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Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative (A.G. File No. 25-0029, Amendment #1) related to rideshare companies.

BACKGROUND

Rideshare Companies Provide Transportation Services to Passengers. Rideshare companies—sometimes known as Transportation Network Companies—allow passengers to hire drivers using a smartphone application. Drivers for rideshare companies work as independent contractors rather than employees, generally using their own vehicles and choosing when and where to work. Most drivers for rideshare companies drive part-time and many only work for less than a year.

California Public Utilities Commission (CPUC) Regulates Rideshare Companies. The state—through CPUC—oversees rideshare companies by regulating their operations, issuing them operating permits, and investigating complaints against them. Pursuant to its regulations, CPUC receives annual reports from rideshare companies with self-reported information on assault and harassment incidents, as well as other key data. The state does not currently require the annual reports to disclose whether the cited assault and harassment incidents were sexual in nature. CPUC assesses fees on rideshare companies to cover the costs of its regulatory activities.

State Law Requires That Certain Professions Get Fingerprint Background Checks. State law requires people in certain professions to undergo background checks. For some professions—such as doctors, teachers, and attorneys—people must undergo more thorough state and federal fingerprint background checks conducted by the Department of Justice (DOJ) as a condition of their licensing and employment. Such background checks typically are processed by


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a government agency with associated costs covered by fees charged for each check. While current law requires rideshare companies to conduct background checks on their drivers before hiring—and annually for all active drivers—it does not require that they undergo fingerprint background checks through DOJ. Rideshare companies typically use a private party to conduct their required driver background checks.

Rideshare-Related Incidents Can Result in Allegations of Assault or Harassment.

Rideshare has become a frequently used method of transportation in California. According to a 2023 report by the San Francisco County Transportation Authority, rideshare companies reported that a couple hundred million rides took place in California between September 2019 and August 2020. A small share of these rides resulted in allegations of assault or harassment by the driver or the passenger. For example, the same report noted that the two largest rideshare companies—which make up the majority of the industry—disclosed 20,000 assault or harassment incidents to CPUC over the same period. How many of these incidents were sexual in nature was not specified.

Some Allegations of Rideshare-Related Sexual Misconduct or Assault Result in Lawsuits.

In some instances, people who allege sexual misconduct or assault related to rideshare seek compensation, such as for damages. If an agreement for compensation cannot be reached outside of court, these people may pursue lawsuits in court. In rideshare-related cases, monetary awards can be levied against various parties, including the person who is found to have committed the wrongdoing—such as the driver or passenger—and/or the rideshare company.

Level of Legal Responsibility in Lawsuits Can Vary Among Road Users. Under current law, various types of road users face different levels of legal responsibility. For example, noncommercial drivers generally are required to exercise a reasonable level of care when operating their vehicles. Under this standard, drivers must act in the way that a reasonable, prudent driver would under similar circumstances. However, some users of the road have higher levels of responsibility under the law. For example, companies that provide transportation services to the general public for a fee—known as “common carriers”—are subject to a “heightened duty of care.” Under this higher standard, a level of vigilance, skill, and care generally must be followed, above what a typical reasonable driver might be expected to perform. This higher standard can mean that when lawsuits are brought, common carriers are more likely to be found liable and face monetary penalties than other types of drivers. Currently, CPUC does not regulate rideshare companies as common carriers.

PROPOSAL

Requires Background Checks for Rideshare Drivers. This measure would require that rideshare drivers undergo DOJ state and federal fingerprint background checks prior to employment and every year thereafter. The measure would require rideshare companies to contract with a company licensed by the California Bureau of Security and Investigative Services (BSIS) to process these checks. The measure also would allow ongoing monitoring of a driver’s criminal or driving history after the initial fingerprint background check without the driver needing to provide additional consent. Additionally, the measure would prohibit rideshare companies from employing and retaining drivers with previous conviction of rape, sexual

battery, any violent felony, misdemeanor assault or battery, or domestic violence. It would authorize CPUC to fine rideshare companies that do not comply with these requirements \$10,000 per day that prohibited drivers have access to the rideshare company's application.

Requires Rideshare Companies to Report Sexual Misconduct and Assault Incidents. This measure would require rideshare companies to publish monthly the number of sexual misconduct and assault incidents involving their passengers and drivers on their websites and submit them to CPUC. It also would require rideshare companies to notify and cooperate with law enforcement—with the survivor's consent—and investigate the incident if the companies have reason to believe that a crime might have occurred. This measure would authorize CPUC to fine rideshare companies \$10,000 per violation if they fail to comply with these requirements.

Requires Rideshare Companies to Notify Passengers About Sexual Misconduct and Assault Risk of Drivers. The measure would require that companies disclose any internal hazard ratings and risk assessment scores related to a driver's sexual assault or sexual misconduct history, or the likelihood of a driver engaging in sexual assault or sexual misconduct. It also would require that rideshare companies give a passenger the option to refuse a ride after the disclosure without incurring a cost.

Increases Rideshare Companies' Legal and Financial Responsibility for Rideshare-Related Sexual Wrongdoing. The measure includes provisions that increase the level of legal and financial responsibility to which rideshare companies would be subject. Specifically, it:

- ***Classifies Rideshare Companies as Common Carriers With Higher Level of Legal Responsibility.*** This measure would explicitly state that rideshare companies are common carriers and, as a result, would be subject to a heightened duty of care responsibility when operating vehicles.
- ***Increases Rideshare Companies' Financial Responsibility for Damages.*** The measure would hold rideshare companies legally responsible for any and all damages caused by a passenger's or a driver's sexual assault or misconduct, regardless of the culpability of the rideshare company itself.

FISCAL EFFECTS

Increased State Costs to Process Background Checks. This measure would increase state costs to process fingerprint background checks for rideshare drivers. The increased costs likely would range from the low tens of millions of dollars to the mid-tens of millions of dollars annually. The measure intends for these costs to be covered primarily through fees paid by rideshare companies. (We note that additional legislative language may need to be adopted to effectuate DOJ's and BSIS's ability to conduct and process the background checks required by the measure.)

Increased State Court Costs. The higher level of legal and financial responsibility imposed on rideshare companies by the measure could make it more likely that people would try to file rideshare-related sexual misconduct and assault lawsuits, as they may expect a greater likelihood of prevailing and/or securing a larger monetary award. This, in turn, could increase state trial

court workload and costs to process civil cases. These increased costs could potentially range from the millions of dollars to the low tens of millions of dollars annually.

Increased Costs for CPUC. The measure would also result in higher costs for CPUC associated with developing, implementing, and enforcing new regulations. These costs could be in the low millions of dollars annually, and would be covered by regulatory fees paid by rideshare companies.

Summary of Fiscal Effects. We estimate that this measure would have the following major fiscal effects:

- Increased state costs likely ranging from the low tens of millions of dollars to the mid-tens of millions of dollars annually to process driver fingerprint background checks, potentially to be covered by fees.
- Increased state court costs ranging from the millions of dollars to the low tens of millions of dollars annually to process increased civil case workload.
- Increased costs to CPUC in the low millions of dollars annually to develop, implement, and enforce new regulations, to be covered by fees paid by rideshare companies.

Sincerely,



for Gabriel Petek
Legislative Analyst



for Joe Stephenshaw
Director of Finance