

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 2, 2020

Re: Commission Regulations for Charter-Party Carriers and Assembly Bill 5

Dear Transportation Network Company Representatives:

This serves as a reminder that California statutes and the Commission's regulations require all charter-party carriers under the Commission's jurisdiction to provide, for their employees, a certificate of workers' compensation coverage issued by an admitted insurer, or a certification of consent to self-insure issued by the Director of Industrial Relations per California Pub. Util. (PU) Codes § 5374(a)(1)(G) and 5378.1.

TNCs are charter-party carriers per the Commission's General Order 157-E, § 2.13. Regarding the classification of TNC drivers, we draw your attention to Assembly Bill 5 (AB 5), which was signed into law by Governor Newsom on September 18, 2019 and became effective on January 1, 2020.¹ AB 5 becomes effective for workers' compensation requirements on July 1, 2020. Among other requirements, AB 5 modifies the California Labor Code to direct that a person providing labor or services for remuneration shall be considered an employee rather than an independent contractor unless the hiring entity demonstrates that all of the following conditions are satisfied:

- A. The person is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.
- B. The person performs work that is outside the usual course of the hiring entity's business.
- C. The person is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

PU Code § 5378 authorizes the Commission to cancel, revoke, or suspend a carrier's operating authority, and to fine a carrier, for violations of the Passenger Charter-party Carriers Act, which commences with PU Code § 5351. The Commission's Consumer Protection and Enforcement Division (CPED) monitors and enforces compliance with the Commission's regulations.

Regards,

A handwritten signature in blue ink that reads "Doug Ito".

Doug Ito
Director, Consumer Protection and Enforcement Division
916-713-4132
doug.ito@cpuc.ca.gov

¹On May 5, 2020, the state attorney general and the city attorneys of San Francisco, Los Angeles and San Diego sued Uber and Lyft, stating they had misclassified their on-demand drivers as independent contractors rather than employees. The suit alleges that Uber and Lyft do not satisfy the three AB 5 factors for determining if their drivers qualify as independent contractors, and therefore their drivers are employees.