

Date of Hearing: June 25, 2018

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 1376 (Hill) – As Amended June 12, 2018

**SENATE VOTE:** 39-0

**SUBJECT:** Transportation network companies: accessibility for persons with disabilities

**SUMMARY:** Requires the California Public Utilities Commission (CPUC) to adopt regulations by January 1, 2020, relating to accessibility for persons with disabilities who use Transportation Network Company (TNC) services. Specifically, **this bill:**

- 1) Requires CPUC to develop and adopt regulations, by January 1, 2020, relating to accessibility for persons with disabilities, including wheelchair users who need a wheelchair accessible vehicle (WAV). In developing these regulations, CPUC is required to, but is not limited to, the following:
  - a) Conduct workshops with stakeholders, including cities and counties, disability rights organizations, persons with disabilities, transportation and transit agencies, and TNCs, in order to determine community demand, transportation provider supply, and educational outreach objectives and to develop programs for on-demand services, service alternatives, and partnerships consistent with the requirements of this bill. Workshops may also examine topics including, but not limited to, issuing licenses at a reduced rate for WAVs, fuel costs, designated pickup locations for drivers in locations where door-to-door service is not feasible, or additional incentives for WAV drivers.
  - b) Require each TNC to be fully accessible to persons with disabilities, as specified.
  - c) Assess a fee on a TNC that is not fully accessible to persons with disabilities to fund on-demand accessible transportation services for persons with disabilities until the TNC is fully accessible to persons with disabilities to ensure compliance with existing law.
  - d) Allocate the revenue from the fees collected from a TNC for use in each county, as specified, in a manner that is proportional to the percent of the revenue originating in that county from the TNC. A TNC is required to report the percent of its revenue originating in each county to the CPUC.
  - e) Request all interested parties to submit plans, created in consultation with disability rights groups and persons with disabilities, by January 1, 2020, to establish on-demand transportation programs or partnerships to meet the needs of persons with disabilities, including users who need a WAV.
  - f) Select from the submitted plans on-demand transportation programs or partnerships to receive funding based on criteria that it adopts as part of these regulations.
  - g) Provide funding to the on-demand transportation programs or partnerships from revenues derived from the fees on a competitive basis, as specified.

- h) Require parties selected to receive funding to submit biannual status reports for the duration of the funding. These reports shall include, but not be limited to, all of the following information:
  - i) The number of WAVs used;
  - ii) The number of rides provided by WAVs;
  - iii) The number of rides provided to persons with disabilities that are not WAVs;
  - iv) The incentives provided to WAV drivers and owners;
  - v) The geographic area of availability of WAV service;
  - vi) The response time of WAVs;
  - vii) A summary of educational outreach to disability communities, including, but not limited to, information regarding availability of WAVs for wheelchair users within the geographic area; and,
  - viii) A detailed list of program expenditures.
- 2) Requires CPUC to report to the Legislature by January 1, 2023, on the compliance with the regulations established pursuant to this bill and, if applicable, on the effectiveness of the transportation programs or partnerships administered; allows CPUC to hire an independent entity for not more than \$250,000 to fulfill this reporting requirement, which shall include, but not be limited to, an analysis of the biannual reporting requirements submitted by parties that received funding, availability of unallocated funds, need to reassess fund allocations, analysis of current program capabilities and deficiencies, and recommendations to overcome any deficiencies identified.
- 3) Requires CPUC to create a working group with stakeholders to examine the variety of agencies, localities, and programs that provide equivalent transportation services for persons with disabilities in order to evaluate ways to partner with those agencies to provide services to disabled persons in a non-duplicative, non-discriminatory, and more efficient manner.
- 4) Defines “wheelchair accessible vehicle” or “WAV” as a vehicle capable of transporting non-folding motorized wheelchairs, mobility scooters, or other mobility devices.
- 5) Sunsets on January 1, 2025.
- 6) Makes various findings and declarations.

**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 a license or permit to operate, take appropriate enforcement action and other provisions related to transportation charter-party carriers (CPCs).
- 3) Establishes transportation network company (TNC) 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) Provides that individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

**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. The most commonly known TNCs are Uber and Lyft.

Recognizing the need to regulate TNCs and their similarities with taxis and CPCs, CPUC commenced an ongoing rulemaking to determine the proper oversight and corresponding rules that are needed to regulate this industry. 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. It is important to note that while California regulates TNCs at a state-wide level via the CPUC, others states have elected to allow TNCs to be regulated at a local level.

In the first phase of the rulemaking, CPUC addressed accessibility for the disabled community by requiring TNCs to submit a plan as to how TNCs intend to avoid creating a divide between able and disabled communities, and to explain how they plan to provide incentives to individuals with accessible vehicles to become TNC drivers. Further, CPUC required TNCs to ensure their apps and websites are as accessible to the disabled as they are to clients who are not disabled.

CPUC has used this rulemaking not only to determine what level of regulation is needed for TNCs but to re-examine the rules that apply to CPCs as well. As it applies to accessibility, CPUC noted that it has few protections to ensure equal access for passengers with disabilities under its current CPC regulations and updating any regulation should be something that the

CPUC should consider in Phase II of the rulemaking. As part of Phase II of the rulemaking CPUC invited the Legislature to determine if legislation is needed in this sector.

The question of accessibility for the disabled committee has been on and off the rulemaking process. In Phase II, CPUC posed the question, “Should the Commission impose any accessibility requirements (both geographical and physical) on CPCs?” and subsequently removed the question from the scope of the Phase II rulemaking. Since 2015, the question of accessibility requirements for TNCs has been removed and added back to the rulemaking’s scope. In the intervening time, a Phase III has been added to the rulemaking. The following are the two accessibility questions included in the Phase III ruling: What is the percentage of accessible vehicles that TNCs make available? Are there any opportunities for the TNCs to provide increased accessible vehicle services to TNC customers? The amended ruling does not indicate a deadline by which CPUC will address accessibility issues regarding TNCs.

California law adopts provisions of the federal Americans with Disabilities Act (ADA) and stipulates that individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations and privileges of all common carriers including all modes of public transportation (whether private, public, franchised, licensed, contracted, or otherwise provided). CPUC verifies ADA compliance for most carriers during the licensing process and requires these carriers to maintain on file with the CPUC an equipment list of all vehicles in use including whether a vehicle is handicap accessible. However, for TNCs the question and the requirements for accessibility are still unclear.

Addressing ADA compliance is both a local and statewide concern. For example, taxis must comply with ADA requirements as private companies primarily engaged in the business of transporting people and locals have taken steps to ensure disability access is provided. In areas like San Francisco and Los Angeles, there are taxi vehicles that are wheelchair accessible and are equipped with ramps and lifts. With the popularity of TNCs increasing and taxi services decreasing, there have been concerns about the void that will result in the transport of the disabled. Recognizing this growing void, local governments in other states, such as Seattle (\$0.10) and Chicago (\$0.10) levy charges per TNC trip to be deposited in an accessibility fund to be used for incentives and investments in wheel-chair accessible on-demand transit.

The author has introduced this bill to motivate CPUC to act on disability access broadly and to provide TNC services to all of the disabled community, including those that use wheelchairs. The author asserts, “ADA was passed in 1990, CPUC had previously opened a rulemaking in 1998 to examine disability access issues; their decision on that proceeding simply ordered all common carriers to comply with ADA. Twenty-six years later, it is unclear to what level the CPUC has evaluated disability access across their transportation authority. Although CPUC verifies ADA compliance for other common carriers during vehicle licensure, the disability access requirements for TNCs are unclear.”

In support, the Senior and Disability Action writes, “People who use wheelchairs and other mobility devices are generally unable to access Uber and Lyft due to the lack of accessible vehicles they have available. Moreover, the advent of TNCs has led to a reduction in number of accessible taxis, leaving people with disabilities stranded on many occasions.” Writing in support, the California Transit Association further notes, “As TNCs capture more riders from taxis and public transit, potentially weakening these services, the mobility challenges faced by persons with disabilities could compound, leading to even more inequitable outcomes” and

reasons that this bill could allow for better symbiotic partnerships between TNCs and transit agencies.

*Committee Comments:* Providing services for the disabled community is of utmost importance. However how we ensure these services are provided can be difficult under the TNC platform. As noted, a TNC driver owns his or her vehicle. These vehicles are typically not equipped to transport non-folding wheelchairs or mobility scooters. For these reasons, it seems prudent that the Legislature provide direction and a pathway for CPUC to finance and ensure that these services are provided. The author and stakeholders both agree that these services must be provided, however, they are still having conversations on “what constitutes acceptable service” and what the appropriate assessment of fees would be. The committee urges the author’s office to continue with these inclusive conversations.

*Double Referral:* This bill passed out of the Assembly Communications and Conveyance Committee on June 20, 2018, with a 9-1 vote.

*Previous Legislation:* SB 1035 (Hueso) of 2015, would have codified the CPUC’s general authority over TNCs, required the CPUC to study insurance and accessibility issues, required the CPUC to study background check protocols and adopt regulations, allowed peace officers to impound TNC vehicles under specified circumstances, and facilitated enforcement of CPUC rules on TNCs. SB 1035 failed passage in the Senate Committee on Transportation and Housing.

AB 2603 (Nazarian) of 2015, would have required the CPUC to accept customer complaints regarding TNCs and other charter-party carriers. AB 2603 was held in the Assembly Committee on Utilities and Commerce.

AB 2293 (Bonilla), Chapter 389, Statutes of 2014, defined TNCs as a form of charter-party carrier and established insurance coverage guidelines for TNCs.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Association of Regional Center Agencies  
Center for Independent Living  
California Transit Association  
City and County of San Francisco  
Disability Rights California  
Independent Living Center of Southern California  
Independent Living Resource Center San Francisco  
Marin Transit  
Placer Independent Resources Services  
San Francisco Municipal Transportation Agency  
San Francisco Mayor’s Office of Disability  
San Francisco Paratransit Coordinating Council  
San Mateo County Transit District  
Senior and Disability Action  
The Arc California  
United Cerebral Palsy California Collaboration

7 private citizens

**Opposition**

None on file

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