
SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2023 - 2024 Regular

Bill No: SB 68

Hearing Date: 4/11/2023

Author: McGuire

Version: 3/20/2023

Urgency: No

Fiscal: Yes

Consultant: Jacob O'Connor

SUBJECT: Vehicles: safety regulations

DIGEST: This bill would authorize the California Highway Patrol to, by regulation, allow a driver to exceed the maximum driving time limits for tank vehicles transporting flammable liquid during a declared state of emergency.

ANALYSIS:

Existing law:

- 1) Directs the California Highway Patrol (CHP) to adopt reasonable rules and regulations to promote the safe operation of large trucks, tractors, buses, trailers, and vehicles transporting hazardous materials. (Vehicle Code (VEH) 34500 - 34520.5)
- 2) Specifies that among these regulations the CHP shall establish hours-of-service regulations for drivers that are consistent with hours-of-service regulations adopted by the United States Department of Transportation. (VEH 34501.2)
- 3) Establishes several exemptions for these regulations, including that the maximum time within a work period shall be 10 hours for a driver of a tank vehicle with a capacity of more than 500 gallons transporting flammable liquid.

This bill:

- 1) Allows the CHP to create regulations that authorize a driver of a tank vehicle with a capacity of more than 500 gallons transporting flammable liquid to exceed 10 hours of driving within a work period during a state of emergency declared by the Governor when:
 - a) Operating within state to transport aircraft fuel, pursuant to a contract with the state or the United States; and

- b) The fuel is being used for the purpose of refueling aircraft used in fire suppression or other emergency-related activities.

COMMENTS:

- 1) *Purpose of bill.* According to the author “SB 68 will ensure CAL FIRE planes and helicopters have the necessary fuel to suppress fires and further support our firefighters on the ground. Since 2018, California has experienced the seven largest wildfires recorded in the State’s history. A critical part of California’s coordinated response to these fires relies on supplying aviation fuel for fire suppression aircrafts, but during Governor-declared emergencies, the truck drivers that transport the fuel run into issues with inflexible driving laws that create a barrier to CAL FIRE’s ability to effectively respond to these fires that ravage the Golden State. SB 68 will direct CHP to create a permanent fix to address these emergencies, ensuring drivers are safe and firefighters on the ground can be supported by the firefighting aircraft above.”
- 2) *Driver fatigue and safety.* According to a 2016 report by the National Academies of Sciences Engineering and Medicine, somewhere between 10 and 20 percent of fatal crashes involving trucks and buses involved fatigued drivers. Research has consistently shown that fatigue can cause shortfalls in performance, including slower response times, attention failures, and poor decision making. Performance shortfalls can lead in turn to driver errors or inappropriate driving practices, which then can lead to crashes. Fatigue is a particularly common problem in the trucking industry. In the past 10 years, three naturalistic studies of commercial motor vehicle drivers have used wrist actigraphy devices to record drivers' sleep times and sleep durations per 24 hours on duty and nonduty days. These studies revealed that the amount of sleep obtained by the drivers on workdays averaged just 5.0 to 6.2 hours per 24 hours.

The same report that compiled these studies identified the most effective measures at reducing fatigue as adhering to work-rest scheduling that permits sufficient sleep, driving primarily during the daytime rather than at night, being cognizant of the two anticipated circadian lulls of the 24-hour day, obtaining sleep immediately prior to a long trip, planning to take and taking periodic breaks from driving during trips, and inserting planned naps into a trip plan.

- 3) *Hours-of-service (HOS) regulations.* HOS regulations were first established in 1938 in order to prevent accidents caused by driver fatigue. These regulations have been updated several times since their initial implementation. Today, HOS regulations are made by the Federal Motor Carrier Safety Administration

(FMCSA). These regulations set limits on the maximum allowable number of driving hours per day, the number of driving and working hours per week, and the minimum amount of time for rest required between shifts. In order to comply with these regulations, drivers that operate regulated vehicles are required to keep a logbook of working and resting hours or utilize an electronic logging device. These regulations apply to drivers of vehicles of over 10,001 pounds, designed to transport 16 or more passengers, designed to transport 9 or more passengers for compensation, or are transporting hazardous materials in quantities requiring notifying placards. Enforcement of these regulations is primarily conducted by CHP officers at weigh stations, though the CHP may also enforce provision through random checks on the road.

The FMCSA regulations only apply to interstate commerce or vehicles carrying hazardous substances, though most states have regulations that are similar or identical for intrastate commerce. In California, HOS regulations for intrastate commerce are made by the California Highway Patrol (CHP). California's regulations specify that the maximum number of hours a person can drive during a duty period is 10 hours for bus drivers, modified limousine drivers, or intrastate trucks transporting flammable liquid, and 12 hours for all other intrastate trucks.

- 4) *HOS SOS; States of Emergency.* When an emergency occurs the need to transport certain materials or people can outweigh the usual risks of fatigued driving. Demand can also sharply spike for certain types of products, outpacing the normal availability of drivers. To that end, the CHP has several provisions in its regulations exempting drivers from restrictions during emergencies. For example, one exception allows a driver to complete a run if that run would have been in compliance absent the emergency. Other exemptions exist for vehicles being employed by the State or local government to restore basic essential public services and operations during an emergency. However, these standing exemptions are not always sufficient. When the President or the Governor declares a state of emergency they will often waive or weaken targeted portions of the hours-of-service laws. For example, on January 4th, 2023 Governor Newsom declared a state of emergency in response to the severe winter storms and in that declaration he allowed drivers to exceed the regular HOS limits while operating a vehicle engaged in fuel transportation in support of emergency relief efforts, subject to certain conditions.

While this ability is useful in response to emergency, the jurisdictional split between inter- and intra-state travels, respectively can occasionally result in confusing patchworks where federal rules have been eased in a different way than state rules. It can also cause minor delays and confusion on the part of

drivers who must track every emergency declaration to determine if rules were waived or not. This bill would attempt to alleviate that problem by authorizing the CHP to promulgate regulations describing how HOS for a specific subset of vehicles will be modified during a state of emergency. It is narrowly focused on vehicles carrying aircraft fuel used in fire suppression, which given California's increasing rate of severe wildfires, seem particularly likely to be needed in the future. Allowing the CHP to develop the regulations ahead of time, through the standard public rulemaking process, will allow for a set emergency response to provide more consistency for drivers, trucking companies, and law enforcement. Should those standing regulations prove insufficient in the face of a particularly severe disaster, the Governor will still have the power to further ease or waive rules as needed.

RELATED LEGISLATION:

None

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

Unknown

POSITIONS: (Communicated to the committee before noon on Wednesday, April 5, 2023.)

SUPPORT:

Cal Fire Local 2881
California Trucking Association

OPPOSITION:

None received

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