

Date of Hearing: June 25, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1080 (Roth) – As Amended June 20, 2018

SENATE VOTE: 37-0

SUBJECT: Transportation network companies: driver requirements and identification.

SUMMARY: Requires a Transportation Network Company (TNC) driver to possess either a California driver's license, or, for non-resident active duty military members, or non-resident dependents of an active duty military member, an out-of-state driver's license. Specifically, **this bill:**

- 1) Requires a TNC participating driver to possess either of the following:
 - a) A valid driver's license issued by the State of California; or,
 - b) In the case of a non-resident active duty military member or a non-resident dependent of an active duty military member, a valid driver's license issued by the other state or territory of the United States in which the member or dependent is a resident.
- 2) Requires a TNC to comply with the existing requirement to conduct, or have a third party conduct, a local and national criminal background check; and to obtain and review a driving history report from the state or territory of the United States that issued the individual's driver's license before permitting a non-resident active duty military member or a non-resident dependent of an active duty military member to drive for the TNC.
- 3) Requires TNCs to notify all participating drivers of the applicability and availability of California vehicle and driving laws including, in particular, the hands-free device laws, "The Three Feet for Safety Act", and rules of the road related to schoolbus laws, on its Internet Web site or on its application (app).

EXISTING LAW:

- 1) Establishes the California Public Utilities Commission (CPUC) to regulate privately owned public utilities and common carriers in California. Specifies that the Legislature may prescribe that additional classes of private corporations or other persons are public utilities.
- 2) Establishes the "Passenger Charter-Party Carriers Act," which directs the CPUC to regulate, require license or permit to operate, require insurance and workers compensation, take appropriate enforcement action and other provisions related to transportation charter-party carriers (CPCs).
- 3) Establishes TNCs as a subset of CPCs and defines TNC 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.

- 4) Requires a TNC to conduct, or have a third-party conduct, a local and national criminal background check on every participating driver and prohibits a TNC from contracting, employing or retaining a participating driver if the driver is registered as a sex offender or has been convicted of certain criminal offenses.
- 5) Requires a TNC to participate in the Department of Motor Vehicles (DMV) Employee Pull Notice (EPN) system to regularly check the driving records of a participating driver.
- 6) Establishes the EPN system at DMV to provide an employer of a driver who drives a specified type of vehicle with a report showing the driver's current public record and any subsequent convictions, driver license revocations, failures to appear, accidents, driver license suspensions, or any other actions taken against the driving privilege.
- 7) Authorizes non-residents to drive in California without a California driver's license if they have a valid license from the state in which they reside.
- 8) Prohibits a driver from using, holding and operating a wireless telephone or an electronic wireless communications device unless the telephone or device is specifically designed and configured to allow voice-operated and hands-free operation and it used in that manner while driving; and provides limited exemptions to this prohibition.
- 9) Requires a driver of a motor vehicle when overtaking or passing a bicycle to provide at least three feet between the motor vehicle and the bicycle or its operator, with some exceptions.
- 10) Requires a driver, upon meeting or overtaking, any schoolbus that is stopped for the purpose of loading or unloading any schoolchildren and displays a flashing red light signal and stop signal arm, to bring the vehicle to a stop before passing the schoolbus and prohibits the driver from proceeding past the schoolbus until the flashing red light signal and stop signal arm ceases operation.

FISCAL EFFECT: Unknown

COMMENTS: TNCs provide pre-arranged transportation services for compensation using smart phone apps or a computer to connect drivers with passengers. Typically, a passenger hails a ride through their mobile device to a pre-determined location and a participating driver using their personal vehicle provides the ride. Payment is processed through the mobile device and the TNC receives a commission on each trip. Drivers have the flexibility to work on a full-time or part-time basis by simple "logging on and off" the mobile app. TNC drivers typically work part-time.

Recognizing the need to regulate TNCs and their similarities with taxis and CPCs, CPUC commenced a rulemaking to determine the proper oversight and corresponding rules that are needed to regulate this industry. Ultimately, in 2013, CPUC determined that TNCs are a type of CPC, similar to tour buses and limousines, as they provide pre-arranged transportation services. Taxis, on the other hand, need not be pre-arranged and can be hailed from the curb. Taxis are regulated at a local level by cities and counties.

CPUC, in its 2013 decision, also adopted several rules related to TNC licensing, including the requirement that all TNC drivers have a valid California issued driver's license. This requirement is typical of any licensed driver in this state and is required for CPC drivers. The decision also contained other requirements, including; require TNCs to obtain a permit to operate from the CPUC, require TNCs to conduct background checks on drivers, check DMV drivers records prior to driving and quarterly thereafter, establish a driver training program, implement a zero-tolerance policy on drugs and alcohol, conduct vehicle inspections, and obtain authorization from airports when conducting operations on or into airport property. Both the criminal and DMV checks were intended to ensure safety and that drivers met the criteria that CPUC required. The CPUC required DMV checks to ensure that drivers had no more than three points within the preceding three years, no "major violations" (reckless driving, hit and run, or driving with a suspended license conviction) within the preceding three years, and no driving under the influence conviction within the past seven years.

California's DMV's EPN system provides employers and regulatory agencies with a means of promoting driver safety through the ongoing review of driver records. An employer enrolled in the program is assigned a requester code. The requester code is added to an employee's driver license (DL) record. When an employee's DL is updated to record an action/activity, a check is made electronically to determine if a pull notice is on file. If the action/activity is one that is specified to be reported under the program, a driver record is generated and mailed to that employer. Most commercial drivers are enrolled in the EPN system. The EPN system provides California driver records and has limited out-of-state driver information. There are approximately 16 states that have some type of employer notification system similar to California's. Recognizing the benefits the EPN provides, the state enacted AB 1422 (Cooper), Chapter 791, Statutes of 2015, which required TNCs to enroll all TNC drivers in the EPN system.

Per CPUC regulation and subsequent legislation, AB 1289 (Cooper), Chapter 740, Statutes of 2016, TNCs are required to perform a national criminal background check, including the national sex offender database, on participating drivers. Existing law prohibits a TNC from contracting with, employing, or retaining a driver if he or she is currently registered on the United States Department of Justice National Sex Offender Public Web site, has been convicted of specified felonies, or, within the previous seven years, has been convicted of a misdemeanor assault or battery, a domestic violence offense, driving under the influence of alcohol or drugs, or a specified felony violation.

While it is paramount to ensure participating drivers have clean driving and criminal records, it is equally as important that drivers have an understanding of the rules of the road. Every year thousands are killed in traffic fatalities nationwide. Alarming, a recent report by the Insurance Institute for Highway Safety found that pedestrian deaths have jumped 46% since reaching their lowest point in 2009. A total of 5,987 pedestrians were killed in crashes in 2016, accounting for 16% of all crash fatalities. Nationwide, local jurisdictions have adopted "Vision Zero" initiatives that aim to prevent the loss of even one life or serious injury on our roads.

California is home to the largest population of active military members and allows these visitors over 18 with a valid driver's license from their home state or country, to drive in this state without getting a California driver's license as long as their home state license remains valid. If an individual becomes a California resident, they must get a California driver license within 10 days. According to DMV's website, "residency is established by voting in a California election,

paying resident tuition, filing for a homeowner's property tax exemption, or any other privilege or benefit not ordinarily extended to nonresidents". According to the author, this bill will eliminate the costly delays and onerous fees in applying for a California driver's license for non-resident active duty military and their families who wish to earn additional income as rideshare drivers by allowing for the use of a valid out-of-state driver's license. This bill allows non-California resident active duty military members or their dependents with an out-of-state license to drive for a TNC, requires TNCs to pull out -of- state driving records for these drivers and requires TNCs to notify all drivers of applicable vehicle laws.

Double Referral: This bill passed out of the Assembly Communications and Conveyance Committee on April 20, 2018, with an 11-0 vote.

Previous Legislation: AB 1289 (Cooper), Chapter 740, Statutes of 2016, requires TNCs to conduct a criminal background check for each participating driver.

AB 2777 (Nazarian) of 2016, would have allowed TNC to ask the Department of Justice (DOJ) to provide state summary criminal history information for its employees and contractors. AB 2777 failed passage on the Assembly Floor.

AB 1422 (Cooper), Chapter 791, Statutes of 2015, requires TNCs to participate in the DMV EPN system to regularly check the driving records of a participating driver.

AB 24 (Nazarian) of 2015, would have required CPC and TNCs to participate in the DMV's EPN System, and submit all drivers to a Department of Justice criminal background check. AB 24 was held on the Assembly Committee on Appropriations suspense file.

AB 612 (Nazarian), 2014 would have required CPCs to participate in the DMV EPN system, and submit all drivers to a DOJ criminal background check. AB 612 was held in the Assembly Committee on Transportation.

REGISTERED SUPPORT / OPPOSITION:

Support

American G.I. Forum of California
Bay Area Counsel
CalAsian Chamber of Commerce
California District Attorneys Association
City of San Diego
Engine
Honorable Chris Cake, Councilmember, Sixth District, City of San Diego
Honorable Fiona Ma, Board of Equalization, District 3
Internet Association
Lyft
Oakland African-American Chamber of Commerce
San Diego Regional Chamber of Commerce
San Francisco Chamber of Commerce
Silicon Valley Leadership Group

Southwest California Legislative Council
TechNet

Opposition

None on file

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