

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2068

Introduced by Assembly Member Nazarian

February 20, 2014

An act to ~~add Chapter 8.5 (commencing with Section 5430) to Division 2 amend Sections 5360 and 5391 of the Public Utilities Code, and to amend Section 260 of the Vehicle Code,~~ relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2068, as amended, Nazarian. ~~Transportation network companies: operating requirements. Charter-party carriers of passengers.~~

The Passenger Charter-party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission, and imposes various other requirements. Existing law establishes various exclusions to the act. Pursuant to existing law, the commission ~~has adopted rules and regulations rendered a decision~~ relating to public safety risks in the operation of transportation network ~~companies. Existing regulations define companies and defined~~ a transportation network company as an organization that provides prearranged transportation services for compensation using an online-enabled platform to connect passengers with drivers using their personal vehicles.

This bill would specifically include within the definition of charter-party carrier of passengers a person that uses an online-enabled application or platform to connect passengers with drivers.

Existing law requires the commission to require charter-party carriers of passengers to procure and continue in effect adequate assurances of protection against liability, as specified.

This bill would specify that the assurances against protection against liability shall be primary.

Existing law provides that a violation of the provisions governing charter-party carriers of passengers and of associated regulations adopted by the commission is a crime.

This bill would revise the definition of a crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing regulations of the commission require, among other things, a transportation network company to (1) obtain an operating permit from the commission, (2) conduct a criminal background check of each driver, (3) establish a driver training program, (4) adopt a zero-tolerance policy on drugs and alcohol, (5) acquire a commercial liability policy of at least \$1,000,000 per-incident coverage for incidents involving transportation network company vehicles and drivers in transit to or during a transportation network company trip, (6) carry workers' compensation insurance for the company's employees, and (7) conduct a 19-point motor vehicle inspection of the vehicles operated by drivers under contract with the company.~~

~~This bill would more broadly define "transportation network company" by excluding the requirement that a transportation network company trip be prearranged and would require the commission to adopt additional rules and regulations that would require a transportation network company to meet specified requirements that include, among other things, participation in the Employer Pull Notice Program administered by the Department of Motor Vehicles, registration of the vehicles of its participating drivers as commercial vehicles, and placing permanent markings on the rear bumper of each of those vehicles that can be easily seen by the driving public and law enforcement agencies.~~

~~The bill would authorize a city, county, or a city and county to adopt standards and requirements for clean fuel or clean air vehicles operated by a transportation network company and concerning the number of transportation network company vehicles that may operate in its jurisdiction. The bill would also require the Department of Food and Agriculture to establish a process for approving and sealing online-enabled applications or platforms utilized by a transportation network company.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 5360 of the Public Utilities Code is*
2 *amended to read:*

3 5360. Subject to the exclusions of Section 5353, “charter-party
4 carrier of passengers” means every person engaged in the
5 transportation of persons by motor vehicle for compensation,
6 whether in common or contract carriage, over any public highway
7 in this state, *and includes a person that uses an online-enabled*
8 *application or platform to connect passengers with drivers.*
9 “Charter-party carrier of passengers” includes any person,
10 corporation, or other entity engaged in the provision of a hired
11 driver service when a rented motor vehicle is being operated by a
12 hired driver.

13 *SEC. 2. Section 5391 of the Public Utilities Code is amended*
14 *to read:*

15 5391. The commission shall, in granting permits or a certificate
16 pursuant to this chapter, require the charter-party carrier of
17 passengers to procure, and to continue in effect during the life of
18 the permit or certificate, adequate protection against liability
19 imposed by law upon the charter-party carrier of passengers for
20 the payment of damages for personal bodily injuries, including
21 death resulting therefrom, protection against a total liability of the
22 charter-party carrier of passengers on account of bodily injuries
23 to, or death of, more than one person as a result of any one accident,
24 and protection against damage or destruction of property. *The*
25 *requirements for such assurances of protection against liability*
26 *shall be primary.* The minimum requirements for such assurances
27 of protection against liability shall not be less than the requirements

1 which are applicable to operations conducted under certificates of
2 public convenience and necessity issued pursuant to the provisions
3 of Article 2 (commencing with Section ~~1031~~, 1031) of Chapter
4 ~~5~~, 5 of Part ~~1~~, 1 of Division 1, ~~of this code~~, and the rules and
5 regulations prescribed pursuant thereto shall apply to charter-party
6 carriers of passengers.

7 *SEC. 3. No reimbursement is required by this act pursuant to*
8 *Section 6 of Article XIII B of the California Constitution because*
9 *the only costs that may be incurred by a local agency or school*
10 *district will be incurred because this act creates a new crime or*
11 *infraction, eliminates a crime or infraction, or changes the penalty*
12 *for a crime or infraction, within the meaning of Section 17556 of*
13 *the Government Code, or changes the definition of a crime within*
14 *the meaning of Section 6 of Article XIII B of the California*
15 *Constitution.*

16 SECTION 1. Chapter 8.5 (commencing with Section 5430) is
17 added to Division 2 of the Public Utilities Code, to read:

18

19 ~~CHAPTER 8.5. TRANSPORTATION NETWORK COMPANIES~~

20

21 ~~5430. As used in this chapter, a “transportation network~~
22 ~~company” is an organization, including, but not limited to, a~~
23 ~~corporation, partnership, sole proprietor, operating in this state~~
24 ~~that provides transportation services for compensation using an~~
25 ~~online-enabled application or platform to connect passengers with~~
26 ~~drivers using their personal vehicles.~~

27 ~~5432. The commission shall adopt rules and regulations that~~
28 ~~require a transportation network company to do all of the following:~~

29 ~~(a) Adopt a drug and alcohol testing program that meets the~~
30 ~~requirements of Section 53075.5 of the Government Code.~~

31 ~~(b) Adopt a driver background check program that meets the~~
32 ~~requirements of Section 12517.3 of the Vehicle Code.~~

33 ~~(c) Participate in the Employer Pull Notice (EPN) Program~~
34 ~~administered by the Department of Motor Vehicles.~~

35 ~~(d) Submit its online-enabled application or platform along with~~
36 ~~the algorithms used to measure the cost of trips to the Department~~
37 ~~of Food and Agriculture for approval and sealing by the department~~
38 ~~to determine that the online-enabled application or platform and~~
39 ~~mobile electronic devices used by the transportation network~~

1 ~~company and its participating drivers are charging the correct~~
2 ~~amount for each trip.~~

3 ~~(e) Ensure that the vehicles of its participating drivers are~~
4 ~~registered as commercial vehicles.~~

5 ~~(f) Place permanent markings on the rear bumper of each vehicle~~
6 ~~providing transportation network company services that can be~~
7 ~~easily seen by the driving public and law enforcement agencies.~~

8 ~~5433. The Department of Food and Agriculture shall establish~~
9 ~~a process for approving and sealing online-enabled applications~~
10 ~~or platforms utilized by a transportation network company.~~

11 ~~5434. (a) A city, county, or city and county may adopt~~
12 ~~standards and requirements for clean fuel or clean air vehicles~~
13 ~~operated by a transportation network company.~~

14 ~~(b) A city, county, or city and county may adopt standards and~~
15 ~~requirements concerning the number of transportation network~~
16 ~~company vehicles that may operate in its jurisdiction.~~

17 ~~SEC. 2. Section 260 of the Vehicle Code is amended to read:~~

18 ~~260. (a) (1) A “commercial vehicle” is a motor vehicle of a~~
19 ~~type required to be registered under this code used or maintained~~
20 ~~for the transportation of persons for hire, compensation, or profit~~
21 ~~or designed, used, or maintained primarily for the transportation~~
22 ~~of property.~~

23 ~~(2) A passenger vehicle or passenger transportation vehicle~~
24 ~~operated for compensation in connection with a transportation~~
25 ~~network company is a commercial vehicle.~~

26 ~~(b) Passenger vehicles and house cars that are not used for the~~
27 ~~transportation of persons for hire, compensation, or profit are not~~
28 ~~commercial vehicles. This subdivision shall not apply to Chapter~~
29 ~~4 (commencing with Section 6700) of Division 3.~~

30 ~~(c) Any vanpool vehicle is not a commercial vehicle.~~

31 ~~(d) The definition of a commercial vehicle in this section does~~
32 ~~not apply to Chapter 7 (commencing with Section 15200) of~~
33 ~~Division 6.~~