

MEMORANDUM OF LAW

DATE: November 12, 1985

TO: Julian A. Johnson, Claims and Insurance
Manager

FROM: City Attorney

SUBJECT: Robbins-McAlister Financial Responsibility Act
(California Vehicle Code section 16028 et seq.)

You recently pointed out that the newly-enacted Robbins-McAlister Financial Responsibility Act requires proof of insurance to be carried in the vehicle. In light of this, you ask if City vehicles must carry documentation of insurance coverage given the fact that the City is self-insured.

Operative July 1, 1985 through January 1, 1990, California Vehicle Code section 16028 requires:

Sec. 16028. Failure to provide peace officer
with evidence of financial
responsibility

(a) Every person who drives a motor vehicle required to be registered in this state upon a highway shall, when requested by a peace officer pursuant to subdivision (c), provide evidence of financial responsibility for the vehicle.

Where the owner of the vehicle is a self-insurer, however, Section 16028(b)(1)(B) allows:

(b) (1) For purposes of this section, "evidence of financial responsibility" means either of the following:

...

(B) If the owner is a self-insurer as provided in Section 16052 or a depositor as provided in Section 16054.2, the certificate or deposit number issued by the department.

Some evidence is therefore required of either a certificate of self-insurance (Section 16052), a cash deposit (Section 16054.2) or "any other manner authorized by the department." (Section 16054.2.)

Sec. 16052. Self-insurer

Proof may be established if the owner of the

motor vehicle involved in the accident was a self-insurer. Any person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided in this article.

Sec. 16053. Certificate of self-insurance

(a) The department may in its discretion, upon application, issue a certificate of self-insurance when it is satisfied that the applicant in whose name more than 25 vehicles are registered is possessed and will continue to be possessed of ability to pay judgments obtained against him in amounts at least equal to the amounts provided in Section 16056. The certificate may be issued authorizing the applicant to act as a self-insurer for either property damage or bodily injury or both. Any person duly qualified under the laws or ordinances of any city or county to act as self-insurer and then acting as such, may upon filing with the department satisfactory evidence thereof, along with the application

as may be required by the department, be entitled to receive a certificate of self-insurance.

(b) Upon not less than five days' notice and a hearing pursuant to the notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after the judgment has become final and has not been stayed or satisfied shall constitute a reasonable ground for the cancellation of a certificate of self-insurance.

Sec. 16054.2. Other forms of financial responsibility

Proof may also be established by either of the following:

(a) By depositing with the department cash in the amount specified in Section 16056.

(b) By any other manner authorized by the department which effectuates the purposes of this chapter.

Section 16054.2, referenced in Section 16028, recognizes proof in any manner authorized by the department which fulfills the purposes of Chapter 1 which is entitled "Compulsory Financial Responsibility." Within Chapter 1 is Section 16051 which reads as follows:

Sec. 16051. Publicly owned vehicles.

Proof may be established by filing a report indicating that the motor vehicle involved in the accident was owned or leased by or under the direction of the United States, this state, or any political subdivision of this state or municipality thereof.

While Section 16051 speaks of proof of financial responsibility in accidents and section 16028 requires proof of financial responsibility independent of any accident involvement, evidence of financial responsibility is required to be in the form specified in Section 16028(b)(1)(A) or 16028(b)(1)(B), the later section specifically mentioning Section 16054.2.

Since Section 16054.2 allows proof as permitted in Chapter 1 and since Section 16051 of Chapter 1 provides that a "report" indicating the vehicle is owned by a municipality establishes proof of financial responsibility, we conclude that such a report or its equivalent carried in each city will insure compliance

with California Vehicle Code section 16028.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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