

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

AB 880 (Obernolte) – As Introduced February 20, 2019

SUBJECT: Transportation network companies: participating drivers: criminal background checks

SUMMARY: Makes technical changes to correct erroneous cross references to statutes governing Transportation Network Companies (TNC).

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 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))
- 5) 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))
- 6) 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. (PUC Section 5445.2 (a)(3))

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

COMMENTS:

- 1) **Author's Statement:** According to the author, "In 2016 with the passage of AB 1289 (Cooper) Chapter 740, Statutes of 2016, the Legislature imposed a requirement in statute that TNCs conduct background checks on drivers, and identified a list of offenses that disqualify individuals from operating as a TNC driver. Upon review, it was found that this list included some erroneous cross references."
- 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, such as TNCs. TNCs are companies that offer patrons prearrange transportation services through an app on their smartphone or computer. Charges are based on either, or a combination of, mileage or time of use.
- 3) **TNC Safety Requirements:** 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.

AB 1289 (Cooper) Chapter 740, Statutes of 2016, required TNCs to conduct a local and national criminal background check for each participating driver. AB 1289 also prohibited TNCs from employing drivers who have been convicted of certain crimes. This bill makes technical changes to erroneous cross references to specified felonies in statute related to TNCs and its prohibition on employing certain drivers for felony convictions.

The author may wish to consider an amendment correcting an erroneous cross reference in the bill.

- 4) **Suggested Amendment:**

5445.2 (D) A felony violation of Section 18540 of the Elections Code, or of Section 67, 68, 85, 86, 92, 93, 137, 138, 165, 518, or 530 of, subdivision (a) of Section 484 of, or subdivision (a) of Section 487 of, the Penal Code, ~~or of subdivision (b) of Section 25540 of the Corporations Code.~~

- 5) **Previous Legislation:** AB 1289 (Cooper) of 2016 required a TNC to conduct a criminal background check for each participating driver. *Status: Chaptered by the Secretary of State, Chapter 740, Statutes of 2016.*
- 6) **Double-referral:** This bill is double referred, and if passed by this Committee, will be referred to the Assembly Committee on Public Safety.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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