

BILL ANALYSIS

AB 2294

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ASSEMBLY THIRD READING
 AB 2294 (Block and Fletcher)
 As Amended April 26, 2010
 Majority vote

TRANSPORTATION 11-0

Ayes:	Bonnie Lowenthal, Bill Berryhill, Blumenfield, Buchanan, Eng, Furutani, Galgiani, Hayashi, Miller, Niello, Solorio		
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SUMMARY : Defines the term "pedicab" and authorizes San Diego County or any city within the county to adopt a pedicab operator ordinance or resolution that includes, but is not limited to, a requirement that the pedicab operator obtain a valid California Department of Motor Vehicles (DMV) driver's license. Specifically, this bill :

1) Defines the term "pedicab" as either:

- a) A bicycle that has three or more wheels, that transports, or is capable of transporting, passengers on seats attached to the bicycle, that is operated by a person, and that is used for transporting passengers for hire; and,
- b) A bicycle that pulls a trailer, sidecar, or similar device, that transports, or is capable of transporting, passengers on seats attached to the trailer, sidecar, or similar device, that is operated by a person, and that is used for transporting passengers for hire.

2) Authorizes San Diego County or any city within the county to adopt a pedicab operator ordinance or resolution that includes, but not limited to, a requirement that the operator of the pedicab obtain a valid DMV driver's license.

EXISTING LAW :

1) Pursuant to the United States Constitution, authorizes

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governments to exercise reasonable control over persons and property within its jurisdiction in the interest of the general security, health, safety, morals, and welfare except where legally prohibited.

- 2) Pursuant to the California Constitution, authorizes a city or county to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
- 3) Authorizes local authorities to adopt rules and regulations by ordinance or resolution regarding, among other matters:
 - a) The licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire; and,
 - b) The operation of bicycles and electric carts, as defined, on the public sidewalks.
- 4) Authorizes a city or county that adopts a bicycle licensing ordinance or resolution, to prohibit the operation of a bicycle on any street, road, highway, or other public property within the jurisdiction of the city or county unless the bicycle is licensed in accordance with the adopted standards.
- 5) Establishes that a bicycle rider upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle, as specified.
- 6) 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.

7) Requires California residents who drive a motor vehicle on public highways to have a DMV driver's license, with specified exceptions.

FISCAL EFFECT : Unknown

COMMENTS : Pedicabs are foot-operated bicycle taxis that carry their passengers in open-air seating. They are pollution free and provide an alternative to regular taxicabs for short-distance travel. In California, pedicab fleets can be

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found in Sacramento, San Diego, San Francisco, San Jose, Santa Barbara, Santa Cruz, Stockton, and elsewhere.

Existing law authorizes a city or county to adopt and enforce any local ordinance governing zoning, business licensing, and reasonable health and safety requirements. Accordingly, local entities are separately enacting ordinances to regulate the operation of pedicabs within their local jurisdictions. Similar to San Diego's prior pedicab ordinance, most of the California cities with pedicab ordinances currently require a DMV driver's license in order to obtain an operating permit. This bill would authorize San Diego County or any city within the county to adopt a pedicab operator ordinance or resolution that would include, but not be limited to, a requirement for the operator to have a valid DMV driver's license.

Purpose of this bill: According to the author's office, the City of San Diego's (San Diego) attorneys contend that they do not have the explicit authority to require a DMV driver's license as a condition of issuing a local pedicab-for-hire operating permit. Originally, their ordinance required, similar to what other California local entities now require, a valid DMV driver's license as a condition of obtaining an operators license. San Diego's purpose, in introducing this bill, is "to improve public safety by allowing cities to require operators of pedicabs to obtain a DMV driver's license, thereby ensuring knowledge of road rules and traffic safety."

New and Old San Diego Pedicab Ordinance: On October 12, 2009, the San Diego City Council enacted a new pedicab ordinance to better regulate the pedicab industry and restore the safe, orderly flow of traffic in congested areas. Since that time, and pursuant to the requirements of the ordinance, San Diego began issuing approximately 250 restricted zone operating permit decals to pedicab owners and operators. The decals permit pedicab operators to conduct business in any four restricted zones located throughout the city, including downtown. In accordance with the new ordinance, instead of a DMV driver's license, a valid form of federal- or state-issued photo identification is required when applying for the driver's operating permit.

The prior San Diego pedicab ordinance required a DMV driver's license as a condition of the operating permit. However,

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according to city council notes, "because pedicabs are human powered vehicles, the city cannot require a motor vehicle driver's license to operate a pedicab, just as we cannot require a driver's license to operate a bicycle. The city could seek legislation in Sacramento to amend the Vehicle Code to delegate the authority to regulate pedicabs to local jurisdictions, this would allow the city to require a valid California driver's license to operate a pedicab to assure that the pedicab operator has demonstrated knowledge of the rules of the road before being allowed to transport passengers for hire."

DMV driver's license and pedicab safe operations: This bill was the subject of debate of the California Bicycle Advisory Committee at its April 8, 2010 meeting. Formed by the California Department of Transportation (Caltrans) in 1992, the committee is composed of 13 members who represent various

California agencies and organizations. The committee provides guidance to Caltrans on bicycle issues. At the meeting, members generally indicated to the author's office that they questioned the need for this bill, especially as local governments currently regulate pedicab operations without state intervention. Members also indicated that the requirement of a DMV driver's license would not provide the pedicab operator with greater knowledge of operating a pedicab in roadway traffic or increased ability to drive a pedicab safer. It should be noted that no bicycle representative or organization spoke in favor of this bill.

Writing in opposition to this bill, the Californian Association of Bicycling Organizations (CABO) indicates the following:

- 1)The DMV driver's license requires testing in an automobile; most newcomers don't have an automobile or car insurance. (This looks like a way to reduce competition for current operators by adding a hurdle for entry into the field for pedicab operation by new [usually temporary immigrant] operators and those who do not own or operate motor vehicles.)
- 2)The DMV driver's license training or testing does not cover bicycling specific material/information, etc. or anything about handling a pedicab.
- 3)The DMV driver's license doesn't cover pedicab specific

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material - where to operate, park, passenger carrying, etc. Much of this will be specific to the city where the applicant seeks to work.

- 4)The fatality that occurred in San Diego had nothing to do with anything covered by the information, training, or testing for a DMV driver's license. On the other hand, it did have everything to do with the operating characteristics and passenger handling for a pedicab.

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