

Date of Hearing: June 20, 2018

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

SB 1376 (Hill) – As Amended June 12, 2018

**SENATE VOTE:** 39-0

**SUBJECT:** Transportation network companies: accessibility for persons with disabilities

**SUMMARY:** Requires the California Public Utilities Commission (CPUC) to develop regulations by January 1, 2020, relating to accessibility for person with disabilities who use Transportation Network Company (TNC) services. Specifically, **this bill:**

- 1) Requires the CPUC, as part of the specified regulations, to do all of the following:
  - a) Develop and adopt regulations, by January 1, 2020, relating to accessibility for persons with disabilities, including wheelchair users who need a wheelchair accessible vehicle (WAV). These regulations shall include, but are not limited to, the following:
    - i) The CPUC shall conduct workshops with stakeholders, including California cities and counties, disability rights organizations, persons with disabilities, transportation and transit agencies, and TNCs, in order to determine community demand, transportation provider supply, and educational outreach objectives and to develop programs for on-demand services, service alternatives, and partnerships consistent with the requirements of this section. Workshops may also examine topics including, but not limited to, issuing licenses at a reduced rate for WAVs, fuel costs, designated pickup locations for drivers in locations where door-to-door service is not feasible, or additional incentives for WAV drivers.
    - ii) The CPUC shall require each TNC to be fully accessible to persons with disabilities, as specified. If this requirement cannot be met, the CPUC shall assess a fee on the TNC to fund on-demand accessible transportation services for persons with disabilities until the TNC is fully accessible to persons with disabilities to ensure compliance with specified statutes. The CPUC shall allocate the revenue from the fees collected from a TNC for use in each county, as specified, in a manner that is proportional to the percent of the revenue originating in that county from the TNC. A TNC shall report the percent of its revenue originating in each county to the CPUC.
    - iii) The CPUC shall request all interested parties to submit plans, created in consultation with disability rights groups and persons with disabilities, by January 1, 2020, to establish on-demand transportation programs or partnerships to meet the needs of persons with disabilities, including users who need a WAV. From the plans that are submitted, the CPUC shall select on-demand transportation programs or partnerships to receive funding based on criteria that it adopts as part of these regulations. The CPUC shall provide funding to the on-demand transportation programs or partnerships from revenues derived from the fees on a competitive basis, as specified. A party selected to receive funding shall submit biannual status reports to the CPUC

for the duration of the funding. These reports shall include, but not be limited to, all of the following information:

- (1) The number of WAVs used;
  - (2) The number of rides provided by WAVs;
  - (3) The number of rides provided to persons with disabilities that are not WAVs;
  - (4) The incentives provided to WAV drivers and owners;
  - (5) The geographic area of availability of WAV service;
  - (6) The response time of WAVs;
  - (7) A summary of educational outreach to disability communities, including, but not limited to, information regarding availability of WAVs for wheelchair users within the geographic area; and,
  - (8) A detailed list of program expenditures;
- b) Report to the Legislature by January 1, 2023, on the compliance with the specified requirements and, if applicable, on the effectiveness of the transportation programs or partnerships administered, as specified. The CPUC may hire an independent entity for not more than \$250,000 to fulfill the specified requirements, which shall include, but not be limited to, an analysis of the specified biannual reporting requirements, availability of unallocated funds, need to reassess fund allocations, analysis of current program capabilities and deficiencies, and recommendations to overcome any deficiencies identified. The specified report required shall be submitted to the Legislature, as specified; and,
- c) Create a working group with stakeholders, as specified, to examine the variety of agencies, localities, and programs that provide equivalent transportation services for persons with disabilities, including passenger stage carriers and charter-party carriers (CPC) within the CPUC's jurisdiction, in order to evaluate ways to partner with those agencies to provide services to disabled persons in a nonduplicative, nondiscriminatory, and more efficient manner.
- 2) Defines "Wheelchair accessible vehicle" or "WAV" to mean a vehicle capable of transporting nonfolding motorized wheelchairs, mobility scooters, or other mobility devices.
  - 3) Sunsets the bill on January 1, 2025.
  - 4) Makes the following findings and declarations:
    - a) It is the intent of the Legislature that the CPUC initiate regulation of CPCs, as specified, to ensure that TNC services provide full and equal access to all persons with disabilities, including those who use nonfolding mobility devices, and to comply with specified statutes;

- b) TNCs have made a significant and positive impact on the lives of many people by reducing transportation barriers that limited access to jobs, health care, and society. Many persons with disabilities, such as deaf, blind, hard-of-hearing, or low-vision individuals have been able to enjoy these positive impacts. However, other persons with disabilities, especially individuals who require WAVs, have not experienced a similar reduction in transportation barriers;
- c) The availability of transportation services, especially on-demand transportation service, is essential for economic competitiveness and quality of life. Many individuals fulfill their transportation needs through vehicle ownership. However, TNCs or other application-based ride hailing services offer alternative, on-demand access to transportation;
- d) There is a lack of on-demand wheelchair accessible vehicles in California, which is likely explained, in part, due to WAVs generally having higher operating costs, higher fuel costs, higher liability insurance, and requiring additional time to serve riders who use wheelchairs;
- e) The Americans with Disabilities Act of 1990 (ADA), and the Unruh Civil Rights Act are groundbreaking civil rights acts, protecting the rights of persons with disabilities by ensuring equal access to employment, public accommodations, telecommunication services, and public and private transportation;
- f) The ADA and the Unruh Civil Rights Act require the services provided by transportation companies meet equivalent service standards that include, but are not limited to, response times, fares, and geographic service areas for disabled persons that are comparable to the services provided to persons without disabilities;
- g) It is the intent of the Legislature that California be a national leader in the deployment and adoption of on-demand transportation options for persons with disabilities;
- h) It is the policy of the state to encourage collaboration among stakeholders and to promote partnerships to harness the expertise and strengths of all to serve the public interest; and,
- i) The Legislature further finds that adoption of services in communities that were previously underserved takes time, and requires robust dialogue, educational outreach, and partnerships to build trust in the new services.

**EXISTING LAW:**

- 1) Establishes the “Passenger Charter-Party Carriers Act,” which authorizes the CPUC to supervise and regulate every 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 “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)

- 3) 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)
- 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) Provides that individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons. (Civil Code Section 54.1)

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

**COMMENTS:**

- 1) **Authors Statement:** According to the author, "SB 1376 mandates the CPUC to develop regulations for TNC accessibility for persons with disabilities. Disability access to TNC should be of the highest priority; an equity issue the CPUC and the Legislature cannot ignore. However, throughout the four-year long rulemaking on TNCs, disability access has swung on and off the CPUC proceeding's history, and is currently listed with no timeline for consideration. In the past months, numerous disability advocates have informed my office of the shortcomings of TNC services, as being either unavailable or delayed to the point of uselessness. This is especially true for disabled persons requiring [WAVs]. The fact remains that throughout the CPUC's TNC rulemaking, the TNCs continue to operate within California; an operation available to able-bodied Californians, but potentially lacking for disabled Californians [...] Now is the time to prioritize equity issues while the CPUC is rebuilding its program."
- 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 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) **CPUC, TNC, and ADA Requirements:** Current law adopts provisions of the ADA and stipulates that individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations and facilities, including all common carriers and public means of transportation. 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. In 2013, the CPUC adopted phase one of its decision (D. 13-09-045) related to TNCs. In the decision, the CPUC identified disability access as a central issue to consider to ensure that TNCs are accessible and do not discriminate against persons with disabilities. The CPUC had previously opened rulemakings to examine disability access issues including proceedings ordering all common carriers to comply with ADA requirements. However, although ADA compliance is verified during vehicle licensure for most CPUC regulated transportation services, because TNCs are a relatively new service, disable access requirements for TNCs are less clear.

As part of D. 13-09-045, the CPUC adopted accessibility reporting requirements and added transportation accessibility to the list of issues it should consider in subsequent phase of its TNC rulemaking. However, since the initial phase one rulemaking, the issue of accessibility requirements for TNCs have been removed and then added back on to subsequent rulemakings. In June 2017, the CPUC issued an amended ruling regarding the scope of its phase three TNC rulemaking. The amended ruling once again included TNC accessibility issues as an issue to address. The amended ruling included two questions to be considered, (1) What is the percentage of accessible vehicles that TNCs make available? and, (2) Are there any opportunities for the TNCs to provide increase accessible vehicle services to TNC customers?

This bill requires the CPUC to develop and adopt regulations, by January 1, 2020, relating to accessibility for persons with disabilities who use TNC services. As part of the specified regulations required under this bill, the CPUC shall conduct workshops with stakeholders; require each TNC to be fully accessible to persons with disabilities, and if it is unable to do so, require the CPUC to assess a fee on the TNC to fund on-demand accessible transportation services for persons with disabilities until the TNC is fully accessible to persons with disabilities; and require the CPUC to request all interested parties to submit plans, to establish on-demand transportation programs or partnerships to meet the needs of persons with disabilities.

Arguably, it is unlikely that any TNC is currently fully accessible to persons with disabilities. Hence, this bill would require the CPUC to assess a fee on TNCs to fund such services. Arguably, the TNC would then pass the cost on to its customers, and depending on the needs, it is unknown what the cost of such a fee would be on TNC customers. However, disability access to TNC is a laudable goal and is consistent with the goals established under the ADA and the Unruh Civil Rights Act. Certainly such a provision would add a sense of urgency to the CPUC and relevant stakeholders to prioritize and address the issue of TNC transportation accessibility for individuals with disabilities.

- 4) **Arguments in Support:** According to Disability Rights California, “The relatively new industry known as ‘ride-sharing,’ regulated in California by the [CPUC] as [TNCs], has provided new freedom of travel for users in California and elsewhere [...] Unfortunately, for individuals with disabilities that rely upon nonfolding wheelchairs, mobility scooters, or other mobility devices, these life-changing effects are unrealized in the TNC mobility sector. In other words, those who use motorized mobility chairs are almost entirely excluded from the benefits of TNCs because the vehicles used in the TNC model do not accommodate wheelchair users [...] This bill will allow more Californians to improve their mobility and their everyday lives.”
- 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 rules 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.*
- 6) **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

The Arc and United Cerebral Palsy California Collaboration  
 Association of Regional Center Agencies  
 California Transit Association  
 Disability Rights California  
 Disability Rights Education & Defense Fund  
 San Francisco Municipal Transportation Agency  
 San Francisco Paratransit Coordinating Council  
 Senior and Disability Action

### Opposition

None on file.

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