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Chapter 26: Transportation Officers Authorized to Combat Bandit Taxicabs

Seth Benkle

Code Section Affected

Vehicle Code § 21100.4 (amended).
AB 2693 (Karnette); 2008 STAT. Ch. 26.

I. INTRODUCTION

“[B]andit taxis pose a major public safety problem, as vividly illustrated . . . when six people died after a bandit taxi driver ignored a [Los Angeles] Metro Blue Line rail crossing gate and was hit by a train.”¹ Of the more than 4,000 taxicabs roaming the streets of Los Angeles in 2000, half were believed to be so-called “bandit” cabs²—taxicabs that “do not meet . . . public safety and customer service requirements.”³ In the 1990s, in an attempt to address this problem, the Los Angeles County Department of Transportation (LADOT) created a “unit of Transportation Investigators” specializing in enforcing the laws related to taxicabs and passenger vehicles-for-hire.⁴ If left unaddressed, bandit taxicabs will undermine legitimate taxi companies as “fares are . . . sucked away from the . . . franchised companies that together pay \$90 million a year in franchise fees to the city.”⁵

II. LEGAL BACKGROUND

Prior to 2003, to impound an illegal vehicle,⁶ an officer had to show that “a vehicle was instrumentally used in the peace officer’s presence in violation of

1. Howard Fine, *Thin Resources Complicate Crackdown on Bandit Cabs*, 22 L.A. BUS. J. 55, Oct. 2, 2000, at 55 (noting that officials estimate 2,000 bandit taxicabs in Los Angeles in addition to the 2,183 licensed taxicabs).

2. *Id.*

3. SENATE FLOOR, COMMITTEE ANALYSIS OF AB 2693, at 2 (May 15, 2008).

4. Letter from Diego Alvarez, Deputy Mayor, City of L.A., to Arnold Schwarzenegger, Governor, Cal. State (May 28, 2008) [hereinafter Alvarez Letter] (on file with the *McGeorge Law Review*).

5. Fine, *supra* note 1, at 55.

6. An illegal vehicle is one that violates any law regulating the operation of taxicabs and vehicles-for-hire. SENATE TRANSPORTATION AND HOUSING COMMITTEE, COMMITTEE ANALYSIS OF AB 2693, at 2 (May 13, 2008). “To receive a permit, drivers must undergo background checks, meet insurance requirements, have their vehicles inspected, and meet certain customer services standards.” *Id.* “[T]axicab companies must ensure that their fleets contain a certain percentage of wheelchair-accessible vehicles as well as a certain number of low-emission vehicles.” *Id.*

certain provisions relating to reckless driving and fleeing a peace officer.”⁷ More often than not, bandit taxicabs are impounded for a few hours and then rescued and brought back into service to flout the law and illegally carry passengers. Unlicensed taxis endanger public safety and cheat local governments out of taxicab licensing fees.⁸ In 2003, California put the brakes on this revolving door by authorizing peace officers to seize for thirty days any taxicab that failed to comply with regulations.⁹

Unfortunately, only peace officers had authority to seize vehicles under this law.¹⁰ In December 2005, the Los Angeles Superior Court held that LADOT’s specially-designated transportation officers did not fit the definition of “peace officer” as used in the Vehicle Code.¹¹ This represented a significant setback because LADOT’s specially-designated transportation officers would not have authority to seize vehicles—authority bestowed only to those designated as “peace officers.”¹² To address this concern, the Legislature enacted Chapter 26.¹³

III. CHAPTER 26

Chapter 26 allows designated local transportation officers,¹⁴ defined as “any local public officer employed by a local authority to investigate and enforce local taxicab and vehicle-for-hire laws and regulations,”¹⁵ to present evidence of a taxicab’s or passenger vehicle-for-hire’s noncompliance with local licensing requirements to a magistrate.¹⁶ If the magistrate deems the evidence to be adequate, he or she can authorize immediate seizure of the vehicle.¹⁷ To avoid ambiguity, Chapter 26 couples the phrase “designated transportation officer” with “peace officer.”¹⁸ For example, an “agency employing the peace officer *or* designated local transportation officer” is responsible for the costs associated

7. ASSEMBLY FLOOR, COMMITTEE ANALYSIS OF AB 299, at 1 (Aug. 30, 2003).

8. *Id.* at 4-5.

9. CAL. VEH. CODE § 21100.4 (West Supp. 2008).

10. *Id.*

A magistrate presented with the affidavit of a peace officer establishing . . . that a vehicle . . . is being operated as a taxicab or other passenger vehicle for hire in violation of licensing requirements adopted by a local authority . . . shall issue a warrant or order authorizing any *peace officer* to immediately seize and cause the removal of the vehicle[,] . . . for a period not to exceed 30 days.

Id. § 21100.4(a)(1), (a)(3) (emphasis added).

11. See Alvarez Letter, *supra* note 4 (citing and describing the case’s holding as the reason for the proposed legislation).

12. *Id.*

13. CAL. VEH. CODE § 21100.4 (amended by Chapter 26).

14. The law defines “designated local transportation officer” as “any local public officer employed by a local authority to investigate and enforce local taxicab and vehicle for hire laws and regulations.” *Id.* § 21100.4(a)(1) (amended by Chapter 26).

15. *Id.*

16. SENATE FLOOR, COMMITTEE ANALYSIS OF AB 2693, at 1 (May 15, 2008).

17. CAL. VEH. CODE § 21100.4(a)(1) (amended by Chapter 26).

18. See *id.* § 21100.4(c)(6) (amended by Chapter 26).

with the seizure of any vehicle where it is found that there were not reasonable grounds for the seizure in the first place.¹⁹

IV. ANALYSIS

The California Constitution provides that “[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws,”²⁰ thereby “authoriz[ing] the exercise by cities of police power of the same general character as that familiarly exercised by the state legislature.”²¹ This grant of power is only limited in that any actions carried out may not “conflict with general law.” Otherwise, the police powers of a city are as broad as those of the state itself.²² Therefore, Los Angeles County is well within its power to authorize the LADOT to enforce taxicab regulations.²³

In accordance with this authority, Chapter 26 bestows designated transportation officers, in addition to peace officers, with the authority to initiate seizures of bandit taxicabs or any other vehicle-for-hire operating illegally.²⁴ Any mention of “peace officer” in the previous statute is now accompanied by the words “designated transportation officer.”²⁵

After the December 2005 Los Angeles Superior Court ruling and before the enactment of Chapter 26, LADOT transportation officers were unable to regulate bandit taxicabs through seizures or arrests.²⁶ Instead, the transportation officers had to work together with the LAPD as part of a makeshift, so-called, Bandit Taxi Enforcement Program—“a joint venture between the city Department of Transportation and the Los Angeles Police Department that targets [bandit taxicabs].”²⁷ Chapter 26 now permits LADOT transportation officers to enforce taxicab regulations.²⁸

Because LADOT (instead of the Los Angeles Police Department) is responsible for enforcing regulation of taxicabs and vehicles-for-hire,²⁹ it was

19. *Id.* (amended by Chapter 26) (emphasis added).

20. CAL. CONST. art. 11, § 7.

21. 45 CAL. JUR. 3D, *Municipalities* § 240 (2000).

22. *Id.*

23. *See id.* (describing the power local governments can use to delegate enforcement of police regulations to other agencies under their control).

24. SENATE FLOOR, COMMITTEE ANALYSIS OF AB 2693, at 2 (May 15, 2008).

25. CAL. VEH. CODE § 21100.4(a)(1), (c)(6) (amended by Chapter 26).

26. *See* Ari B. Bloomekatz, *Arrests of Rogue Taxi Drivers Soar Under Enforcement Program*, L.A. TIMES, Aug. 9, 2007, at B4 (describing a “joint venture between the city Department of Transportation and the Los Angeles Police Department that targets” bandit taxicabs”).

27. *Id.*

28. *See* SENATE FLOOR, COMMITTEE ANALYSIS OF AB 2693, at 2 (May 15, 2008) (noting that prior to the court decision, LADOT transportation officers regularly enforced the vehicle code as it pertained to taxicab enforcement).

29. Bloomekatz, *supra* note 26 (“Before [Chapter 26], Department of Transportation officers were solely

necessary to correct the 2003 statute and allow Los Angeles to delegate its police power at its discretion.³⁰

Beyond the addition of designated transportation officers and a few syntactical word changes, the purpose and effect of the statute remain the same.³¹

V. CONCLUSION

Bandit taxicabs are a real problem for both consumers and legitimate taxicab companies.³² The Legislature passed special legislation in 2003 to make it easier for authorities to combat the problem by allowing thirty-day seizures of illegal vehicles.³³ When a Los Angeles County Superior Court declared that LADOT transportation officers were not allowed to enforce the 2003 statute,³⁴ the Legislature responded by adding language to the statute explicitly granting authority to “designated transportation officers” for purposes of initiating thirty-day seizures.³⁵ With this change, business will return to normal for LADOT as transportation officers resume their taxicab enforcement responsibilities.

responsible for enforcement of laws against the unlicensed cabbies but had only limited powers . . .”).

30. See SENATE FLOOR, COMMITTEE ANALYSIS OF AB 2693, at 1 (May 15, 2008) (“[AB 2693 is] seeking to change [the outcome of the 2005 L.A. Superior Court case by] adding ‘designated local transportation officers’ to California Vehicle Code Section 21100.4 to allow the City of Los Angeles’ Transportation Investigators and other cities’ enforcement personnel to be authorized to act as a peace officer under that code section.”).

31. See CAL. VEH. CODE § 21100.4 (amended by Chapter 26) (lacking any changes beyond the addition of a new category of person authorized to carry out its procedures).

32. Fine, *supra* note 1, at 55.

33. CAL. VEH. CODE § 21100.4 (amended by Chapter 26).

34. See Alvarez Letter, *supra* note 4 (referencing the case as the impetus for the proposed legislation).

35. CAL. VEH. CODE § 21100.4(a)(1) (amended by Chapter 26).