

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 88 (Skinner) – As Amended June 19, 2023

[Note: This bill is double referred to the Assembly Public Safety Committee and was heard by that Committee as it relates to issues under its jurisdiction.]

SENATE VOTE: 29-9

SUBJECT: Pupil transportation: driver qualifications

SUMMARY: Applies numerous requirements currently applicable to bus drivers to other specified drivers providing transportation for students, including being mandated reporters, clearing tuberculosis risk assessments, and passing a criminal background check. Requires that any local educational agency (LEA) contracting with a private entity to provide pupil transportation to obtain from the private entity that it will retain direct control over the manner and means for performance of any individual driver during the duration of the contract. Requires all vehicles used for pupil transportation for compensation by LEAs be regularly inspected and equipped with a first aid kit and fire extinguisher. Specifically, **this bill:**

Driver requirements when transporting pupils in a vehicle with a maximum capacity of 10 persons:

- 1) Requires driver who provides transportation services for pupils in a vehicle with a maximum capacity of 10 or fewer persons, including the driver, to:
 - a) Hold a valid California driver's license for the appropriate class of vehicle;
 - b) Be at least 18 years of age;
 - c) Pass a criminal background check, including fingerprint clearance, as specified, for all other compensated drivers;
 - d) Have a satisfactory driving record that includes none of the following:
 - i) Within three years, has committed any violation that results in a conviction assigned a violation point count of two or more, as specified;
 - ii) Within three years, has had their driving privilege suspended, revoked, or on probation for any reason involving the unsafe operation of a motor vehicle; and
 - iii) Has been determined by the Department of Motor Vehicles (DMV) to be a negligent or incompetent operator.
 - e) Not have demonstrated irrational behavior to the extent that a reasonable and prudent person would have reasonable cause to believe that the driver's ability to perform the duties of a driver may be impaired;

- f) Not have been convicted of a specified offense;
- g) Provide their employer or the private entity contracting with the LEA a report showing the driver's current public record as recorded by the DMV and participate in the DMV's pull-notice system;
- h) Be subjected to and comply with drug and alcohol testing, as specified;
- i) Be a mandated reporter and comply with the Child Abuse and Neglect Reporting Act;
- j) Complete a medical examination not more than two years prior to the driver performing pupil transportation by a physician licensed to practice medicine, a licensed advanced practice registered nurse qualified to perform a medical examination, a licensed physician assistant, or a licensed doctor of chiropractic listed on the most current National Registry of Certified Medical Examiners, as adopted by the United States Department of Transportation, and every two years after the initial examination. Requires the driver to provide a copy of the Medical Examiner's Certificate, Form MCSA-5876, or the medical examiner's certificate of clearance to their employer or the private entity contracting with the LEA. States that neither the driver nor the medical examiner need to submit this examination result to the DMV;
- k) Submit and clear a tuberculosis risk assessment, as specified;
- l) Not drive for more than 10 hours within a work period, or after the end of the 16th hour after coming on duty following eight consecutive hours off duty;
- m) Complete a minimum of 10 hours of initial training and a minimum of two hours of annual refresher courses in all of the following:
 - i) Pretrip vehicle inspections;
 - ii) Safe loading and unloading of passengers;
 - iii) Proper use of seatbelts and child safety restraints;
 - iv) Handling accidents, incidents, and emergency situations;
 - v) Providing proper accommodations for pupils with disabilities;
 - vi) Defensive driving;
 - vii) Operations in inclement weather; and
 - viii) Operations at night or under impaired visibility conditions.
- n) Maintain a daily log sheet and complete the daily pretrip inspection of the vehicle being driven that day, which must include all of the following:

- i) A check of the operability of all lights, initialed by the driver before the vehicle is first driven in service that day;
 - ii) A check for fluid leaks, initialed by the driver before the vehicle is first driven in service that day; and
 - iii) A check for the operability of the brakes, initialed by the driver before the vehicle is driven in service that day.
- o) Complete training at least equivalent to the American Red Cross first aid training program, or hold a valid and current first aid certificate issued by the American Red Cross or by an organization whose first aid training program is at least equivalent to the American Red Cross' first aid training program, as determined by the Emergency Medical Services Authority.

Driver requirements when transporting pupils in a vehicle with a maximum capacity of more than 10 persons:

- 2) Requires a driver who provides transportation services for pupils in a vehicle with a capacity of more than 10 persons, including the driver, to:
 - a) Hold a valid California commercial driver's license for the appropriate class of vehicle, endorsed for passenger transportation, as specified; and
 - b) Comply with section (3), paragraphs (b) to (o), inclusive, above, if they are not already required to by law.

LEA requirements when contracting with a private entity to provide pupil transportation:

- 3) Requires any LEA contracting with a private entity to provide pupil transportation to obtain from the private entity a written attestation to all of the following:
 - a) That it not have any applicable law violations at the time of applying for the contract;
 - b) That it will maintain compliance with applicable laws for the duration of the contract;
 - c) That it will retain direct control over the manner and means for performance of any individual driver during the duration of the contract;
 - d) That only drivers who meet specified requirements work, or will work, under the contract between the private entity and LEA;
 - e) That it has on file all the specified required reports and documents for the duration of the contract, including, but not limited to, updated, revised, or modified reports and documents. Requires these reports and documents to be available for inspection by the LEA or any other state regulatory agency at any time.
- 4) Authorizes a third party to report to the relevant LEA that the private entity the LEA contracted with has failed to provide a truthful attestation as required under subdivision (6),

above, or has failed to maintain compliance with the applicable laws required for the duration of the contract. Requires the third party to provide documentation to substantiate their allegation before the LEA considers it.

Vehicle requirements:

- 5) Requires, for vehicles with a maximum capacity of eight or fewer passengers, excluding the driver, only street-legal coupes, sedans, or light-duty vehicles, including vans, minivans, sport utility vehicles, and pickup trucks, to be used for pupil transportation.
- 6) Requires any vehicle used to provide pupil transportation for compensation by an LEA to meet both of the following:
 - a) Be inspected every 12 months, or every 50,000 miles, whichever comes first, at a facility licensed by the Bureau of Automotive Repair, to ensure that the vehicle passes a 19-point vehicle inspection, as adopted by the Public Utilities Commission, before allowing the vehicle to be driven. States that this requirement does not apply to vehicles owned or contracted with an LEA already subject to a statutory inspection program; and
 - b) Be equipped with a first aid kit and a fire extinguisher.

Definition of terms:

- 7) Defines the following:
 - a) “Applicable law” to mean applicable California laws within the Labor and Workforce Development Agency’s jurisdiction related to the misclassification of employees as independent contractors, including the failure to pay wages, imposing unlawful expenses on employees, failure to provide workers’ compensation insurance, and failure to remit payroll taxes as required under the Unemployment Insurance Code as well as laws protecting worker health and safety;
 - b) “Applicable law violation” to mean a violation that has a final determination, order, judgment, or award issued against a private entity for engaging in illegal conduct related to applicable laws and that remains unabated or unsatisfied following the period during which an appeal may be made;
 - c) “LEA” to mean a school district, county office of education, charter school, entity providing services under a school transportation joint powers agreement, or regional occupational center or program;
 - d) “Pupil transportation” to include, but not be limited to, home-to-school transportation, field trips, after school program-related transportation, preschool and childcare-related transportation, athletic program-related transportation, and any other pupil transportation that is authorized, provided, or directed by the LEA;
 - e) “Municipally owned transit system” to a transit system owned by a city, or by a district created pursuant to Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code; and

- f) “Supplementary service” to mean additional service provided by a municipally owned transit system for the purpose of ensuring the regular transit service is not impacted by large loads associated with pupil passengers traveling to or from schoolsites around school bell times.

Other requirements:

- 8) Requires a driver, whether employed by or contracted with an LEA, providing pupil transportation for compensation to be a mandated reporter.
- 9) States that, notwithstanding any other law, these provisions apply to all drivers, whether employed by or contracted with an LEA, providing pupil transportation for compensation.
- 10) States that nothing in these provisions may be construed to apply to drivers of municipally-owned transit systems offering supplementary service.
- 11) States that nothing in these provisions may be construed to apply to a parent or guardian who is compensated to drive their own children.
- 12) States that if both of the following occur, nothing in these provisions may be construed to apply to a school employee of an LEA when the employee provides transportation to pupils due to or because of the employee’s supervision of pupils for a field trip, before or after school activity, or athletic program:
 - a) An LEA makes a reasonable effort to secure a driver who meets the specified requirements; and
 - b) When an LEA is unable to secure a driver who meets the requirements, as specified, the LEA informs the parent or guardian of the pupil being transported that the driver transporting their pupil does not meet the specified requirements.
- 13) Requires, to the extent that the requirements conflict with a contract entered into between an LEA and a private entity before January 1, 2024, this article does not apply until the expiration or renewal of that contract on or after January 1, 2024.
- 14) States that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, 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 (GOV), or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution. However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the GOV.

EXISTING LAW:

- 1) Authorizes the governing board of any school district to provide for the transportation of pupils to and from school whenever, in the judgment of the board, the transportation is advisable and good reasons exist therefor. Authorizes the governing board to purchase or rent and provide for the upkeep, care, and operation of vehicles, or to contract and pay for the transportation of pupils to and from school by common carrier or municipally owned transit system, or to contract with and pay responsible private parties for the transportation. Authorizes these contracts to be made with the parent or guardian of the pupil being transported. (Education Code (EC) 39800)
- 2) Prohibits transportation allowances from being made by the SPI for expenses incurred with respect to field trips or excursions that have an out-of-state destination. Requires a school district that transports pupils, teachers, or other employees of the school district in schoolbuses within the state and to destinations within the state, as specified, to report to the SPI on forms prescribed by him or her the total mileage of schoolbuses used in connection with educational excursions. Requires, in computing the allowance to a school district for regular transportation, a deduction from that allowance in an amount equal to the depreciation of schoolbuses used for the transportation in accordance with rules and regulations adopted by the SPI. (EC 35330)
- 3) Prohibits any school district and any owner or operator of a private school that provides transportation for pupils that owns, leases, or otherwise has possession or control of a 15-passenger van, from, on or after January 1, 2005, authorizing the operation of that van for the purpose of transporting passengers unless the person driving or otherwise operating that van has both of the following:
 - a) A valid class B driver's license issued by the DMV; and
 - b) An endorsement for operating a passenger transportation vehicle issued by the DMV.
- 4) Defines a "15-passenger van" to mean any van manufactured to accommodate 15 passengers, including the driver, regardless of whether that van has been altered to accommodate fewer than 15 passengers. (EC 39800.5)
- 5) Establishes that a schoolbus is any motor vehicle designed, used, or maintained for the transportation of a school pupil at or below the grade 12 level to or from a public or private school or to or from public or private school activities, except the following:
 - a) A motor vehicle of any type carrying only members of the household of its owner;
 - b) A motortruck transporting pupils who are seated only in the passenger compartment, and a passenger vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any vehicle or truck transporting two or more pupils who use wheelchairs;
 - c) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public or on a run scheduled in response to a request from

a pupil who uses a wheelchair, or from a parent of the pupil, for transportation to or from nonschool activities. However, the motor vehicle is designed for and actually carries not more than 16 persons and the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service;

- d) A school pupil activity bus, as defined;
 - e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission that is transporting pupils on a school activity entering or returning to the state from another state or country; and
 - f) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds, as specified, that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services where the posted speed limit is not more than 20 miles per hour. (EC 39830 and Vehicle Code (VC) 545)
- 6) Defines “school pupil activity bus (SPAB)” to mean any motor vehicle, other than a schoolbus, operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned or operated transit system, or by a passenger charter-party carrier, used under a contractual agreement between a school and carrier to transport school pupils at or below the 12th grade level to or from a public or private school activity, or used to transport pupils to or from residential schools, when the pupils are received and discharged at off-highway locations where a parent or adult designated by the parent is present to accept the pupil or place the pupil on the bus. Defines, “common carrier,” “publicly owned or operated transit system,” and “passenger charter-party carrier” to mean carriers in business for the principal purpose of transporting members of the public on a commercial basis.
- a) Requires that the driver of a SPAB to be subject to the regulations adopted by the CHP governing schoolbus drivers, except that the regulations must not require drivers to duplicate training or schooling that they have otherwise received that is equivalent to that required pursuant to the regulations, and the regulations may not require drivers to take training in first aid. Establishes that a valid certificate to drive a SPAB does not entitle the bearer to drive a schoolbus. (EC 39830.1 and VC 546)
- 7) Requires the CDE to develop or approve courses for training SPAB, transit bus, schoolbus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for certification. Requires the CDE to seek the advice and assistance of the DMV and the Department of the California Highway Patrol (CHP) in developing or approving those courses. (EC 40081)
- 8) Requires an original applicant for a certificate to drive a schoolbus to have successfully completed a minimum 40-hour course of instruction. Requires the course to include at least 20 hours of the applicant behind-the-wheel training in all sections of the Instructor’s Behind-the-Wheel Guide for California’s Bus Driver’s Training Course. (EC 40082)
- 9) Requires an original applicant for a certificate to drive a SPAB or transit bus to have successfully completed a minimum 35-hour course of instruction. Requires the course to include at least 15 hours of the applicant behind-the-wheel training in all sections of the

Instructor's Behind-the-Wheel Guide for California's Bus driver's Training Course. (EC 40082)

Charter-Party Carriers (TCPs) and Transportation Network Companies (TNCs):

- 10) Exempts the transportation of school pupils conducted by or under contract with the governing board of any school district entered into pursuant to the EC from the Passenger Charter-Party Carriers' Act. (PUC 5353)¹
- 11) Subject to the exclusions of PUC 5353, defines "charter-party carrier of passengers" to mean 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. "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. (PUC 5360)
- 12) Defines the following related to TNCs:
 - a) "Participating driver" or "driver" to mean any person who uses a vehicle in connection with a TNC's online-enabled application or platform to connect with passengers;
 - b) "Personal vehicle" to mean a vehicle that is used by a participating driver to provide prearranged transportation services for compensation that meets all of the following requirements: has a passenger capacity of eight persons or less, including the driver; is owned, leased, rented for a term that does not exceed 30 days, or otherwise authorized for use by the participating driver; meets all inspection and other safety requirements imposed by the CPUC; and is not a taxicab or limousine;
 - c) "Transportation network company" to mean an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity 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; and
 - d) "Transportation network company insurance" means a liability insurance policy that specifically covers liabilities arising from a driver's use of a vehicle in connection with a TNC's online-enabled application or platform.
- 13) Requires a TNC to 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; and

¹ CPUC Decision 97-07-063 interpreted this exemption narrowly, finding that it applied to schoolbuses. In effect, the CPUC still exercises regulatory authority over TCPs that transport pupils in private vehicles.

- b) A search of the United States Department of Justice National Sex Offender Public website.
- 14) Prohibits a TNC from contracting with, employing, or retaining a driver if the driver meets either of the following criteria: is currently registered on the United States Department of Justice National Sex Offender Public website, or has been convicted of any of the following offenses:
- a) A violent felony, as defined in Section 667.5 of the Penal Code (PC); or
- b) A violation of Section 236.1, 11413, 11418, 11418.5, or 11419 of the PC.
- 15) Prohibits a TNC from contracting with, employing, or retaining a driver if the driver has been convicted of any of the following offenses within the previous seven years: misdemeanor assault or battery; a domestic violence offense; driving under the influence of alcohol or drugs; or 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 PC.
- 16) States that a TNC that violates, or fails to comply with these requirements is subject to a penalty of not less than \$1,000 nor more than \$5,000 for each offense.

FISCAL EFFECT:

According to the Senate Appropriations Committee:

- Any cost to comply with the bill's requirements could possibly be shifted to the drivers, such as the completion of medical exams, drug and alcohol testing, and completion of the drivers training requirement. However, this could lead to an increase in the amounts being charged to local educational agencies (LEAs) for the transportation services. LEAs may also incur additional costs to ensure that drivers meet the new qualifications such as verifying background checks, providing training on mandated reporter responsibilities, and confirming that vehicles are properly equipped. The extent of these costs is unknown, but if the Commission on State Mandates determines these activities to be a reimbursable state mandate, it could result in additional cost pressure on the K-12 Mandates Block Grant.
- To the extent that the bill leads to a reduction or elimination in contracts with third-party private transportation companies to transport students, LEAs could potentially incur unknown local cost increases to find other means to replace these services, including the hiring of additional schoolbus drivers.

COMMENTS:

Need for the bill. According to the author, "Last year, California allocated a record \$680 million for home-to-school transportation so that more kids have a guaranteed ride to and from school each day and to ensure that California is no longer dead last in the nation when it comes to per pupil funding for public school transportation. SB 88, Safe Rides to School, will build on last year's historic funding increase by ensuring that the transportation we provide to public school students is as safe as possible. Currently, bus drivers employed by school districts are mandated

to meet high safety standards, but unfortunately, some school districts in recent years have turned to rideshare companies that contract with drivers who aren't required to meet those same high standards. SB 88 will level the playing field and ensure that all people who drive our kids to school meet the same rigorous safety standards that our school district employees are already mandated to meet.”

Home-to-school transportation overview. California does not require districts to transport students to and from school. Instead, state law gives discretion to the district governing board to provide pupil transportation, “whenever in the judgment of the board the transportation is advisable and good reasons exist.” Federal law requires districts to provide transportation to students with disabilities, if required by their individual education program (IEP), and to homeless students. Starting in the 1970’s several school districts ran large transportation programs to comply with court-ordered desegregation requirements.

According to a 2014 report by the Legislative Analyst’s Office (LAO), *Review of School Transportation in California*, approximately 12% of California students rode the school bus on a daily basis in 2011-12. Nationally, up to 50% of students ride the bus to school. The report suggests the lower rate of school bus usage in California may be partially due to the greater proportion of students who live within two miles of school in California, an estimated 70%, versus 50% nationally. According to 2009 data, California students travel to and from school using a variety of modes: 54% by automobile, 28% walking/biking, 14% by school bus, and 4% using public transit or other methods.

Approximately 275 districts, or one-quarter of the districts in the state, transport fewer than 10% of their students, while 100 districts transport more than half of their students. The districts transporting larger shares of students tend to have smaller enrollments, be located in more rural areas, and enroll larger proportions of students from low-income families. Many districts running larger transportation programs reported that they offer such services because many of their students lack viable alternatives for getting to school. Other reasons included long distances between homes and schools, and unsafe conditions affecting travel between home and school.

Home-to-School (HTS) Transportation Reimbursement funding was established by AB 181, Chapter 52, Statutes of 2022, and amended by AB 185, Chapter 571, Statutes of 2022. It provides reimbursement funding for school districts and COEs based on the prior year eligible transportation expenditures and prior year Local Control Funding Formula (LCFF) transportation related add-on funding.

Despite the recent augmentation to transportation reimbursement, due to historic limited state funding for this purpose, and lack of universal transportation programs, many LEAs now contract with third-party private transportation companies to transport specific student populations – primarily students with disabilities, foster youth and homeless youth. LEAs that contract with third-party providers report economies of scale, but few state laws directly govern this type of student transportation. Some third-party providers operate under permits authorized and regulated by the CPUC as TNCs authorized to transport minors or as TCPs.

Schoolbus safety. According to the National Highway Traffic Safety Administration (NHTSA), “Students are about 70 times more likely to get to school safely when taking a bus instead of traveling by car. That’s because school buses are the most regulated vehicles on the road; they’re

designed to be safer than passenger vehicles in preventing crashes and injuries; and in every state, stop-arm laws protect children from other motorists.” In comparison with other forms of transportation, the NHTSA’s 2021 publication, *The Unedited Summary of School Bus Report*, shows that the fatality rate for school buses is 0.2 fatalities per 100 million vehicle miles traveled (VMT) compared to 1.5 fatalities per 100 million VMT for cars. Since 2010, school buses annually have averaged about 26,000 crashes resulting in 10 deaths – 25% were drivers; 75% were passengers. Frontal crashes account for about two passenger deaths each year.

Is there a link between taking the bus to school and lower absenteeism? According to a 2017 Educational Evaluation and Policy Analysis article, *Linking Getting to School with Going to School*, children who took the schoolbus to kindergarten had fewer absent days over the school year and were less likely to be chronically absent compared with children who commuted to school in any other way. The article reported, “Prior research in absenteeism has concluded that students with more absences have fewer opportunities to learn in school and perform more poorly on exams as a consequence of missing school. Hence, if taking the bus lowers absenteeism, then access to this resource may benefit students in ways that have implications for individual learning and, ultimately, academic success. There is also the potential for aggregate effects. Districts may benefit by mitigating the need for remedial activities, as fewer absent students implies fewer missed opportunities to learn at school. In this way, bus taking may indirectly benefit aggregate school performance.”

Types of vehicles used to transport students. Statute establishes several types of vehicles used to transport students, and the two used most frequently by LEAs are schoolbuses and SPABs.

A schoolbus includes any motor vehicle designed, used, or maintained for the transportation of a school pupil at or below the grade 12 level to or from a public or private school or to or from public or private school activities, with several exemptions, including: a SPAB; a vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any vehicle transportation two or more pupils who use wheelchairs; or a motor vehicle used by a common carrier, such as a municipal transit system.

A SPAB includes any motor vehicle, other than a schoolbus, operated by a common carrier, or a publicly owned or operated transit system, or by a passenger charter-party carrier, used under a contractual agreement between a school and carrier to transport school pupils at or below the 12th grade level to or from a public or private school activity, and other specified uses. A driver of a SPAB is subject to the regulations adopted by the CHP governing schoolbus drivers, including a requirement to obtain a special driver’s certificate. A common use of SPABs are buses operated by a passenger charter-party carrier used to transport students on field trips.

Some LEAs use other vehicles that may be used to transport students, such as vehicle with a maximum capacity of 10 or fewer persons. Applicable existing law applies related to both LEA employees (such as background check requirements and TB testing), and a driver of any vehicle (such as holding the appropriate license for the vehicle used), but there is little state law that governs drivers and vehicles used to transport students when not in a schoolbus or SPAB. Some LEAs contract with TCPs and TNCs authorized to transport minors, which provide prearranged transportation services for compensation using an online-enabled application or platform (such as smart phone apps) to connect drivers using their personal vehicles with passengers. The CPUC regulates TCPs and TNCs.

Driver requirements. There are several categories of Special Driver Certificates issued by the CHP, including school bus driver, and school pupil activity bus driver. The CHP partners with the DMV and the CDE to assist with the testing of school bus driver applicants. Drivers of a schoolbus or a SPAB must meet all of the requirements listed in the table below.

| Certificate | Schoolbus | SPAB |
|-----------------------|------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| Original training | 20 hour class, 20 hour behind-the-wheel | 15 hour class, 20 hour behind-the-wheel |
| Renewal training | 10 hour per training period class behind-the-wheel or in-service | 10 hour per training period class behind-the-wheel or in-service |
| Written testing | CHP rules and regulations, first aid | CHP rules and regulations |
| Driving testing | CHP pre-trip behind-the-wheel | CHP pre-trip behind-the-wheel |
| Commercial licensing | A or B license with Pupil Activity Bus, and School Bus endorsements, which includes Live Scan (background check) | A or B license with Pupil Activity Bus endorsement, which includes Live Scan (background check) |
| Training verification | CDE | CDE |
| Instructor | CDE certified | CDE certified |

This bill would make several changes to the driver requirements for LEAs that employ drivers, and for LEAs that contract with private transportation companies.

The CPUC regulates all transportation network companies, and other passenger carriers covered by this bill. According to the Assembly Communications and Conveyance Committee, “Existing law establishes the Passenger Charter-Party Carriers Act to, in part, promote carrier and public safety through enforcement of safety regulations². The Charter-Party Carriers Act applies broadly to persons and corporations engaged in the transportation of persons by motor vehicle for compensation³. Within the Charter-Party Carriers Act, Article 7 establishes a definition of a TNCs and TNC specific requirements⁴. While TNCs and charter-party carriers have different definitions, the CPUC, through its regulatory decisions, has found that TNCs are charter-party carriers subject to the jurisdiction and control of the commission⁵. In summary, the CPUC has clear and broad regulatory authority over both transportation network companies, including those that carry pupils, and of charter-party carriers broadly. While the author purports that this bill is intended to cover passenger carriers beyond TCPs and TNCs, such as taxis or other categories of private pupil transportation, the findings of this bill do not accurately reflect the reality of the Public Utilities Code or the CPUC’s regulatory decisions. Further, the findings and declarations singularly highlight a supposed gap of regulation for TNCs that transport pupils, while not directly naming or addressing other categories of passenger carriers.

To be clear, the Charter-Party Carriers Act lists various exemptions to its broad application, including specifically for transportation of school pupils conducted by or under contract with the

² Public Utilities Code § 5352(a)

³ Public Utilities Code § 5360

⁴ Public Utilities Code § 5430 et. seq.

⁵ CPUC Decision D. 13-09-045 at p.71

governing board of any school district entered into pursuant to the EC⁶. However, the CPUC has interpreted the Education Code exception narrowly to apply to school buses. The CPUC's interpretation of the EC exception was most recently reaffirmed in a 1997 decision, where the CPUC recognized it has the authority to adopt rules regarding the transport of minors by TCPs, with the understanding that if such transport included schoolbuses, that would also be subject to the applicable sections in the EC⁷. In other words, the transportation of children by TCPs may include pupils and school activities, but also includes a variety of other activities that fall within the scope of the Commission's statutory jurisdiction. For example, the transportation of children on a TNC or TCP between parent's homes or non-school related activities and locations."

The CPUC has existing rules for TCPs and TNCs that carry minors, including pupils.

According to the Assembly Communications and Conveyance Committee, "Notwithstanding the narrow exceptions to the CPUC's jurisdiction to regulate TCPs and TNCs, the agency has adopted rules for those carriers transporting minors, including pupils. In CPUC Decision D.97-07-063, the CPUC adopted the first rules for a new market niche form of passenger carriers that specialized in the carriage of infants and children, and their caregivers. The rules reflects the public's interest in assuring the safety of unaccompanied minor passengers by having the carriers conduct criminal background checks of drivers and other employees transporting children passengers, by utilizing the Department of Justice's Trustline program. In a more recent decision applicable to TNCs, the CPUC required TNCs that primarily transport minors to also comply with existing Trustline background check requirements adopted in D. 97-07-063⁸.

Additionally, the CPUC has requirements for TNC drivers and vehicles generally, which were established in other decisions and listed in Commission General Order 157-E⁹. Requirements that apply to TNCs generally include vehicle inspections at least every 12 -months or 50,000 miles; minimum insurance levels of \$1,000,000 per incident; background checks with prohibitions on drivers convicted within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror; zero-tolerance policies for intoxicating substances; disqualification of drivers with convictions for reckless driving, driving under the influence, hit and run, or driving with a suspended or revoked license; a requirement that TNC drivers must possess a valid California driver's license, be at least 21 years of age, and must provide at least one year of driving history before providing TNC services; TNCs may only use street-legal coupes, sedans, or light-duty vehicles including vans, minivans, sport utility vehicles (SUVs) and pickup trucks; TNC drivers are prohibited from transporting more than 7 passengers on any given ride; TNC vehicles shall not be significantly modified from factory specifications; and TNCs are required to participate in the DMV's pull-notice system.

While the additional requirements this bill seeks to impose on all drivers providing pupil transportation are more expansive than the existing safety requirements for TNCs and TCPs, there is overlap and similarities among the requirements. Examples of similarities between this bill and regulatory requirements are: the requirement to hold a valid driver's license, the

⁶ Public Utilities Code § 5353

⁷ CPUC Decision D. 97-07-063.

⁸ CPUC Decision D. 16-04-041 at p. 26.

⁹ CPUC General Order 157-E: Operations of charter-party carriers of passengers, including Transportation Network Companies (TNCs). <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M322/K150/322150628.pdf>

minimum age of the driver, a criminal background check, having a satisfactory driving record, and participation in the DMV's pull-notice system. A few notable examples of where this bill exceeds existing TNC requirements includes the requirement for drug and alcohol testing, requiring drivers to be mandated reporters pursuant to the Penal Code, a driver medical examination, submission of a clear tuberculosis risk assessment, completing a minimum number of hours of training, limiting drivers to 10 hours of driving per work period, and first aid training.

It certainly is the proper role of the Legislature to consider additional safety requirements for TNCs, TCPs, and any form of transportation concerning a pupil. Ideally, additional requirements would be imposed in light of existing requirements, and not without regard to those requirements. Assuming there are indeed gaps in the safety requirements placed on drivers transporting pupils, as this bill asserts, it would behoove the author to first consider which additional requirements are reasonable or necessary; and secondly whether utilizing the existing regulatory framework overseen by the CPUC would be an effective means of realizing the stated intent of establishing "parity in law that applies equally to all drivers, regardless of employer and employment status, who are compensated to transport pupils." For example, one approach to marrying the requirements of this bill with the existing regulatory structure applicable to TNCs and TCPs would be to require those carriers contracting with an LEA to register with the CPUC while also directing the CPUC to impose new requirements on all carriers transporting minors. On the other hand, if the existing CPUC regulations are sufficient, it might also be reasonable to completely exempt TNCs and TCPs from the scope of this bill."

Recommended Committee Amendments. *Staff recommends that the bill be amended as follows:*

- Apply all requirements commencing July 1, 2025, including contracts entered into between an LEA and a private entity before July 1, 2025.
- Remove the requirement for the LEA, when contracting with a private entity to provide pupil transportation, to obtain from the private entity a written attestation that it will retain direct control over the manner and means for performance of any individual driver during the duration of the contract.
- Exempt the increased safety standards requirements from drivers employed by: a congregate care facility licensed by the California Department of Social Services (CDSS), a county human services agency, a county welfare agency, a county probation agency, another government agency (other than a local educational agency), a foster family agency, and a tribal authority.
- Exempt the increased safety standards requirements from drivers who are compensated to drive themselves, their own child or children, or non-minor dependents in their care: a parent or relative named in Section 361.3 of the Welfare and Institutions Code (WIC), or a non-relative extended family member named in Section 362.7 of the WIC, a guardian, a resource family, a court-appointed educational rights holder, and a court-appointed special advocate.

- Expand the LEA employee exemption to include an employee’s supervision of pupils for extra-curricular activities, or when the employee provides transportation for pupils for other activities, not to exceed 40 hours per school year per employee.
- Require, if the LEA employee driver does not meet specified safety requirements, the LEA to inform the parent, guardian, or court-appointed educational rights holder of the pupil unless the notice would jeopardize the pupil’s privacy rights.
- Specify that nothing in this Act be construed to apply to a driver who transports a pupil who must be immediately transported to a facility in the case of a medical or psychiatric emergency, or in the case of pupils who need to be transported immediately as the result of an emergency that arises as a result of fire, flood, earthquake, or epidemic that lasts less than one month, or because of any order of any military officer of the United States or of the state to meet an emergency created by war, or because of an immediate threat to the physical safety of the pupil or pupils.
- As recommended by the Assembly Committee on Public Safety, require drug and alcohol testing to be subject to the cannabis discrimination limitations outlined in Section 12954 of the GOV for specified drivers.
- Remove the mandated reporter requirement from the list of driver requirements.
- Require an initial driver training and subsequent required training sufficient to gain proficiency in the specified training topics.
- Require nothing in this Act to limit any additional safety or training requirements that may be imposed by the CPUC, an LEA, or any government agency.
- Clarify that existing requirements related to operating a schoolbus, SPAB and other specified vehicles retain existing driver standards.
- Define “congregate care facility” to mean a community care facility, intermediate care facility, skilled nursing facility, or a short-term residential therapeutic program.
- Add extra-curricular activity-related transportation to the definition of “pupil transportation”.
- Define “resource family” to mean a noncustodial relative or nonrelative foster family.
- Require a governing board, county superintendent of schools, or governing body of a charter school, as a condition of a specified pupil transportation contract the tuberculosis risk assessment and, if indicated, the examination for infectious tuberculosis within 60 days of initial hire, of all drivers transporting pupils. Authorizes, at the discretion of the governing board, county superintendent of schools, or governing body of a charter school, this requirement not apply to a private contracted driver who transports pupils infrequently without prolonged contact with the pupils prior to July 1, 2025.

Arguments in support. The California School Employee Association writes, “Under SB 88, all pupil drivers would be required to have satisfactory driving records, comply with drug and alcohol testing, be mandated child abuse and neglect reporters, complete medical examinations, and clear tuberculosis assessments, among other provisions that ensure safety and fitness of duty for the job. The bill requires minimum hours of training on various safety components such as pre-trip inspection, proper loading and unloading of passengers, defensive driving, and operations of a vehicle in inclement weather or under impaired visibility conditions. It also requires the vehicles used to transport pupils to be in safe, working condition with annual inspections by state-licensed facilities and to be equipped with first-aid kits and fire extinguishers in case of emergencies.

While there may be some minimal costs associated with complying with these requirements, many drivers will likely have already satisfied many of them. These requirements will not drive TNCs out of business. The safety benefits of these requirements outweigh any minimal costs. It is a small price to pay to ensure our students are being transported by safe drivers.”

Arguments in opposition. The Association of California School Administrators writes, “California is currently in the midst of a significant shortage of school staff that is particularly acute among bus drivers. Nearly every school district in the state is struggling to find enough drivers to transport students to school. This bill requires anyone transporting students, regardless of the type of vehicle being used, to meet commercial bus driver training requirements.

School districts often contract with transportation companies driving passenger vehicles to transport students with disabilities, homeless youth, and foster youth to school. While we welcome a conversation on safety, these companies are already regulated by the Public Utilities Commission. The vehicles impacted by this bill are not commercial buses, but rather small passenger vehicles, such as sedans that only require a regular class C driver’s license. It is inappropriate to apply a school bus safety standard to a passenger vehicle. SB 88 will push many companies out of business, and without enough school employees, many school districts will have no options to transport these vulnerable students to school.

In addition, many schools utilize district-owned passenger vans to transport students from home to school because vans are a more economical mode of transportation given the pick-up routes in many districts. This bill would require school staff driving students from home to school in vans to meet commercial bus driver requirements. Further, this bill would impose commercial driver requirements on coaches, teachers, and other staff members transporting students to sporting and academic events in regular passenger vans, including 12 hours of training and a medical exam. It is already challenging to identify coaches, teachers, and staff willing to fill these roles. Placing commercial bus driver standards on staff who are driving passenger vans, will not increase safety, but it will make it more difficult to fill these positions and have an incredibly chilling impact on student activities that are critical to student engagement and success in school.”

Related legislation. SB 878 (Skinner) of the 2021-22 Session would have required the CDE to convene a workgroup that included school transportation stakeholders and school transportation providers to develop recommendations pertaining to safety standards for drivers of unaccompanied minors to school. This bill was held on the Assembly Floor.

AB 579 (Ting) of the 2023-24 Session would require, commencing January 1, 2035, 100% of all newly purchased or contracted schoolbuses of a school district, COE, or charter school to be

zero-emission vehicles, where feasible. Authorizes, in order to comply with that requirement, LEAs to request a one-time extension for a term not to exceed 5 years if an LEA determines that the purchase or contracting of a zero-emission schoolbus is not feasible due to both terrain and route constraints, provided that certain conditions are met. Authorizes, commencing January 1, 2040, frontier school districts, to apply for annual extensions, through January 1, 2045, to that requirement, if the frontier school district determines that the purchase or contracting of a zero-emission schoolbus is not feasible due to both terrain and route constraints, provided that certain conditions are met.

AB 181 (Committee on Budget), Chapter 52, Statutes of 2022 and amended by AB 185 (Committee on Budget), Chapter 571, Statutes of 2022, implemented HTST reimbursement funding for school districts COEs based on the prior year eligible transportation expenditures and prior year Local Control Funding Formula (LCFF) transportation related add-on funding.

AB 2716 (Grayson) of the 2021-22 Session would have required a TNC, on or after July 1, 2023, to require a participating driver, at no cost to the driver, to complete a safety course that includes specified components once every two years as a condition of using the TNC's online-enabled application or platform to connect with passengers. This bill was vetoed by the Governor, with the following message:

While I appreciate the intent of the author to strengthen the standards for TNC driver training and vehicle inspections, this bill is redundant of existing safety requirements and may have the unintended consequence of restricting the authority of the CPUC to expeditiously adjust and modify these requirements, as needed, to protect public, driver and passenger safety. I encourage the author to work with the CPUC to clearly identify and address any issues or safety improvements through its public decision-making processes. For these reasons, I cannot sign this bill.

AB 2933 (O'Donnell) of the 2021-22 Session would have required the SPI, commencing with the 2022–23 fiscal year and for each fiscal year thereafter, to apportion to each school district, COE, entity providing services under a school transportation joint powers authority, or regional occupational program/academy that provides pupil transportation services, either 100% of its school transportation apportionment for the 2020–21 fiscal year or 100% of its reported HTST costs as determined by a specified report, whichever is greater. This bill was held in the Senate Education Committee.

AB 2410 (Chen) of the 2021-22 Session would have prohibited a school district, COE, or charter school, commencing January 1, 2023, from contracting with a provider of HTST unless the contractor, and any subcontractors, met specified requirements. This bill was held in the Assembly Education Committee.

AB 2731 (Ting) of the 2021-22 Session would have required all newly purchased, contracted, or operated schoolbuses of an LEA to be zero-emissions by January 1, 2035, would have extended continuing schoolbus lease and rental contracts for pupil transportation services, and would have extended continuing schoolbus lease and rental contracts containing purchase or cancel option for pupil transportation services. This bill was held in the Senate Appropriations Committee.

AB 760 (Cooper) of the 2019-20 Session would have established a new calculation methodology for home-to-school transportation for school districts, COEs, based on a COLA, in order to

equalize transportation funding, commencing with the 2019-20 fiscal year. This bill was held in the Assembly Education Committee.

AB 3303 (Cooper) of the 2019-20 Session would have required that an LEA that elected to have a transportation network company provide HTST pursuant to a contract entered into on or after January 1, 2021, ensure that the contract was in compliance with established standards for the use of personal services contracts in LEAs for all services currently or customarily performed by classified school employees to achieve cost savings, and that the transportation network company's drivers met all of the same requirements that apply to school bus drivers. This bill was held in the Assembly Education Committee.

AB 1469 (Grayson) of the 2017-18 Session would have required school districts to provide free transportation to and from school for pupils attending public, noncharter schools that receive Title I federal funding, subject to an appropriation for this purpose. This bill was held in the Assembly Appropriations Committee.

AB 1572 (Campos) of the 2015-16 Session would have required a public, noncharter school to provide free transportation to a pupil attending a school that is eligible for Title I federal funding. This bill was held in the Assembly Appropriations Committee.

AB 891 (Campos) of the 2015-16 Session would have required an LEA to provide free transportation, to and from school, to a pupil entitled to free or reduced-price meals or who attends a school that participates in the Community Eligibility Option, under either of the following conditions: 1) the pupil resides more than one-half mile from the school; or 2) the neighborhood through which the pupil must travel to get to school is unsafe because of stray dogs, no sidewalks, known gang activity, or other reason documented by stakeholders. Would have required an LEA to designate a liaison to be responsible for implementing a plan to ensure that eligible pupils are provided transportation in a timely manner. This bill was held in the Assembly Appropriations Committee.

SB 191 (Block and Vidak) of the 2015-16 Session would have established a formula to provide state funding for pupil transportation services. This bill was held in the Assembly Education Committee.

AB 694 (Wolk) of the 2007-2008 Session would have increased HTST funding to eligible districts through a specified formula that is equivalent to 90% of their approved HTST costs. This bill was held in the Assembly Appropriations Committee.

AB 1052 (Leslie), Chapter 324, Statutes of 2005, requires a school district or COE that employs a driver to operate a school transportation vehicle, and the driver of that vehicle, to participate in a program that is consistent with the federal controlled substance and alcohol use testing requirements that apply to school bus drivers.

REGISTERED SUPPORT / OPPOSITION:

Support

AFSCME
American Federation of State, County and Municipal Employees
California Association of School Transportation Officials

California Conference Board of The Amalgamated Transit Union
California Federation of Teachers
California Labor Federation, AFL-CIO
California Nurses Association/ National Nurses United
California School Employees Association
California State Legislative Board, Sheet Metal, Air, Rail and Transportation Workers -
Transportation Division
California Teamsters Public Affairs Council
Contra Costa Central Labor Council
John Burton Advocates for Youth
State Superintendent of Public Instruction Tony Thurmond

Opposition

Alameda County Board of Education
Alameda County Office of Education
All Saints Church Foster Care Project
Anderson Valley Unified School District
Association of California School Administrators
Association of California Suburban School Districts
Big Valley Joint Unified School District
Butte County SELPA
California Advancing Pathways for Students
California Alliance of Caregivers
California Association of School Business Officials (CASBO)
California Association of Suburban School Districts
California Charter Schools Association
California County Superintendents
California High School Coalition
California School Boards Association
California Youth Connection (CYC)
Calistoga Joint Unified School District
Campbell Union School District
Casa of Los Angeles
Castro Valley Unified School District
Central Valley Education Coalition
Children's Law Center of California
Children's Legal Services of San Diego
Coalition for Adequate Funding for Special Education
Colton-Redlands-Yucaipa Regional Occupational Program
Contra Costa County Office of Education
Court Appointed Special Advocates of Ventura
Dependency Advocacy Center
Dependency Legal Services
Dinuba Unified School District
East Bay Children's Law Offices
Eden Area Regional Occupational Program
Enterprise Elementary School District
Farmworker Institute of Education & Leadership Development

Foothill SELPA
HopSkipDrive
Kern County Superintendent of Schools
Lakeside Union School District
Los Angeles County Superintendent of Schools
Manhattan Beach Unified School District
Merced County Office of Education
Metropolitan Education District
Milpitas Unified School District
Modesto City Schools District
North Orange County Regional Occupational Program
Office of The Riverside County Superintendent of Schools
Orange County Department of Education
Orcutt Union School District
Pierce Joint Unified School District
Pioneer Union Elementary School District
Pomona Unified School District
Princeton Joint Unified School District
Redondo Beach Unified School District
Riverside County Office of Education
Ross Valley School District
Round Valley Unified School District
San Diego County Office of Education
San Diego Unified School District
San Lorenzo Unified School District
Small School Districts' Association
Stanford Sierra Youth and Families
Sulphur Springs Union School District
Taft City School District
Tri-valley SELPA
Torrance Unified School District
Tulare Joint Union High School District
Ventura County Office of Education
Wheatland School District
Woodlake Unified School District
Youth Law Center
Yuba County SELPA
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