

AMENDED IN ASSEMBLY MARCH 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 24

Introduced by Assembly Member Nazarian

December 1, 2014

An act to amend Section 5374 of, and to add Section 5444 to, the Public Utilities Code, and to amend Section 1808.1 of the Vehicle Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 24, as amended, Nazarian. Transportation network companies: ~~public safety.~~ *safety requirements.*

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. A violation of the act is generally a misdemeanor. ~~Pursuant to existing law, the commission has adopted rules and regulations relating to the operation of transportation network companies.~~ Existing law defines a transportation network company as an organization, whether a corporation, partnership, sole proprietor, or other form, operating in California that provides prearranged transportation services for compensation using an online-enabled platform to connect passengers with drivers using their personal vehicles.

~~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) maintain specified insurance coverage on the company's employees, and (6) conduct a 19-point motor vehicle inspection of the vehicles operated by drivers under contract with the company.

~~Existing law, operative on July 1, 2015, imposes specified additional requirements for liability insurance coverage on transportation network companies, as defined, and their participating drivers.~~

~~This bill would declare the intent of the Legislature to enact legislation that promotes public safety relating to transportation network companies.~~

This bill would prohibit the commission from issuing or renewing a permit or certificate to a charter-party carrier of passengers unless the applicant, in addition to existing requirements, participates in the Department of Motor Vehicles pull-notice system and provides for mandatory Department of Justice background checks of every driver, except as specified, who is either employed by, or under contract to, the applicant. This bill would specifically require a transportation network company to comply with these provisions. The bill would also require a transportation network company to register any vehicle used in the transportation of passengers for compensation with the commission and display the identifying decal issued by the commission on the vehicle.

The bill would require a driver of a charter-party carrier of passengers or a transportation network company to submit to the Department of Justice fingerprint images and related information for the purpose of obtaining information as to the existence and content of state convictions and state arrests, as specified, and would require the department to charge a fee sufficient to cover the cost of processing the request described in these provisions.

The bill would require that drivers hired or initially retained by either a charter-party carrier of passengers or a transportation network company on or after January 1, 2016, be subject to background checks and mandatory drug and alcohol testing prior to employment or retention and that drivers hired or initially retained before January 1, 2016, complete a background check and drug and alcohol test before January 1, 2017.

Because a violation of these provisions would be a crime, the bill would impose 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.

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

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

1 SECTION 1. Section 5374 of the Public Utilities Code is
2 amended to read:

3 5374. (a) (1) Before a permit or certificate is issued or
4 renewed, the commission shall require the applicant to establish
5 reasonable fitness and financial responsibility to initiate and
6 conduct or continue to conduct the proposed or existing
7 transportation services. The commission shall not issue or renew
8 a permit or certificate pursuant to this chapter unless the applicant
9 meets all of the following requirements:

10 (A) It is financially and organizationally capable of conducting
11 an operation that complies with the rules and regulations of the
12 Department of the California Highway Patrol governing highway
13 safety.

14 (B) It is committed to observing the hours of service regulations
15 of state and, where applicable, federal law, for all persons, whether
16 employees or subcarriers, operating vehicles in transportation for
17 compensation under the certificate.

18 (C) It has a preventive maintenance program in effect for its
19 vehicles used in transportation for compensation that conforms to
20 regulations of the Department of the California Highway Patrol
21 in Title 13 of the California Code of Regulations.

22 (D) It participates in ~~a program~~ *the pull-notice system pursuant*
23 *to Section 1808.1 of the Vehicle Code* to regularly check the driving
24 records of all persons, whether employees or subcarriers, operating
25 vehicles used in transportation for compensation.

26 (E) It has a safety education and training program in effect for
27 all employees or subcarriers operating vehicles used in
28 transportation for compensation.

29 (F) It will maintain its vehicles used in transportation for
30 compensation in a safe operating condition and in compliance with

1 the Vehicle Code and with regulations contained in Title 13 of the
2 California Code of Regulations relative to motor vehicle safety.

3 (G) It has filed with the commission the certificate of workers'
4 compensation insurance coverage or statement required by Section
5 5378.1.

6 (H) It has provided the commission an address of an office or
7 terminal where documents supporting the factual matters specified
8 in the showing required by this subdivision may be inspected by
9 the commission and the Department of the California Highway
10 Patrol.

11 (I) It provides for a mandatory controlled substance and alcohol
12 testing certification program as adopted by the commission
13 pursuant to Section 1032.1.

14 (J) Subparagraphs (C), (F), and (H) do not apply to a
15 charter-party carrier of passengers engaged in the provision of a
16 hired driver service when a rented motor vehicle is being operated
17 by the hired driver.

18 (K) *It provides for mandatory Department of Justice criminal*
19 *background checks to check the criminal history of any driver who*
20 *is either under contract to, or employed by, the applicant to operate*
21 *a vehicle used in transportation for compensation pursuant to the*
22 *following:*

23 (i) *A driver, as defined in Section 305 of the Vehicle Code, of*
24 *a charter-party carrier, as defined in Section 5360, shall submit*
25 *to the Department of Justice fingerprint images and related*
26 *information required by the department for the purpose of*
27 *obtaining information as to the existence and content of state*
28 *convictions and state arrests and also information as to the*
29 *existence and content of a record of a state arrest for which the*
30 *department establishes that the person is free on bail or on his or*
31 *her own recognizance pending trial or appeal.*

32 (ii) *The department shall provide a state response to the*
33 *charter-party carrier pursuant to paragraph (1) of subdivision (p)*
34 *of Section 11105 of the Penal Code.*

35 (iii) *The charter-party carrier shall request from the Department*
36 *of Justice subsequent notification service, as provided pursuant*
37 *to Section 11105.2 of the Penal Code, for persons described in*
38 *clause (i).*

39 (iv) *The department shall charge a fee sufficient to cover the*
40 *cost of processing the request described in this subparagraph.*

1 (v) A driver shall be denied employment or have his or her
2 contract voided if he or she is required by any law to register as
3 a sex offender or has been convicted of any felony, within a
4 seven-year period from the date of his or her application, involving
5 any of the following: any type of sexual offense; the manufacture,
6 possession for sale, transportation, or distribution of narcotics,
7 controlled substances, or addictive or dangerous drugs; force,
8 violence, threat, or intimidation against persons; kidnapping;
9 forgery, fraud, larceny, extortion, burglary, robbery, or theft;
10 credit card fraud; possession of a firearm or dangerous weapon;
11 resisting or obstructing a peace officer, public officer, or
12 emergency medical technician; or use of another vehicle for hire
13 in the commission of a felony. Equivalent out-of-state violations
14 shall be considered.

15 (L) Subparagraph (K) shall not apply with respect to a driver
16 who is required to undergo a criminal background check pursuant
17 to Section 33192 or 45125.1 of the Education Code, while the
18 driver remains employed by the employer for whom the criminal
19 background check was performed.

20 (2) Drivers hired or initially retained by a charter-party carrier
21 of passengers on or after January 1, 2016, shall be subject to
22 background checks and mandatory drug and alcohol testing prior
23 to employment or retention. Drivers hired or initially retained
24 before January 1, 2016, shall complete a background check and
25 drug and alcohol test before January 1, 2017.

26 ~~(2)~~

27 (3) With respect to subparagraphs (B) and (F) of paragraph (1),
28 the commission may base a finding on a certification by the
29 commission that an applicant has filed, with the commission, a
30 sworn declaration of ability to comply and intent to comply.

31 ~~(3)~~

32 (4) The commission may require, as a precondition to the
33 issuance of a permit or certificate, the procurement of a
34 performance bond sufficient to facilitate the collection of fines,
35 penalties, and restitution related to enforcement actions that can
36 be taken against the applicant.

37 (b) In addition to the requirements in subdivision (a),
38 charter-party carriers shall meet all other state and, where
39 applicable, federal regulations as prescribed.

1 (c) The commission may delegate to its executive director or
2 that executive director's designee the authority to issue, renew, or
3 authorize the transfer of, charter-party carrier permits or certificates
4 and to make the findings specified in subdivision (a) that are
5 necessary to that delegated authority.

6 *SEC. 2. Section 5444 is added to the Public Utilities Code, to*
7 *read:*

8 *5444. (a) A transportation network company shall do all of*
9 *the following:*

10 *(1) Participate in a pull-notice system pursuant to Section*
11 *1808.1 of the Vehicle Code to regularly check the driving records*
12 *of all participating drivers.*

13 *(2) Provide for a mandatory controlled substance and alcohol*
14 *testing certification program as adopted by the commission*
15 *pursuant to Section 1032.1.*

16 *(3) Provide for mandatory Department of Justice criminal*
17 *background checks to check the criminal history of any*
18 *participating driver who is either under contract to, or employed*
19 *by, the transportation network company to operate a vehicle used*
20 *in transportation for compensation pursuant to the following:*

21 *(A) A driver shall submit to the Department of Justice fingerprint*
22 *images and related information required by the department for*
23 *the purpose of obtaining information as to the existence and content*
24 *of state convictions and state arrests and also information as to*
25 *the existence and content of a record of a state arrest for which*
26 *the department establishes that the person is free on bail or on his*
27 *or her own recognizance pending trial or appeal.*

28 *(B) The department shall provide a state response to the*
29 *transportation network company pursuant to paragraph (1) of*
30 *subdivision (p) of Section 11105 of the Penal Code.*

31 *(C) The transportation network company shall request from the*
32 *Department of Justice subsequent notification service, as provided*
33 *pursuant to Section 11105.2 of the Penal Code, for persons*
34 *described in subparagraph (A).*

35 *(D) The department shall charge a fee sufficient to cover the*
36 *cost of processing the request described in this paragraph.*

37 *(E) A driver shall be denied employment or have his or her*
38 *contract voided if he or she is required by any law to register as*
39 *a sex offender or has been convicted of any felony, within a*
40 *seven-year period from the date of his or her application, involving*

1 any of the following: any type of sexual offense; the manufacture,
2 possession for sale, transportation, or distribution of narcotics,
3 controlled substances, or addictive or dangerous drugs; force,
4 violence, threat, or intimidation against persons; kidnapping;
5 forgery, fraud, larceny, extortion, burglary, robbery, or theft;
6 credit card fraud; possession of a firearm or dangerous weapon;
7 resisting or obstructing a peace officer, public officer, or
8 emergency medical technician; or use of another vehicle for hire
9 in the commission of a felony. Equivalent out-of-state violations
10 shall be considered.

11 (4) Register any vehicle used in the transportation of passengers
12 for compensation with the commission and display on the vehicle
13 a suitable decal with an identifying symbol issued by the
14 commission.

15 (b) Drivers hired or initially retained by a transportation
16 network company on or after January 1, 2016, shall be subject to
17 background checks and mandatory drug and alcohol testing prior
18 to employment or retention. Drivers hired or initially retained
19 before January 1, 2016, shall complete a background check and
20 drug and alcohol test before January 1, 2017.

21 SEC. 3. Section 1808.1 of the Vehicle Code is amended to read:

22 1808.1. (a) The prospective employer of a driver who drives
23 a vehicle specified in subdivision (k) shall obtain a report showing
24 the driver's current public record as recorded by the department.
25 For purposes of this subdivision, a report is current if it was issued
26 less than 30 days prior to the date the employer employs the driver.
27 The report shall be reviewed, signed, and dated by the employer
28 and maintained at the employer's place of business until receipt
29 of the pull-notice system report pursuant to subdivisions (b) and
30 (c). These reports shall be presented upon request to an authorized
31 representative of the Department of the California Highway Patrol
32 during regular business hours.

33 (b) The employer of a driver who drives a vehicle specified in
34 subdivision (k) shall participate in a pull-notice system, which is
35 a process for the purpose of providing the employer with a report
36 showing the driver's current public record as recorded by the
37 department, and any subsequent convictions, failures to appear,
38 accidents, driver's license suspensions, driver's license revocations,
39 or any other actions taken against the driving privilege or
40 certificate, added to the driver's record while the employer's

1 notification request remains valid and uncanceled. As used in this
2 section, participation in the pull-notice system means obtaining a
3 requester code and enrolling all employed drivers who drive a
4 vehicle specified in subdivision (k) under that requester code.

5 (c) The employer of a driver of a vehicle specified in subdivision
6 (k) shall, additionally, obtain a periodic report from the department
7 at least every 12 months. The employer shall verify that each
8 employee's driver's license has not been suspended or revoked,
9 the employee's traffic violation point count, and whether the
10 employee has been convicted of a violation of Section 23152 or
11 23153. The report shall be signed and dated by the employer and
12 maintained at the employer's principal place of business. The
13 report shall be presented upon demand to an authorized
14 representative of the Department of the California Highway Patrol
15 during regular business hours.

16 (d) Upon the termination of a driver's employment, the employer
17 shall notify the department to discontinue the driver's enrollment
18 in the pull-notice system.

19 (e) For the purposes of the pull-notice system and periodic report
20 process required by subdivisions (b) and (c), an owner, other than
21 an owner-operator as defined in Section 34624, and an employer
22 who drives a vehicle described in subdivision (k) shall be enrolled
23 as if he or she were an employee. A family member and a volunteer
24 driver who drives a vehicle described in subdivision (k) shall also
25 be enrolled as if he or she were an employee.

26 (f) An employer who, after receiving a driving record pursuant
27 to this section, employs or continues to employ as a driver a person
28 against whom a disqualifying action has been taken regarding his
29 or her driving privilege or required driver's certificate, is guilty of
30 a public offense, and upon conviction thereof, shall be punished
31 by confinement in a county jail for not more than six months, by
32 a fine of not more than one thousand dollars (\$1,000), or by both
33 that confinement and fine.

34 (g) As part of its inspection of bus maintenance facilities and
35 terminals required at least once every 13 months pursuant to
36 subdivision (c) of Section 34501, the Department of the California
37 Highway Patrol shall determine whether each transit operator, as
38 defined in Section 99210 of the Public Utilities Code, is then in
39 compliance with this section and Section 12804.6, and shall certify
40 each operator found to be in compliance. Funds shall not be

1 allocated pursuant to Chapter 4 (commencing with Section 99200)
2 of Part 11 of Division 10 of the Public Utilities Code to a transit
3 operator that the Department of the California Highway Patrol has
4 not certified pursuant to this section.

5 (h) (1) A request to participate in the pull-notice system
6 established by this section shall be accompanied by a fee
7 determined by the department to be sufficient to defray the entire
8 actual cost to the department for the notification service. For the
9 receipt of subsequent reports, the employer shall also be charged
10 a fee established by the department pursuant to Section 1811. An
11 employer who qualifies pursuant to Section 1812 shall be exempt
12 from any fee required pursuant to this section. Failure to pay the
13 fee shall result in automatic cancellation of the employer's
14 participation in the notification services.

15 (2) A regularly organized fire department, having official
16 recognition of the city, county, city and county, or district in which
17 the department is located, shall participate in the pull-notice
18 program and shall not be subject to the fee established pursuant
19 to this subdivision.

20 (3) The Board of Pilot Commissioners for Monterey Bay and
21 the Bays of San Francisco, San Pablo, and Suisun, and its port
22 agent shall participate in the pull-notice system established by this
23 section, subject to Section 1178.5 of the Harbors and Navigation
24 Code, and shall not be subject to the fees established pursuant to
25 this subdivision.

26 (i) The department, as soon as feasible, may establish an
27 automatic procedure to provide the periodic reports to an employer
28 by mail or via an electronic delivery method, as required by
29 subdivision (c), on a regular basis without the need for individual
30 requests.

31 (j) (1) The employer of a driver who is employed as a casual
32 driver is not required to enter that driver's name in the pull-notice
33 system, as otherwise required by subdivision (a). However, the
34 employer of a casual driver shall be in possession of a report of
35 the driver's current public record as recorded by the department,
36 prior to allowing a casual driver to drive a vehicle specified in
37 subdivision (k). A report is current if it was issued less than six
38 months prior to the date the employer employs the driver.

39 (2) For the purposes of this subdivision, a driver is employed
40 as a casual driver when the employer has employed the driver less

1 than 30 days during the preceding six months. “Casual driver”
2 does not include a driver who operates a vehicle that requires a
3 passenger transportation endorsement.

4 (k) This section applies to a vehicle for the operation of which
5 the driver is required to have a class A or class B driver’s license,
6 a class C license with a hazardous materials endorsement, a class
7 C license issued pursuant to Section 12814.7, or a certificate issued
8 pursuant to Section 12517, 12519, 12520, 12523, 12523.5, or
9 12527, or a passenger vehicle having a seating capacity of not
10 more than 10 persons, including the driver, operated for
11 compensation by a charter-party carrier of ~~passengers~~ *passengers*,
12 *transportation network company*, or passenger stage corporation
13 pursuant to a certificate of public convenience and necessity or a
14 permit issued by the Public Utilities Commission.

15 (l) (1) *For purposes of this section, the term “employer” or*
16 *“prospective employer” includes a transportation network*
17 *company whose permit or certificate, including any renewal of*
18 *that permit or certificate, is subject to the requirements of Article*
19 *7 (commencing with Section 5430) of Chapter 8 of Division 2 of*
20 *the Public Utilities Code.*

21 (†)

22 (2) ~~This section shall~~ *section shall* not be construed to change
23 the definition of “employer,” “employee,” or “independent
24 contractor” for any *other* purpose.

25 (m) A motor carrier who contracts with a person to drive a
26 vehicle described in subdivision (k) that is owned by, or leased to,
27 that motor carrier, shall be subject to subdivisions (a), (b), (c), (d),
28 (f), (j), (k), and (l) and the employer obligations in those
29 subdivisions.

30 (n) Reports issued pursuant to this section, but only those for a
31 driver of a taxicab engaged in transportation services as described
32 in subdivision (a) of Section 53075.5 of the Government Code,
33 shall be presented upon request, during regular business hours, to
34 an authorized representative of the administrative agency
35 responsible for issuing permits to taxicab transportation services
36 pursuant to Section 53075.5 of the Government Code.

37 *SEC. 4. No reimbursement is required by this act pursuant to*
38 *Section 6 of Article XIII B of the California Constitution because*
39 *the only costs that may be incurred by a local agency or school*
40 *district will be incurred because this act creates a new crime or*

1 *infraction, eliminates a crime or infraction, or changes the penalty*
2 *for a crime or infraction, within the meaning of Section 17556 of*
3 *the Government Code, or changes the definition of a crime within*
4 *the meaning of Section 6 of Article XIII B of the California*
5 *Constitution.*

6 ~~SECTION 1. It is the intent of the Legislature to enact~~
7 ~~legislation that promotes public safety relating to transportation~~
8 ~~network companies.~~