

Agenda Item: 6

Consideration of Proposed Senate Bill 1519 [INFORMATION AND  
DISCUSSION]

**Introduced by Senator Yee**

February 22, 2008

---

An act to add Sections 53075.7, 53075.8, and 53075.9 to the Government Code, relating to taxicabs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1519, as introduced, Yee. Local governments: taxicabs.

(1) Existing law requires every city or county to adopt an ordinance or resolution regarding taxicab transportation service, including, but not limited to, provisions for a policy for the entry into the business of providing taxicab transportation service and for the establishment or registration of rates for the provision of that service.

This bill would require the regulator, defined as the local entity responsible for the regulation of, and enforcement of rules, regulations, or ordinances governing, taxicabs within the local jurisdiction defined upon receipt of a complaint containing sufficient information to warrant conducting an investigation, to investigate any business that advertises a taxicab transportation service for hire identified in the complaint. The bill would require the regulator, by ordinance, resolution, or other appropriate procedure, to adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation.

This bill would also require every taxicab transportation service to include the number of its certificate, license, or permit in every written or oral advertisement, as defined, of the services it offers, and would authorize the regulator to impose a fine of not more than \$5,000 if it finds, after a hearing, that a person or corporation is operating as a taxicab transportation service without a valid certificate, license, or

permit, or fails to include, the number of the certificate or permit in any written or oral advertisement.

(2) Existing law provides for the termination of telephone service by a telephone corporation or telegraph corporation to a charter-party carrier of passengers without a valid certificate or permit, pursuant to specified procedures by the Public Utilities Commission.

This bill would provide for the termination of telephone service by a telephone corporation or telegraph corporation to a taxicab transportation service without a valid certificate, license, or permit and places enforcement of this prohibition with the regulator. By imposing a new or higher level of service upon local governments, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 53075.7 is added to the Government  
2 Code, to read:  
3 53075.7. (a) Upon receipt of a complaint containing sufficient  
4 information to warrant conducting an investigation, the regulator  
5 shall investigate any business that advertises or operates taxicab  
6 transportation service for hire. The regulator shall, by ordinance,  
7 resolution, or other appropriate procedure, adopt criteria that  
8 establishes the type of information, if contained in a complaint,  
9 that is sufficient to warrant an investigation. Pursuant to this  
10 investigation, the regulator shall do all of the following:  
11 (1) Determine which businesses, if any, are required to have in  
12 effect a valid taxicab certificate, license, or permit as required by  
13 ordinance, but do not have that valid authority to operate.  
14 (2) Inform any business not having valid authority to operate  
15 that it is in violation of law.  
16 (3) Within 60 days of informing the business pursuant to  
17 paragraph (2), institute civil or criminal proceedings, or both,

1 pursuant to the governing municipal code or other authority of  
2 jurisdiction.

3 (b) For purposes of this section:

4 (1) "Advertises" means any action described in subdivision (b)  
5 of Section 53075.9.

6 (2) "Regulator" means the local entity responsible for the  
7 regulation, including, but not limited to, the certification, licensing,  
8 or permitting of, and enforcement of rules, regulations, or  
9 ordinances governing, taxicabs within the local jurisdiction.

10 SEC. 2. Section 53075.8 is added to the Government Code, to  
11 read:

12 53075.8. (a) The Legislature finds and declares that advertising  
13 and use of telephone service is essential for a taxicab transportation  
14 service to obtain business and conduct intrastate passenger  
15 transportation services. Unlawful advertisements by taxicabs  
16 operating without a valid taxicab certificate, license, or permit  
17 required by any ordinance has resulted in properly certificated,  
18 licensed, and permitted taxicab operators competing with these  
19 taxicabs operating without a proper taxicab certificate, license, or  
20 permit using unfair business practices. Taxicabs operating without  
21 a proper taxicab certificate, license, or permit have also exposed  
22 passengers to unscrupulous persons who portray themselves as  
23 lawful operators. Many of these taxicabs operating without a proper  
24 taxicab certificate, license, or permit have been found to have also  
25 been operating without insurance, or in an unsafe manner, thereby  
26 placing their passengers at risk.

27 (b) (1) The Legislature further finds and declares that the  
28 termination of telephone service utilized by taxicabs operating  
29 without proper authority is essential to ensure the public safety  
30 and welfare. Therefore, local taxicab regulatory authorities should  
31 take enforcement action, as specified in this section, to disconnect  
32 telephone service of unauthorized taxicab operators who unlawfully  
33 advertise passenger transportation services in yellow page  
34 directories and other publications. The enforcement actions  
35 provided for by this section are consistent with the decision of the  
36 California Supreme Court in *Goldin v. Public Utilities Commission*  
37 (1979) 23 Cal. 3d 638.

38 (2) For purposes of this section, a telephone corporation or  
39 telegraph corporation, or a corporation that holds a controlling  
40 interest in the telephone or telegraph corporation, or any business

1 that is a subsidiary or affiliate of the telephone or telegraph  
2 corporation, that has the name and address of the subscriber to a  
3 telephone number being used by a unauthorized taxicab operator  
4 shall provide the regulator, or an authorized officer or employee  
5 of the regulator, upon demand, and the order of a magistrate, access  
6 to this information. A magistrate may only issue an order for the  
7 purposes of this subdivision, if the magistrate has made the findings  
8 required by subdivision (c).

9 (c) A telephone or telegraph corporation shall refuse telephone  
10 service to a new subscriber and shall disconnect telephone service  
11 of an existing subscriber only after it is shown that other available  
12 enforcement remedies of the regulator have failed to terminate  
13 unlawful activities detrimental to the public welfare and safety,  
14 and upon receipt from any authorized officer or employee of the  
15 regulator of a writing, signed by a magistrate, as defined by  
16 Sections 807 and 808 of the Penal Code, finding that probable  
17 cause exists to believe that the subscriber is advertising or holding  
18 out to the public to perform taxicab transportation services without  
19 having in force a valid certificate, license, or permit issued by the  
20 regulator authorizing those services, or that the telephone service  
21 otherwise is being used or is to be used as an instrumentality,  
22 directly or indirectly, to violate or assist in violation of the laws  
23 requiring a taxicab operator to have valid operating authority.  
24 Included in the writing of the magistrate shall be a finding that  
25 there is probable cause to believe that the subject telephone  
26 facilities have been, or are to be, used in the commission or  
27 facilitation of holding out to the public to perform taxicab  
28 transportation services without having proper authorization to  
29 provide those services and that, absent immediate and summary  
30 action, a danger to the public welfare and safety will result.

31 (d) Any person aggrieved by any action taken pursuant to this  
32 section shall have the right to file a complaint with the regulator  
33 and may include therein a request for interim relief. The regulator  
34 shall schedule a public hearing on the complaint to be held within  
35 21 calendar days of the filing and assignment of a docket number  
36 to the complaint. The remedy provided by this section shall be  
37 exclusive. No other action at law or in equity shall accrue against  
38 any telephone or telegraph corporation because of, or as a result  
39 of, any matter or thing done or threatened to be done pursuant to  
40 this section.

1 (c) At any hearing held on a complaint filed with the regulator  
2 pursuant to subdivision (d), the regulator staff shall have the right  
3 to participate, including the right to present evidence and argument  
4 and to present and cross-examine witnesses. The regulator staff  
5 shall have both the burden of providing that the use made, or to  
6 be made, of the telephone service is to hold out to the public to  
7 perform, or to assist in performing, services as a taxicab  
8 transportation service, or that the telephone service is being, or is  
9 to be, used as an instrumentality, directly or indirectly, to violate,  
10 or assist in violating, the valid operating authority applicable to  
11 providers of taxicab transportation services and that the character  
12 of the acts are such that, absent immediate and summary action,  
13 a danger to public welfare or safety will result, and the burden of  
14 persuading the regulator that the telephone services should be  
15 refused or should not be restored.

16 (f) The telephone or telegraph corporation, immediately upon  
17 refusal or disconnection of service in accordance with subdivision  
18 (c), shall notify the subscriber in writing that the refusal or  
19 disconnection of telephone service has been made pursuant to a  
20 request of a regulator and the writing of a magistrate, and shall  
21 include a copy of this section, a copy of the writing of the  
22 magistrate, and a statement that the customer of the subscriber  
23 may request information from the regulator concerning any  
24 provision of this section and the manner in which a complaint may  
25 be filed.

26 (g) The provisions of this section are an implied term of every  
27 contract for telephone service and a part of any application for  
28 telephone service. Applicants for, and subscribers and customers  
29 of, telephone service, have, as a matter of law, consented to the  
30 provisions of this section as a consideration for the furnishing of  
31 the telephone service.

32 (h) As used in this section, the terms “person,” “customer,” and  
33 “subscriber” include the subscriber to telephone service, any person  
34 using the telephone service of a subscriber, an applicant for  
35 telephone service, a corporation, a limited liability company, a  
36 partnership, an association, and includes their lessees and assigns.

37 (i) As used in this section, the following terms have the  
38 following meanings:

1 (1) "Authorized officer or employee of the regulator" includes  
2 any employee of the regulator designated by the authority  
3 governing the activities and operations of the regulatory entity.

4 (2) "Regulator" has the same meaning as specified in subdivision  
5 (b) of Section 53075.7.

6 (3) "Telegraph corporation" has the same meaning as specified  
7 in Section 236 of the Public Utilities Code.

8 (4) "Telephone corporation" has the same meaning as specified  
9 in Section 234 of the Public Utilities Code.

10 SEC. 3. Section 53075.9 is added to the Government Code, to  
11 read:

12 53075.9. (a) Every taxicab transportation service shall include  
13 the number of its certificate, license, or permit in every written or  
14 oral advertisement of the services it offers.

15 (b) For purposes of this subdivision, "advertisement" includes,  
16 but is not limited to, the issuance of any card, sign, or device to  
17 any person, the causing, permitting, or allowing the placement of  
18 any sign or marking on or in any building or structure, or in any  
19 media form, including newspaper, magazine, radiowave, satellite  
20 signal, or any electronic transmission, or in any directory soliciting  
21 taxicab transportation services subject to this chapter.

22 (c) Whenever the regulator after a hearing, finds that any person  
23 or corporation is operating as a taxicab transportation service  
24 without a valid certificate, license, or permit or fails to include in  
25 any written or oral advertisement the number required by  
26 subdivision (a) of Section 50739, the regulator may impose a fine  
27 of not more than five thousand dollars (\$5,000) for each violation.  
28 The regulator may assess the person or corporation an amount  
29 sufficient to cover the reasonable expense of investigation incurred  
30 by the regulator. The regulator may assess interest on any fine or  
31 assessment imposed, to commence on the day the payment of the  
32 fine or assessment becomes delinquent. All fines, assessments,  
33 and interest collected shall be deposited at least once each month  
34 in a fund established for the purpose of enforcing the provisions  
35 of this section.

36 (d) For purposes of this section, "regulator" has the same  
37 meaning as specified in subdivision (b) of Section 53075.7.

38 SEC. 4. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 this act provides for offsetting savings to local agencies or school

- 1 districts that result in no net costs to the local agencies or school
- 2 districts, within the meaning of Section 17556 of the Government
- 3 Code.

O