

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Tasha Boerner, Chair

AB 2780 (McKinnor) – As Amended April 17, 2024

SUBJECT: Carrier of Passengers Act of 2024

SUMMARY: This bill would require certain carrier of passengers, as defined, to notify and coordinate with local jurisdictions regarding the disembarkation of 10 or more passengers who are likely to seek emergency shelter. This bill also makes the carriers liable for civil actions and penalties for violation of this bill provisions, as specified.

Specifically, **this bill:**

- 1) Establishes definitions as follows:
 - a. “Carrier of passengers” means a motor carrier, passenger carrier, or charter-party carrier of passengers that operates a motor vehicle, on a commercial or for-hire basis, and engages in the embarkation and disembarkation of passengers.
 - b. “Disembarkation” means the physical discharge of passengers from a transportation service provided by a carrier of passengers at a geographic location within California.
- 2) Specifies that this bill applies to any carrier of passengers operating a motor vehicle who knows or reasonably should know that the motor vehicle will be transporting, from embarkation, 10 or more passengers who are likely to seek emergency shelter and other immediate services upon disembarkation.
- 3) Requires that at least 24 hours before embarkation, a carrier of passengers shall provide a written notice to a designated point of contact at the governing body of the city, county, or city and county with jurisdiction at the geographic location of disembarkation. The notice is required to contain specified information.
- 4) Authorizes the governing body of the city, county, or city and county with jurisdiction at the geographic location of disembarkation to, by a resolution adopted by that governing body, designate a specific location of disembarkation within the governing body’s jurisdiction.
- 5) Authorizes specified individuals and entities to bring forth a civil action against a carrier of passengers for violations of this bill’s provisions if there is reasonable cause to believe that a carrier of passengers has committed one or more violations.
- 6) Specifies that this bill does not preempt, limit, prohibit, or otherwise affect the adoption, implementation, or enforcement of any local ordinance, code, regulation, or order related to carrier of passenger transportation services.
- 7) Limits the implementation of this bill only to the extent that implementation is consistent with federal law.

- 8) Includes a severability clause specifying that if any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

EXISTING LAW:

- 1) Provides the US Congress with the power to regulate commerce among several states, and restricts states from impairing interstate commerce. (Article I, Section 8 of the US Constitution).
- 2) Vests the federal Secretary of Transportation and the federal Surface Transportation Board with jurisdiction over transportation by motor carrier and the procurement [chartering] of that transportation when the transportation is between a state and a place in other state [interstate]. (Title 49 U.S. Code § 13501)
- 3) Sets parameters for states and political subdivisions thereof to enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to motor carriers of passengers. Federal law explicitly prohibits states from scheduling interstate commerce. (Title 49 U.S. Code § 14501)
- 4) Establishes the “Passenger Charter-Party Carriers’ Act” to, in part, promote carrier and public safety through safety enforcement regulations. (Public Utilities Code §5351 et. seq.)
- 5) Defines a charter-party carrier of passengers as every person engaged in the transportation of persons by motor vehicle for compensation over any public highway in this state. A charter-party carrier of passengers 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. (Public Utilities Code §5360)
- 6) Authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every charter-party carrier of passengers. (Public Utilities Code §5381)

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

- 1) *Author’s statement.* According to the author “Over three dozen busloads of asylum seekers and other recent immigrants have been dumped in Los Angeles alone. Busloads of vulnerable persons have also been dumped in San Diego, San Jose and Sacramento. No prior notice is provided to local authorities or nonprofit groups before discharging vulnerable passengers, thereby endangering the passengers and overwhelming local supportive services. Therefore, AB 2780 is looking to protect immigrants that are being sent from other states to the state of California, and that are in need of supportive services. The impact of the bill would result in a more organized and effective way in which local governments can provide assistance to immigrants being bussed to California.”
- 2) *Defining the problem and intent of this bill to address it.* In response to a perceived crisis at the southern United States border and an influx of undocumented immigrants entering the country in recent years, anti-immigrant Republican Governors have instituted policies to transport migrants from their states to cities with Democrat leaders, including in California.

For example, in June 2022, Governor Ron DeSantis of Florida signed a budget that set aside \$12 million to create a program for transporting unauthorized migrants out of Florida. In April 2022, Governor Gregg Abott of Texas directed the Texas Division of Emergency Management to charter buses to transport migrants from Texas to Washington, D.C. Governor Abott later expanded the order to include other locations, including cities in California. When the first busload of migrants from Texas arrived in Los Angeles, Governor Abbott went as far as releasing a press release to take responsibility for the move and share his reasoning. He wrote, in part, “Los Angeles is a major city that migrants seek to go to, particularly now that its city leaders approved its self-declared sanctuary city status.”

The decision to move migrants from Republican-led states like Florida and Texas to Democrat-led cities and states like Los Angeles, San Diego, Washington, DC, and New York City is openly politically-motivated and intended to draw a contrast between those state’s harsh anti-immigrant policies alongside more welcoming policies in Democrat-led jurisdiction. Although there are clear differences in public policy and approach to dealing with immigration, the decision to bus vulnerable immigrants between locations dehumanizes these recent immigrants as pawns in a political game among states. This bill is intended to curb the negative impact to the vulnerable migrants by requiring the carriers transporting the migrants coordinate with local governments, in order ensure the arrivals have an opportunity to be connected to services. This bill also makes the carriers civilly liable for damages if they violate the provisions of this bill.

- 3) *Understanding the applicability of this bill.* Given the issue with charter buses being used to transport migrants from other states into California, the language in this bill is tailored with the intent to apply requirements on motor carriers transporting passengers in that specific scenario, but not others. Specifically, the provisions of this bill apply broadly to any “carrier of passengers” operating a motor vehicle who knows or reasonably should know that the motor vehicle will be transporting, from embarkation, 10 or more passengers who are likely to seek emergency shelter and other immediate services upon disembarkation. Additionally, this bill provides that there is a presumption that passengers who have arrived in the United States within 30 days of embarkation are likely to seek emergency shelter and other immediate services upon disembarkation. While this bill establishes a new class of carrier with a corresponding definition, the types of carriers this bill applies to might also by definition be covered by federal law. For example, federal law defines a “motor carrier” to mean a person providing motor vehicle transportation for compensation. Additionally, Congress has established rules for motors carriers engaged in interstate commerce which may pose a challenge for implementation of this bill, as discussed below.
- 4) *Federal law and the United States Constitution may limit the application of this bill.* Interstate commerce means any work involving or related to the movement of persons or things across state lines or from foreign countries. This bill, which is squarely about the transport of persons across state lines into California, therefore concerns interstate commerce. Under existing law, namely the Commerce Clause of the United States Constitution, Congress has broad power to regulate interstate commerce and restricts states from impairing interstate commerce. Additionally, under the Supremacy Clause of the United State Constitution, states are prohibited from interfering with the federal government's exercise of its constitutional powers. While neither the Commerce Clause nor the Supremacy Clause explicitly prohibit states from passing laws that impact interstate commerce, on their

own and especially in conjunction they do introduce an additional level of scrutiny to consider regarding this bill.

For example, regarding the supremacy clause, the foremost relevant fact to be mindful of is that Congress has passed laws concerning the transport of passengers across state lines, suggesting that those laws would have supremacy over a state law. In particular, Title 49 section 13501 of the United States Code provides for Federal jurisdiction over motor carriers engaged in interstate commerce. Unless subject to an exemption, all for-hire passenger carriers engaged in interstate commerce must obtain operating authority from the Federal Motor Carrier Safety Administration. Under those provisions of federal law, scheduling of interstate commerce is strictly prohibited. Given this information, the author has recently amended this bill to remove provisions of the bill that were very likely preempted by federal law. The current version of this bill following those amendments, while still potentially susceptible to legal challenges, was crafted in a more thoughtful manner intended to avoid the most glaring issues of preemption. Nonetheless, given the risk of litigation this bill also now includes a severability clause to ensure this bill may still go into effect even if some portions are prohibited from being enforced under federal law.

- 5) *Procedures for coordination between operator and local jurisdiction.* This bill would require charter-party carriers to provide advance notice and specified information to local jurisdictions regarding disembarkation. Further, this bill would authorize the governing body with jurisdiction at the location of disembarkation to determine the exact location of disembarkation. Under recent author's amendments, the specific procedures have been refined to include more details about the mechanisms a local jurisdiction may use. These coordination provisions would serve to secure the safety both of the passengers onboard such a motor vehicle, but also of the communities where the passengers may disembark. Without the coordination, the passengers would have no direct access to housing, health, or other useful services that may assist them on their journey. With more coordinate the local jurisdiction, local nonprofits, and other aid groups may be more prepared to receive the passengers as well.
- 6) *Expansion of civil liability for charter-party carriers.* Under the provisions of this bill, carriers that violate the provisions of this bill could be subject to legal action initiated by various entities including state and local law enforcement, a passenger that was transported, or certain nonprofit organizations. Additionally, this bill also makes violators subject to civil penalties up to \$10,000 for each act. All together this bill would greatly expand the legal liability of charter party carriers who reasonably should have known they were engaging in covered activities. In turn, these provisions of this bill may act as a deterrent to carrier engaging in this type of practice or doing so in a manner that does not include local coordination, at a very minimum.
- 7) *Author's amendments removed opposition.* In recent author's amendments that addressed interstate commerce and federal preemption, the author removed provisions of this bill that would have required the carriers to carry additional insurance at specified levels. With those amendments, the previous opposition to this bill has gone neutral.
- 8) *Arguments in support.* The Coalition for Humane Immigrant Rights ("CHIRLA"), writes in support that "[this bill] is an important piece of legislation to ensure California has the proper

tools and support to welcome migrants in a humane manner and with the dignity and respect migrants deserve.”

REGISTERED SUPPORT / OPPOSITION:

Support

Coalition for Humane Immigrant Rights (CHIRLA)
Insurance Commissioner Ricardo Lara / California Department of Insurance

Opposition

None on file.

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