

**SB 182 (BRADFORD): TRANSPORTATION NETWORK COMPANY - SINGLE BUSINESS LICENSE/ INDUSTRY CARVE OUT**

Suggested Action: *Email and Call Your Assembly Representative Regarding Concerns with SB 182 / Oppose on the Assembly Floor / Offer Suggested Recommendations/ Request that your Representative(s) Ask Senator Bradford to make SB 182 a Two-Year Bill*

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- Link to SB 182: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB182

BACKGROUND

SB 182 (Bradford) would allow drivers for transportation network companies (TNCs) to secure a business license from only one jurisdiction, based on where the driver lives, that would be valid anywhere in the state of California. If the individual lives in an area that does not have a business license requirement, then that driver would not be required to secure one. SB 182, sponsored by the Internet Association, also restricts cities and counties from making business license information public for these drivers which is unlike any other business license. The changing nature of for-hire car service makes some business license models a challenging fit. SB 182 is opposed by the California State Association of Counties and League of California Cities.

WHY LOCALS SHOULD BE CONCERNED

MuniServices recognizes that SB 182 is in the final stages of the legislative process. The Legislature returns from Summer Recess on August 21 and Session ends September 15. We understand there may be less than 10 localities in the State with policy with respect to TNC drivers. Our firm has partnered with several hundred localities in California and throughout the Country on business license projects and remain concerned that SB 182 is a 'carve out' for a specific industry. MuniServices respectfully acknowledges the need for policy that addresses 'gig economies workers.' What SB 182 is attempting to accomplish deserves additional time from impacted stakeholders, especially from specific local governments' since they (locals) are ultimately responsible for business license compliance.

Carve Out: This measure is seeking to create a carve-out from local business licensing regulations for a single industry. While most existing local business licensing practices do not neatly fit a TNC model, SB 182 will exempt the independent contractors providing services through the TNC from any and all existing business license regulations.

Lost Connection to Nexus: The current requirements in SB 182, however, have lost all connection to nexus. It only requires TNC drivers to be licensed in the city or county where they live, which will often not correspond to the city or county in which they actually work, with the result that the jurisdiction bearing the burden of the business activity does not receive any revenue from it.

Consumer Protection Is Compromised: Business licenses serve as an important consumer protection that provides accountability for the business operators to the public.



Local Government Requirements Are Eliminated: SB 182 would eliminate locally-determined requirements. Each jurisdiction should be able to set and enforce local standards and conditions.

Why Making SB 182 a Two-Year Bill Is Needed: MuniServices has been invited to stakeholder meetings with SB 182 sponsors. The issue is complex, and more time and increased communication is needed. As reported in a Senate Judiciary analysis: “Given the magnitude and importance of establishing a licensing scheme for a massive and growing industry such as this, legislation should be carefully crafted. As urged by MuniServices in opposition to this bill, all those involved should value the time and research needed to fully vet and consider policy questions and proposals on this topic. Given the host of concerns around oversight and safety that have surfaced regarding this industry in recent years, such a careful approach may be warranted.” The League in a letter to the author also wrote: “We urge the Legislature to hold this bill so that the policy challenges associated with this issue can be further examined and solutions developed that more appropriately balance the objectives of the bill’s sponsors with the authority of local agencies to appropriately license business activity within their jurisdictions.”

HOW TO ENGAGE

Letters and Calls: Send letters and make calls during Summer Recess to your Assembly representative (with a copy to Senator Bradford and your Senate Representative). Please forward a copy of your letter to your respective MuniServices Client Manager or Brenda.Narayan@MuniServices.com.

Timing: As soon as possible. The Legislature returns from Summer Recess on August 21 and Session ends September 15.

Rosters: <http://assembly.ca.gov/> and <http://senate.ca.gov/> or you can find your Legislator’s contact information here: <http://findyourrep.legislature.ca.gov/>.

**SAMPLE DRAFT LETTER AND SUGGESTED DISTRIBUTION**

Honorable **FIRST NAME LAST NAME** (see for names and contacts: <http://assembly.ca.gov/>)
California State Assembly
State Capitol
Sacramento, CA 95814

**Re: SB 182 (Bradford) - Transportation Network Company: Single Business License
Notice of Concerns – Vote No on the Assembly Floor / Request to Make SB 182 a Two-Year Bill**

Dear Assembly Member **LAST NAME**,

JURISDICTION / ORGANIZATION NAME respectfully opposes SB 182 (Bradford) which prohibits local agencies from requiring drivers associated with transportation network companies (TNCs) to obtain a business license to operate, unless it is the location where they live. The application of business license taxes to TNC drivers is an issue arising out of the new economy. It has come to the **JURISDICTION / ORGANIZATION NAME** attention that SB 182 awaits a final vote on the Assembly Floor and we urge stakeholders and SB 182's author to value the time and research needed to consider policy questions and proposals on this topic.

MAKE A STATEMENT ABOUT YOUR JURISDICTIONS BUSINESS LICENSE OR SPECIFIC CONCERNS WITH THE POLICY.

JURISDICTION / ORGANIZATION NAME primary concerns with SB 182 are as follows:

Carve Out: This measure is seeking to create a carve-out from local business licensing regulations for a single industry. While many existing local business licensing practices do not neatly fit the TNC model, SB 182 will exempt the independent contractors providing services through a TNC from any and all existing business license regulations.

Lost Connection to Nexus: The current requirements in SB 182 have lost all connection to nexus. It only requires TNC drivers to be licensed in the city or county where they live, which will often not correspond to the city or county in which they actually work, with the result that the jurisdiction bearing the burden of the business activity does not receive any revenue from it.

Consumer Protection is Compromised: Business licenses serve as an important consumer protection that provides accountability for the business operators to the public.

Local Government Requirements Are Eliminated: SB 182 would eliminate locally-determined requirements. Each jurisdiction should be able to set and enforce local standards and conditions.

It is our position that municipal agencies are unique and must retain the flexibility to make decisions and adopt policies that best meet the local service needs. For the reasons stated above, **JURISDICTION / ORGANIZATION NAME** respectfully opposes SB 182 and requests that the measure become a two-year bill.

Respectfully,

NAME

cc: Senator Steve Bradford (Rashad.Johnson@sen.ca.gov)
INSERT STATE SENATOR'S NAME (See <http://senate.ca.gov/>)
Katie Kolitsos, Consultant, Assembly Speakers Office (Katie.Kolitsos@asm.ca.gov)
Daniel Ballon, Consultant, Assembly Republican Caucus (Daniel.Ballon@asm.ca.gov)
Jared Yoshiki, Consultant, Assembly Republican Caucus (Jared.Yoshiki@asm.ca.gov)
Michael Martinez, Deputy Legislative Secretary, Governor's Office (Michael.Martinez@gov.ca.gov)
INSERT SACRAMENTO ADVOCATE, IF ANY



THE BLIND SPOT IN A SHARING ECONOMY: TAX COLLECTION

By: Laura Saunders

Wall Street Journal, May 19, 2017

Some gig-economy workers are using a loophole to cheat Uncle Sam; others are bewildered by tax requirements.

An Uber car. The ride-sharing giant submits 1099-K forms for all drivers who earn income.

A loophole is helping gig-economy workers, online sellers and home-sharing hosts cheat on their taxes.

Under a law enacted in 2008 and later clarified by the Internal Revenue Service, many online-platform businesses that connect buyers and sellers and take credit-card payments, such as Airbnb, TaskRabbit, Etsy and ride-sharing firms, fall into a special category.

These businesses have to report a provider's income to the IRS only if that person earns more than \$20,000 and has more than 200 transactions. In that case, the company sends both the provider and IRS a Form 1099-K listing gross income.

By contrast, freelance workers who don't use such platforms often face a much stiffer reporting threshold of \$600 for Form 1099-MISC. For example, if a hardware store pays a plumber \$750 directly for work done, the store is supposed to send both the IRS and the plumber a 1099-MISC listing that amount.

The double-pronged threshold of Form 1099-K is so high that many gig workers fall below it—and are often tempted to omit the earnings from their tax returns, says Derek Davis, owner of Shared Economy CPA, a firm with several hundred gig-economy clients around the country.

"We spend a lot of time explaining to people why they have to report income to the IRS even if they don't receive a tax form, and some say: 'I'll go somewhere else,'" he says.

Many in Washington have been considering this issue, although broad-brush tax proposals from President Donald Trump and House Republicans don't address it. Congress could tighten rules affecting these workers if there are major or even minor tax changes, because lawmakers are hunting for revenue to offset spending on other provisions.

The Treasury Inspector General for Tax Administration, a Treasury watchdog, is also looking into tax issues of gig-economy workers, according to a spokeswoman.

The broader issue here is how important it is for the IRS to receive notification of payments for goods or services, such as through 1099 forms. According to an IRS study, taxpayers skipped reporting only 7% of income (\$15 billion) if the agency received notification about payments. On the other hand, taxpayers skipped reporting 63% of income (\$136 billion) if it was subject to little or no IRS notification.

Gig-economy firms vary in how they handle this issue.

The ride-sharing giant Uber submits 1099-K forms for all drivers who earn income, although it isn't required. Drivers also get 1099-MISC forms if they earn payments for referrals. Rival Lyft changed its policy this year so that drivers earning \$600 or more now get 1099-Ks.

Airbnb uses the official threshold of \$20,000 income and 200 transactions when issuing 1099-Ks, although the home-sharing site is assisting state and local governments with other levies. Airbnb says it is now collecting and remitting hotel and tourist taxes in more than 250 areas in the U.S.

Mr. Davis, of Shared Economy CPA, says he knows Airbnb hosts who earn more than \$100,000 annually but don't qualify for a 1099-K form because they don't have more than 200 transactions. An Airbnb spokesman said the company encourages hosts to pay their taxes and offers substantial guidance and tools to help them.



While some gig workers mean to cheat Uncle Sam, experts say others are bewildered by tax requirements that can be almost as complex for the owner of a microbusiness as for a much larger firm. Many know nothing about Schedule C (for a small business), payroll taxes and quarterly estimated payments. Often they're unaware of valuable write-offs as well.

"The government isn't getting the money it's owed, and workers aren't taking the deductions and offsets they're allowed," says Caroline Bruckner, managing director of the Kogod Tax Center at American University, who studies microbusiness issues. In a survey she conducted of self-employed business owners working in the gig economy, 69% reported receiving no tax information from the platform they used.

Meanwhile, experts like Ms. Bruckner and National Taxpayer Advocate Nina Olson are looking for ways to ease compliance burdens in this fast-growing part of the economy. Some platform firms, such as Etsy, are encouraging these efforts.

Among the options: expand eligibility for Schedule C-EZ, including for home-sharing hosts; allow gig workers to have nonemployee tax withholding; and offer a "standard deduction" for small businesses akin to the one individuals can take.

"If we want gig workers to comply with the tax law, we have to help them, and that starts with information reporting," says Ms. Bruckner.

Source: <https://www.wsj.com/articles/the-blind-spot-in-a-sharing-economy-tax-collection-1495186206?mg=prod/accounts-wsj>