Deletions: ~~Times New Roman 12 point font with strikethrough~~

**Title 13, California Code of Regulations,
Chapter 6.5. Motor Carrier Safety**

Article 3. General Driving Requirements

§ 1212.5. Maximum Driving and On-Duty Time.

(a) Maximum driving time. Except as provided in Sections 1212(b)(1), 1212(f), 1212(i), 1212(j), 1212(k), and 1212(l), no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive:

(1) Intrastate bus drivers, modified limousine drivers, and drivers of tank vehicles with a capacity of more than 500 gallons transporting flammable liquid:

(A) More than ten hours following eight consecutive hours off duty for bus and modified limousine drivers and ten consecutive hours off duty for truck drivers; or

(B) For any period after having been on duty 15 hours following eight consecutive hours off duty for bus and modified limousine drivers and after the end of the 16th hour after coming on duty following ten consecutive hours off duty for truck drivers.

(2) Intrastate Truck Drivers:

(A) More than 12 cumulative hours following ten consecutive hours off duty; or

(B) For any period after the end of the 16th hour after coming on duty following ten consecutive hours off duty.

(3) School Bus, School Pupil Activity Bus, Youth Bus and Farm Labor Vehicle Drivers:

(A) More than ten hours within a work period; or

(B) After the end of the 16th hour after coming on duty following eight consecutive hours off duty.

(4) No motor carrier shall permit or require a driver, regardless of the number of motor carriers using the driver's services, to drive nor shall any driver drive, except as provided in Section 1212(k), for any period after having been on duty for 80 hours in any consecutive eight days.

(5) For truck drivers listed in subsections (1) and (2), any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

(b) Interstate driver. Motor carriers and drivers engaged in interstate commerce and the driver of a vehicle transporting hazardous substances or hazardous waste, as those terms are defined in Section 171.8 of Title 49, Code of Federal Regulations, shall comply with the federal driver hours-of-service regulations contained in Title 49, Code of Federal Regulations, Part 395, as those regulations now exist or are hereafter amended.

(1) Modified limousine drivers. Modified limousine drivers engaged in interstate transportation shall comply with driver hours-of-service limits contained in Title 49, Code of Federal Regulations, Part 395.5, applicable to drivers of passenger-carrying vehicles, as published August 25, 2005, which are hereby incorporated by this reference.

(c) Referenced regulations. Copies of Title 49, Code of Federal Regulations, can be obtained from:

SUPERINTENDENT OF DOCUMENTS
UNITED STATES GOVERNMENT PRINTING OFFICE
PO BOX 371954
PITTSBURG, PA 15250-7954
(202) 512-1800

Internet purchases: http://www.access.gpo.gov/su_docs/sale.html

Note: Authority cited: Sections 31401, 34500.4, 34501, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34003, 34500.4, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

§1218. Fueling Restrictions.

When a vehicle is being refueled, the nozzle of the fuel hose shall be in contact with the intake of the fuel tank throughout the entire time of refueling. No driver or motor carrier shall permit a vehicle to be fueled while the engine is running, a radio on the vehicle is transmitting, the vehicle is close to any open flame or ignition source (including persons who are smoking), or passengers are aboard any bus or modified limousine except one fueled with diesel fuel in an open area or in a structure open on both the entrance and exit ends.

Note: Authority cited: Sections 34500.4 and 34501, Vehicle Code. Reference: Sections 34500, 34500.4 and 34501, Vehicle Code.

Article 6. Carrier Requirements

§ 1231.3. Terminal Inspection Program.

(a) Terminal Inspection. Each terminal from which any modified limousine is operated shall be inspected for compliance with vehicle equipment and maintenance requirements, and driver credentialing and drivers' hours-of-service requirements at least one time every 13 months, by an authorized employee of the Department.

(b) Retention of Terminal Inspection Report. The terminal inspection report, issued by the Department, shall be retained by the motor carrier for no less than 3 years from the date of the inspection.

(1) Terminal inspection reports issued by the Department shall be presented immediately upon request to any person using the services of the motor carrier, any interested party, or any authorized representative of the Department.

(c) Fee. A charter-party carrier or a passenger stage corporation who at any time operates a modified limousine shall submit an annual modified limousine terminal inspection fee which shall be in addition to any other required fee. The annual fee for each motor carrier shall be as follows:

<u>Carrier Fleet Size</u>	<u>Inspection Fee</u>
<u>1</u>	<u>\$130</u>
<u>2-4</u>	<u>\$152</u>
<u>5-10</u>	<u>\$252</u>
<u>11-20</u>	<u>\$573</u>
<u>21-35</u>	<u>\$743</u>
<u>36-50</u>	<u>\$961</u>
<u>51-100</u>	<u>\$1,112</u>
<u>101-200</u>	<u>\$1,463</u>
<u>201-500</u>	<u>\$1,512</u>
<u>More than 500</u>	<u>\$1,600</u>

(1) The annual modified limousine terminal inspection fee shall be paid to the California Public Utilities Commission as follows:

(A) In conjunction with the application for an initial permit, certificate, or operating authority, and

(B) With the annual equipment list as required by Public Utilities Code Section 1042 or 5384.2.

(d) All modified limousine terminal inspection fees are non-refundable.

(e) Inspection Sample. An inspection of a modified limousine terminal shall include a representative sample of the carrier's modified limousine fleet operated from the terminal.

Representative sample means the following:

<u>Fleet Size</u>	<u>Representative Sample</u>
<u>1 or 2</u>	<u>All</u>
<u>3 to 8</u>	<u>3</u>
<u>9 to 15</u>	<u>4</u>
<u>16 to 25</u>	<u>6</u>
<u>26 to 50</u>	<u>9</u>
<u>51 to 90</u>	<u>14</u>
<u>91 or more</u>	<u>20</u>

Note: Authority cited: Sections 34500.4 and 34501, Vehicle Code. Reference: Sections 34500, 34500.4 and 34501, Vehicle Code.

Article 7.5. Commercial Vehicle Out-of-Service Criteria

§ 1239. Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria.

(a) Applicability. This article shall apply to those vehicles described in Section 34500 of the California Vehicle Code (CVC).

(1) Modified Limousines. Items specifically applicable to buses shall also be applicable to modified limousines.

(b) Incorporation by Reference. This article incorporates by reference portions of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria including Part I (with the exception of the Skill Performance Evaluation Certificate), Part II, Part III, Part IV, and Appendix. All references to the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria in this article are those criteria published on April 1, 2016.

(c) Availability of Referenced Criteria. Copies of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria can be obtained from:

COMMERCIAL VEHICLE SAFETY ALLIANCE

6303 IVY LANE SUITE 310

GREENBELT, MD 20070

PHONE: 301-830-6143 FAX: 301-830-6144

Note: Authority cited: Sections 2402, 2410, 31401, 34500.4, and 34501, Vehicle Code. Reference: Sections 260, 322, 2402, 2410, 2804, 12500, 12502, 12515(b), 14603, 15210, 15250, 15275, 15278, 23152, 24002, 24004, 24400, 24252, 24600, 24603, 24604, 24952, 27154, 27155, 27465, 27501, 27903, 29001, 29002, 29003, 29004, 31401, 34500, 34500.4, 34501, 34506, 34510 and 34520, Vehicle Code; Section 39831, Education Code.

Article 8. General Equipment Requirements

§ 1264. Passenger Compartments.

(a) Signaling Device. All farm labor vehicles and modified limousines in which the passenger compartment is separated from the driver's compartment and all trailer-buses shall be equipped with a buzzer or other signaling device that can be actuated by the passengers to gain the attention of the driver. A horn, as required by Vehicle Code Section 27000, shall not be used to comply with this requirement.

(b) Vehicle Windows. Every farm labor vehicle shall have at least one window at each side near the front of the passenger compartment. Each window shall not be less than 10 in. high and 16 in. wide. This requirement may be met by windows complying with Section 1269(b) of this title.

(c) Broken Glass. All cracked or broken glass having sharp or jagged edges, in windows or elsewhere on a farm labor vehicle, and modified limousines shall be removed.

Note: Authority ~~and reference~~ cited: Sections 31401, 34500.4, 34501 and 34501.5, Vehicle Code. Reference: Sections 31401, 34500.4, 34501 and 34501.5, Vehicle Code.

§ 395.5

49 CFR Ch. III (10–1–16 Edition)

one off-duty period of 34 or more consecutive hours within a period of 168 consecutive hours, he or she must indicate in the Remarks section of the record of duty status which such off-duty period is being used to restart the calculation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days.

[76 FR 81188, Dec. 27, 2011, as amended at 78 FR 58485, Sept. 24, 2013; 78 FR 64181, Oct. 28, 2013]

§ 395.5 Maximum driving time for passenger-carrying vehicles.

Subject to the exceptions and exemptions in § 395.1:

(a) No motor carrier shall permit or require any driver used by it to drive a passenger-carrying commercial motor vehicle, nor shall any such driver drive a passenger-carrying commercial motor vehicle:

(1) More than 10 hours following 8 consecutive hours off duty; or

(2) For any period after having been on duty 15 hours following 8 consecutive hours off duty.

(b) No motor carrier shall permit or require a driver of a passenger-carrying commercial motor vehicle to drive, nor shall any driver drive a passenger-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, for any period after—

(1) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or

(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

[70 FR 50073, Aug. 25, 2005]

§ 395.7 [Reserved]

§ 395.8 Driver's record of duty status.

(a)(1) Except for a private motor carrier of passengers (nonbusiness), as defined in § 390.5 of this subchapter, a motor carrier subject to the requirements of this part must require each driver used by the motor carrier to record the driver's duty status for each 24-hour period using the method pre-

scribed in paragraphs (a)(1)(i) through (iv) of this section, as applicable.

(i) Subject to paragraphs (a)(1)(ii) and (iii) of this section, a motor carrier operating commercial motor vehicles must install and require each of its drivers to use an ELD to record the driver's duty status in accordance with subpart B of this part no later than December 18, 2017.

(ii) A motor carrier that installs and requires a driver to use an automatic on-board recording device in accordance with § 395.15 before December 18, 2017 may continue to use the compliant automatic on-board recording device no later than December 16, 2019.

(iii)(A) A motor carrier may require a driver to record the driver's duty status manually in accordance with this section, rather than require the use of an ELD, if the driver is operating a commercial motor vehicle:

(1) In a manner requiring completion of a record of duty status on not more than 8 days within any 30-day period;

(2) In a driveaway-towaway operation in which the vehicle being driven is part of the shipment being delivered;

(3) In a driveaway-towaway operation in which the vehicle being transported is a motor home or a recreation vehicle trailer; or

(4) That was manufactured before model year 2000.

(B) The record of duty status must be recorded in duplicate for each 24-hour period for which recording is required. The duty status shall be recorded on a specified grid, as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be combined with any company form.

(iv) Subject to paragraphs (a)(1)(i) through (iii) of this section, until December 18, 2017, a motor carrier operating commercial motor vehicles shall require each of its drivers to record the driver's record of duty status:

(A) Using an ELD that meets the requirements of subpart B of this part;

(B) Using an automatic on-board recording device that meets the requirements of § 395.15; or

(C) Manually, recorded on a specified grid as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be