

Date of Hearing: April 27, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 828 (Low) – As Amended April 20, 2015

SUBJECT: Vehicles: transportation network companies

SUMMARY: Excludes motor vehicles operating in connection with a transportation network company (TNC) from being required to register as a commercial vehicle if certain conditions are met.

EXISTING LAW:

- 1) Defines a commercial vehicle as a motor vehicle used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily for the transportation of property.
- 2) Specifies that passenger vehicles and house cars, as defined, that are not used for the transportation of persons for hire, compensation, or profit are not commercial vehicles. Additionally specifies a vanpool vehicle is not a commercial vehicle.
- 3) Defines passenger vehicle as any motor vehicle, other than a motortruck, truck tractor, or a bus, as defined, and used or maintained for the transportation of persons.
- 4) Establishes the "Passenger Charter-Party Carriers Act," which directs the state Public Utilities Commission (PUC) to issue permits or certificates to carriers, investigate complaints against carriers, and cancel, revoke, or suspend permits and certificates for specific violations.
- 5) Defines charter-party carrier of passengers (CPC) 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 and 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.
- 6) 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.

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, the PUC began regulating TNCs by creating a distinct new category of CPCs. The 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.

On January 5, 2015, DMV issued an advisory memo due to a number of dealers and customers seeking clarification on how to register a vehicle that would be used to provide TNC services. These inquiries were derived from purchasers buying new vehicles through financing programs offered by TNCs. The memo stated that "any passenger vehicle used or maintained for the transportation of persons for hire, compensation, or profit is a commercial vehicle. Even occasional use of a vehicle in this manner requires the vehicle to be registered commercially." DMV ultimately retracted the advisory memo clarifying that further analysis is warranted.

Existing law requires a vehicle to be registered as a passenger or commercial vehicle based on how the vehicle is used and/or designed. Registration for a passenger vehicle typically includes several vehicle-related fees including registration fees, vehicle licensing fees, and locally imposed county/district fees (e.g. vehicle abatement, air quality, Service Authority for Freeway Emergencies). Vehicles registered as commercial are required to pay an additional fee based on the weight of the vehicle which is generally assessed based on the gross vehicle weight and number of axles. Overall, the weight fee is designed to offset the additional wear and tear that a commercial vehicle causes on the state's roads and highways. Additionally, commercial license plates defer from passenger vehicle license plates in order to ensure law enforcement has the ability to easily identify commercially operating vehicles.

The author introduced AB 828 in response to DMV's advisory memo. Advocates claim that commercial registration requirements are outdated and do not adequately address new services provided through advancements in technology. Respectively, AB 828 attempts to develop an exclusion for TNC drivers using their passenger vehicles while ensuring that other types of commercial vehicles continue to be subject to commercial registration requirements. The author notes, "TNCs are the cutting edge of transportation innovation and are a large part of the rapidly increasing "sharing" economy model. With the convenience of TNCs many more people are starting to use them which cuts down on traffic and emissions from cars. Many TNC drivers are

part-time or occasional drivers, working an average of 22.69 hours per month, driving to supplement their income. To that end, mandating TNC drivers to register their personal vehicle as a commercial vehicle needlessly increases business costs and curtails growth and innovation."

Related legislation: AB 24 (Nazarian) requires CPCs and TNCs to participate in EPN and requires TNCs to submit their drivers to mandatory drug and alcohol testing. AB 24 passed out of the Assembly Utilities and Commerce Committee on April 20, 2015, with an 8-2 vote and 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.

REGISTERED SUPPORT / OPPOSITION:**Support**

Bay Area Council
Clean Coalition
Los Angeles Area Chamber of Commerce
Lyft
Orange County Business Council
Planning and Conservation League
San Francisco African American Chamber of Commerce
SPUR
The Internet Association
Valley Industry and Commerce Association
Uber Technologies Inc.

Opposition

California Labor Federation
San Francisco Taxi Workers Alliance

Analysis Prepared by: Manny Leon / TRANS. / (916) 319-2093