

Date of Hearing: June 20, 2018

ASSEMBLY COMMITTEE ON COMMUNICATIONS AND CONVEYANCE

Miguel Santiago, Chair

SB 1474 (Hill) – As Amended April 30, 2018

**SENATE VOTE:** 34-4

**SUBJECT:** Passenger stage corporations: charter-party carriers of passengers: impoundment of vehicles

**SUMMARY:** Authorizes the California Public Utilities Commission (CPUC) to impound a vehicle owned or operated by a charter-party carrier (CPC) or a passenger stage corporation (PSC) for specified violations. Specifically, **this bill:**

- 1) Authorizes the CPUC, beginning, July 1, 2019, through its enforcement, consumer protection, or legal staff, to impound a vehicle owned or operated by a PSC or a CPC for up to 30 days, if the CPUC, or its enforcement, consumer protection, or legal staff, determines that the PSC or CPC, or any officer, director, or agent of the PSC or CPC, has, on more than one occasion, engaged in any specified violation.
- 2) Prohibits the CPUC from exercising the specified authority until it amends its existing general orders, resolutions, or decisions as necessary to provide for a prompt and fair administrative review of the decision to impound a vehicle and adopts all existing impoundment protections and rules, as specified.
- 3) Prohibits the CPUC from exercising the specified authority absent the presence of an officer of the Department of the California Highway Patrol (CHP) or an officer of an appropriate law enforcement agency in the city, county, or city and county where the vehicle is located, unless impoundment occurs on airport property.
- 4) Specifies that the registered owner, and not the legal owner, shall remain responsible for any towing and storage charges related to the impoundment, any administrative charges authorized, as specified, and any parking fines, penalties, and administrative fees incurred by the registered owner.
- 5) Sunsets the current authorization for the CPUC executive director to apply for court orders to impound PSC vehicles, as of July 1, 2019, and as of January 1, 2020 is repealed.

**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 “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)
- 3) 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)
- 4) Authorizes CPUC to regulate PSCs, through the issuance of a certificate, require insurance and workers compensation, and take appropriate enforcement actions and other provisions, as specified. (PUC Sections 1031 to 1045)
- 5) Prohibits a CPC excepting transit districts, transit authorities or cities owning and operating local transit systems themselves or through wholly owned nonprofit corporations from engaging in transportation services made, as specified, without first having obtained from the CPUC a certificate that public convenience and necessity require the operation, as specified. (PUC Section 5371)
- 6) Specifies that when the executive director of the CPUC determines that any PSC, or any officer, director, or agent of any PSC, has engaged in, is engaged in, or is about to engage in, any specified violation, or any order, decision, rule, regulation, direction, demand, or requirement issued, as specified, the executive director may make application to the superior court for an order enjoining those acts or practices or for an order directing compliance, as specified. (PUC Section 1044)
- 7) Authorizes a peace officer, with respect to a PSC, to enforce and assist in the enforcement of specified violations, as specified (PUC Section 1046)
- 8) Establishes requirements for vehicle impoundments, including authorizing peace officers to impound PSCs or limousines for 30 days if an officer determines that a specified violation has occurred. (Vehicle Code Section 14602.9)

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

**COMMENTS:**

- 1) **Authors Statement:** According to the author, “SB 1474 adopts one remaining recommendation from the 2017 audit of CPUC’s transportation authority; that is, allowing the CPUC to impound vehicles under their jurisdiction. The CPUC already regulate these entities, issue licenses, and fine or penalize them for bad behavior. However, approximately half of all unlicensed carriers blatantly disregard CPUC citations and continue to operate illegally in the state, allowing for both a monetary deficit and continuation of illegal operation. SB 1474 would ensure the CPUC is effective at enforcing its regulations, and takes proper public safety precautions by ensuring law enforcement is present during the impoundment.”
- 1) **Background:** California law regulates different modes of passenger transportation for compensation including taxi services, which are regulated by cities and/or counties; and

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. The CPUC does not regulate the fees charged by CPCs. Types of CPCs include limousines, tour buses, sightseeing services, and charter and party buses.

- 2) **CPUC Transportation Enforcement Branch:** Current law requires PSCs and CPCs to obtain licensure from the CPUC before operating. The CPUC's Transportation Enforcement Branch (TEB) is tasked with responding to, and investigating complaints of unsafe, unlicensed, and uninsured passenger carriers; as well as responding to complaints against licensed carriers, such as overcharging, discrimination, and other consumer complaints. The TEB works in collaboration with law enforcement to carry out its duties.

In June 2014, the California State Auditor released a report examining the TEBs efforts to regulate passenger carriers, as well as its use of fees collected from carriers. The report found that the branch did not provide sufficient oversight of CPCs and PSCs to ensure consumer safety. The report found a number of issues including a lack of procedures for processing complaints, failure to conduct adequate investigations, inadequate enforcement across the state due to the lack of internal control and high turnover, among others.

The report made a number of recommendations including exploring legislation to give the CPUC authority to impound vehicles. The report noted that the TEB has authorization to perform some peace officer activities, but does not have the authority to impound vehicles. Such authority the report noted could be an effective tool to encourage compliance with passenger carrier requirements and fine collection. SB 541 (Hill) Chapter 718, Statutes of 2015, subsequently codified many of the reports recommendations and the CPUC has made strides toward improving TEB activities since then.

- 3) **Crowe Horwath Report:** As part of SB 541, the CPUC was required to assess TEBs capabilities to carry out the enforcement activities, report to the Legislature on its current capabilities and deficiencies, and provide recommendation to improve the TEB. The CPUC hired Crowe Horwath LLP to conduct the evaluation. The Crowe Horwath report identified numerous deficiencies in the CPUC's transportation oversight program that have persisted for decades, due in large part to insufficient attention from CPUC leadership and a lack of resources required to staff a meaningful regulatory program.

The report noted that unlicensed carriers were usually a greater threat to public safety than licensed carriers. Unlicensed carriers can easily close business and re-open under another name, unbeknownst to the TEB. Because the TEB does not have the authority to impound vehicles or the ability to follow up on fines issued to unlicensed carriers, enforcement of unlicensed carriers aren't enforced as efficiently. Although the TEB does occasionally participate in sting operations at airports with other agencies, the report found that there were no concerted effort to bring unlicensed carriers into compliance with current laws and regulations.

The report recommended a number of authorities and tools that would significantly improve TEB's ability to regulate carriers, including Legislation giving the TEB impounding authority. In 2017, the Legislature passed SB 19 (Hill) Chapter 421, Statutes of 2017, which provided a suite of reforms to the CPUC, including codifying a number of recommendations from the Crowe Horwath report. SB 19, however, did not include the recommendation to provide the CPUC with the ability to impound vehicles.

This bill authorizes the CPUC to impound CPCs or PSCs for specified violations with a CHP or law enforcement officer present.

- 4) **Arguments in Support:** According to the Greater California Livery Association, "Currently, the [CPUC] lacks effective enforcement efforts and effective enforcement tools. Without efforts to safely regulate our industry, legal and illegal operators understand that current rules, operating requirements, and any possible violation fines are meaningless. The lack of enforcement by the CPUC and the lack of effective enforcement tools jeopardizes the safety of the public and diminishes the viability of the charter party industry. The passage of [SB 1474] will go a long way to enhance enforcement of California law and regulation, penalize non-compliance operators and provide incentive to comply with the laws and standards governing our industry."
- 5) **Previous Legislation:** SB 19 (Hill) of 2017 provides a suite of reforms of the operations of the CPUC, including the transfer, by July 1, 2018, of specified transportation-related functions from the CPUC to other agencies or jurisdictions. *Status: Chaptered by the Secretary of State, Chapter 421, Statutes of 2017.*

SB 541 (Hill) of 2015 codifies a State Auditor report's recommendations on strengthening the CPUC's oversight of transportation-related activities of household good carriers and CPCs. *Status: Chaptered by the Secretary of State, Chapter 718, Statutes of 2015.*

- 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

Greater California Livery Association

### Opposition

None on file.

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