

BILL ANALYSIS

AB 2294

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Date of Hearing: April 19, 2010

ASSEMBLY COMMITTEE ON TRANSPORTATION
 Bonnie Lowenthal, Chair
 AB 2294 (Block) - As Introduced: February 18, 2010

SUBJECT : Pedicabs: local licensing ordinance

SUMMARY : Defines the term "pedicab" and authorizes a city or county to adopt a pedicab licensing 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.
- 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 a city or county to adopt a pedicab licensing 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 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

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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 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

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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 a city or county to adopt a pedicab 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."

Local regulatory ordinances :

Currently, local ordinances are enacted to regulate the pedicab, business owner, and driver as follows:

- 1) License and registration of the foot-operated bicycle taxi or pedicab. This ensures that the pedicab is under proper ownership and a label is properly placed or stamped upon the pedicab. Some local entities ensure that the pedicab is properly maintained, have seatbelts, working lights, etc.
- 2) Business operating license for the pedicab business. This often requires proper government-issued identification, business plan, liability insurance, etc. An annual operating business permit along with fees is usually required. In most cases, the business owner operates a fleet of pedicabs and has employees to drive them.
- 3) Pedicab driver operating license. This often requires a requirement for a valid government-issued identification, pass a criminal background check, and successfully complete a pedicab driver safety training class.

New and Old San Diego Pedicab Ordinance : On October 12, 2009, the San Diego City Council enacted a new pedicab ordinance to

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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, 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 thirteen 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 that the DMV driver's license is "inappropriate and inadequate to be required

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of commercial operators of pedicabs. If the justification for such a requirement is to protect the passengers and others from the kind of crashes that led to the fatality in San Diego, there is a better way: a testing and certification program for bicycling operation competency."

Suggested committee amendment : The committee suggests that the scope of the bill be narrowed from statewide applicability to just San Diego. Other entities throughout the state that have adopted local pedicab business license ordinances with the requirement for pedicab drivers to have a DMV license have not requested this clarification or authorization in statute.

REGISTERED SUPPORT / OPPOSITION :

Support

City of San Diego (sponsor)
City of San Marcos

Opposition

California Association of Bicycle Organizations

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