
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

Senator Ben Hueso, Chair

2019 - 2020 Regular

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| Bill No: | AB 880 | Hearing Date: | 6/4/2019 |
| Author: | Obernolte | | |
| Version: | 4/11/2019 As Amended | | |
| Urgency: | No | Fiscal: | No |
| Consultant: | Sarah Smith | | |

SUBJECT: Transportation network companies: participating drivers: criminal background checks

DIGEST: This bill deletes outdated code cross references related to crimes that disqualify an individual from driving a vehicle for a transportation network company (TNC).

ANALYSIS:

Existing law:

- 1) Defines a charter-party carrier of passengers as every person engaged in the transportation of persons by motor vehicle for compensation over any public highway in this state. A charter-party carrier of passengers includes any person, corporation, or other entity engaged in the provision of a hired driver service when a rented motor vehicle is being operated by a hired driver. (Public Utilities Code §5360)
- 2) Authorizes the California Public Utilities Commission (CPUC) to supervise and regulate every charter-party carrier of passengers. (Public Utilities Code §5381)
- 3) Defines a TNC as an organization operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle. (Public Utilities Code §5431)
- 4) Requires each TNC to conduct, or have a third party conduct, a local and national background check on each TNC driver. The background check must include a search of the United States Department of Justice National Sex Offender Public Web site and a multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation. TNCs are prohibited from contracting with or employing a driver

that has been convicted of certain offenses within seven years, including, but not limited to, domestic violence, assault, and battery. (Public Utilities Code §5445.2)

This bill deletes two erroneous cross references to penal code sections in existing law regarding convictions that disqualify an individual from driving for a TNC.

Background

Disqualifying Crimes. Existing law requires a TNC to conduct a background check for each driver it employs and prohibits a TNC from employing or contracting a driver who is any of the following:

1. Registered on a national sex offender website
2. Has been convicted of certain violent felonies
3. Has been convicted of terrorism
4. Has been convicted of any of the following offenses in the past seven years:
 - Misdemeanor assault or battery
 - A domestic violence offense
 - Driving under the influence of alcohol or drugs
 - A felony violation for the following crimes:
 - Threatening physical violence to induce a vote
 - Bribing a state officer
 - Accepting a bribe as a state officer
 - Bribing an elected official
 - Accepting a bribe as an elected official
 - Bribing a juror
 - Accepting a bribe as a juror
 - Bribing a witness
 - Accepting a bribe as a witness
 - Bribing local officials
 - Extortion
 - False impersonation
 - Larceny theft and grand theft.

Existing law also includes references to two specific sections of penal code regarding the duty of law enforcement officers at the scene of a domestic violence incident and an exemption to limitation on carrying a concealed handgun. Neither of these specific sections contains a crime. As a result, neither of these two sections are helpful for identifying potentially disqualifying convictions through a TNC background check. This bill removes these two erroneous penal code references in the list of convictions that would disqualify a person from driving for a TNC.

Code Cleanup? This bill is one of several recent pieces of legislation aimed at clarifying the code regarding TNC driver disqualifying crimes and background check requirements for TNC drivers. Removal of the erroneous cross references regarding disqualifying crimes for TNC drivers ensures that code regarding requirements for background checks remains clear. However, there are a number of criminal convictions within the penal code that may be relevant for TNC background checks and are not specifically referenced as disqualifying crimes under existing law. Additionally, some of the disqualifications in existing law, for example, existing law does not specify that a human trafficking violation under Penal Code section 236.1 is a disqualifying conviction for TNC drivers. While TNCs may voluntarily adopt policies against human trafficking, a conviction for the crime is not explicitly listed as disqualifying crime for TNC driver eligibility in statute. A broader review of the convictions that should disqualify an individual from driving for a TNC and more specificity about the specific convictions under penal code that automatically disqualify a driver would be helpful.

Prior/Related Legislation

AB 2986 (Cunningham, Chapter 286, Statutes of 2018) required TNCs to provide passengers with a driver's first name and picture, an image of the make and model of the vehicle, and the license plate number on its app.

AB 1289 (Cooper, Chapter 740, Statutes of 2016) required TNCs to conduct background checks for drivers and codified specific offenses that disqualify an individual from driving for a TNC, if the driver is convicted.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT:

None received

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

In 2016 with the passage of AB 1289 (Cooper) (Chapter 740, Statutes of 2016) the Legislature imposed a requirement in statute that TNCs conduct background checks on drivers, and identified a list of offenses that disqualify individuals from operating as a TNC driver. Upon

review, it was found that this list included some erroneous cross references. One of these is for violation of Penal Code Sec. 18500 where there is no crime. This bill would simply correct that incorrect cross reference.

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