

AMENDED IN SENATE JUNE 21, 2016
AMENDED IN SENATE SEPTEMBER 3, 2015
AMENDED IN ASSEMBLY APRIL 16, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1289

Introduced by Assembly Member Cooper

February 27, 2015

An act to add Section 5445.2 to the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1289, as amended, Cooper. Transportation network companies: participating drivers: penalties.

(1) The Passenger Charter-party Carriers' Act 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. A transportation network company is subject to regulation by the Public Utilities Commission, which requires, among other things, a criminal background check of each participating driver. A transportation network company is also required to have a specified certificate or permit, as appropriate, from the commission, and is subject to various other requirements. A violation of the act is generally a misdemeanor and subject to a fine of not less than \$1,000 and not more

than \$5,000 or by imprisonment in a county jail for not more than 3 months, or by both that fine and imprisonment.

This bill would require a transportation network company to conduct comprehensive criminal background checks for each participating driver that include local, state, and federal law enforcement records. The bill would prohibit a transportation network company from contracting with, employing, or ~~continuing to retain~~ *retaining* a driver if he or she is required by any law to register as a sex offender or has been convicted of any violent felony, sexual offense, ~~driving under the influence offense, non-felony~~ *nonfelony* violent crime, *identity theft*, act of fraud, act of terror, ~~or or, within the previous 7 years, of any crime involving property damage or theft.~~ *damage, theft, or driving under the influence of alcohol or drugs.*

The bill would additionally provide that a transportation network company that violates, or fails to comply with, its provisions is subject to a penalty of not less ~~that~~ *than* \$500 nor more than \$50,000 for each offense.

(2) Existing law provides that an investigative consumer reporting agency shall furnish an investigative consumer report only under specified circumstances and, except as specified, existing law also prohibits an investigative consumer reporting agency from making or furnishing any investigative consumer report containing certain items of information, including, among other things, records of an arrest, indictment, information, misdemeanor complaint, or conviction of a crime that, from the date of disposition, release, or parole, antedates the report by more than 7 years.

This bill would, notwithstanding these provisions, authorize an investigative consumer reporting agency to furnish an investigative consumer report to a transportation network company about a person seeking to become a participating driver, regardless of whether the participating driver is to be an employee or an independent contractor of the transportation network company. The bill would provide that the prohibition on including the criminal history information referenced above in an investigative consumer report does not apply to a report furnished to a transportation network company under these provisions.

~~(2)~~

(3) Because a violation of the act is a crime, and this bill would expand the scope of the act, this bill would impose a state-mandated local program.

~~(3)~~

(4) 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: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 5445.2 is added to the Public Utilities
2 Code, to read:

3 5445.2. (a) (1) A transportation network company shall
4 conduct comprehensive criminal background checks for each
5 participating driver that shall include local, state, and federal law
6 enforcement records.

7 (2) A transportation network company shall not contract with,
8 employ, or ~~continue to~~ retain a driver if he or she is required by
9 any law to register as a sex offender or has been convicted of any
10 *of the following: any violent felony, sexual offense, driving under*
11 *the influence offense, non-felony nonfelony violent crime, identity*
12 *theft, act of fraud, act of terror, or or, within the previous seven*
13 *years, any crime involving property damage or theft. damage,*
14 *theft, or driving under the influence of alcohol or drugs.*

15 (b) A transportation network company that violates, or fails to
16 comply with, this section is subject to a penalty of not less ~~that~~
17 *than* five hundred dollars (\$500) nor more than fifty thousand
18 dollars (\$50,000) for each offense.

19 (c) (1) *Notwithstanding Section 1786.12 of the Civil Code, an*
20 *investigative consumer reporting agency may furnish an*
21 *investigative consumer report to a transportation network company*
22 *about a person seeking to become a participating driver, regardless*
23 *of whether the participating driver is to be an employee or an*
24 *independent contractor of the transportation network company.*

25 (2) *Paragraph (7) of subdivision (a) of Section 1786.18 of the*
26 *Civil Code shall not apply to an investigative consumer report*
27 *furnished to a transportation network company pursuant to*
28 *paragraph (1).*

29 SEC. 2. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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