

SENATE THIRD READING
SB 68 (McGuire)
As Amended August 31, 2023
Majority vote

SUMMARY

Authorizes the California Highway Patrol (CHP), during a Governor-declared state of emergency, consistent with applicable federal laws and regulations, to suspend the maximum driving time for an operator of a tank vehicle with a capacity of more than 500 gallons for the purposes of refueling aircraft used in emergency-related activities including fire suppression.

Major Provisions

Waives the following regulations for tank vehicles in a declared state of emergency:

- a) The maximum driving time within a work period being 10 hours within a work period; and,
- b) The maximum number of 80 hours of work in any consecutive eight days.

COMMENTS

On October 8, 2017, at 9:43 PM in Calistoga, a private electric system started what became known as the Tubbs Fire, during a month now referred to as the Fire Siege. By 11 PM, the fire claimed its first life. By 1 AM, the fire continued to spread into more populated areas on the outskirts of the City of Santa Rosa. By 3 AM, the fire reached the city limits. In the end, the fire claimed the lives of 22 civilians and one fire fighter, ranging in age from 27-years-old to 95-years-old.

The Tubbs Fire burned a total of 36,807 acres and destroy 5,636 structures. The Fire Siege that month involved 170 fires that burned 245,000 acres in Northern California and destroyed 8,900 structures. It took approximately 11,000 firefighters from 17 states and Australia to battle the blazes. The Tubbs Fire was the third deadliest fire in California's history, and the Fire Siege resulted in the death of 44 individuals.

A year and a month later, on November 8, 2018 at approximately 6:30 AM in Butte County, electrical transmission lines owned and operated by Pacific Gas and Electric (PG&E) started what became known as the Camp Fire. By 8:03 AM, the Butte County Sheriff used Twitter to tweet an evacuation order for the City of Paradise, four minutes after the Camp Fire breached the city.

The Camp Fire became the deadliest fire in California's history, killing 85 civilians. The Camp Fire burned a total of 153,336 acres and destroy 18,804 structures. PG&E pled guilty to 84 felony counts of involuntary manslaughter.

According to the National Aeronautics and Space Administration (NASA), 12 of the top twenty fires in California's history occurred between 2016 and 2021, burning about 4% of California's total area, or the entirety of the state of Connecticut.

According to a 2016 report by the National Academies of Sciences Engineering and Medicine, somewhere between 10 and 20% 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.

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.

The state currently has shorter hours of service allowances than federal law permits. Current Federal Motor Carrier Safety Administration (FMCSA) regulations permit motor carriers to operate for 14 hours and drive for a consecutive 11 hours. FMCSA has also recognized the importance of suspending hours of service requirements during emergency declarations for the purpose of providing vital supplies and transportation services to a disaster area. Federal law requires direct emergency assistance to be provided in order to be exempt from safety regulations.

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."

Arguments in Support

According to the California Professional Firefighters, "Large-scale wildfire disasters have, unfortunately, become the new normal in California. Eight of the ten largest wildfires in California's history have occurred in the last five years, and as the climate continues to change these massive incidents will only increase in regularity. Timely and coordinated response is the key to preventing these fires from spreading out of control, and the deployment of firefighting aircraft such as planes and helicopters are a crucial piece of that response. However, in emergency situations, restrictions on the hours of operation for truck drivers of tanker vehicles transporting the fuel for these aircraft can slow down the deployment of needed firefighting resources, sometimes to deadly and destructive effect.

SB 68 will authorize the California Highway Patrol to create regulations exempting the drivers of tanker vehicles with a capacity of more than 500 gallons from the ten-hour operation limit, only if those drivers are transporting aircraft fuel during a declared state of emergency if that fuel is being used for aircraft engaged in fire suppression activities. This narrow exemption ensures that fuel is available where it is critically needed, and response activities are not slowed down in times of heightened emergency."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) No direct state costs.
- 2) CHP will face pressure to modify its hour-of-service regulations as authorized by this bill. Should CHP modify these regulations, it will incur costs in the tens of thousands of dollars (special fund).

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ABS, ABST OR NV: Grove

ASM TRANSPORTATION: 15-0-0

YES: Friedman, Vince Fong, Alvarez, Berman, Juan Carrillo, Davies, Gipson, Hart, Jackson, Kalra, Stephanie Nguyen, Sanchez, Wallis, Ward, Wicks

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Sanchez, Soria, Weber, Wilson

ABS, ABST OR NV: Pellerin

UPDATED

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