
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

**Senator Steven Bradford, Chair
2023 - 2024 Regular**

Bill No:	SB 757	Hearing Date:	4/10/2023
Author:	Archuleta		
Version:	3/30/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Smith		

SUBJECT: Railroads: contract crew transportation vehicles

DIGEST: This bill clarifies licensing requirements for rail crew transportation providers, prohibits certain subcontracting for these services, and increases minimum insurance requirements for rail crew transportation operators.

ANALYSIS:

Existing law:

- 1) Authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every charter-party carrier of passengers. (Public Utilities Code §5381)
- 2) Defines a charter-party carrier of passengers as every person engaged in the transportation of persons by motor vehicle for compensation over any public highway in this state. A charter-party carrier of passengers includes any person, corporation, or other entity engaged in the provision of a hired driver service when a rented motor vehicle is being operated by a hired driver. (Public Utilities Code §5360)
- 3) Requires each charter party carrier of passengers to demonstrate its ability and financial capacity to provide transportation services before the CPUC can issue or renew a license to operate. Existing law prohibits the CPUC from issuing a license to any entity that fails to demonstrate that it meets licensure requirements. Existing law also specifies various criteria companies must meet prior to licensure, including, but not limited to, providing proof of insurance as required by the CPUC. (Public Utilities Code §5372)
- 4) Establishes minimum accident liability insurance requirements for charter-party-carriers and specifies that this insurance must provide adequate protection against liability for property damage, bodily injury, and death resulting from an accident. Existing law authorizes differing insurance requirements for differing

seating capacities and it specifies that the insurance requirements for charter-party-carriers may not be less than those set for passenger stage corporations. Existing law specifies that charter-party-carriers holding a “C” certificate for providing transportation incidental to commercial balloon operations, commercial river rafting, or skiing must carry at least \$750,000 per accident in liability insurance. (Public Utilities Code § 5391 et. seq.)

- 5) Requires the CPUC to create the following permit categories for charter-party carriers:
- a) “A” Certificate: from any point or points within the state to other points in or out of this state, including, but not limited to, the conduction of round-trip sightseeing tour service.
 - b) “B” Certificate: from any point within the territory of origin specified in the certificate to any points in the state, or territory of origin.
 - c) “C” Certificate: services provided incidental to commercial balloon operations, commercial river rafting, or skiing where no additional compensation is provided for the transportation.
 - d) “P” Permit: Carriers using only vehicles under 15-passenger seating capacity.
 - e) “S” Permit: Carriers conducting round-trip sightseeing tour service.
 - f) “Z” Permit: Specialized carriers, who do not hold themselves out to serve the general public, but only provide service under contract with industrial and business firms, governmental agencies, and private schools or who only transport agricultural workers to and from farms for compensation or who only conduct transportation services, which are incidental to another business. (Public Utilities Code §5383-5384)

This bill:

- 1) Defines a “Contract crew transportation vehicle” as a motor vehicle designed to transport 15 or fewer people, including the driver, that is owned, leased, operated, or maintained by a person contracting with a railroad corporation or its agents, contractors, subcontractors, vendors, subvendors, secondary vendors, or subcarriers, and used primarily to provide railroad crew transportation.
- 2) Defines a “Crew transportation operator” as the person or entity that operates a contract crew transportation vehicle pursuant to a contract with a railroad corporation or its agents, contractors, subcontractors, vendors, subvendors, secondary vendors, or subcarriers.

- 3) Requires rail crew transportation operators to obtain a “Z” permit prior to operating a contract crew transportation vehicle.
- 4) Prohibits a rail crew transportation operator from subcontracting with a crew transportation operator that does not possess a valid “Z” permit.
- 5) Increases minimum insurance requirements for rail crew transportation operators by requiring these transportation providers to provide the CPUC with proof that their insurance includes the following:
 - a) At least \$5,000,000 in combined single limit coverage for bodily injury and property damage liability coverage.
 - b) At least \$1,000,000 in uninsured and underinsured motorist coverage.
 - c) Names the crew transportation operator as a named insured or an additional insured.
- 6) Exempts the following from this bill’s requirements:
 - a) Carpools, regardless if all persons work for a railroad corporation or not.
 - b) Motor vehicles operated by an employee of a railroad corporation without compensation and outside work hours.

Background

What are rail crew transportation contractors? Railroads contract with third-party companies that provide 24-hour, year-round transportation services that pick up rail workers and deliver them to worksites and also transport rail workers home. While some companies primarily specialize in providing rail crew transportation, other companies may subcontract with these companies to transport rail crew workers. This bill defines a rail crew transportation operator as any person or company contracted to transport rail crews using a vehicle that meets all the following criteria:

- The vehicle is designed to carry no more than 15 people.
- The vehicle is owned, leased, maintained, or operated by a person or company that contracts with or subcontracts to a railroad.
- The vehicle is primarily used for rail crew transportation.

While existing law does not separately define rail crew transportation operators, existing law classifies chartered transportation providers as charter-party carriers and establishes a framework for licensing charter-party carriers. While both charter-party carriers and taxis provide passenger transportation services, taxis are

regulated by local governments and charter-party carriers are regulated by the CPUC. Companies that subcontract to provide rail crew transportation do not necessarily specialize in transporting railroad employees; however, these subcontractors would still meet the definition of a taxi or charter-party carrier.

Bill would require rail crew transportation operators to obtain a “Z” permit. Existing law establishes a specific permit, known as a “Z” permit, for specialized transportation providers that do not serve the general public and contract with industrial firms and businesses. While some rail crew transportation operators already hold a “Z” permit, other providers may hold different permits based on their business models. To the extent that a crew transportation operator also provides transportation services to the general public, they may not meet the criteria for a “Z” permit; however, it is unclear if such a transportation provider currently exists.

Bill prohibits crew transportation operators from subcontracting with unpermitted crew transportation operators. Under existing law, railroads and primary crew transportation operators may subcontract for crew transportation services. Railroads may seek to expand crew transportation services at given times due to increased staffing needs and emergencies. In the absence of reliable transportation to and from worksites, train operations may be delayed. This bill prohibits a crew transportation operator from subcontracting with a crew transportation operator that has not obtained a “Z” permit. However, this prohibition does not necessarily prohibit a crew transportation operator from subcontracting with a licensed transportation provider that is not a crew transportation operator.

Bill increases minimum insurance requirements for rail crew transportation operators. While existing law requires the CPUC to set insurance requirements for charter-party carriers and guarantees certain minimum coverage thresholds, this bill increases minimum insurance requirements for crew transportation operators. Under this bill, crew transportation operators would be required to carry at least \$5 million in liability coverage and at least \$1 million in underinsured and uninsured motorist coverage. The CPUC’s General Order (GO) 115 sets out the minimum insurance requirements for charter-party carriers. Those insurance minimums are shown in the chart below.

Vehicle Capacity	Liability Coverage Minimum
16 passengers or more	\$5 million
8 – 15 passengers	\$1.5 million
7 passengers or fewer	\$750,000
<i>Except:</i>	
Transportation incidental to commercial balloon operations, commercial river rafting, or skiing for no additional compensation	\$750,000

Source: CPUC General Order 115

The liability and uninsured motorist coverage required by this bill would be the highest coverage minimums for any charter-party carrier vehicles that carry less than 16 passengers. This bill will likely require the CPUC to update GO 115 to reflect the bill’s specific insurance requirements for crew transportation operators.

Need for amendments. As currently drafted, this bill could be interpreted as prohibiting railroad employees from driving other railroad workers while in the commission of their work. *As a result, the author and committee may wish to amend this bill to clarify that this bill does not apply in circumstances where a rail crew worker is driven in a motor vehicle operated by an employee of a railroad corporation.*

Double Referral. This bill is also referred to the Senate Committee on Transportation.

Prior/Related Legislation

AB 711 (Patterson, 2023) would authorize transportation network company (TNC) drivers to use a lawful electronic proof of insurance on their mobile phones to meet personal insurance requirements for TNC drivers. The bill is pending in the Assembly.

AB 2716 (Grayson, 2022) would have codified minimum safety training requirements for TNC drivers. The bill was vetoed.

SB 730 (Wolk, Chapter 283, Statutes of 2015) prohibited a freight train or light engine from being operated unless it has at least a two-person crew. The bill authorized the CPUC to assess civil penalties against any person who willfully violates this crew staffing requirement.

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

SUPPORT:

Brotherhood of Locomotive Engineers and Trainmen, Co-sponsor
California Teamsters Public Affairs Council, Co-sponsor
California State Legislative Board, Sheet Metal, Air, Rail and Transportation
Workers - Transportation Division, Co-sponsor

OPPOSITION:

BNSF Railway Company
California Short Line Railroad Association
Union Pacific Railroad Company

ARGUMENTS IN SUPPORT: According to the author:

Rail workers are the backbone on which our economy runs. They work long hours to ensure our stores are shelved and people have food to eat. It is not a surprise that rail work is a dangerous job. However, anyone outside of the industry would not know that transportation in vans between worksites is one of the most dangerous aspects of the work. Rail workers are often transported from one train to another using third parties contractors, which have had a lack of oversight and can be underinsured or uninsured. Legislation is needed to cover this gap. SB 757 does this by establishing reasonable minimum insurance standards and requires that these third party contract transportation companies operate under a "Z" permit. SB 757 would also prohibit these third party contractors from subcontracting with a company that does not have a "Z" permit. This is necessary to improve transportation safety and ensure adequate insurance coverage for injured workers.

ARGUMENTS IN OPPOSITION: Opponents from several railroads oppose this bill unless it is amended to address several provisions that they believe are too ambiguous and could create unequal application of charter-party carrier rules, confusion about applicable insurance coverage, and unintended loss of certain transportation options for rail workers. These opponents state:

SB 757 would arbitrarily establish two classes of passengers transported in vehicles operated by Z-permit holders. This approach poses several policy questions, including: If the current insurance coverage is inadequate for railroad employees, is it also inadequate for passengers working for other businesses, government agencies, agricultural workers, private school employees and students and other passengers in vehicles in charter-party

carriers holding Z-permits and P-Permits? How should the CPUC reconcile instances when a Z-Permit holder operates both a “contract crew transportation vehicle” and the same or other vehicles providing transportation as specialized carriers for other businesses?

-- END --