

BILL ANALYSIS

SENATE RULES COMMITTEE	AB 2294
Office of Senate Floor Analyses	
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THIRD READING

Bill No: AB 2294  
Author: Block (D), et al  
Amended: 6/24/10 in Senate  
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE : 6-0, 6/22/10  
AYES: Lowenthal, Huff, DeSaulnier, Harman, Pavley, Simitian  
NO VOTE RECORDED: Ashburn, Kehoe, Oropeza

ASSEMBLY FLOOR : 73-1, 5/3/10 - See last page for vote

SUBJECT : Drivers licenses for pedicab operators

SOURCE : City of San Diego

DIGEST : This bill defines pedicab and allows local authorities to license and regulate the operation of pedicabs for hire including a requirement that an operator obtain a valid California drivers license.

ANALYSIS : The California Vehicle Code provides that its provisions are applicable and uniform throughout the state.

One such provision, which is related to this measure, is that a person must have a valid driver's license in order to operate a motor vehicle upon a highway. A local authority may not enact or enforce any ordinance on matters covered by the Vehicle Code unless it expressly authorizes a local authority to do so.

Among the subject matters the Vehicle Code permits local

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authorities to regulate is the operation of vehicles for hire (e.g., taxis) and drivers of passenger vehicles for hire, excluding vehicles that are human-powered, as well as the operation of bicycles and electric carts on the public sidewalks. Local authorities may also regulate the registration of bicycles and the parking and operation of bicycles on pedestrian or bicycle facilities, provided such regulation is not in conflict with the California Vehicle Code.

Existing law defines a "bicycle" as a "device upon which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having one or more wheels." Every person riding a bicycle upon the highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle, except those provisions which by their very nature can have no application. Bicyclists are not required, however, to have a driver's license to operate a bicycle upon the highway.

This bill:

1. Defines "pedicab" as a bicycle that is operated by a person that is used for transporting passengers for hire, that has three or more wheels or pulls a trailer, sidecar, or similar device, and that transports or is capable of transporting passengers on seats attached to the bicycle, trailer, sidecar, or similar device.
2. Allows local authorities to license and regulate the operation of pedicabs for hire and require the operator of pedicabs for hire to have a valid California driver's license.

Background

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The City of San Diego has regulated pedicabs since 2000. In 2007, as the number of pedicabs operating in the city was increasing, the city received numerous complaints about pedicabs from downtown residents and businesses. The complaints primarily concerned the overcharging of fares, improper parking, and the lack of proof of insurance. There were also complaints about the volume of pedicabs in certain areas causing traffic disruption and interfering

with pedestrian flow at intersections. To address these concerns, the city council engaged in a comprehensive examination of the licensing procedures for pedicabs and proposed a series of changes. The staff recommendations were not acted upon, however, until a pedicab passenger was fatally injured when she fell from a moving pedicab on July 4, 2009.

As a result of this accident, the recommendations were brought before the city council at which time the city attorney reviewed the existing ordinance and the proposed changes. The existing ordinance included a requirement that pedicab operators hold a valid California driver's license, which the San Diego City Council had originally adopted in 1999. Upon review ten years later, the city attorney concluded that the city did not in fact have authority to require a driver's license of pedicab operators. In a recent memo, the city attorney argued that the Vehicle Code preempts local ordinances and articulates the vehicles that require a license to operate. By specifying motor vehicles, the city attorney contends that provisions of the Vehicle Code regarding the types of vehicles that require licenses represent an intention to exclude human-powered vehicles or devices from licensing requirements, thus preempting local governments from establishing such requirements themselves.

Based on this interpretation, the city attorney recommended that the city council repeal the requirement from its existing ordinance and seek legislation to explicitly authorize the city to require one. This bill responds to that recommendation.

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

SUPPORT : (Verified 6/23/10)

City of San Diego (source)  
City of San Marcos

OPPOSITION : (Verified 6/23/10)

California Association of Bicycling Organizations

ARGUMENTS IN SUPPORT : According to the author's office, pedicabs operate in high density areas frequented by tourists, and passengers expect that the operator will obey the rules of the road and transport them in a safe manner. The City of San Diego, the sponsor of this bill, contends that a valid California driver's license indicates that a person has been tested and understands the rules of the road, an essential competency expected of pedicab operators. Because of the commercial nature of pedicabs and the need for motor vehicles and pedicabs to operate in harmony with one another on the roadways, requiring a California driver's license will, according to the author's office, promote public safety.

ARGUMENTS IN OPPOSITION : The California Association of Bicycling Organizations (CABO) opposes this bill and believes requiring commercial operators of pedicabs have a valid California driver's license (CDL) is inappropriate, and argues that a testing and certification program for bicycling operation competency is a better method for ensuring public safety. CABO believes there are many reasons not to require pedicab operators to have a CDL, such as the CDL requires testing in an automobile and some pedicab operators do not have an automobile or insurance, and the CDL training does not cover bicycle specific or pedicab specific material. CABO argues "the fatality that occurred in San Diego had nothing to do with anything covered by the information, training or testing for a CDL. On the other hand, it did have everything to do with the operating characteristics and passenger handling for pedicabs."

ASSEMBLY FLOOR :

AYES: Adams, Ammiano, Arambula, Bass, Beall, Bill Berryhill, Tom Berryhill, Blakeslee, Block, Blumenfield, Bradford, Brownley, Buchanan, Caballero, Charles Calderon, Carter, Chesbro, Conway, Cook, Coto, Davis, De La Torre, De Leon, DeVore, Emmerson, Eng, Evans, Feuer, Fletcher, Fong, Fuentes, Fuller, Furutani, Gaines, Galgiani, Garrick, Gilmore, Hagman, Harkey, Hayashi, Hernandez, Hill, Huber, Huffman, Jeffries, Jones, Lieu, Logue, Bonnie Lowenthal, Ma, Mendoza, Miller, Monning, Nava, Nestande, Niello, Nielsen, V. Manuel Perez, Portantino, Ruskin, Salas, Silva, Skinner, Smyth,

Solorio, Audra Strickland, Swanson, Torlakson, Torres,  
Torrico, Tran, Villines, Yamada  
NOES: Anderson  
NO VOTE RECORDED: Hall, Knight, Norby, Saldana, John A.  
Perez, Vacancy

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SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*