

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: August 12, 2015

To: The Commission
(Meeting of August 13, 2015)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) – Sacramento

Subject: **AB 1422 (Cooper) – Transportation network companies.**
As amended: July 16, 2015

RECOMMENDED POSITION: SUPPORT

SUMMARY OF BILL

This bill requires transportation network companies (TNCs) to participate in the Pull-Notice program administered by the DMV. Such participation enables a TNC to regularly check the driving records of its drivers, whether drivers are TNC employees or independent contractors. This program is currently available to companies with employees only.

CURRENT LAW

Vehicle Code Section 1808.1 requires the owner of a charter-party carrier (TCP) and/or a passenger stage corporation that 1) operates for compensation; and 2) employs a driver to operate a passenger vehicle that seats 10 persons or less, including the driver, to obtain a copy of the driver's current driving record, prior to employment and at least every 12 months thereafter.

An employer who, after receiving the record, employs or continues to employ a person, against whom a disqualifying action has been taken, is guilty of a public offense, which is punishable by up to six months in jail and a fine of up to \$1,000.

CPUC Decision (D) 13-09-045 requires TNCs to participate in the DMV Pull-Notice program.

AUTHOR'S PURPOSE

Currently, the Pull-Notice program applies to TCPs and PSCs with driver employees, but not to TNCs that operate with independent contractor-drivers. AB 1422 expands participation to both.

The Pull-Notice program notifies TCP and PSC employers when a driving infraction appears on an employed driver's driving record. AB 1422 expands the program to require TNCs to register with the program to receive such information regarding non-employee, independent contractor-drivers.

EXPLANATION OF BILL'S IMPACT ON CPUC PROGRAMS, PRACTICE & POLICY

AB 1422 is consistent with CPUC TNC policies, and codifies the CPUC's existing requirements for TNCs. Specifically, D.13-09-045 states:

TNCs shall participate in the California Department of Motor Vehicle's Employer Pull Notice Program to obtain timely notice when any of the following are added to a TNC driver's driving record:

- i. Convictions;
- ii. Accidents;
- iii. Failures to appear;
- iv. Driver's license suspension or revocation; and
- v. Any other action taken against the driving privilege.

Until the DMV opens the Pull-Notice program to employers of independent contractor-drivers, the CPUC requires TNCs to obtain each driver's driving record 1) prior to driver operation; and 2) quarterly thereafter. Drivers with convictions for reckless driving, driving under the influence, hit and run, or driving with a suspended or revoked license are not eligible to be a TNC driver. Drivers may have a maximum of two points on their driving records for lesser offenses, e.g., equipment problems, speeding, or child safety seat violations.

SAFETY IMPACT

AB 1422 will improve passenger and public safety. A TNC will receive timely notice of a driver's infractions and take necessary corrective actions against the driver, up to and including driver suspension.

RELIABILITY IMPACT

If a TNC suspends a large number of drivers due to unacceptable driving records, decreased driver supply could decrease ride availability and increase passenger wait times.

RATEPAYER IMPACT

If the bill leads to a decrease in available drivers, decreased driver supply could lead to higher fares.

FISCAL IMPACT

None.

ECONOMIC IMPACT

Unknown.

LEGAL IMPACT

Unknown.

BACKGROUND INFORMATION ON IMPACTED PROGRAMS, PRACTICE OR POLICY

In December 2012, the CPUC opened a Rulemaking to determine whether and how Transportation Network Company (TNC) services arranged through online-enabled apps such as Uber, SideCar, and Lyft might impact consumer protection and public safety.

The CPUC determined that the Public Utilities Code conferred the CPUC with authority to regulate TNCs. This authority was later confirmed in California state statute with the passage of AB 2293 (Bonilla, 2014).

OTHER STATES' INFORMATION

Unknown.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

The CPUC should support AB 1422 for the following reasons:

- (1) It enhances public safety by allowing TNCs to quickly identify problem drivers.

- (2) It conforms with the requirements of the CPUC's original TNC Decision, which compelled TNC participation in a Pull-Notice system pending eligibility for drivers that are independent contractors.

SUMMARY OF SUGGESTED AMENDMENTS

None.

STATUS

AB 1422 is pending consideration in the Senate Appropriations Committee on August 17, 2015.

SUPPORT/OPPOSITION

The latest available committee analysis states support and opposition as follows:

Support

Long Beach Police Officers Association
 Los Angeles County Professional Peace Officers Association
 Riverside Sheriff's Association
 Sacramento County Deputy Sheriffs' Association
 San Diego Regional Chamber of Commerce
 San Francisco International Airport
 Uber Technologies, Inc.

Opposition

Greater California Livery Association

VOTES

07/14/15 (PASS)	Sen Transportation and Housing	11 0 0	Do pass as amended, but first amend, and re-refer to the Committee on [Appropriations]
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Ayes: Allen, Bates, Beall, Cannella, Gaines, Galgiani, Leyva, McGuire, Mendoza, Roth, Wieckowski

Noes:

No Votes Recorded:

06/30/15 (PASS)	Sen Energy, Utilities and Communications	9 0 2	Do pass, but first be re-referred to the Committee on [Transportation and Housing]
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Ayes: Cannella, Hertzberg, Hill, Hueso, Lara, Leyva, McGuire, Morrell, Pavley

Noes:**No Votes Recorded:** Fuller, Wolk

06/02/15 (PASS) Assembly Floor 78 0 2 AB 1422 COOPER Consent Calendar
Second Day Regular Session

Ayes: Achadjian, Alejo, Travis Allen, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Atkins

Noes:**No Votes Recorded:** Chávez, Grove

05/27/15 (PASS) Asm Appropriations 17 0 0 Do pass. To Consent Calendar.

Ayes: Bigelow, Bonta, Calderon, Chang, Daly, Eggman, Gallagher, Eduardo Garcia, Gomez, Gordon, Holden, Jones, Quirk, Rendon, Wagner, Weber, Wood

Noes:**No Votes Recorded:**

04/27/15 (PASS) Asm Transportation 16 0 0 Do pass and be re-referred to the
Committee on [Appropriations]

Ayes: Achadjian, Baker, Bloom, Chu, Daly, Dodd, Frazier, Eduardo Garcia, Gomez, Kim, Linder, Medina, Melendez, Nazarian, O'Donnell, Santiago

Noes:**No Votes Recorded:**

04/20/15 (PASS) Asm Utilities and Commerce 14 0 1 Do pass and be re-referred to the
Committee on [Transportation]

Ayes: Achadjian, Bonilla, Burke, Dahle, Eggman, Cristina Garcia, Hadley, Jones, Patterson, Quirk, Rendon, Santiago, Ting, Williams

Noes:**No Votes Recorded:** Roger Hernández

OTHER PERTINENT INFORMATION

None.

STAFF CONTACTS

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BILL LANGUAGE

SECTION 1.

Section 5444 is added to the Public Utilities Code, immediately following Section 5443, to read:

5444.

Notwithstanding any limitations contained in Section 1808.1 of the Vehicle Code, a transportation network company is eligible to participate and shall participate in the pull-notice system established pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of a participating driver regardless of whether the participating driver is an employee or an independent contractor of the transportation network company.

SEC. 2.

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