

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

SB 625 (Hill) – As Introduced February 22, 2019

SENATE VOTE: 38-0

SUBJECT: Party buses: cannabis

SUMMARY: Prohibits the consumption of cannabis in buses, taxicab, or limousines by passengers unless certain conditions are met. Specifically, **this bill:**

- 1) Extends the prohibition on possession of open containers of cannabis products to drivers, and the prohibition on smoking or ingesting cannabis or any cannabis product by passengers, in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or local authority unless both of the following conditions are met:
 - a) There are no passengers under 21 years of age present in the vehicle; and,
 - b) The driver’s compartment of the vehicle is sealed off and separately ventilated from the passenger compartment of the vehicle.
- 2) Specifies that the requirement to seal off and separately ventilate the driver’s compartment of the vehicle from the passenger compartment of the vehicle is not required if the cannabis products are orally ingested and not smoked or vaped.

EXISTING LAW:

- 1) Establishes the “Passenger Charter-Party Carriers Act,” which authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every Charter Party Carrier (CPC) in the State and may do all things, necessary and convenient in the exercise of such power and jurisdiction, including issuing permits or certificates, investigating complaints against carriers, and cancel, revoke, or suspend permits and certificates for specific violations. (Public Utilities Code (PUC) Section Code 5381 et seq.)
- 2) Defines a “charter-party carrier of passengers” to mean every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state. (PUC Section 5360)
- 3) Defines a “passenger stage corporation” to include every corporation or person engaged as a common carrier, for compensation, in the ownership, control, operation, or management of any passenger stage over any public highway in this state between fixed termini or over a regular route, as specified. (PUC Section 226)
- 4) Defines a “transportation network company” to mean 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. (PUC Section 5431)

- 5) Defines “bus” to mean a vehicle designed, used, or maintained for carrying more than 10 persons, including the driver, which is used to transport persons for compensation or profit. (PUC Section 5359)
- 6) Defines “limousine” to mean any sedan or sport utility vehicle, of either standard or extended length, with a seating capacity of not more than 10 passengers including the driver, used in the transportation of passengers for hire on a prearranged basis within this state, and includes a modified limousine, as specified.
- 7) Prohibits the consumption and possession of open containers of alcoholic beverages and cannabis products while driving or riding as a passenger in a motor vehicle on highways and publicly accessible off-highway roads, unless certain conditions are met. (Vehicle Code (VEH) Section 23220 to 23223)
- 8) Provides an exemption to the open container and consumption of alcoholic beverages and cannabis products prohibition for passengers of any bus, taxicab, or limousine for hire licensed by the CPUC or proper local authority, the living quarters of a housecar or camper, or of a pedicab, as specified. (VEH Section 23229)

FISCAL EFFECT: Unknown. This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Authors Statement:** According to the author, “As a result of cannabis becoming legal in California, some party bus and limo operators are offering customers’ cannabis dispensary tours similar to existing tours for wineries or breweries. SB 625 ensures that there’s no-one under 21 on board since it’s illegal for them to consume cannabis and mandates that the driver’s compartment be free from cannabis smoke so they can safely drive the vehicle without impairment.
- 2) **Background:** California law regulates different modes of passenger transportation for compensation including taxi services, which are regulated by cities and/or counties; and passenger stage corporations (PSCs) and CPCs, which are regulated by the CPUC. PSCs are services that provide transportation to the general public on an individual fare basis, such as scheduled bus operators, which are buses that operate on a fixed route and scheduled services, or airport shuttles, which operate on an on-call door-to-door share the ride service.

CPCs are services that charter a vehicle, on a prearranged basis, for the exclusive use of an individual or group. Charges are based on the mileage or time of use, or a combination of both. Types of CPCs include limousines, tour buses, sightseeing services, and charter and party buses. TNCs are companies that offer prearrange transportation services through an app on their smartphone and are considered a type of CPC under the CPUCs jurisdiction.
- 3) **Proposition 64:** In 2016, California voters approved Proposition 64 which legalized recreational cannabis possession and use for adults 21 years of age or older. Since its passage, an emerging cannabis tourism industry has slowly developed in the state.

“Cannabis Tours” generally provide customers transportation, typically in CPCs, to various cannabis dispensaries, commercial cannabis growing operations, and edible kitchens. Proposition 64 specified that it should not be interpreted to permit possession of any open container or consumption of cannabis while driving, operating, or riding as a passenger in any transportation vehicle. The Legislature subsequently made a number of conforming changes to existing law to ensure proper licensure, regulation, and consistency application of laws regarding cannabis consumption.

- 4) **Existing Laws and Loopholes:** Following the passage of Proposition 64, SB 65 (Hill) Chapter 232, Statutes of 2017, prohibited the smoking or ingestion of cannabis, or any cannabis product while driving, or while riding as a passenger in a motor vehicle. But due to cross references between sections of existing law, buses, taxis and limousines were exempted from this prohibition. In other words, previously state law prohibited the consumption of alcohol by drivers and passengers in a motor vehicle. However, there exist an exemption to that law for buses, taxis and limousines. When SB 65 was passed and added the prohibition on the consumption of cannabis to the same section of code as the prohibition on alcohol, it inadvertently also applied the exemption to alcohol on buses, taxis and limousines to cannabis products as well.

This bill seeks to clarify restrictions on cannabis product consumption and open container possession on buses, taxis and limousines by prohibiting drivers from consuming cannabis products and possessing open containers of cannabis products unless certain conditions are met. The bill would allow the possession and consumption of cannabis products by passengers on buses, taxis and limousines if no passengers on the vehicle is under 21 years of age, and if the driver’s compartment of the vehicle is sealed off and separately ventilated from the passenger compartment of the vehicle. The bill specifies that the seal and ventilation requirement does not apply if the cannabis products are orally ingested and not smoked or vaped.

In addition, currently law applies the exemption to the prohibition on alcohol and cannabis products to, among others, buses, taxis and limousines for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority. Arguably, the exemption in state law was intended to apply to CPCs regulated by the CPUC, which limousines and other party buses fall under, and not to traditional buses or taxis regulated by local authorities. Generally local regulations for buses and taxis already prohibit the consumption and open container possession of alcohol and cannabis. Should this bill move forward the author may wish to update this portion of state law to correct this discrepancy and apply the exemption simply to CPCs. In addition, because TNCs fall under the category of a CPC, the author may wish to remove TNCs from the definition of CPCs in the process, as TNC drivers use their own personal vehicles to provide pre-arranged transportation.

- 5) **Sealed Off?** Currently, the California Highway Patrol (CHP) is tasked with inspecting party buses and limousines. Over the years a number of state laws have been passed to promote greater safety and protections for passengers in CPCs. SB 611 (Hill) Chapter 860, Statutes of 2014, required all modified limousines to be equipped with fire extinguishers and for CHP to

implement inspection programs. SB 109 (Corbett) Chapter 752, Statutes of 2013, required limousines to be equipped with specified emergency exits. While the author intends to close a potential loophole in current law without prohibiting a potentially budding industry, it is unclear how the provisions in the bill requiring the driver's compartment of the vehicle to be sealed off and separately ventilated would be achieved.

Arguably no existing limousine could meet such criteria's absent substantial modification while still complying with all other safety requirements, as the vehicles would have to be designed in way in which the driver and passengers are sealed off while still having adequate paths to ingress and egress the vehicle. Furthermore, although CHP is currently tasked with inspecting CPCs, it is unclear if they would also be able to determine if a vehicle compartment is properly "sealed off" and ventilated from smoke. Absent such capabilities most current party bus and limousine companies would simply prohibits the smoking of cannabis on their vehicles by default. Hence, in order to smoke cannabis on CPCs in compliance with this bill, new fleets of custom made buses or limousines would have to be designed.

- 6) **Arguments in Support:** According to the California Cannabis Industry Association, "[Our] existing policy supports safe and responsible consumption of cannabis and cannabis products and believes the provisions in SB 625 are in furtherance of this policy. Not only does this bill establish appropriate safety measures that ensure cannabis is consumed responsibly and by persons 21 years of age or older, it establishes appropriate industry standards for cannabis tourism, while improving the safety of both passengers and drivers."
- 7) **Arguments in Opposition:** According to the California Police Chiefs Association, "This bill would allow persons over the age of 21 to smoke cannabis while in a bus or limousine if the driver's compartment is sealed off and separately ventilated from the rest of the vehicle. As law enforcement, we are concerned with the practicality of the separate compartment. State and local law enforcement are still working to better understand the side effects cannabis can have on drivers. Today, there is no *per se* standard for driving under the influence of cannabis – raising the question of how to determine if the driver had contact with any cannabis products. While the bill calls for a sealed off compartment for drivers, there is no guarantee the compartment would be failproof."
- 8) **Previous Legislation:** SB 65 (Hill) of 2017 prohibited the smoking or ingestion of cannabis while driving, or while riding as a passenger in a motor vehicle, and makes a violation punishable as an infraction. *Status: Chaptered by the Secretary of State, Chapter 232, Statutes of 2017.*

SB 611 (Hill) of 2014 required all modified limousines, as defined, to be equipped with two fire extinguishers and required CHP to develop and implement an inspection program for modified limousines, as specified. *Status: Chaptered by the Secretary of State, Chapter 860, Statutes of 2014.*

SB 109 (Corbett) of 2013 required limousines operating within the state to be equipped with emergency exits no later than January 1, 2016. *Status: Chaptered by the Secretary of State, Chapter 752, Statutes of 2013.*

AB 45 (Hill) of 2012 expanded the provisions concerning under-age drinking to apply to drivers of CPCs, with certain exemptions. *Status: Chaptered by the Secretary of State, Chapter 461, Statutes of 2012.*

- 9) **Double-referral:** This bill is double referred, and if passed by this Committee, will be referred to the Assembly Committee on Transportation.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Highway Patrolmen
California Cannabis Coalition
California Cannabis Industry Association
Loopr LLC
West Coast Cannabis Tours

Opposition

Association of Deputy District Attorneys
California Association of Code Enforcement Officers
California College and University Police Chiefs Association
California Narcotic Officers' Association
California Peace Officers Association
California Police Chiefs Association
International Faith Based Coalition
Los Angeles County Professional Peace Officers Association

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