

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 660 (Cooper) – As Introduced February 12, 2021

SUBJECT: Department of Motor Vehicles: records: pull-notice system

SUMMARY: Adds additional companies to the list of entities eligible and required to enroll in the Department of Motor Vehicles (DMV) Employer Pull Notice program (EPN). Specifically, **this bill:**

- 1) Adds delivery network company (DNC) to the list of companies required to participate in the DMV EPN system;
- 2) Restates current law requiring charter party carriers and transportation network companies (TNCs) to participate in the DMV EPN system; and
- 3) Requires that any company that contracts with any person who is not an employee to drive a vehicle operated for compensation for fulfillment of any delivery, meaning the pickup from any location of any item or items and the delivery of the items, to participate in the EPN.

EXISTING LAW:

- 1) Establishes the EPA system in the DMV to enable commercial and government employers to monitor the driving records of specified employees. (Vehicle Code § 1808.1)
- 2) Defines a TNC as an 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. (Public Utilities Code § 5431)
- 3) Requires TNCs to participate in the DMV EPN system to regularly check the driving records of a participating driver regardless of whether the participating driver is an employee or an independent contractor of the TNC. (Public Utilities Code § 5444)
- 4) Defines a DNC as a business entity that maintains an online-enabled application or platform used to facilitate delivery services within the state on an on-demand basis. (Business and Professions Code § 7463)
- 5) Defines “charter-party carrier of passengers” as every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in the state. (Public Utilities Code §5360)
- 6) Exempts an employer of a “casual driver” from participating in the EPN but an employer must have the driver’s current record before a casual driver works for specified companies such as a charter party carrier or TNC. (Vehicle Code § 1808.1[j][1])

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

BACKGROUND:

Employer Pull Notice (EPN) – The DMV system enables commercial and government organizations to monitor the driving records of employees who drive for them. By monitoring their employees' driving records, organizations can:

- Ensure that each driver has a valid driver license;
- Recognize problem drivers or driving behavior;
- Improve public safety; and
- Minimize liability.

Each employer enrolled in the EPN program is assigned a requester code. The requester code is added to applicable employees' driver license records. When an employee's driver license record is updated due to an action or activity, an electronic check occurs to determine if an EPN is on file. If the action or activity is one that must be reported under the EPN program a driver record is generated and mailed to the employer.

Employers must enroll any driver employed to operate any vehicle if:

- The driver is required to have a Commercial Class A or Class B driver license;
- The driver is required to have a Commercial Class C driver license special endorsement (Hazardous Materials, Passenger Vehicles, Tank Vehicles);
- The driver operates passenger vehicles with a seating capacity of 10 or fewer people (including the driver) for compensation by a charter-party passenger carrier; and
- The driver works for a passenger stage corporation with a certificate of public convenience and necessity, or permit issued by the CPUC (e.g. TNCs and limousine drivers).

Companies which must or choose to enroll drivers in the EPN often use a third-party company to enroll drivers and monitor the DMV records on their behalf.

Proposition 22 – This measure was approved by voters on the statewide ballot in November, 2020. It defined drivers for app-based transportation services as independent contractors and adopted labor and wage policies specific to app-based drivers and companies. The measure also added a new classification of companies – DNCs – that deliver any type of goods using an app-based platform (e.g. Door Dash). The basis for the measure was labor practices. It did not address driver safety.

COMMENTS:

- 1) Author's Statement. The advent of DNCs has resulted in a legion of eager drivers signing up to serve as modern day pony express couriers delivering everything from food, to groceries to alcohol. As these drove of drivers descend en masse on public roads, streets and freeways to promptly deliver their haul, the issue of public safety is elevated.

Assembly Bill 660 adds DNCs to the list of entities required to enroll in the DMV EPN. The EPN program helps commercial organizations and government agencies ensure that unsafe drivers are taken off the road quickly by notifying employers when an enrolled participant is involved in an accident, convicted of driving under the influence or any

other actions taken against their driving privileges. AB 660 expands the driving population of the EPN program to include DNCs as defined under Business and Professions Code 7463 and companies that contract with a person who is not an employee to drive a vehicle operated for compensation for fulfillment of delivery requests.

- 2) Employer Pull-Notice System. Not all drivers for hire are required to be enrolled in the EPN. Mandatory driver inclusion is based on the type of vehicle driven (e.g. tractor trailer), whether the driver is carrying passengers (e.g. taxis), and the products being transported (e.g. hazardous materials). Some companies voluntarily participate in the EPN as well.

This bill would include drivers who contract with DNCs for the delivery of goods through an app-based platform, defined by Proposition 22 as DNCs, to be enrolled in the EPN. This bill also requires that anyone who contracts for a delivery of goods using a passenger vehicle must enroll the driver in the EPN.

Together the two provisions extend the EPN program deep into the economy covering the delivery of goods using passenger vehicles. It applies to contracts for delivery, not employees who deliver, and would extend to common goods like pizza, dry cleaning, and newspapers. The author opines that this will “ensure only safe drivers are participating in delivery activities while improving public safety” and reports that “monitored drivers are 22% less likely to receive a violation and 14% less likely to be involved in a crash.”

- 3) Stretching the EPN? The question before the committee is whether every person contracting for the delivery of goods by passenger vehicle, whether through an app-based platform or direct contact, should have their driving record monitored for safety on a continuous basis by the contractor. The historical foundation of the EPN is to monitor drivers in three broad categories warranting an elevated level of safety on the roads such as driving people, hazardous materials, or specialized vehicles such as tractor trailers. Delivery persons employed with the company are not included.
- 4) Prior Legislation. AB 1422 (Cooper) required TNCs to enroll in the EPN. (Chapter 791, Statutes of 2015.)
- 5) Double-referral: This bill will be referred to the Assembly Committee on Transportation should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Explore Information Services
Sambasafety

Opposition

None on file.

Analysis Prepared by: Kellie Smith / C. & C. / (916) 319-2637