

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2179

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 2016

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2179.

As amended and reported, this bill regulates transportation network companies and may be cited as the “Transportation Network Company Safety and Regulatory Act.” A transportation network company (TNC) is defined as a corporation, partnership, sole proprietorship, or other entity registered as a business in the State or operating in New Jersey that uses a digital network to connect a TNC rider (rider) to a TNC driver (driver) to provide a prearranged ride.

The bill establishes safety and insurance requirements for TNCs that conduct business in New Jersey. Under the bill, a TNC is required to obtain a permit from the New Jersey Motor Vehicle Commission (MVC) and to provide the MVC with an annual fee of \$25,000 and certain information. The TNC is required to appoint and maintain an agent for service of process in New Jersey.

Prearranged rides provided by a driver are not to be considered transportation provided by an autocab, taxi, limousine, autobus, jitney, motor bus, or other for-hire vehicle, and is not to be considered ridesharing. A TNC or a driver is not to provide taxi, limousine, or other for-hire vehicle service. A driver is not to be required to register his or her personal vehicle used to provide prearranged rides as a commercial or for-hire vehicle and is not to solicit or accept any ride that is not prearranged through a transportation network company’s digital network.

The bill provides that TNCs are to be regulated by the State. A county or municipality is not to require a TNC or driver to obtain a license or permit to provide prearranged rides in that county or municipality, or require a driver to obtain a license or permit to use a personal vehicle to provide prearranged rides in that county or municipality. A county or municipality and the State, with certain limited exceptions, are not to impose a tax or fee that only applies to a TNC or driver; provided that, the TNC or driver is subject to a tax or fee that applies generally to all businesses or residents of the jurisdiction. The bill does not, however, alter, supersede, or

prohibit a financial access agreement between a transportation network company and a city of the first class with an international airport terminal.

Information to Riders

The bill requires a TNC to provide riders, on its website or digital network, the fare or method by which the TNC calculates fares, the applicable rates being charged, and the option to receive an estimated fare prior to entering the driver's vehicle. A TNC is also required to provide a rider with the picture of the driver that is to provide the prearranged ride and the license plate number of the driver's vehicle used to provide the prearranged ride prior to the rider entering the driver's personal vehicle. Within 48 hours following the completion of the prearranged ride, the TNC is to provide the rider with an electronic receipt detailing the points of origin and destination of the prearranged ride, the total time and distance of the prearranged ride, and an itemization of the total fare paid.

Insurance Requirements

Under the bill, a TNC, driver, or combination of the two, is required to maintain primary automobile liability insurance in an amount of at least \$50,000 for death or bodily injury per person, \$100,000 for death or bodily injury per incident, and \$25,000 for property damage while the driver is logged on to the TNC's digital network and is available to receive requests for a prearranged ride, but is not providing a prearranged ride. In this situation, the TNC, driver, or a combination of the two, is also required to maintain primary personal injury protection benefits.

A TNC, driver, or combination of the two, is to maintain primary automobile liability insurance in an amount of at least \$1,500,000 for death, bodily injury, and property damage while the driver is providing a prearranged ride. In this situation, a TNC, driver, or combination of the two is also required to maintain primary automobile insurance for medical payments benefits to provide coverage only for the benefit of the driver in an amount of at least \$10,000 per person per incident.

While accessing the TNC's digital network but not providing a prearranged ride, and while providing a prearranged ride, the TNC, driver, or a combination of the two, is required to maintain uninsured and underinsured motorist coverage. The bill provides that if the insurance coverage maintained by a driver has lapsed or does not provide the required coverage, insurance maintained by the TNC is required to provide the necessary coverage and the TNC has a duty to defend the claim.

In addition, the bill requires a driver to carry paper or electronic proof of the required insurance at all times while using a personal

vehicle in connection with a TNC's digital network. In the event of an accident, a driver is required, upon request, to provide insurance coverage information to the directly interested parties, automobile insurers, and investigating law enforcement officers. A driver is also required, upon request, to disclose to the directly interested parties, automobile insurers, and investigating law enforcement officers whether the driver was logged on to a digital network as a driver or whether the driver was providing a prearranged ride at the time of the accident.

Under the bill, if a TNC's insurer makes a payment for a claim for damage to a personal vehicle in which a lienholder holds a security interest, then the TNC is to cause its insurer to issue the payment directly to the business repairing the personal vehicle or jointly to the owner of the personal vehicle and the primary lienholder on the covered personal vehicle.

The bill also provides that a TNC is not to permit a driver to accept a request for a prearranged ride on the TNC's digital network until the TNC discloses in writing to the driver: (1) the insurance coverage, including the types and limits of coverage, that the TNC provides; and (2) that the driver's own private passenger automobile insurance policy may or may not provide any coverage while the driver is logged on to the digital network as a driver and is available to receive a request for a prearranged ride or while the driver is providing a prearranged ride.

Under the bill, an insurance company may exclude any and all coverage afforded under a private passenger automobile insurance policy issued to an owner or operator of a personal vehicle for loss or injury that occurs while the personal vehicle is being used by a driver and the driver is logged on to the TNC's digital network or is providing a prearranged ride.

TNC Maintenance of Certain Systems

The bill requires a TNC to maintain a system that permits a driver to: (1) opt out of any communication with the TNC; (2) establish an independent business while engaging with the TNC's digital network; and (3) operate in any municipality in the State, without providing notice to the TNC. A TNC is not to restrict a driver from utilizing another TNC's digital network.

Zero Tolerance Alcohol and Controlled Dangerous Substance Policy

Under the bill, a TNC is to implement a zero tolerance controlled dangerous substance and alcohol policy while a driver is logged on to the TNC's digital network as a driver or is providing a prearranged ride through the TNC's digital network. The TNC is to provide riders, on its website, digital network, or electronic receipt, notice of the zero tolerance policy and procedures to report a

complaint about a driver's suspected violation of the policy. The TNC is to investigate the complaint and, if results of the investigation corroborate the rider's complaint, revoke the driver's access to the TNC's digital network as soon as possible. The TNC is to maintain records concerning the enforcement of the zero tolerance policy.

Non-Discrimination and Accessibility Policy

Under the bill, a TNC is required to adopt a non-discrimination policy against riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity. A TNC is required to make its non-discrimination policy available on its website or digital network and to provide drivers with information on persons with disabilities accessibility compliance, including information about accommodating a rider with a disability. Drivers are required to comply with all applicable laws regarding non-discrimination as well as laws relating to the accommodation of service animals. A TNC is prohibited from charging an additional fee for accommodation of a person with a physical disability because of the person's disability. The bill also requires a TNC that does not provide access to wheelchair accessible personal vehicles to provide on its website or digital network, the contact information of providers of wheelchair accessible vehicle transportation services available in New Jersey, if those services are available in the State.

Driver Application Materials and Criminal History Checks

A TNC is to require each person who applies to a TNC to be a driver to submit an application with the applicant's address, age, and social security number, and a copy of the applicant's driver's license, motor vehicle registration, and automobile liability insurance.

The Attorney General is required, within 100 days of the bill's effective date, to submit to the President of the Senate and the Speaker of the General Assembly proposed rules and regulations concerning the type and method of a criminal background check to be conducted for all drivers and applicants. The proposed rules and regulations will be deemed approved, unless the submission is disapproved by adoption of a concurrent resolution to this effect by the affirmative vote of a majority of the authorized membership of both houses. The President and Speaker are to cause a concurrent resolution of disapproval of the proposed rules and regulations to be placed before the members of the respective houses for a recorded vote by the 30th day after submission, or on the next meeting day of that house if the house does not meet on the 30th day.

An applicant or driver is disqualified from being a driver if the applicant or driver was convicted of any of the disqualifying crimes

provided in the bill within the past seven years unless the applicant or driver can provide a valid certificate of rehabilitation. An applicant or driver is also disqualified if the applicant or driver is a match on the United States Department of Justice's Dru Sjojin National Sex Offender Public Website, is not a holder of a valid basic driver's license, does not possess proof of a valid vehicle registration, or proof of valid personal automobile liability insurance, or is less than 19 years old.

Social Security Number Trace

Before allowing an applicant to log on to the TNC's digital network as a driver or to provide prearranged rides as a driver, a TNC or a third party is to conduct a social security number trace that identifies the applicant's address for the past seven years. The applicant is to provide four of the following documents for purposes of conducting the social security number trace: (1) the applicant's driver's license; (2) the applicant's motor vehicle registration; (3) the applicant's automobile liability insurance policy; (4) a utility or credit card statement containing the applicant's name and address issued within the past 90 days; (5) a high school or college transcript containing the applicant's name and address issued within the past two years; (6) a current lease or rental agreement containing the applicant's name as the lessee or renter, or a property tax bill containing the applicant's name as the property owner or co-owner issued within the past year; (7) a letter or correspondence addressed to the applicant and received from the Internal Revenue Service or the Division of Taxation in the New Jersey Department of the Treasury within the past year; (8) first-class mail addressed to the applicant and received from a federal, state, or local government agency within the past six months; (9) a valid active duty United States military photo identification card; (10) a valid United States passport; or (11) a valid United States permanent resident card.

A TNC has 30 days from the bill's effective date to conduct, or have a third party conduct, a social security number trace for a driver utilizing the TNC's digital network prior to the bill's effective date, unless the TNC or a third party has conducted a social security number trace for the driver prior to the bill's effective date.

Driving Record Check

The TNC or a third party is required to conduct a driving record check before allowing an applicant to log on to the TNC's digital network as a driver or to provide prearranged rides as a driver. An applicant or driver is disqualified from being a driver if the applicant or driver has received more than three moving violations in the past three years, or a violation for driving under the influence; resisting arrest, eluding an officer; reckless driving; or

driving with a suspended or revoked license within the past three years.

A TNC has 30 days from the bill's effective date to conduct, or have a third party conduct, a driving record check for a driver utilizing the TNC's digital network prior to the bill's effective date, unless the TNC, or a third party, has conducted a driving record check for the driver prior to the bill's effective date.

Restricted Access to TNC Digital Network

The TNC is to restrict access to its digital network and prohibit unauthorized drivers from logging on to the digital network as a driver by assigning a unique network access key, which is to include a username and password, that is not to be shared with a third party. A TNC is to respond to complaints from riders that the picture provided of the driver does not match the driver of the prearranged ride.

Vehicle Inspection

Prior to allowing an applicant to log on to the TNC's digital network as a driver or to provide a prearranged ride as a driver, a TNC is to require that the applicant's personal vehicle to be used to provide prearranged rides meets the State's inspection requirements for passenger automobiles. The TNC is to require a driver to maintain a valid inspection certificate of approval for the personal vehicle.

Law Enforcement Request for Documents

A driver providing a prearranged ride is to produce in paper or electronic form, upon the request of a law enforcement officer, a valid driver's license, valid motor vehicle registration card, proof of valid insurance, and proof that the driver is authorized to provide prearranged rides through the TNC's digital network.

TNC Identifying Marker

A TNC is to create an identifying marker to be submitted to the MVC for recording, issued to every driver, and displayed on the driver's personal vehicle when the driver logs on to the TNC's digital network as a driver or provides a prearranged ride.

Maintenance and Inspection of TNC Records

A TNC is to maintain records of individual prearranged ride records for at least six years after the date of the prearranged ride and individual records of each driver for at least five years after the driver terminates status as a driver.

The bill authorizes the MVC and the Division of Consumer Affairs in the Department of Law and Public Safety (division) to inspect TNC records to investigate and resolve a specific complaint

against a driver. The MVC or division may require TNC records maintained in-State or out-of-State to be available to the MVC or division within 14 business days of the MVC's or division's request to inspect the records. A TNC may request an extension of the 14 business day deadline for out-of-State TNC records if the deadline imposes an undue burden upon the TNC. In the event of exigent circumstances, the MVC or division may require a TNC to make its records available before 14 business days from the time of the MVC's or division's request if receipt of the records before 14 business days is reasonably necessary under the circumstances for the investigation or resolution of a complaint.

The bill also authorizes the MVC or division to visually inspect certain TNC records to verify the TNC's compliance with provisions of the bill or to assure the integrity and performance of a TNC or driver. The inspection is to take place in a mutually agreed upon location in New Jersey.

Records provided to or inspected by the MVC or division may exclude information tending to identify a specific driver or rider and are not considered government records.

A TNC that repeatedly fails to comply with the maintenance and inspection provisions of the bill or to permit the MVC or division on the TNC's premises during regular business hours to conduct investigations or reviews is subject to suspension or revocation of its permit to operate in the State. The TNC is also subject to any other fine, penalty, or enforcement action determined by the MVC or division.

An investigation or review conducted by the MVC or division may include, but is not limited to, discussions with customers and drivers, examination of motor vehicle records, questioning of employees, and the use of other investigatory techniques that may be necessary for the enforcement of the maintenance and inspection provisions of the bill or regulations adopted by the MVC or division.

The MVC and division are required to enter into a memorandum of understanding to effectuate the authority granted to them by the record maintenance and inspection provisions of the bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- provide that a TNC includes a corporation, partnership, sole proprietorship, or other entity that is registered as a business in the State and does not include an individual, corporation, partnership, sole proprietorship, or other entity arranging non-emergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the State or a managed care organization;

- remove certain language from the definition of “prearranged ride”;
- increase the annual TNC permit fee from \$5,000 to \$25,000;
- provide that a TNC registered as a business in the State prior to the effective date of the bill may continue to operate in the State until the MVC issues a written decision regarding the TNC’s permit application and is to apply to the MVC for a permit on or before the 30th day after the MVC begins accepting permit applications;
- provide that if a TNC’s insurer makes a payment for a claim for damage to a personal vehicle in which a lienholder holds a security interest, then the TNC is to cause its insurer to issue the payment directly to the business repairing the personal vehicle or jointly to the owner of the personal vehicle and the primary lienholder on the covered personal vehicle;
- remove reference to a driver logged on to a TNC’s digital network as a driver from certain provisions of the bill;
- require TNCs, in a claims coverage investigation, to immediately provide upon request by directly involved parties, if applicable, the precise times that a driver logged on and off of the TNC’s digital network; instead of requiring a TNC to provide this information, upon request, to a directly involved party;
- require any insurer providing coverage under the bill’s provisions, instead of any insurer potentially providing coverage, to disclose the applicable coverage, exclusions, and limits provided under the insurance upon request by any other insurer involved in the particular claim;
- require a TNC to provide to the MVC a written description of the company’s zero tolerance policy and a written description of the TNC’s policy of non-discrimination, in order to be issued a permit for lawful operation in the State;
- change reference from “drug” to “controlled dangerous substance” in the to the bill’s zero tolerance policy provision;
- require a TNC to make its non-discrimination policy available on its website or digital network and to provide a driver with information on persons with disabilities accessibility compliance, including information about accommodating a rider with a disability;
- clarify that a TNC is not to impose additional fees for accommodation of a person with a physical disability because of the person’s disability;
- require a TNC that does not provide access to wheelchair accessible personal vehicles to provide on its website or digital network the contact information of providers of wheelchair accessible vehicle transportation services available in New Jersey, if available in New Jersey;

- remove the private criminal background check and criminal history name search identification check provisions from the bill;
- require the Attorney General to submit to the President of the Senate and the Speaker of the General Assembly proposed rules and regulations concerning the type and method of a criminal background check to be conducted for all drivers and applicants and provide a process by which the Legislature may disapprove the proposed rules and regulations;
- provide that a TNC is required to conduct, or have a third party conduct, a social security number trace and driving record check for a driver utilizing the TNC's digital network before the bill's effective date unless these checks were conducted for the driver prior to the bill's effective date;
- provide that TNC driver disqualifications apply to both an applicant and a driver;
- remove "to be used to provide prearranged rides" from subparagraph (d) of paragraph (2) of subsection c. of section 16;
- require a TNC to create an identifying marker to be submitted to the MVC for recording and issued to every driver and displayed when the driver logs on to the TNC's digital network as a driver or provides a prearranged ride;
- require a TNC to maintain individual records of each driver for at least five years after the driver terminates status as a driver, instead of six years;
- provide that nothing in section 24 of the bill is to be construed to alter, supersede, or prohibit a financial access agreement between a transportation network company and a city of the first class with an international airport terminal; and
- make technical changes to the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will have indeterminate recurring fiscal net impacts on the State. The bill will produce indeterminate annual increases in State revenue and State administrative costs. The OLS, however, cannot determine to what extent the counterbalancing fiscal effects offset one another.

The State will realize indeterminate annual revenue increases from: (1) the new \$25,000 annual TNC permit fee paid to the New Jersey Motor Vehicle Commission; and (2) new fees paid by TNCs and their drivers to the commission and the Department of Law and Public Safety for vehicle inspections and driving record checks.

The State also will annually incur additional indeterminate expenses in implementing the bill. Notably, commission

administrative costs are expected to increase from overseeing the recording of TNC identification markers, conducting vehicle inspections, and maintaining and inspecting commission records.