

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Safety and Enforcement Division

San Francisco, California

Date: December 19, 2013

Resolution TL-19114

**RESOLUTION****RESOLUTION AMENDING PART 2, PART 3, AND PART 6 OF  
GENERAL ORDER 157-D, GOVERNING THE OPERATIONS OF  
CHARTER-PARTY CARRIERS OF PASSENGERS PURSUANT TO  
DIVISION 2 OF CHAPTER 8 OF THE PUBLIC UTILITIES CODE  
(SECTIONS 5351-5420).****SUMMARY**

Assembly Bill 838 repeals Section 5381.5, effective January 1, 2014, and adds a new Section 5381.5, effective January 1, 2014, which provides Charter-party carriers of passengers with the option of retaining and producing waybills in electronic format. In order to implement this legislative mandate, the California Public Utilities Commission's Safety and Enforcement Division must amend specific parts of its General Order 157-D, which specifies rules and regulations that Charter-party carriers of passengers must follow in order to operate lawfully in California.

This resolution will amend Part 2 - Definitions - of General Order 157-D to include new definitions relating to electronic use, retention, and production of waybills and other documents and/or forms required by General Order 157-D, amend Part 3 – General Requirements and Restrictions - of General Order 157-D to include new language authorizing Charter-party carriers of passengers to use, produce, and retain waybills and other documents or forms required by General Order 157-D in an electronic format, and amend Part 6 – Records and Inspections - of General Order 157-D to include new language authorizing the electronic retention and production of waybills and other documents or forms required by General Order 157-D. (Exhibit 3).

**BACKGROUND**

The Passenger Charter-party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers subject to regulation by the California Public Utilities Commission ("Commission") from engaging in transportation services without first

having obtained a specified certificate or permit, as appropriate, from the Commission. Section 5381.5 of the California Public Utilities Code sets forth a legislative mandate that requires the Commission by rule or other appropriate procedure to ensure that every regulated Charter-party carrier of passengers (“charter-party carrier/s”) include specific information on a waybill. The Commission has complied with this legislative mandate by setting forth these requirements in Part 3, General Requirements and Restrictions, of the Commission’s General Order 157-D.

Assembly Bill 838 repeals Section 5381.5, effective January 1, 2014, and adds a new Section 5381.5, effective January 1, 2014, which provides charter-party carriers with the option of retaining and producing waybills in electronic format. Thus, amendments to General Order 157-D are necessary.

### **DISCUSSION**

Assembly Bill 838 repeals existing law set forth in Section 5381.5 of the California Public Utilities Code as of January 1, 2014, and adds a new Section 5381.5, effective January 1, 2014, as follows:

5381.5. (a) The commission shall, by rule or other appropriate procedure, ensure that every charter-party carrier of passengers operates on a prearranged basis within the state, consistent with Section 5360.5. The commission shall require every charter-party carrier of passengers to include on a waybill or trip report at least all of the following:

- (1) The name of at least one passenger in the traveling party, or identifying information of the traveling party’s affiliation, along with the point of origin and destination of the passenger or traveling party.
- (2) Information as to whether the transportation was arranged by telephone, written contract, *or electronic communication*.

(b) A waybill or trip report may *be kept in electronic or hardcopy format*. When requested by any commission or airport enforcement officer or any official of a city, county, or city and county authorized to inspect a waybill or trip report pursuant to subdivision (h) of Section 5371.4, *the waybill or trip report may be provided in either electronic or hardcopy format*.

(c) *A charter-party carrier of passengers shall produce in its office a hardcopy of any waybill or trip report when requested by the commission or one of its authorized representatives pursuant to Section 5389.*

- (d) This section shall become operative on January 1, 2014.  
*(Italics added.)*

The Commission's General Order 157-D promulgates the legislative mandate set forth in the "Passenger Charter-party Carriers' Act," Sections 5351-5420 of the Public Utilities Code. General Order 157-D sets forth the Commission's rules and regulations governing the operations of charter-party carriers pursuant to those statutory provisions. AB 838, set forth above, focuses on one particular document required by charter-party carriers – waybills –pursuant to the Passenger Charter-party Carriers' Act.

The Commission's Safety and Enforcement Division, however, recognizes the need to authorize the use, retention, and production of electronic documents to any and all documents or forms required by General Order 157-D. Therefore, the Commission's Safety and Enforcement Division hereby proposes this Resolution to amend Part 2 - Definitions - of General Order 157-D to include new definitions relating to electronic use, retention, and production of waybills (as required by AB 838) and any and all other documents or forms required by General Order 157-D (Exhibit 1); to amend Part 3 – General Requirements and Restrictions - of General Order 157-D to include new language authorizing charter-party carriers to use, produce, and retain waybills in an electronic format (as required by AB 838) and any and all other documents or forms required by General Order 157-D (Exhibit 2); and to amend Part 6 – Records and Inspections - of General Order 157-D to include new language regarding the electronic retention and production of waybills (as required by AB 838) and any and all other documents or forms required by General Order 157-D. (Exhibit 3).

Hence, this Resolution amends Part 2 - Definitions - of General Order 157-D (Exhibit 1), Part 3- General Requirements and Restrictions - of General Order 157-D (Exhibit 2), and Part 6 - Records and Inspections - of General Order 157-D (Exhibit 3), as set forth above. The revised General Order 157-D pages are set forth in Exhibit 4. All exhibits are attached hereto. The amendments to Part 2, Part 3, and Part 6 of 157-D are hereby made effective today.

### **COMMENTS ON DRAFT RESOLUTION**

In accordance with the California Public Utilities Code § 311(g)(1) the Draft Resolution in this matter was made available to all licensed charter-party carriers of passengers on the Commission's website on November 7, 2013. No comments were filed.

### **FINDINGS**

1. AB 838, which repeals Section 5381.5 effective January 1, 2014, and then adds Section 5381.5, effective January 1, 2014, requires the Commission to provide

charter-party carriers with the option of using, retaining, and producing waybills in electronic format.

2. The Commission's General Order 157-D contains rules and regulations applicable to charter-party carriers and sets forth the requirements related to waybills and other required documents and forms to be used by charter-party carriers.
3. Paragraphs 2.07, 2.08, 2.09, 2.10, 2.11, and 2.12 should be added to Part 2, Definitions, of General Order 157-D for the purpose of adding new definitions for electronic use, retention, and production of waybills and any and all other documents or forms required by General Order 157-D. (Exhibit 1.)
3. Paragraph 3.01 of Part 3, General Requirements and Restrictions, of General Order 157-D should be amended to include new language providing charter-party carriers with the option of using, retaining, and producing waybills and any and all other documents or forms required by General Order 157-D in an electronic format. Paragraph 3.01 should also be amended to include new language that requires charter-party carriers to produce in its office a hard copy of any waybill and any and all other documents or forms required by General Order 157-D when requested by the Commission or one of its authorized representatives pursuant to Section 5389. (Exhibit 2.)
4. Paragraphs 6.01 and 6.02 of Part 6, Records and Inspections, of General Order 157-D should be amended to include new language that refers to electronic retention and production of waybills and any or all other documents or forms required by General Order 157-D. (Exhibit 3.)

**THEREFORE, IT IS ORDERED that:**

1. General Order 157-D is hereby amended by incorporating the amendments to Part 2, Part 3, and Part 6 set forth in Exhibits 1, 2 and 3, respectively, and shown in the revised page to General Order 157-D set forth in Exhibit 4.
2. The aforementioned changes to General Order 157-D set forth in this Resolution, and in Exhibits 1 through 4, attached hereto, are effective today.
3. The Executive Director shall cause a copy of this Resolution to be served on each charter-party carrier regulated by the Commission.
4. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted by the Commission at its regularly scheduled meeting on December 19, 2013 and that the following Commissioners approved it:

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PAUL CLANON  
Executive Director

Attachments:   Exhibit 1 – Part 2, Definitions  
                  Exhibit 2 – Part 3, General Requirements and Restrictions  
                  Exhibit 3 – Part 6, Records and Inspections  
                  Exhibit 4, GO 157-D revised pages

**EXHIBIT 1****PART 2 - DEFINITIONS – of General Order 157-D is amended as follows:**

- 2.01--"COMMISSION" Commission means the Public Utilities Commission of the State of California.
- 2.02--"CHARTER-PARTY CARRIER OF PASSENGERS" "TCP," "CARRIER." The definition of "charter-party carrier of passengers" shall be that set forth in Sections 5351-5360 of the Public Utilities Code. The initials "TCP" mean "transportation charter-party." Within this General Order the word "carrier" means charter-party carrier of passengers.
- 2.03--"CHARTER-PARTY VEHICLE," "VEHICLE." "Charter-party vehicle" is a motor vehicle used in charter-party service. Within this General Order the word "vehicle" means charter-party vehicle.
- 2.04--"SPECIAL IDENTIFICATION LICENSE PLATE." A "special identification license plate" is a plate issued to a limousine owner or operator by the California Department of Motor Vehicles in accordance with Section 5385.6 of the Public Utilities Code.
- 2.05--"LIMOUSINE." A "limousine" includes any sedan or sport utility vehicle, of either standard or extended length, with a seating capacity of not more than 10 passengers including the driver, used in the transportation of passengers for hire on a prearranged basis within this state.
- 2.06--"DRIVER-APPLICANT." A driver-applicant is any applicant for charter-party carrier operating authority who will also be a driver of any vehicle authorized to be operated under the authority.
- 2.07--"*ELECTRONIC COMMUNICATION.*" "*Electronic Communication*" is the transmission of information, and/or documents or forms required by General Order 157-D, by and/or between a charter-party carrier and the passenger(s), using electronic devices such as computers. A good example of a form of electronic communication is the use of e-mail.
- 2.08--"*ELECTRONIC DOCUMENTS.*" "*Electronic Documents*" mean electronic versions of any and all documents or forms required by General Order 157-D, whether electronic or paper in origin, stored in an electronic format in lieu of paper documents. Electronic documents include e-mails by and/or between the charter-party carrier and the passenger(s).

- 2.09--“*ELECTRONIC FORMAT.*” “*Electronic Format*” means an electronic method of creating a document, and/or copying a hard copy document, such that the document can be accessed electronically using a personal computer, workstation, local area network, wide area network, intranet, the Internet, or other type of network.
- 2.10--“*ELECTRONIC MEANS.*” “*Electronic Means*” is the electronic transmission of any and all documents and/or forms required by General Order 157-D, or the transmission of information, by and/or between a charter-party carrier and the passenger(s), through an electronic method such as e-mail.
- 2.11--“*ELECTRONIC RECORDS.*” “*Electronic Records*” mean electronic copies of any and all documents and/or forms required by General Order 157-D, whether electronic or paper in origin, and electronic copies of e-mails, stored by the charter-party carrier in an electronic format.
- 2.12--“*ELECTRONIC RETENTION.*” “*Electronic Retention*” means an electronic storage method used by a charter-party carrier to retain electronic copies of any and all documents and forms required by General Order 157-D, whether electronic or paper in origin, and to retain electronic copies of e-mails by and/or between a charter-party carrier and the passenger(s), in an electronic format in lieu of paper records.

**EXHIBIT 2****PART 3 – GENERAL REQUIREMENTS AND RESTRICTIONS  
of General Order 157-D is amended as follows:**

3.01--PREARRANGED TRANSPORTATION. Class A and Class B charter-party carriers, as defined in Public Utilities Code Section 5383, carriers holding permits under Public Utilities Code Section 5384 (b), and those charter-party carriers providing transportation service under a TNC permit shall provide transportation only on a prearranged basis. The party arranging the transportation shall have exclusive use of the vehicle. The driver shall possess a waybill which includes the following:

- 1 Name of carrier and TCP/TNC number.
- 2 Vehicle license plate number.
- 3 Driver's name.
- 4 Name and address of person requesting or arranging the charter.
- 5 Time and date when charter was arranged.
- 6 Whether the transportation was arranged by telephone, ~~or~~ written contract, *or electronic communication*.
- 7 Number of persons in the charter group.
- 8 Name of at least one passenger in the traveling party, or identifying information of the traveling party's affiliation.
- 9 Points of origination and destination.

*A charter-party carrier may use, retain, and produce any waybill, and/or any and all other documents or forms required by General Order 157-D, in electronic or hardcopy format. Upon request, the driver shall present the waybill to any Commission or airport enforcement officer, or to any official of a city, county, or city and county authorized to inspect waybills pursuant to Public Utilities Code Section 5371.4(h) in either electronic or hardcopy format.*

*A charter-party carrier shall produce in its office a hard copy of any waybill and any and all other documents or forms required by General Order 157-D when requested by the Commission or one of its authorized representatives pursuant to Section 5389 of the Public Utilities Code.*

**EXHIBIT 3****PART 6 - RECORDS AND INSPECTIONS - of General Order 157-D  
is amended as follows:**

6.01--CHARTER-PARTY RECORDS. Every carrier shall institute and maintain in its offices, a set of records which reflect information as to the services performed, including Waybills, as described in Section 3.01. Every carrier shall also maintain copies of all lease and sub-carrier agreements, and shall maintain maintenance and safety records (including, but not limited to, the records required in Sections 4.01 and 4.02), driver records (including, but not limited to, the records required in Section 5.02), and consumer complaint records (including, but not limited to, the records required in Section 7.01). Such records shall be maintained for a minimum period of three years. *Charter party carriers may use electronic retention, as defined in 2.12 above, to store such documents.*

6.02--INSPECTIONS. The duly authorized representatives of this Commission shall have the right at all times and shall be allowed to enter into any vehicle or facility, *or to have access to and to inspect any computer or electronic device used by any charter-party carrier for retention and production of any waybills and/or other documents or forms required by General Order 157-D* for the purpose of inspecting the accounts, books, papers, and documents whether or not these rules are being complied with and observed. Every owner, operator, or driver of any vehicle shall afford the duly authorized representatives of this Commission all reasonable opportunity and facilities to make such an inspection.

**EXHIBIT 4**

**LIST OF REVISED PAGES TO  
General Order 157-D:**

Part 2 – pp. 2-4.

Part 3 – pp. 4-5.

Part 6, pp. 8-9.