

AMENDED IN SENATE MAY 29, 2014
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 612

Introduced by Assembly Member Nazarian

February 20, 2013

~~An act to amend Section 21455.7 of the Vehicle Code, relating to vehicles.~~ *An act to amend Sections 5360, 5374, 5385.5, 5385.6, and 5391 of, and to add Section 5374.4 to, the Public Utilities Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 612, as amended, Nazarian. ~~Automated enforcement systems.~~ *Charter-party carriers of passengers: online-enabled application or platform.*

(1) 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 imposes certain penalties for violation of the act. The act defines a charter-party carrier of passengers as every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state and 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.

Pursuant to existing law, the commission has adopted rules and regulations relating to public safety risks in the operation of transportation network companies. Those rules and regulations define a transportation network company as an organization that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using their personal vehicles.

This bill would define a charter-party carrier of passengers to include a person that uses an online-enabled application or platform to connect passengers with drivers. The bill would require a charter-party carrier of passengers to participate in the Department of Motor Vehicle's Employer Pull Notice Program. The bill would require persons operating vehicles used in transportation for compensation under the act to furnish to the Department of Justice a full set of fingerprints to conduct criminal history record checks and to cause the results to be reported to the Public Utilities Commission.

The bill would require assurances of protection against liability applicable to charter-party carriers under existing law to be primary and carried by the permit or certificate holder. The bill would require the commission to develop a standard disclosure agreement with respect to drivers who make themselves available for services with charter-party carriers of passengers that utilize an online-enabled application or platform to connect passengers with drivers.

The bill would make expressly applicable to carriers that use an online-enabled application or platform to connect passengers with drivers certain provisions relating to the issuance of decals and special license plates.

(2) Because a violation of these provisions would be a crime, the bill would impose a state-mandated local program.

(3) 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 law requires the minimum yellow light change interval at an intersection at which there is an automated enforcement system in operation to be established in accordance with the Traffic Manual of the Department of Transportation. Existing law provides that the minimum yellow light change intervals relating to designated approach~~

speeds provided in the manual are mandatory minimum yellow light change intervals.

This bill, instead, would require the minimum yellow light change interval for all movements at an intersection at which there is an automated enforcement system in operation to be established at one second beyond the yellow light change intervals relating to designated approach speeds provided in the California Manual on Uniform Traffic Control Devices, or its successor. The bill would provide that those minimum yellow light change intervals are mandatory minimum yellow light change intervals, and that a citation issued by a law enforcement agency shall be dismissed if the local governmental agency or local authority has not established the yellow light change intervals in compliance with the requirements of this section.

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 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 any 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 5374 of the Public Utilities Code is amended
14 to read:

15 5374. (a) (1) Before a permit or certificate is issued or
16 renewed, the commission shall require the applicant to establish
17 reasonable fitness and financial responsibility to initiate and
18 conduct or continue to conduct the proposed or existing
19 transportation services. The commission shall not issue or renew
20 a permit or certificate pursuant to this chapter unless the applicant
21 meets all of the following requirements:

1 (A) It is financially and organizationally capable of conducting
 2 an operation that complies with the rules and regulations of the
 3 Department of the California Highway Patrol governing highway
 4 safety.

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

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

13 (D) It participates in ~~a program~~ *the Department of Motor*
 14 *Vehicle's Employer Pull Notice Program* to regularly check the
 15 driving records of all persons, whether employees or subcarriers,
 16 operating vehicles used in transportation for compensation.

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

20 (F) It will maintain its vehicles used in transportation for
 21 compensation in a safe operating condition and in compliance with
 22 the Vehicle Code and with regulations contained in Title 13 of the
 23 California Code of Regulations relative to motor vehicle safety.

24 (G) It has filed with the commission the certificate of workers'
 25 compensation insurance coverage or statement required by Section
 26 5378.1.

27 (H) It has provided the commission an address of an office or
 28 terminal where documents supporting the factual matters specified
 29 in the showing required by this subdivision may be inspected by
 30 the commission and the Department of the California Highway
 31 Patrol.

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

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

39 (2) With respect to subparagraphs (B) and (F) of paragraph (1),
 40 the commission may base a finding on a certification by the

1 commission that an applicant has filed, with the commission, a
2 sworn declaration of ability to comply and intent to comply.

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

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

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

16 *SEC. 3. Section 5374.4 is added to the Public Utilities Code,*
17 *to read:*

18 *5374.4. Notwithstanding any other law, the commission shall*
19 *require all persons, whether employees or subcarriers, operating*
20 *vehicles used in transportation for compensation under this chapter*
21 *to furnish to the Department of Justice a full set of fingerprints for*
22 *purposes of conducting criminal history record checks, and to*
23 *cause the results of those record checks to be reported to the*
24 *commission.*

25 *SEC. 4. Section 5385.5 of the Public Utilities Code is amended*
26 *to read:*

27 *5385.5. For motor vehicles designed to carry not more than*
28 *eight passengers, including the driver, the commission shall issue*
29 *a suitable decal for purposes of Section 5385, for each vehicle*
30 *registered with the commission and operated by a charter-party*
31 *carrier of passengers holding a valid permit or certificate of public*
32 *convenience and necessity, including any carrier that uses an*
33 *online-enabled application or platform to connect passengers with*
34 *drivers. The decal with an identifying symbol shall be a minimum*
35 *size of two and one-half inches by six inches, and shall be affixed*
36 *to the lower right hand corner of the rear bumper of the vehicle.*

37 *SEC. 5. Section 5385.6 of the Public Utilities Code is amended*
38 *to read:*

39 *5385.6. (a) No charter-party carrier, including any carrier that*
40 *uses an online-enabled application or platform to connect*

1 *passengers with drivers*, shall operate a limousine as defined by
2 Section 5371.4 unless the limousine is equipped with the special
3 license plates issued and distributed by the Department of Motor
4 Vehicles pursuant to Section 5011.5 of the Vehicle Code.

5 (b) The commission shall issue to each charter-party carrier
6 operating limousines a permit or certificate for the number of
7 vehicles verified by the carrier as employed in providing limousine
8 service. The permit or certificate shall be submitted to the
9 Department of Motor Vehicles, which will issue to each verified
10 vehicle a set of unique, identifying license plates. The department
11 shall maintain a record of each set of plates it issues and provide
12 a copy of each record to the commission.

13 (c) The commission shall recover from any carrier whose permit
14 or certificate is cancelled, suspended, or revoked any and all plates
15 issued pursuant to this section.

16 (d) The special license plate shall be in lieu of the decal required
17 to be issued and displayed pursuant to Section 5385.5.

18 ~~(e) This section shall become operative on July 1, 1995.~~

19 *SEC. 6. Section 5391 of the Public Utilities Code is amended*
20 *to read:*

21 5391. (a) The commission shall, in granting permits or a
22 certificate pursuant to this chapter, require the charter-party carrier
23 of passengers to procure, and to continue in effect during the life
24 of the permit or certificate, adequate protection against liability
25 imposed by law upon the charter-party carrier of passengers for
26 the payment of damages for personal bodily injuries, including
27 death resulting therefrom, protection against a total liability of the
28 charter-party carrier of passengers on account of bodily injuries
29 to, or death of, more than one person as a result of any one accident,
30 and protection against damage or destruction of property. *The*
31 *requirements for these assurances of protection against liability*
32 *shall be primary and shall be carried by the permit or certificate*
33 *holder. The minimum requirements for—such these assurances of*
34 *protection against liability shall not be less than the requirements*
35 ~~which~~ *that are applicable to operations conducted under certificates*
36 *of public convenience and necessity issued pursuant to the*
37 *provisions of Article 2 (commencing with Section 1031), Chapter*
38 *5, Part 1, Division 1, of this code, and the rules and regulations*
39 *prescribed pursuant thereto shall apply to charter-party carriers of*
40 *passengers.*

1 (b) The commission shall develop a standard disclosure
2 agreement with respect to drivers who make themselves available
3 for services with charter-party carriers of passengers that utilize
4 an online-enabled application or platform to connect passengers
5 with drivers. The standard disclosure agreement shall be part of
6 a written agreement between the driver and the charter-party
7 carrier of passengers, and shall provide information to the driver
8 about insurance coverage and limits of liability coverage and
9 advise the driver that their personal automobile insurance policy
10 may not provide coverage when they are operating a vehicle as
11 part of that charter-party carrier of passengers operation. The
12 standard disclosure agreement shall be in writing and shall be
13 signed by each driver participating in this type of arrangement
14 with a charter-party carrier of passengers. Standard disclosure
15 agreement records of charter-party carriers of passengers shall
16 be subject to review and audit by the commission at its discretion.

17 SEC. 7. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

26 SECTION 1. ~~Section 21455.7 of the Vehicle Code is amended~~
27 ~~to read:~~

28 ~~21455.7. (a) At an intersection at which there is an automated~~
29 ~~enforcement system in operation, the minimum yellow light change~~
30 ~~interval for all movements shall be established at one second~~
31 ~~beyond the yellow light change intervals relating to designated~~
32 ~~approach speeds provided in the California Manual on Uniform~~
33 ~~Traffic Control Devices, or its successor.~~

34 ~~(b) The minimum yellow light change intervals established~~
35 ~~pursuant to subdivision (a) are mandatory minimum yellow light~~
36 ~~change intervals. A citation issued by a law enforcement agency~~
37 ~~shall be dismissed if the local governmental agency or local~~
38 ~~authority has not established the yellow light change intervals in~~
39 ~~compliance with the requirements of this section.~~

- 1 (e) ~~A yellow light change interval may exceed the minimum~~
- 2 ~~interval established pursuant to subdivision (a).~~

O