

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 2986 (Cunningham) – As Amended April 19, 2018

**SUBJECT:** Transportation network companies: disclosure of participating driver information

**SUMMARY:** Codifies an existing requirement for a Transportation Network Company (TNC) to provide all of the following information to a passenger on its online-enabled application or platform at the time the passenger is matched with a TNC driver: (1) the TNC driver's first name and a picture of the driver; (2) an image of the make and model of the TNC driver's vehicle; and (3) the license plate number of the TNC driver's vehicle.

**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 of passengers (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 "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 "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)
- 4) Requires a TNC and any participating driver to maintain TNC insurance, as specified, including primary liability insurance coverage of \$100,000 per person and \$300,000 per occurrence for death and personal injury, and \$50,000 for property damage from the moment a driver logs on to the application until the driver accepts a ride request; \$1 million for personal injury and property damage from the moment a driver logs on to the application until the driver accepts a ride request; and \$1 million for personal injury and property damage from the moment a ride request is accepted until the passenger exits the vehicle. (PUC Section 5433)
- 5) Requires a TNC to conduct, or have a third party conduct, a local and national criminal background check for each participating driver, as specified. (PUC Section 5445.2 (a)(1))
- 6) Prohibits a TNC from contracting with, employing, or retaining a driver if he or she meets either of the following criteria:

- a) Is currently registered on the United States Department of Justice National Sex Offender Public Web site; or,
  - b) Has been convicted of specified violent felonies or acts of terrorism and offenses related to weapons of mass destruction and biological agents. (PUC Section 5445.2 (a)(2))
- 7) Prohibits a TNC from contracting with, employing, or retaining a driver if he or she has been convicted of any of the following offenses within the previous seven years:
- a) Misdemeanor assault or battery;
  - b) A domestic violence offense;
  - c) Driving under the influence of alcohol or drugs; or,
  - d) Specified felony violations related to elections. (PUC Section 5445.2 (a)(3))
- 8) Specifies that the Legislature does not intend, and nothing in the specified article shall be construed, to prohibit the CPUC from exercising its rulemaking authority in a manner consistent with the specified article, or to prohibit enforcement activities related to TNCs. (PUC Section 5441)

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

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "Current regulations promulgated by the [CPUC] require that an app operated by a [TNC] display for its passengers a picture of the driver, the driver's vehicle, and the license plate number to identify the vehicle. Recent events in San Luis Obispo, Los Angeles, and elsewhere underscore the importance of passengers having the tools to identify their TNC driver before entering a vehicle. It is all too easy for an unscrupulous driver to use even their perceived role as a TNC driver to take advantage of vulnerable passengers. AB 2986 strengthens these important CPUC regulations, ensuring they are codified in state law."
- 2) **Background:** The CPUC has regulatory and safety oversight authority over CPCs, such as limousines, airport shuttles, tour buses, sightseeing services, and charter, party buses. CPCs are charter vehicles that offer transportation services on a prearranged basis for the exclusive use of an individual or group. Charges are based on either, or a combination of, mileage or time of use. TNCs are companies that offer patrons prearrange transportation services through an app on their smartphone or computer. Although TNCs do not neatly fall into the conventional definition of a CPC, the CPUC believes that TNCs fall under its existing jurisdiction over certain transportation services because they are providing passengers' transportation for compensation.
- 3) **TNC Safety Requirements:** Since the inception of TNCs, the Legislature and the CPUC has sought to balance the need to adopt rules and regulations that promote the public safety aspects of the TNC industry, while not obstructing the public's demand for such new mode of transportation. The CPUC has instituted a number of safety requirements on TNCs

including requiring TNCs to maintain specified commercial liability insurance, conduct criminal background checks, instituting a zero tolerance intoxicating substance policy, dictating the type of vehicles that can be used, among others.

In 2016, the Legislature passed AB 1289 (Cooper) Chapter 740, Statutes of 2016, which required TNCs to conduct a local and national criminal background check for each participating driver. There are various forms of background checks ranging from simple name checks to biometric checks that are run through federal, state, or local law enforcement databases. TNCs generally contract with third party firms that they argue provide a more comprehensive review necessary to ensure passenger safety

The CPUC is allowed to impose additional standards on TNCs as it continues to respond to market, regulatory, and technological changes. In November 2017, the CPUC issued a proposed decision (R. 12-12-011) adopting additional requirements for TNCs including:

- Requiring a commercial background check companies that a TNC employs to be accredited by the National Association of Professional Background Screener's Background Screening Credentialing Council;
- Requiring each TNC to receive proof of accreditation of the background check company and provide proof of accreditation with any reporting that the CPUC may require;
- Requiring the background screening for each TNC driver to be conducted for each year the TNC driver subscribes to the app; and,
- Limiting the information a TNC can require from a criminal background check going past seven years, as specified.

In the proposed decision, the CPUC declined to require a TNC that does not primarily transport minors to conduct a biometric background check of a TNC driver finding that doing so would not add a greater level of safety over and above the current background check protocols.

- 4) **TNC Incidents:** While no industry is perfect, news reports continue to identify situations in which TNC drivers have been accused of criminal acts such as rape, felony assault, kidnapping, among others. The author points to an incident that occurred in January 2018 in his district in which an Uber driver sexually assaulted several women by using the app to scout potential victims seeking rides and then picking up the victims before their actual matched vehicle arrived. TNCs are required to display consistent trade dress that meet specific requirements to identify that they are a TNC vehicle while operating, however, the victims in these incidents were unaware that they were entering the wrong TNC vehicle. In response, law enforcement officials warned TNC riders to make sure that the driver identified on the app to pick them up matches the one that arrives.

Following the incident, the author submitted a letter requesting information from the CPUC on its TNC background check process and requesting that it conduct an inquiring into the specified incident. The CPUC responded by stating that it is conducting an investigation related to the specified incident, but is refraining from making investigation records public until the investigation is complete.

To ensure that riders are entering the correct vehicle, Uber and Lyft have been rolling out new beacon devices for its drivers which light up to a specific color to help drivers and riders find each other. Such devices could be helpful especially at night or in crowded areas or events where multiple people may be hailing a ride at the same time. The CPUC requires TNCs to display on its app a picture of the driver, and the vehicle the driver is approved to use, including the license plate number. This bill codifies the CPUC requirement for TNCs to display on its app the first name and picture of the driver, the make and model of the vehicle, and license plate number.

- 5) **Previous Legislation:** AB 1289 (Cooper) of 2016 requires a TNC to conduct a criminal background check for each participating driver. *Status: Chaptered by the Secretary of State, Chapter 740, Statutes of 2016.*

AB 2293 (Bonilla) of 2014 establishes guidelines for insurance coverage for TNCs to ensure personal and financial safety of consumers. *Status: Chaptered by the Secretary of State, Chapter 389, Statutes of 2014.*

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

None on file.

##### **Opposition**

None on file.

**Analysis Prepared by:** Edmond Cheung / C. & C. / (916) 319-2637