

Date of Hearing: April 27, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION
Jim Frazier, Chair
AB 24 (Nazarian) – As Amended April 22, 2015

SUBJECT: Transportation network companies: public safety requirements

SUMMARY: Requires charter-party carriers (CPC) and Transportation Network Companies (TNC) to participate in the Department of Motor Vehicle's (DMV) Employer Pull Notice System (EPN) and submit TNC drivers to a mandatory drug and alcohol test. Specifically, **this bill:**

- 1) Prohibits the California Public Utilities Commission (PUC) from issuing or renewing a permit or certification to a CPC or TNC unless the applicant, in addition to existing requirements, participates in the DMV's EPN.
- 2) Requires TNCs to provide a mandatory controlled substance and alcohol testing certification program.
- 3) Requires TNCs to register any vehicle used in the transportation of passengers for compensation with the PUC.
- 4) Requires TNC vehicles to display a distinctive identifying symbol as prescribed by PUC.
- 5) Specifies that drivers hired or initially retained by TNC on or after January 1, 2016, are subject to mandatory drug and alcohol testing prior to employment or retention. Drivers hired or initially retained before January 1, 2016, are required to complete a drug and alcohol test before January 1, 2017.

EXISTING LAW:

- 1) Establishes the "Passenger Charter-Party Carriers Act," which directs the PUC to issue permits or certificates to CPCs, investigate complaints against carriers, and cancel, revoke, or suspend permits and certificates for specific violations.
- 2) Defines charter-party carrier of passengers as every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in the state.
- 3) Requires CPCs to operate on a prearranged basis. Further defines "prearranged basis" to mean that the transportation of the prospective passenger was arranged with the carrier by the passenger, or a representative of the passenger, either by written contract or telephone.
- 4) Defines transportation network company as an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor or any other entity operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.

- 5) Requires DMV to establish and administer EPN, which provides the employer of a driver who operates a specified type of vehicle with a report showing the driver's current public record and any subsequent convictions, driver's license revocations, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege.
- 6) Requires employers of drivers of specified vehicles, such as commercial truck drivers, school buses, farm labor vehicles, tow trucks, youth buses, paratransit vehicles, ambulances, vehicles that transport hazardous materials, to show EPN reports during regular business hours upon the request of the California Highway Patrol.
- 7) Requires employers of drivers of specified vehicles as described above to obtain EPN reports from DMV at least every 12 months, as specified.

FISCAL EFFECT: Unknown

COMMENTS: Existing law requires PUC to regulate various transportation services, including CPCs. CPCs perform various types of transportation services including, but not limited to, a limousine with seating capacity up to eight passengers, a bus providing prearranged services with capacity up to 15 passengers, or buses providing round-trip sightseeing trips. In order to obtain an operating permit or certificate from PUC, CPCs must meet a number of requirements including providing sufficient proof of financial responsibility, maintaining a preventative maintenance program for all vehicles, possessing a safety education and training program, and regularly checking the driving records of all persons operating vehicles used in transportation for compensation.

Approximately five years ago, a new model of transportation service began to take place in cities across the United States. Known as TNCs, these companies allow patrons to prearrange transportation services through an online application on their smartphone or computer. Patrons request a ride to a predetermined location, and the application connects them with a TNC driver. Payment is processed through the application so that no physical financial transaction occurs during the trip itself between the patron and the driver. Under this model drivers are considered independent contractors and TNCs take a commission on each trip.

In a September 2013 decision, PUC began regulating TNCs by creating a distinct new category of CPCs. PUC tailored specific new rules in response to the introduction of this new technology into an existing industry. The decision requires TNCs to obtain a permit from the PUC, conduct criminal background checks on drivers, check driver's records, establish a driver training program, implement a zero-tolerance policy on drugs and alcohol, conduct vehicle inspections, and obtain authorization from airports before conducting any operations on or into airport property. PUC is currently in the process of rolling out the second phase of the September 2013 decision which will include an evaluation of the original set of regulations and also consider any modifications to existing regulations relative to other CPC categories.

AB 24 is the author's second attempt to remedy inconsistent requirements between TNCs and other categories of CPCs. Specifically, AB 24 requires all CPCs, including TNCs, to participate

in the EPN system and requires TNCs to administer mandatory alcohol and controlled substance testing. AB 24 also requires TNC vehicles to display a distinctive identifying symbol as prescribed by PUC and for TNCs to register any vehicle used by its driver's to transport passengers for compensation with PUC.

DMV's EPN was established as a voluntary program in 1983 to provide employers and regulatory agencies with a means of providing driver safety through the ongoing review of driver records. By 1998, the EPN system had expanded to require participation by most commercial drivers, including drivers transporting property, passengers, and household goods. The current EPN system is designed to automatically generate a report of a driver's record and electronically send the report to the employer under specific circumstances including: upon enrollment of a driver, annually from the date of employment, or whenever a driver commits certain moving violations (e.g. accidents, driving under the influence, suspended driver's license). Presently, approximately 1.6 million commercial drivers are enrolled in the EPN system and while specific types of CPC drivers are currently required to be enrolled in EPN, due to their status as independent contractors, TNC drivers are not subject to the same requirement. AB 24 will expand the EPN system by clarifying that all CPC drivers, including TNC drivers, are required to enroll in EPN.

Additionally PUC currently requires certain categories of CPCs to implement a zero-tolerance alcohol and controlled substance use policy, as well as requiring drivers to undergo mandatory and periodic alcohol and controlled substance testing. PUC's September 2013 decision required TNCs to implement a zero tolerance policy and to suspend a driver promptly after a zero tolerance complaint is filed. However, PUC's regulations toward TNCs did not require TNC drivers to undergo mandatory and periodic alcohol and controlled substance testing like other CPCs. AB 24 would require TNCs to provide for a mandatory controlled substance and alcohol testing certification program and require its drivers to undergo a mandatory drug and alcohol testing prior to employment or retention for drivers hired or initially retained on or after January 1, 2016. TNC drivers hired or initially retained prior to January 1, 2016, would be required to undergo testing before January 1, 2017.

The author notes, "overall, AB 24 ensures the public is safe and closes the gaps that currently exist when transporting people for hire. AB 24 sets minimum safety standards that do not go beyond current regulations of transportation companies while not overbearing an innovative industry."

Writing in support, the California Labor Federation asserts "AB 24 will level the playing field for all transportation companies regulated by the PUC regardless of the technology used to book the service. AB 24 sets reasonable standards to ensure public safety and a fair market for transportation services."

In opposition, Lyft writes "AB 24 continues to ignore the PUC's extensive work designing an appropriate regulatory system for TNCs by rejecting it entirely and imposing unnecessary drug testing, additional burdensome vehicle registration requirements and a Department of Motor Vehicle Pull Notice requirement that will hinder Californians from participating in the sharing economy."

Double-referred: This bill passed out of the Assembly Utilities and Commerce Committee on April 20, 2015, with a 8-2 vote.

Related legislation: AB 828 (Low) excludes from the definition of “commercial vehicle,” motor vehicles operated in connection with a TNC if specific conditions are met. AB 828 is scheduled to be heard by this committee on April 27, 2015.

AB 1422 (Cooper) requires TNCs to participate in DMV's EPN. AB 1422 passed out of the Assembly Utilities and Commerce Committee on April 20, 2015 with a 14-0 vote, and is scheduled to be heard by this committee on April 27, 2015.

Previous legislation: AB 612 (Nazarian) of 2014, required CPCs, including TNCs, to participate in DMV's EPN and submit all drivers to a Department of Justice criminal background check. AB 612 was held in this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Airports Council
California Association of Highway Patrolmen
California Labor Federation
California Conference of Machinists
California Conference Board of the Amalgamated Transit Union
San Francisco Taxi Workers Alliance
Teamsters

Opposition

California State Lodge, Fraternal Order of Police
Lyft
Long Beach Police Officers Association
Los Angeles County Professional Peace Officers Association
Orange County Business Council
Riverside Sheriffs' Association
Sacramento County Deputy Sheriffs' Association
Santa Ana Police Officers Association
The Greenlining Institute
Uber Technologies Inc.

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