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AB-880 Transportation network companies: participating drivers: criminal background checks. (2019-2020)

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Assembly Bill No. 880

CHAPTER 618

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

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 880, Obernolte. Transportation network companies: participating drivers: criminal background checks.

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 a personal vehicle. Existing law requires a transportation network company to conduct, or have a third party conduct, a local and national criminal background check for each participating driver, as specified, and prohibits a transportation network company from contracting with, employing, or retaining a driver if the driver, among other things, is currently registered on the United States Department of Justice National Sex Offender Public website, has been convicted of any of certain terrorism-related felonies or a violent felony or, within the previous 7 years, has been convicted of any misdemeanor assault or battery, any domestic violence offense, driving under the influence of alcohol or drugs, or any of a specified list of felonies. A violation of the act is a misdemeanor punishable by a fine, imprisonment, or both a fine and imprisonment.

This bill would additionally prohibit a transportation network company from contracting with, employing, or retaining a driver if the driver has been convicted of specified human trafficking offenses and would delete erroneous cross-references to code sections specified in existing law. By expanding the scope of 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: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5445.2 of the Public Utilities Code is amended to read:

5445.2. (a) (1) A transportation network company shall conduct, or have a third party conduct, a local and national criminal background check for each participating driver that shall include both of the following:

(A) The use of a multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation.

(B) A search of the United States Department of Justice National Sex Offender Public website.

(2) A transportation network company shall not contract with, employ, or retain a driver if the driver meets either of the following criteria:

(A) Is currently registered on the United States Department of Justice National Sex Offender Public website.

(B) Has been convicted of any of the following offenses:

(i) A violent felony, as defined in Section 667.5 of the Penal Code.

(ii) A violation of Section 236.1, 11413, 11418, 11418.5, or 11419 of the Penal Code.

(3) A transportation network company shall not contract with, employ, or retain a driver if the driver has been convicted of any of the following offenses within the previous seven years:

(A) Misdemeanor assault or battery.

(B) A domestic violence offense.

(C) Driving under the influence of alcohol or drugs.

(D) A felony violation of Section 18540 of the Elections Code, or of Section 67, 68, 85, 86, 92, 93, 137, 138, 165, 518, or 530 of, subdivision (a) of Section 484 of, or subdivision (a) of Section 487 of, the Penal Code.

(4) Paragraphs (2) and (3) apply with respect to a conviction of any offense committed in another jurisdiction that includes all of the elements of any of the offenses described or defined in those paragraphs.

(5) This section shall not be interpreted to prevent a transportation network company from imposing additional standards.

(b) A transportation network company that violates, or fails to comply with, this section is subject to a penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each offense.

(c) (1) Notwithstanding Section 1786.12 of the Civil Code, an investigative consumer reporting agency may 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.

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

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.