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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on
Regulations Relating to Passenger
Carriers, Ridesharing, and New
Online-Enabled Transportation
Services.

Rulemaking 12-12-011

**COMMENTS TO ORDER INSTITUTING RULEMAKING
OF DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

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3/25/2013

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March 25, 2013

File No.: 60.12904.A09789.062.13-1-0057

Robert M. Mason III
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue, Fifth Floor
San Francisco, CA 94102

Dear Judge Mason:

The California Highway Patrol (CHP) respectfully submits the following comments in response to the California Public Utilities Commission (CPUC) Order Initiating Rulemaking R-12-12-011, Passenger Transportation Carriers, Ridesharing, and New Online-Enabled Transportation Services. Comments address each section by number, in the order presented within the rulemaking, and are offered only for the sections deemed germane to the oversight responsibilities of the Department.

As outlined, the intent of the rulemaking is to address the effects of the previously unknown use of mobile communications and social networks to connect those desiring relatively low-cost and convenient, "ride-sharing" passenger transportation. Entities engaged in the emerging industry assert that due to the ride-sharing aspect and the recommendation, rather than obligation to pay a suggested "donation" for the transportation, the industry is not subject to regulatory oversight of the CPUC as "for-hire" passenger carriers.

Section 3.1. Jurisdiction

The jurisdiction of the CPUC with regard to for-hire carriers of passengers is clear and contained within the California Public Utilities Code. Operators within this newly-emerging industry assert the transportation service is provided and a "suggested donation" for the service is recommended, however, there is no requirement for payment. As a result, the transportation is not a for-hire operation.

The Department views a "donation" for passenger transportation service equivalent to direct compensation for transportation services provided, and the intent is to conduct a for-hire operation. Additionally, the use of mobile communications and social networks to connect passenger transportation providers with those in need of transportation services is deemed to be



pre-arranged, notwithstanding the duration of time between the initial contact and the transportation service. It is the opinion of the Department that the transportation service is subject to CPUC jurisdiction.

Section 3.2. Safety

While the positive or negative effect of this type of passenger transportation on both passenger and public safety cannot yet be wholly determined, passenger transportation left unregulated unnecessarily increases the potential for operation of unsafe vehicles, unqualified drivers, and uninsured transportation providers. Additionally, consideration must be given to the vehicles operated in this type of transportation service, the number of passengers which can be transported, the impact on existing, similar types of regulated passenger transportation such as the taxi industry, and the application of safety requirements to the operation.

For example, current law contained in the California Vehicle Code (CVC) defines a bus as any vehicle operated for compensation or profit, or by a non-profit organization, which seats more than ten, including the driver. Operation of these vehicles falls directly under the safety oversight jurisdiction of the CHP. However, should the aforementioned transportation be deemed not-for-compensation, operation of these vehicles, seating more than ten but less than 16, will no longer be subject to safety oversight by the CHP.

Section 3.3. Ridesharing

As outlined in both statute and this section of the rulemaking, the term "ridesharing" enjoys a specific niche within the lexicon of transportation. Notwithstanding the vehicle used, ridesharing is essentially deemed to be reserved for like-minded individuals with a transportation motivation incidental to another purpose and not seated in profit-making derived from the transportation. For example, the definition contained in Section 668 CVC, clarifies a vanpool is used and maintained primarily for the non-profit, work-related transportation of adults. The California Public Utilities Code, Section 5353 does not define the recovery of actual costs incurred in owning and operating a vanpool as profit.

However, profit may be positive or negative and must be viewed as the principle motivating factor, rather than the incidental gain or loss of capital, associated with a transportation operation. As a result, the Department views this type of transportation as falling outside of the intended statutory definition and intent of the term "ridesharing." Furthermore, the CHP views passenger transportation, notwithstanding the type or amount of compensation received for any trip, which absent the passenger's desire to be transported to a specific location would not otherwise be undertaken.

Section 3.4. Transportation Access

The CPUC oversight responsibilities relative to transportation access is rooted in two essential areas. First, the regulation of accident indemnity to ensure adequate and dependable service by transportation operators and preservation of full use of the highways; and secondly, to promote public and operator safety through enforcement regulations. The CHP views this type of transportation as having the potential to adversely impact these two imminently important factors at a very high level.

As a result of the foregoing, safety regulations must be applicable to this type of operation in order to ensure, to the extent required and intended by law, that safety and public transportation access are preserved. This is not to say that those operators bent on circumvention will not violate applicable safety requirements, but instead, applicable safety requirements will provide, on behalf of the public, a means for the governmental bodies charged with safety oversight, to require safety of operation by those within the industry and to take appropriate action when noncompliance requirements are discovered.

Section 3.5. Insurance

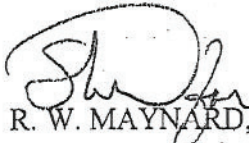
Motor vehicle insurance provides necessary economic protection for those adversely impacted by the operation of a vehicle, both within the vehicle and those parties and property not otherwise involved in the vehicle operation. Current law requires varying levels of insurance coverage based on the type of vehicle operated and the type of operation being insured. Minimum levels of insurance coverage for noncommercial vehicles are inadequate for vehicles involved in for-compensation passenger transportation.

As previously outlined, the Department views this type of passenger transportation as for-compensation and subject to CPUC oversight. Therefore, in order to ensure a more adequate level of public protection, passenger transportation of this type must be subject to higher levels of required insurance coverage, substantially similar to or exactly the same as those prescribed by CPUC General Order 115-F. In addition, passenger transportation operators subject to CPUC regulatory oversight must maintain proof of current insurance coverage, at or above the minimum required levels, with the CPUC at all times.

Robert M. Mason III
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We trust this adequately addresses the questions posed within the rulemaking and request these comments be added to the rulemaking docket. Should you have questions, please contact Captain Steve Dowling, commander of our Commercial Vehicle Section at (916) 843-3400.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. W. Maynard', is written over the printed name.

R. W. MAYNARD, Assistant Chief
Acting Commander
Enforcement and Planning Division