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"Christie approves Uber and Lyft to operate in New Jersey," Associated Press State Wire: New Jersey, February 10, 2017

"Christie approves legislation regulating Uber, Lyft," Burlington County Times, February 10, 2017

"Christie signs law to regulate Uber and Lyft for consumers - It establishes requirements for criminal background checks and sets a minimum for insurance coverage," The Philadelphia Inquirer, February 11, 2017

"Ride-hailing services' law takes effect May 1 - Christie signs off on new rules for uber, lyft, etc." The Record, February 12, 2017

"5 big things you need to know about N.J.'s new Uber and Lyft law," nj.com, February 15, 2017

RWH/JA

Title 39.
Subtitle 1.
Chapter 5H (New)
Transportation
Network
Companies
§§1-27 -
C.39:5H-1 to
39:5H-27
§28 - Note

P.L.2017, CHAPTER 26, *approved February 10, 2017*
Assembly Committee Substitute (*First Reprint*) for
Assembly, No. 3695

1 AN ACT concerning transportation network companies and
2 supplementing Title 39 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Sections 1 through 27 of P.L. , c. (C.) (pending
8 before the Legislature as this bill) shall be known and may be cited
9 as the “Transportation Network Company Safety and Regulatory
10 Act.”

11

12 2. As used in P.L. , c. (C.) (pending before the
13 Legislature as this bill):

14 “Applicant” means a person who applies to a transportation
15 network company to be a transportation network company driver.

16 “Chief Administrator” means the Chief Administrator of the
17 New Jersey Motor Vehicle Commission.

18 “Commission” means the New Jersey Motor Vehicle
19 Commission.

20 “Digital network” means any online-enabled technology
21 application, service, website, or system offered or utilized by a
22 transportation network company that enables the prearrangement of
23 rides between transportation network company riders and
24 transportation network company drivers.

25 “Division” means the Division of Consumer Affairs in the
26 Department of Law and Public Safety.

27 “Personal vehicle” means a motor vehicle that is used by a
28 transportation network company driver to provide prearranged rides
29 and is owned, leased, or otherwise authorized for use by the
30 transportation network company driver. A personal vehicle shall

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted December 19, 2016.

1 not be considered an autocab or taxi as defined in R.S.48:16-1, a
2 limousine as defined in R.S.48:16-13 or section 2 of P.L.1997,
3 c.356 (C.48:16-13.1), an autobus or jitney as defined in R.S.48:16-
4 23, a motor bus as defined in section 1 of P.L.1991, c.154 (C.17:28-
5 1.5), or any other for-hire vehicle. ¹A personal vehicle shall not be
6 considered an automobile as defined in subsection a. of section 2 of
7 P.L.1972, c.70 (C.39:6A-2) while a transportation network
8 company driver is providing a prearranged ride.¹

9 “Prearranged ride” means the provision of transportation by a
10 transportation network company driver to a transportation network
11 company rider, beginning when a driver accepts a ride requested by
12 a rider through a digital network controlled by a transportation
13 network company, continuing while the driver transports a
14 requesting rider, and ending when the last requesting rider departs
15 from the personal vehicle. A prearranged ride shall not include
16 transportation provided using an autocab, taxi, limousine, autobus,
17 jitney, motor bus, or other for-hire vehicle. A prearranged ride
18 shall not include ridesharing, as defined in R.S.39:1-1.

19 “Transportation network company” means a corporation,
20 partnership, sole proprietorship, or other entity that is registered as
21 a business in the State or operates in this State, and uses a digital
22 network to connect a transportation network company rider to a
23 transportation network company driver to provide a prearranged
24 ride. A transportation network company shall not include an
25 individual, corporation, partnership, sole proprietorship, or other
26 entity arranging non-emergency medical transportation for
27 individuals qualifying for Medicaid under P.L.1968,
28 c.413 (C.30:4D-1 et seq.) or Medicare under Pub.L.89-97 (42
29 U.S.C. s.1395 et seq.) pursuant to a contract with the State or a
30 managed care organization, whereby Medicaid or Medicare funding
31 is used to pay for the non-emergency medical transportation
32 services.

33 “Transportation network company driver” or “driver” means a
34 person who receives connections to potential riders and related
35 services from a transportation network company in exchange for
36 payment of a fee to the transportation network company, and uses a
37 personal vehicle to offer or provide a prearranged ride to a rider
38 upon connection through a digital network controlled by a
39 transportation network company in return for compensation or
40 payment of a fee.

41 “Transportation network company rider” or “rider” means a
42 person who uses a transportation network company’s digital
43 network to connect with a transportation network company driver to
44 receive a prearranged ride from the driver using the driver’s
45 personal vehicle.

1 3. A transportation network company or a transportation
2 network company driver shall not provide a taxi, limousine, or other
3 for-hire vehicle service, or freight service except as authorized
4 pursuant to applicable law. A transportation network company
5 driver shall not be required to register the driver's personal vehicle
6 used to provide prearranged rides as a commercial or for-hire
7 vehicle.

8
9 4. a. The commission shall issue a transportation network
10 company a permit to allow for the lawful operation of a
11 transportation network company in this State upon receipt of the
12 following information:

13 (1) proof of insurance as required pursuant to section 10 of
14 P.L. , c. (C.) (pending before the Legislature as this bill);

15 (2) proof that the transportation network company is registered
16 as a business in this State;

17 (3) a written description of the transportation network
18 company's zero tolerance policy, as required by section 14 of
19 P.L. , c. (C.) (pending before the Legislature as this bill);

20 (4) a written description of the transportation network
21 company's policy of non-discrimination, as required by section 15
22 of P.L. , c. (C.) (pending before the Legislature as this
23 bill); and

24 (5) a written description of how the transportation network
25 company will comply with the criminal background check
26 requirements pursuant to section 17 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill).

28 b. A transportation network company shall pay an initial and
29 annual permit fee of \$25,000.

30 c. The commission may revoke the permit, after notice and a
31 hearing, if the transportation network company fails to comply with
32 the provisions of P.L. , c. (C.) (pending before the
33 Legislature as this bill).

34 d. A transportation network company shall not operate in this
35 State prior to obtaining a permit from the commission; except that,
36 any transportation network company registered as a business in the
37 State or operating in the State prior to the effective date of P.L. ,
38 c. (C.) (pending before the Legislature as this bill) may
39 continue to operate in this State until the commission issues a
40 written decision regarding the transportation network company's
41 permit application, provided that the transportation network
42 company has conducted a driving record check of each driver that
43 logs on to the transportation network company's digital network as
44 a driver and provides to the commission proof of insurance required
45 pursuant to section 10 of P.L. , c. (C.) (pending before the
46 Legislature as this bill).

47 e. A transportation network company registered as a business
48 in the State or operating in the State prior to the effective date of

- 1 P.L. , c. (C.) (pending before the Legislature as this bill)
2 shall apply to the commission for a permit pursuant to this section
3 on or before the 30th day after the commission begins accepting
4 permit applications.
- 5 f. A transportation network company that operates without a
6 permit in violation of this section shall be subject to a penalty of
7 \$500. Actions to impose a penalty under this subsection shall be
8 brought, and the penalty shall be collected, in a summary
9 proceeding pursuant to the “Penalty Enforcement Law of 1999,”
10 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court shall
11 have jurisdiction to hear any action brought ¹【for violation of】
12 pursuant to¹ this subsection. All penalties collected pursuant to this
13 subsection shall be forwarded as provided in R.S.39:5-40 and
14 subsection b. of R.S.39:5-41. If the violation is of a continuing
15 nature, each day during which it continues shall constitute an
16 additional, separate, and distinct offense.
17
- 18 5. a. A transportation network company operating in the State
19 shall appoint and maintain an agent for service of process in this
20 State.
- 21 b. The transportation network company shall submit to the
22 commission within 10 days of receiving a permit, the name,
23 address, telephone number, or other contact information of the
24 agent. The transportation network company shall notify the
25 commission of any change of the agent, or address, telephone
26 number, or other contact information for the agent, within 10 days
27 of the effective date of the change.
28
- 29 6. a. A transportation network company and the Department of
30 Transportation shall enter into a memorandum of understanding
31 concerning the transportation network company’s submission of
32 data collected from all prearranged rides provided wholly within the
33 boundaries of the State and provided through the company’s digital
34 network.
- 35 b. Any data submitted to the Department of Transportation
36 pursuant to a memorandum of understanding under this section
37 shall be deemed confidential, shall not be disclosed to a third party
38 except with the prior written consent of the transportation network
39 company, and shall not be considered a government record pursuant
40 to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5
41 et al.), or the common law concerning access to government
42 records. Nothing in this section shall be construed as limiting the
43 applicability of any other exemptions under P.L.1963,
44 c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).
45
- 46 7. A transportation network company may, on behalf of a
47 transportation network company driver, collect a fare for a

1 prearranged ride provided to a transportation network company
2 rider; provided that, if a fare is collected from a rider, the
3 transportation network company shall disclose to the rider on its
4 website or digital network the fare or method by which the
5 transportation network company calculates fares. The
6 transportation network company shall provide riders with the
7 applicable rates being charged by a transportation network company
8 driver and the option to receive an estimated fare prior to the rider
9 entering the driver's personal vehicle.

10

11 8. A transportation network company shall provide to a
12 transportation network company rider on its website or digital
13 network a picture of the transportation network company driver that
14 is to provide the prearranged ride and the license plate number of
15 the driver's personal vehicle that is to be used to provide the
16 prearranged ride prior to the rider entering the driver's personal
17 vehicle.

18

19 9. Within 48 hours following completion of a prearranged ride,
20 a transportation network company shall provide a transportation
21 network company rider with an electronic receipt which shall
22 include:

- 23 a. the points of origin and destination of the prearranged ride;
24 b. the total time and distance of the prearranged ride; and
25 c. an itemization of the total fare paid, if any.

26

27 10. a. On or before the effective date of P.L. _____,
28 c. (C. _____) (pending before the Legislature as this bill), a
29 transportation network company driver, transportation network
30 company, or any combination of the two shall maintain primary
31 automobile insurance that recognizes that the driver is a
32 transportation network company driver, or otherwise uses a
33 personal vehicle to provide prearranged rides, and covers the driver:
34 (1) while the driver is logged on to the transportation network
35 company's digital network but is not providing a prearranged ride;
36 or (2) while the driver is providing a prearranged ride.

37 b. Whenever a transportation network company driver is
38 logged on to the transportation network company's digital network
39 and is available to receive a prearranged ride request, but is not
40 providing a prearranged ride, the transportation network company
41 driver, transportation network company, or any combination of the
42 two shall maintain the following insurance coverage:

- 43 (1) primary automobile liability insurance in the amount of at
44 least \$50,000 for death or bodily injury per person, \$100,000 for
45 death or bodily injury per incident, and \$25,000 for property
46 damage;

- 1 (2) primary personal injury protection benefits that provide
2 coverage amounts selected pursuant to section 4 of P.L.1972,
3 c.70 (C.39:6A-4); and
- 4 (3) uninsured and underinsured motorist coverage to the extent
5 required pursuant to section 2 of P.L.1968, c.385 (C.17:28-1.1).
- 6 c. Whenever a transportation network company driver is
7 providing a prearranged ride, the transportation network company
8 driver, transportation network company, or any combination of the
9 two shall maintain the following insurance coverage:
- 10 (1) primary automobile liability insurance in the amount of at
11 least \$1,500,000 for death, bodily injury, and property damage;
- 12 (2) primary automobile insurance for medical payments benefits
13 in an amount of at least \$10,000 per person per incident, which
14 shall only apply to and provide coverage for the benefit of the
15 transportation network company driver; and
- 16 (3) uninsured and underinsured motorist coverage ¹【to the
17 extent required pursuant to section 2 of P.L.1968, c.385 (C.17:28-
18 1.1)】 in an amount of at least \$1,500,000¹.
- 19 d. If the insurance coverage maintained by a transportation
20 network company driver pursuant to subsections b. and c. of this
21 section has lapsed or does not provide the required coverage,
22 insurance maintained by the transportation network company shall
23 provide the coverage required by subsections b. and c. of this
24 section beginning with the first dollar of a claim and the
25 transportation network company shall have the duty to defend the
26 claim.
- 27 e. Coverage under an automobile insurance policy maintained
28 by the transportation network company shall not be dependent upon
29 a private passenger automobile insurer first denying a claim nor
30 shall a private passenger automobile insurance policy be required to
31 first deny a claim.
- 32 f. Insurance coverage required by this section may be obtained
33 from an insurance company duly licensed to transact business under
34 the insurance laws of this State or by an eligible surplus lines
35 insurer under section 11 of P.L.1960, c.32 (C.17:22-6.45).
- 36 g. The coverage required pursuant to subsections b. and c. of
37 this section shall be deemed to meet the financial responsibility
38 requirements of the “Motor Vehicle Security-Responsibility Law,”
39 P.L.1952, c.173 (C.39:6-23 et seq.), P.L.1972, c.197 (C.39:6B-1 et
40 seq.), and P.L.1972, c.70 (C.39:6A-1 et seq.).
- 41 h. A transportation network company driver shall carry proof
42 of insurance required pursuant to subsections b. and c. of this
43 section at all times while using a personal vehicle in connection
44 with a transportation network company’s digital network. In the
45 event of an accident, a transportation network company driver shall,
46 upon request, provide insurance coverage information to the
47 directly interested parties, automobile insurers, and investigating

1 law enforcement officers. The insurance coverage information may
2 be displayed or provided in either paper or electronic form as
3 provided in R.S.39:3-29. A transportation network company driver
4 shall, upon request, disclose to the directly interested parties,
5 automobile insurers, and investigating law enforcement officers
6 whether the driver was logged on to a digital network as a driver or
7 whether the driver was providing a prearranged ride at the time of
8 the accident.

9 i. If a transportation network company's insurer makes a
10 payment for a claim for damage to a motor vehicle in which a
11 lienholder holds a security interest, then the transportation network
12 company shall cause its insurer to issue the payment directly to the
13 business repairing the motor vehicle or jointly to the owner of the
14 motor vehicle and the primary lienholder on the covered motor
15 vehicle.

16 ¹j. The limitation on lawsuit option set forth in subsection a. of
17 section 8 of P.L.1972, c.70 (C.39:6A-8) shall not be assertable by a
18 transportation network company or a transportation network
19 company driver in any action for damages arising from a
20 prearranged ride, or be asserted against any party not receiving
21 personal injury protection benefits in any action for damages arising
22 from a prearranged ride.¹

23
24 11. A transportation network company shall not permit a
25 transportation network company driver to accept a request for a
26 prearranged ride on the transportation network company's digital
27 network until the transportation network company discloses in
28 writing to the driver:

29 a. the insurance coverage, including the types and limits of
30 coverage, that the transportation network company provides while
31 the driver uses a personal vehicle in connection with a
32 transportation network company's digital network; and

33 b. that the driver's own private passenger automobile insurance
34 policy, depending on the driver's private passenger automobile
35 insurance policy, may or may not provide any coverage while the
36 driver is logged on to the transportation network company's digital
37 network as a driver and is available to receive requests for
38 prearranged rides or is providing a prearranged ride.

39
40 12. a. Notwithstanding the "Motor Vehicle Security-
41 Responsibility Law," P.L.1952, c.173 (C.39:6-23 et seq.) and
42 P.L.1972, c.197 (C.39:6B-1 et seq.), an insurance company duly
43 licensed to transact business under the insurance laws of this State
44 may exclude any and all coverage afforded under a private
45 passenger automobile insurance policy issued to an owner or
46 operator of a personal vehicle for any loss or injury that occurs
47 while the personal vehicle is being used by a transportation network

1 company driver and the driver is logged on to a transportation
2 network company's digital network or is providing a prearranged
3 ride. This right to exclude all coverage may apply to any coverage
4 included in a private passenger automobile insurance policy
5 including, but not limited to:

- 6 (1) liability coverage for bodily injury and property damage;
- 7 (2) personal injury protection coverage;
- 8 (3) uninsured and underinsured motorist coverage;
- 9 (4) medical payments coverage;
- 10 (5) comprehensive physical damage coverage; and
- 11 (6) collision physical damage coverage.

12 Nothing in this section shall imply or require that a private
13 passenger automobile insurance policy provide coverage while the
14 driver is logged on to a transportation network company's digital
15 network, is providing a prearranged ride, or is otherwise using a
16 vehicle to transport riders for compensation.

17 Nothing in this section shall be construed to require an insurer to
18 use any particular policy language or reference to this section in
19 order to exclude any and all coverage for any loss or injury that
20 occurs while a driver is logged on to a transportation network
21 company's digital network or while a driver is providing a
22 prearranged ride.

23 Nothing in this section shall be deemed to preclude an insurer
24 from providing primary or excess coverage by contract or
25 endorsement for the transportation network company driver's
26 personal vehicle while the transportation network company driver is
27 logged on to a digital network or while the driver is providing a
28 prearranged ride.

29 b. An insurance company duly licensed to transact business
30 under the insurance laws of this State that excludes coverage
31 pursuant to subsection a. of this section shall have no duty to defend
32 or indemnify any claim expressly excluded thereunder. Nothing in
33 this section shall be deemed to invalidate or limit an exclusion
34 contained in a policy, including any policy in use or approved for
35 use in the State prior to enactment of P.L. _____,
36 c. (C. _____) (pending before the Legislature as this bill), that
37 excludes coverage for vehicles used to carry persons or property for
38 a charge or available for hire by the public. An automobile
39 insurance company that defends or indemnifies a claim against a
40 driver that is excluded under the terms of its policy shall have a
41 right of contribution against other insurers that provide automobile
42 liability insurance to the same driver in satisfaction of the coverage
43 required pursuant to subsections b. and c. of section 10 of P.L. _____,
44 c. (C. _____) (pending before the Legislature as this bill) at the
45 time of loss.

46 c. In a claims coverage investigation, transportation network
47 companies shall immediately provide upon request by directly
48 involved parties or any insurer of the transportation network

1 company driver, if applicable, the precise times that a transportation
2 network company driver logged on and off of the transportation
3 network company's digital network in the 12-hour periods
4 immediately preceding and immediately following the accident.
5 Any insurer providing coverage under subsections b. and c. of
6 section 10 of P.L. , c. (C.) (pending before the Legislature
7 as this bill) shall disclose, upon request by any other insurer
8 involved in the particular claim, the applicable coverage,
9 exclusions, and limits provided under any automobile insurance
10 maintained under section 10 of P.L. , c. (C.) (pending
11 before the Legislature as this bill).

12

13 13. a. A transportation network company shall maintain a
14 system that permits:

15 (1) a transportation network company driver to opt out of any
16 communication with the transportation network company at the
17 driver's discretion;

18 (2) a driver to establish, at the sole discretion of the driver, an
19 independent business while engaging with the transportation
20 network company's digital network; and

21 (3) a driver, at the sole discretion of the driver, to operate in any
22 municipality in the State without providing prior notice to the
23 transportation network company.

24 b. A transportation network company shall not restrict a
25 driver's ability to utilize another transportation network company's
26 digital network.

27

28 14. a. A transportation network company shall implement a
29 zero tolerance policy on the use of controlled dangerous substances
30 and alcohol that may impair a transportation network company
31 driver while the driver is providing a prearranged ride or while the
32 driver is logged on to the transportation network company's digital
33 network as a driver but is not providing a prearranged ride.

34 b. The transportation network company shall provide on its
35 website, digital network, or electronic receipt, notice of the zero
36 tolerance policy and procedures for a transportation network
37 company rider to report a complaint about a driver of a prearranged
38 ride suspected of driving under the influence of a controlled
39 dangerous substance or alcohol.

40 c. Upon receiving a complaint from a rider alleging that a
41 driver violated the zero tolerance policy, the transportation network
42 company shall conduct an investigation into the reported incident
43 and, if the results of the investigation corroborate the rider's
44 complaint, revoke the driver's access to the transportation network
45 company's digital network within 72 hours from the time when
46 results of the investigation corroborate the rider's complaint.

47 d. The transportation network company shall maintain records
48 relevant to the enforcement of the zero tolerance policy required

1 under this section for a period of at least two years from the date
2 that the transportation network company receives a rider's
3 complaint.

4
5 15. a. The transportation network company shall adopt a policy
6 of non-discrimination on the basis of destination, race, color,
7 national origin, religious belief or affiliation, sex, disability, age,
8 sexual orientation, or gender identity with respect to transportation
9 network company riders and potential riders. The transportation
10 network company shall notify a transportation network company
11 driver of the non-discrimination policy.

12 b. A transportation network company shall make its non-
13 discrimination policy available on its website or digital network.

14 c. A transportation network company driver shall comply with
15 all applicable laws regarding non-discrimination against riders or
16 potential riders on the basis of destination, race, color, national
17 origin, religious belief or affiliation, sex, disability, age, sexual
18 orientation, or gender identity and shall comply with all applicable
19 laws relating to accommodation of service animals.

20 d. A transportation network company shall provide a
21 transportation network company driver with information on
22 accessibility compliance for persons with disabilities, including
23 information about accommodating a rider with a disability.

24 e. A transportation network company shall not impose any
25 additional fee for accommodation of a person with a physical
26 disability because of the person's disability.

27 f. If a transportation network company does not provide access
28 to wheelchair accessible personal vehicles, the transportation
29 network company shall provide on its website or digital network the
30 contact information of providers of wheelchair accessible vehicle
31 transportation services available in New Jersey, if those services are
32 available in the State.

33
34 16. A transportation network company shall require an
35 applicant, as defined in section 2 of P.L. , c. (C.) (pending
36 before the Legislature as this bill), to submit a transportation
37 network company driver application to the transportation network
38 company. The application shall include the applicant's address,
39 age, and social security number, a copy of the applicant's driver's
40 license, motor vehicle registration, and automobile liability
41 insurance, and any other information required by the transportation
42 network company.

43
44 17. a. (1) A transportation network company registered as a
45 business in the State or operating in the State prior to the effective
46 date of P.L. , c. (C.) (pending before the Legislature as this
47 bill) shall have six months from the effective date of P.L. ,
48 c. (C.) (pending before the Legislature as this bill) to have

1 the Attorney General approve the method that a transportation
2 network company, or third party designated by the transportation
3 network company, proposes to use to conduct a criminal
4 background check for an applicant or driver.

5 If the Attorney General does not approve the method that a
6 transportation network company registered as a business in the State
7 or operating in the State prior to the effective date of P.L. ,
8 c. (C.) (pending before the Legislature as this bill), or third
9 party designated by the transportation network company, proposes
10 to use to conduct a criminal background check within six months of
11 the effective date of P.L. , c. (C.) (pending before the
12 Legislature as this bill), the transportation network company shall
13 not permit an applicant to log on to its digital network as a driver or
14 provide a prearranged ride as a driver until the applicant submits to
15 a criminal history record background check pursuant to subsection
16 e. of this section and the Division of State Police provides the
17 transportation network company with information concerning the
18 applicant's eligibility to be a driver pursuant to paragraph (3) of
19 subsection e. of this section.

20 (2) A transportation network company that is not registered as a
21 business in the State or operating in the State prior to the effective
22 date of P.L. , c. (C.) (pending before the Legislature as this
23 bill) shall not operate in the State prior to:

24 (a) the Attorney General approving, within six months of
25 submission, the method that the transportation network company, or
26 third party designated by the transportation network company,
27 proposes to use to conduct a criminal background check; or

28 (b) the transportation network company's applicants submitting
29 to a criminal history record background check pursuant to
30 subsection e. of this section.

31 b. The Attorney General shall not approve a criminal
32 background check conducted by a transportation network company,
33 or a third party designated by the transportation network company,
34 pursuant to subsection a. of this section unless the check includes a
35 search of:

36 (1) a multi-state and multi-jurisdictional criminal records locator
37 or other similar commercial nationwide database with validation;
38 and

39 (2) the United States Department of Justice's Dru Sjodin
40 National Sex Offender Public Website.

41 c. If the Attorney General approves the method that a
42 transportation network company, or a third party designated by the
43 transportation network company, proposes to use to conduct a
44 criminal background check, the transportation network company, or
45 a third party designated by the transportation network company,
46 shall conduct a criminal background check approved by the
47 Attorney General prior to allowing an applicant to log on to the
48 transportation network company's digital network as a

1 transportation network company driver or to provide a prearranged
2 ride as a transportation network company driver.

3 d. If the Attorney General approves the method that a
4 transportation network company registered as a business in the State
5 or operating in the State prior to the effective date of P.L. ,
6 c. (C.) (pending before the Legislature as this bill), or a third
7 party designated by the transportation network company, proposes
8 to use to conduct a criminal background check, the transportation
9 network company shall have 30 days from the effective date of
10 P.L. , c. (C.) (pending before the Legislature as this bill) to
11 conduct, or have a third party designated by the transportation
12 network company conduct, a criminal background check for a
13 driver utilizing the transportation network company's digital
14 network as a driver prior to the effective date of
15 P.L. , c. (C.) (pending before the Legislature as this bill)
16 using the method approved by the Attorney General, unless the
17 transportation network company, or a third party designated by the
18 transportation network company, conducted a criminal background
19 check for the driver prior to the effective date of
20 P.L. , c. (C.) (pending before the Legislature as this bill)
21 using the method approved by the Attorney General.

22 e. (1) If the Attorney General does not approve the method
23 that a transportation network company, or a third party designated
24 by the transportation network company, proposes to use to conduct
25 a criminal background check, an applicant shall provide to the
26 Division of State Police the applicant's name, address, fingerprints,
27 and written consent for a criminal history record background check
28 to be performed by the Division of State Police, in accordance with
29 regulations adopted under chapter 59 of Title 13 of the New Jersey
30 Administrative Code, prior to logging on to a transportation
31 network company's digital network as a driver or providing a
32 prearranged ride as a transportation network company driver. The
33 Division of State Police may exchange fingerprint data with, and
34 receive criminal history record information from, the Federal
35 Bureau of Investigation for the use in determining an applicant's
36 eligibility to be a transportation network company driver pursuant
37 to subsection a. of section 20 of P.L. , c. (C.) (pending
38 before the Legislature as this bill) based upon results of the
39 applicant's criminal history record background check.

40 (2) If the Attorney General does not approve the method that a
41 transportation network company registered as a business in the State
42 or operating in the State prior to the effective date of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), or a third
44 party designated by the transportation network company, proposes
45 to use to conduct a criminal background check, a transportation
46 network company shall require a driver utilizing the transportation
47 network company's digital network as a driver prior to the effective
48 date of P.L. , c. (C.) (pending before the Legislature as this

1 bill) to provide to the Division of State Police the driver's name,
2 address, fingerprints, and written consent for a criminal history
3 record background check to be performed by the Division of State
4 Police, in accordance with regulations adopted under chapter 59 of
5 Title 13 of the New Jersey Administrative Code. The Division of
6 State Police may exchange fingerprint data with, and receive
7 criminal history record information from, the Federal Bureau of
8 Investigation for the use in determining a driver's eligibility to be a
9 transportation network company driver pursuant to subsection a. of
10 section 20 of P.L. , c. (C.) (pending before the Legislature
11 as this bill) based upon results of the driver's criminal history
12 record background check.

13 (3) The Superintendent of State Police shall inform the
14 transportation network company that an applicant or driver is
15 ineligible to be a transportation network company driver pursuant to
16 subsection a. of section 20 of P.L. , c. (C.) (pending before
17 the Legislature as this bill).

18 (4) The cost of the criminal history record background check
19 conducted pursuant to this subsection, including all costs of
20 administering and processing the criminal history record
21 background check, shall be borne by the applicant or driver, as
22 applicable.

23
24 18. a. Prior to allowing an applicant to log on to a
25 transportation network company's digital network as a
26 transportation network company driver or to provide a prearranged
27 ride as a transportation network company driver, the transportation
28 network company, or a third party designated by the transportation
29 network company, shall conduct a driving record check, which shall
30 include information concerning the applicant's driving violations
31 and driver's status.

32 b. A transportation network company shall have 30 days from
33 the effective date of P.L. , c. (C.) (pending before the
34 Legislature as this bill) to conduct, or have a third party designated
35 by the company conduct, a driving record check of a driver utilizing
36 the transportation network company's digital network as a driver
37 prior to the effective date of P.L. , c. (C.) (pending before
38 the Legislature as this bill), unless the transportation network
39 company, or a third party designated by the transportation network
40 company, conducted a driving record check for the driver prior to
41 the effective date of P.L. , c. (C.) (pending before the
42 Legislature as this bill).

43
44 19. a. Prior to allowing an applicant to log on to a
45 transportation network company's digital network as a
46 transportation network company driver or to provide a prearranged
47 ride as a transportation network company driver, the transportation
48 network company, or a third party designated by the transportation

1 network company, shall conduct a social security number trace that
2 identifies the addresses of the applicant for at least seven years prior
3 to the date the application is received by the transportation network
4 company. An applicant shall provide at least three of the following
5 documents, in paper or electronic form, to the transportation
6 network company for purposes of conducting a social security
7 number trace:

- 8 (1) the applicant's driver's license;
- 9 (2) the applicant's motor vehicle registration;
- 10 (3) the applicant's automobile liability insurance policy;
- 11 (4) a utility or credit card statement containing the applicant's
12 name and address issued within the past 90 days;
- 13 (5) a high school or college transcript containing the applicant's
14 name and address issued within the past two years;
- 15 (6) a current lease or rental agreement containing the applicant's
16 name as the lessee or renter; or a property tax bill containing the
17 applicant's name as the property owner or co-owner issued within
18 the past year;
- 19 (7) a letter or correspondence addressed to the applicant and
20 received from the Internal Revenue Service or the Division of
21 Taxation in the New Jersey Department of the Treasury within the
22 past year;
- 23 (8) first-class mail addressed to the applicant and received from
24 a federal, state, or local government agency within the past six
25 months;
- 26 (9) a valid active duty United States military photo
27 identification card;
- 28 (10) a valid United States passport; or
- 29 (11) a valid United States permanent resident card.

30 b. A transportation network company shall have 30 days from
31 the effective date of P.L. , c. (C.) (pending before the
32 Legislature as this bill) to conduct, or have a third party designated
33 by the transportation network company conduct, a social security
34 number trace pursuant to subsection a. of this section for a driver
35 utilizing the transportation network company's digital network as a
36 driver prior to the effective date of P.L. , c. (C.) (pending
37 before the Legislature as this bill), unless the transportation network
38 company, or third party designated by the transportation network
39 company, conducted a social security number trace meeting the
40 requirements of subsection a. of this section for the driver prior to
41 the effective date of P.L. , c. (C.) (pending before the
42 Legislature as this bill).

43
44 20. An applicant or driver shall be prohibited from utilizing the
45 transportation network company's digital network as a
46 transportation network company driver or from providing a
47 prearranged ride as a transportation network company driver if:

1 a. The applicant or driver has been convicted of one or more of
2 the following crimes:

3 (1) In New Jersey, any crime as follows: aggravated assault,
4 arson, burglary, escape, extortion, homicide, kidnapping, robbery,
5 aggravated sexual assault, sexual assault, or endangering the
6 welfare of a child pursuant to N.J.S.2C:24-4, whether or not armed
7 with or having possession of any weapon enumerated in subsection
8 r. of N.J.S.2C:39-1, a crime pursuant to the provisions of
9 N.J.S.2C:39-3, N.J.S.2C:39-4, or N.J.S.2C:39-9, or other than a
10 disorderly persons or petty disorderly persons offense for the
11 unlawful use, possession or sale of a controlled dangerous
12 substance as defined in N.J.S.2C:35-2.

13 (2) In any other state, territory, commonwealth, or other
14 jurisdiction of the United States, as a result of a conviction in a
15 court of competent jurisdiction, a crime which in that other
16 jurisdiction is comparable to one of the crimes enumerated in
17 paragraph (1) of this subsection.

18 If an applicant or driver who has been convicted of one of the
19 crimes enumerated in paragraph (1) or (2) of this subsection
20 produces a valid certificate of rehabilitation issued pursuant to
21 section 2 of P.L.2007, c.327 (C.2A:168A-8) or, if the criminal
22 offense occurred outside the State, an equivalent certificate from the
23 jurisdiction where the criminal offense occurred, the criminal
24 offense shall not disqualify the applicant or driver from accessing
25 the transportation network company's digital network as a
26 transportation network company driver or from providing
27 prearranged rides as a transportation network company driver. A
28 transportation network company, or a third party designated by the
29 transportation network company, shall take reasonable measures to
30 confirm the validity of the certificate, such as contacting the
31 relevant court or government agency¹**[.]:¹**

32 b. The applicant's or driver's driving record check reveals
33 more than three moving violations in the prior three-year period, or
34 one of the following violations in the prior three-year period:

35 (1) driving under the influence pursuant to R.S.39:4-50;

36 (2) resisting arrest; eluding an officer pursuant to N.J.S.2C:29-2;

37 (3) reckless driving pursuant to R.S.39:4-96;

38 (4) driving with a suspended or revoked license pursuant to
39 R.S.39:3-40; or

40 (5) a violation committed in any other state, territory,
41 commonwealth, or other jurisdiction of the United States that is
42 comparable to one of the violations enumerated in paragraph (1),
43 (2), (3), or (4) of this subsection¹**[.]:¹**

44 c. The applicant or driver is a match in the United States
45 Department of Justice's Dru Sjojin National Sex Offender Public
46 Website;

- 1 d. The applicant or driver is not a holder of a valid basic
2 driver's license;
- 3 e. The applicant or driver does not possess proof of valid
4 vehicle registration for the driver's personal vehicle to be used to
5 provide prearranged rides;
- 6 f. The applicant or driver does not possess proof of valid
7 automobile liability insurance for the personal vehicle; or
- 8 g. The applicant or driver is under 21 years of age.
9
- 10 21. A transportation network company shall take steps to
11 prohibit unauthorized drivers from logging on to the transportation
12 network company's digital network as a transportation network
13 company driver, including:
- 14 a. assigning a unique network access key, which shall include a
15 username and password, for each authorized transportation network
16 company driver to enable the driver to log on to the transportation
17 network company's digital network;
- 18 b. requiring each driver to keep the network access key
19 confidential and prohibiting the driver from sharing this information
20 with a third party; and
- 21 c. establishing procedures for responding to complaints from a
22 transportation network company rider claiming the picture provided
23 of the driver on the transportation network company's website or
24 digital network does not match the driver of the prearranged ride.
25
- 26 22. A transportation network company shall require an
27 applicant's personal vehicle to be used to provide a prearranged ride
28 to meet the motor vehicle inspection requirements pursuant to
29 R.S.39:8-1 prior to permitting the applicant to log on to its digital
30 network as a transportation network company driver or to provide a
31 prearranged ride as a transportation network company driver. A
32 transportation network company shall require a transportation
33 network company driver to maintain a valid inspection certificate of
34 approval for the driver's personal vehicle used to provide
35 prearranged rides.
36
- 37 23. a. Each transportation network company driver shall
38 maintain electronic information while using the transportation
39 network company's digital network that will allow any law
40 enforcement officer, or other city, State, or federal official, to
41 confirm the following information for any transportation network
42 company driver: (1) the driver's identity and a color photo; (2) the
43 make and model of the driver's personal vehicle; (3) the license
44 plate number of the driver's personal vehicle; and (4) an electronic
45 record of a prearranged ride underway, if any. Each transportation
46 network company driver shall be able to produce this information,
47 upon the lawful request of any law enforcement officer or other
48 city, State, or federal official.

1 b. A transportation network company shall create an
2 identifying marker which shall be submitted to the commission for
3 recording, issued to every transportation network company driver,
4 and displayed on the driver's personal vehicle when the driver logs
5 on to the transportation network company's digital network as a
6 driver or provides a prearranged ride.

7
8 24. A transportation network company driver shall not solicit or
9 accept any ride that is not prearranged through a transportation
10 network company's digital network.

11
12 25. a. Notwithstanding any other provision of law, a
13 transportation network company shall maintain the following
14 records: (1) individual prearranged ride records for at least six years
15 following the date of the prearranged ride; and (2) individual
16 records of each transportation network company driver, including,
17 but not limited to, any records provided to the transportation
18 network company pursuant to sections 16 through 19 of P.L. ,
19 c. (C.) (pending before the Legislature as this bill), for at
20 least five years after the driver terminates status as a transportation
21 network company driver.

22 b. The New Jersey Motor Vehicle Commission or the Division
23 of Consumer Affairs in the Department of Law and Public Safety
24 may inspect records held by the transportation network company
25 necessary to investigate and resolve a specific complaint filed
26 against a transportation network company driver if the commission
27 or division provides a written request for the records and a basis for
28 the request. A record provided to the commission or division
29 pursuant to this section may exclude information that tends to
30 identify specific drivers or transportation network company riders,
31 unless the identity of the driver or rider is relevant to the complaint.

32 c. The commission or division may require transportation
33 network company records maintained in-State or out-of-State to be
34 available to the commission or division within 14 business days of
35 the commission's or division's request to inspect records to
36 investigate and resolve a complaint pursuant to subsection b. of this
37 section. The transportation network company may request an
38 extension if the 14 business day deadline imposes an undue burden
39 upon the transportation network company.

40 In the event of exigent circumstances, the commission or
41 division may require a transportation network company to make its
42 records available before 14 business days from the time of the
43 commission's or division's request if receipt of the records before
44 14 business days is reasonably necessary under the circumstances
45 for the investigation or resolution of a complaint pursuant to
46 subsection b. of this section.

47 d. For the purpose of verifying that a transportation network
48 company is in compliance with the requirements of

1 P.L. c. (C.) (pending before the Legislature as this bill) or
2 to assure the integrity and performance of a transportation network
3 company or a transportation network company driver, the
4 commission, division, or an authorized representative may inspect
5 transportation network company records including all books,
6 records, documents, papers, reports, or data relating to the operation
7 of a transportation network company, in whatever form kept,
8 including, but not limited to, records required to be maintained by a
9 transportation network company pursuant subsection a. of this
10 section. The inspection shall take place at a mutually agreed upon
11 location in the State. Any record provided to the commission,
12 division, or authorized representative may exclude information that
13 tends to identify specific drivers or riders.

14 e. Any records inspected by the commission, division, or
15 authorized representative under this section, shall be deemed
16 confidential, shall not be disclosed to a third party except with the
17 prior written consent of the transportation network company, and
18 shall not be considered a government record pursuant to P.L.1963,
19 c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the
20 common law concerning access to government records. Nothing in
21 this section shall be construed as limiting the applicability of any
22 other exemptions under P.L.1963, c.73 (C.47:1A-1 et seq.) or
23 P.L.2001, c.404 (C.47:1A-5 et al.).

24 f. A transportation network company's failure to comply with
25 the provisions of this section or permit the commission or division
26 on the transportation network company's premises during regular
27 business hours to conduct investigations or reviews shall be cause
28 for suspension or revocation of the permit issued by the commission
29 to operate as a transportation network company pursuant to section
30 4 of P.L. , c. (C.) (pending before the Legislature as this
31 bill), or any other fine, penalty, or enforcement action as
32 determined by the commission or division. The commission's or
33 division's investigation or review of the transportation network
34 company may include, but shall not be limited to, discussions with
35 customers and transportation network company drivers,
36 examination of motor vehicle records, questioning of employees,
37 and the use of other investigatory techniques as may be necessary
38 for the enforcement of this section and regulations adopted by the
39 commission or division.

40 g. The commission and division shall enter into a memorandum
41 of understanding to effectuate the authority granted to the
42 commission and division pursuant to this section.

43
44 26. Notwithstanding any other provision of law, a transportation
45 network company and a transportation network company driver
46 shall be governed exclusively by P.L. , c. (C.) (pending
47 before the Legislature as this bill), any supplements or amendments
48 thereto, and any rules promulgated by the commission or division

1 pursuant to P.L. , c. (C.) (pending before the Legislature as
2 this bill).

3 A county or municipality shall not require a transportation
4 network company or transportation network company driver to
5 obtain a license or permit to provide a prearranged ride in that
6 county or municipality, or require a driver to obtain a license or
7 permit for the driver's personal vehicle in order to provide a
8 prearranged ride in that county or municipality.

9 A county or municipality shall not impose a tax or fee that only
10 applies to a transportation network company or transportation
11 network company driver; provided that a transportation network
12 company or driver shall be subject to a tax or fee that applies
13 generally to all businesses or residents of the county or
14 municipality.

15 Except for the initial and annual permit fee imposed pursuant to
16 subsection b. of section 4 of P.L. , c. (C.) (pending before
17 the Legislature as this bill), the State shall not impose a tax or fee
18 that only applies to a transportation network company or
19 transportation network company driver; provided that, a
20 transportation network company or driver shall be subject to a tax
21 or fee that applies generally to all businesses or residents of the
22 State.

23 Nothing in this section shall be construed to alter, supersede, or
24 prohibit a financial access agreement between a transportation
25 network company and a city of the first class with an international
26 airport terminal, provided the transportation network company
27 complies with all other provisions of P.L. , c. (C.) (pending
28 before the Legislature as this bill).

29

30 27. The Chief Administrator of the New Jersey Motor Vehicle
31 Commission and the Director of the Division of Consumer Affairs
32 in the Department of Law and Public Safety are authorized to adopt,
33 pursuant to the "Administrative Procedure Act," P.L.1968,
34 c.410 (C.52:14B-1 et seq.), rules and regulations to implement the
35 provisions of P.L. , c. (C.) (pending before the Legislature
36 as this bill).

37 28. This act shall take effect on the first day of the third month
38 following enactment, except the New Jersey Motor Vehicle
39 Commission and the Division of Consumer Affairs in the
40 Department of Law and Public Safety may take anticipatory actions
41 necessary to implement the provisions of this act.

42

43

44

45

46

Regulates transportation network companies.

ASSEMBLY, No. 3695

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 19, 2016

Sponsored by:

Assemblyman JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Regulates transportation network companies.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning transportation network companies and
2 supplementing Title 39 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 “Applicant” means a person who applies to a transportation
10 network company to be a transportation network company driver.

11 “Chief Administrator” means the Chief Administrator of the
12 New Jersey Motor Vehicle Commission.

13 “Commission” means the New Jersey Motor Vehicle
14 Commission.

15 “Digital network” means any online-enabled application,
16 software, website, or system offered or utilized by a transportation
17 network company that enables a prearranged ride.

18 “Division” means the Division of Consumer Affairs in the
19 Department of Law and Public Safety.

20 “Personal vehicle” means a motor vehicle that is used by a
21 transportation network company driver in connection with
22 providing a prearranged ride and is owned, leased, or otherwise
23 authorized for use by the transportation network company driver
24 and is not an autocab or taxi, a limousine, an autobus or jitney, a
25 motor bus, or any other for-hire vehicle.

26 “Prearranged ride” means the provision of motor vehicle
27 transportation by a transportation network company driver to a
28 transportation network company rider, beginning when a driver
29 accepts a ride requested by a rider through a digital network
30 controlled by a transportation network company, continuing while
31 the driver transports a requesting rider, and ending when the last
32 requesting rider departs from the personal vehicle. A prearranged
33 ride shall not include transportation provided using an autocab, taxi,
34 limousine, autobus, jitney, motor bus, or other for-hire vehicle. A
35 prearranged ride shall not include ridesharing, as defined in
36 R.S.39:1-1.

37 “Transportation network company” means a corporation,
38 partnership, sole proprietorship, or other entity that operates in this
39 State, and uses a digital network to connect a transportation
40 network company rider to a transportation network company driver
41 to provide a prearranged ride. A transportation network company
42 shall not be deemed to control, direct, or manage a transportation
43 network company driver or the driver’s personal vehicle that
44 connects to the transportation network company’s digital network,
45 except where agreed to by written contract.

46 “Transportation network company driver” or “driver” means a
47 person who: a. receives connections to potential riders and related
48 services from a transportation network company in exchange for

1 payment of a fee to the transportation network company; and b. uses
2 a personal vehicle to offer or provide a prearranged ride to a rider
3 upon connection through a digital network controlled by a
4 transportation network company in return for compensation or
5 payment of a fee.

6 “Transportation network company rider” or “rider” means a
7 person who uses a transportation network company’s digital
8 network to connect with a transportation network company driver to
9 receive a prearranged ride from the driver using the driver’s
10 personal vehicle between points chosen by the rider.

11
12 2. A transportation network company or a transportation
13 network company driver shall not provide a taxi, limousine, or other
14 for-hire vehicle service except as authorized pursuant to applicable
15 law.

16
17 3. a. The commission shall issue a transportation network
18 company a permit to allow for the lawful operation of a
19 transportation network company in this State upon receipt of the
20 following information:

21 (1) proof of insurance as required pursuant to section 9 of
22 P.L. , c. (C.) (pending before the Legislature as this bill);

23 (2) proof that the transportation network company is licensed to
24 conduct business in this State; and

25 (3) any other information the commission may require.

26 b. A transportation network company shall pay an initial and
27 annual permit fee of \$50,000.

28 c. The commission may revoke the permit if the transportation
29 network company fails to comply with the provisions of P.L. ,
30 c. (C.) (pending before the Legislature as this bill).

31 d. A transportation network company shall not operate in this
32 State prior to obtaining a permit from the commission; provided
33 that, any transportation network company operating in the State
34 prior to the effective date of P.L. , c. (C.) (pending before
35 the Legislature as this bill) may request a waiver from the
36 commission to continue to operate in this State until the
37 commission issues a written decision regarding the transportation
38 network company’s permit application.

39 e. A transportation network company operating in the State
40 prior to the effective date of P.L. , c. (C.) (pending before
41 the Legislature as this bill) shall apply to the commission for a
42 permit pursuant to this section on or before the 30th day after the
43 commission begins accepting permit applications.

44
45 4. a. A transportation network company operating in the State
46 shall appoint and maintain an agent for service of process in this
47 State.

1 b. The transportation network company shall submit to the
2 commission within 10 days of receiving a waiver or a permit, the
3 name, address, telephone number, or other contact information of
4 the agent. The transportation network company shall notify the
5 commission of any change of the agent, address, telephone number,
6 or other contact information for the agent, within 10 days of the
7 effective date of the change.

8
9 5. A transportation network company shall annually submit
10 data collected from all prearranged rides provided through the
11 company's digital network to the Department of Transportation,
12 which shall include, but not be limited to, the points of origin and
13 destination of a prearranged ride and the date and time of a
14 prearranged ride.

15
16 6. A transportation network company may, on behalf of a
17 transportation network company driver, collect a fare for
18 transportation service provided to a transportation network
19 company rider; provided that, if a fare is collected from a rider, the
20 transportation network company shall disclose to the rider on its
21 website or digital network the fare and method by which the
22 transportation network company calculates fares. The
23 transportation network company shall provide riders with the
24 applicable rates being charged by a transportation network company
25 driver and the option to receive an estimated fare prior to the rider
26 entering the driver's personal vehicle.

27
28 7. A transportation network company shall provide to a
29 transportation network company rider on its website or digital
30 network a picture of the transportation network company driver that
31 is to provide the prearranged ride and the license plate number of
32 the driver's personal vehicle that is to be used to provide the
33 prearranged ride prior to the rider entering the driver's personal
34 vehicle.

35
36 8. Within a reasonable time following completion of a
37 prearranged ride, a transportation network company shall provide a
38 transportation network company rider with an electronic receipt
39 which shall include:

- 40 a. the points of origin and destination of the prearranged ride;
41 b. the total time and distance of the prearranged ride; and
42 c. an itemization of the total fare paid, if any.

43
44 9. a. A transportation network company driver, a transportation
45 network company, or both, shall, on or before 90 days following the
46 effective date of P.L. , c. (C.) (pending before the
47 Legislature as this bill), maintain a primary automobile insurance
48 policy that recognizes that the driver is a transportation network

1 company driver, or otherwise uses a personal vehicle to provide
2 prearranged rides, and covers the driver: (1) while the driver is
3 logged on to the transportation network company's digital network
4 as a transportation network company driver but is not providing a
5 prearranged ride; and (2) while the driver is providing a prearranged
6 ride.

7 b. Whenever a transportation network company driver is
8 logged on to the transportation network company's digital network
9 as a driver and is available to receive a prearranged ride request, but
10 is not providing a prearranged ride, the transportation network
11 company driver, transportation network company, or both, shall
12 maintain the following insurance coverage:

13 (1) primary automobile liability insurance in the amount of at
14 least \$50,000 for death or bodily injury per person, \$100,000 for
15 death or bodily injury per incident, and \$25,000 for property
16 damage;

17 (2) primary personal injury protection benefits that provide
18 coverage amounts selected pursuant to section 4 of P.L.1972,
19 c.70 (C.39:6A-4); and

20 (3) uninsured and underinsured motorist coverage to the extent
21 required pursuant to section 2 of P.L.1968, c.385 (C.17:28-1.1).

22 c. Whenever a transportation network company driver is
23 providing a prearranged ride, the transportation network company
24 driver, transportation network company, or both, shall maintain the
25 following insurance coverage:

26 (1) primary automobile liability insurance in the amount of at
27 least \$1,500,000 for death, bodily injury, and property damage;

28 (2) primary automobile insurance for medical payments benefits
29 in an amount of at least \$10,000 per person per incident, which
30 shall only apply to and provide coverage for the benefit of the
31 transportation network company driver; and

32 (3) uninsured and underinsured motorist coverage to the extent
33 required pursuant to section 2 of P.L.1968, c.385 (C.17:28-1.1).

34 d. If insurance coverage maintained by a transportation
35 network company driver pursuant to subsections b. and c. of this
36 section has lapsed or does not provide the required coverage,
37 insurance maintained by the transportation network company shall
38 provide the coverage required by subsections b. and c. of this
39 section beginning with the first dollar of a claim and the
40 transportation network company shall have the duty to defend the
41 claim.

42 e. Coverage under an automobile insurance policy maintained
43 by the transportation network company shall not be dependent upon
44 a private passenger automobile insurer first denying a claim nor
45 shall a private passenger automobile insurance policy be required to
46 first deny a claim.

47 f. Insurance coverage required by this section may be obtained
48 from an insurance company duly licensed to transact business under

1 the insurance laws of this State or from an eligible surplus lines
2 insurer under section 11 of P.L.1960, c.32 (C.17:22-6.45).

3 g. The coverage required pursuant to subsections b. and c. of
4 this section shall be deemed to meet the financial responsibility
5 requirements of the “Motor Vehicle Security-Responsibility Law,”
6 P.L.1952, c.173 (C.39:6-23 et seq.) and of P.L.1972,
7 c.197 (C.39:6B-1 et seq.).

8 h. A transportation network company driver shall carry proof
9 of insurance required pursuant to subsections b. and c. of this
10 section at all times while using a personal vehicle in connection
11 with a transportation network company’s digital network. In the
12 event of an accident, a transportation network company driver shall,
13 upon request, provide insurance coverage information to the
14 directly interested parties, automobile insurers, and investigating
15 law enforcement officers. The insurance coverage information may
16 be displayed or provided in either paper or electronic form as
17 provided in R.S.39:3-29. A transportation network company driver
18 shall, upon request, disclose to the directly interested parties,
19 automobile insurers, and investigating law enforcement officers
20 whether the driver was logged on to a digital network as a driver or
21 whether the driver was providing a prearranged ride at the time of
22 the accident.

23

24 10. A transportation network company shall not permit a
25 transportation network company driver to accept a request for a
26 prearranged ride on the transportation network company’s digital
27 network until the transportation network company discloses in
28 writing to the driver:

29 a. the insurance coverage, including the types and limits of
30 coverage, that the transportation network company provides while
31 the driver uses a personal vehicle in connection with a
32 transportation network company’s digital network; and

33 b. that the driver’s own private passenger automobile insurance
34 policy may or may not, depending on its terms, provide any
35 coverage while the driver is logged on to the transportation network
36 company’s digital network as a driver and is available to receive
37 requests for prearranged rides, or is providing a prearranged ride.

38

39 11. a. Notwithstanding the “Motor Vehicle Security-
40 Responsibility Law,” P.L.1952, c.173 (C.39:6-23 et seq.) and
41 P.L.1972, c.197 (C.39:6B-1 et seq.), an insurance company duly
42 licensed to transact business under the insurance laws of this State
43 may exclude any and all coverage afforded under a private
44 passenger automobile insurance policy issued to an owner or
45 operator of a personal vehicle for any loss or injury that occurs
46 while the personal vehicle is being used by a transportation network
47 company driver and the driver is logged on to a transportation
48 network company’s digital network as a driver or is providing a

1 prearranged ride. This right to exclude all coverage may apply to
2 any coverage included in a private passenger automobile insurance
3 policy including, but not limited to:

- 4 (1) liability coverage for bodily injury and property damage;
- 5 (2) personal injury protection coverage;
- 6 (3) uninsured and underinsured motorist coverage;
- 7 (4) medical payments coverage;
- 8 (5) comprehensive physical damage coverage; and
- 9 (6) collision physical damage coverage.

10 Nothing in this section shall imply or require that a private
11 passenger automobile insurance policy provide coverage while the
12 driver is logged on to a transportation network company's digital
13 network as a driver, is providing a prearranged ride, or is otherwise
14 using a vehicle to transport riders for compensation.

15 Nothing in this section shall be deemed to preclude an insurer
16 from providing coverage by contract or endorsement for the
17 transportation network company driver's personal vehicle while the
18 transportation network company driver is logged on to a digital
19 network as a driver or while the driver is providing a prearranged
20 ride.

21 b. An insurance company duly licensed to transact business
22 under the laws of this State that excludes coverage pursuant to
23 subsection a. of this section shall have no duty to defend or
24 indemnify any claim expressly excluded thereunder. Nothing in
25 this section shall be deemed to invalidate or limit an exclusion
26 contained in a policy, including any policy in use or approved for
27 use in the State prior to enactment of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), that
29 excludes coverage for vehicles used to carry persons or property for
30 a charge or available for hire by the public. An automobile
31 insurance company that defends or indemnifies a claim against a
32 driver that is excluded under the terms of its policy shall have a
33 right of contribution against other insurers that provide automobile
34 liability insurance to the same driver in satisfaction of the coverage
35 required pursuant to subsections b. and c. of section 9 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill) at the
37 time of loss.

38 c. In a claims coverage investigation, a transportation network
39 company and any insurer potentially providing coverage under
40 subsections b. and c. of section 9 of P.L. , c. (C.) (pending
41 before the Legislature as this bill) shall cooperate to facilitate the
42 exchange of relevant information with directly involved parties and
43 any insurer of a transportation network company driver, if
44 applicable, including the precise times that a transportation network
45 company driver logged on and off of the transportation network
46 company's digital network as a driver in the 12-hour periods
47 immediately preceding and immediately following the accident.
48 Any insurer potentially providing coverage under subsections b. and

1 c. of section 9 of P.L. , c. (C.) (pending before the
2 Legislature as this bill) shall disclose, immediately upon request by
3 any other insurer involved in the particular claim, the applicable
4 coverage, exclusions, and limits provided under any automobile
5 insurance maintained under section 9 of P.L. ,
6 c. (C.) (pending before the Legislature as this bill).

7
8 12. a. A transportation network company shall:

9 (1) maintain a system that permits a transportation network
10 company driver to opt out of any communication with the
11 transportation network company at the driver's discretion;

12 (2) maintain a system that permits a driver to establish, at the
13 sole discretion of the driver, an independent business while
14 engaging with the transportation network company's digital
15 network; and

16 (3) maintain a system that permits a driver, at the sole discretion
17 of the driver, to operate in any municipality in the State without
18 providing prior notice to the transportation network company.

19 b. A transportation network company shall not restrict a
20 driver's ability to utilize another transportation network company's
21 digital network. A driver that connects with more than one
22 transportation network company's digital network shall be deemed
23 to be customarily engaged in an independently established
24 occupation.

25 c. Nothing in P.L. , c. (C.) (pending before the
26 Legislature as this bill) shall be construed to establish an employer-
27 employee relationship between a transportation network company
28 and a transportation network company driver.

29
30 13. a. A transportation network company shall implement a zero
31 tolerance policy on the use of controlled dangerous substances and
32 alcohol that may impair a transportation network company driver
33 while the driver is providing a prearranged ride or while the driver
34 is logged on to the transportation network company's digital
35 network as a driver but is not providing a prearranged ride.

36 b. The transportation network company shall provide on its
37 website, digital network, or electronic receipt, notice of the zero
38 tolerance policy and procedures for a transportation network
39 company rider to report a complaint about a driver of a prearranged
40 ride suspected of driving under the influence of a controlled
41 dangerous substance or alcohol.

42 c. Upon receiving a complaint from a rider alleging that a
43 driver violated the zero tolerance policy, the transportation network
44 company shall conduct an investigation into the reported incident
45 and, if the results of the investigation corroborate the rider's
46 complaint, immediately revoke the driver's access to the
47 transportation network company's digital network.

1 d. The transportation network company shall maintain records
2 relevant to the enforcement of the zero tolerance policy required
3 under this section for a period of at least two years from the date
4 that the transportation network company receives a rider's
5 complaint.

6
7 14. a. The transportation network company shall adopt a policy
8 of non-discrimination of the basis of destination, race, color,
9 national origin, religious belief or affiliation, sex, disability, age,
10 sexual orientation, or gender identity with respect to transportation
11 network company riders and potential riders. The transportation
12 network company shall notify a transportation network company
13 driver of the non-discrimination policy.

14 b. A transportation network company driver shall comply with
15 all applicable laws regarding non-discrimination against riders or
16 potential riders on the basis of destination, race, color, national
17 origin, religious belief or affiliation, sex, disability, age, sexual
18 orientation, or gender identity and shall comply with all applicable
19 laws relating to accommodation of service animals.

20 c. A transportation network company shall not impose
21 additional fees for accommodation of a person with a physical
22 disability.

23
24 15. A transportation network company shall require a
25 transportation network company driver applicant to submit a
26 transportation network company driver application to the
27 transportation network company. The application shall include the
28 applicant's address, age, and social security number, a copy of the
29 applicant's driver's license, motor vehicle registration, and
30 automobile liability insurance, and any other information required
31 by the transportation network company.

32
33 16. Prior to allowing an applicant to log on to a transportation
34 network company's digital network as a transportation network
35 company driver or to provide a prearranged ride as a transportation
36 network company driver, the transportation network company, or a
37 third party designated by the transportation network company, shall
38 conduct a social security number trace that identifies the addresses
39 of the applicant for at least seven years prior to the date the
40 application is received by the transportation network company. An
41 applicant shall provide at least three of the following documents, in
42 paper or electronic form, to the transportation network company for
43 purposes of conducting a social security number trace:

- 44 a. the applicant's driver's license;
45 b. the applicant's motor vehicle registration;
46 c. the applicant's automobile liability insurance policy;
47 d. a utility or credit card statement containing the applicant's
48 name and address issued within the past 90 days;

- 1 e. a high school or college transcript containing the applicant's
2 name and address issued within the past two years;
- 3 f. a current lease or rental agreement containing the applicant's
4 name as the lessee or renter;
- 5 g. a letter or correspondence addressed to the applicant and
6 received from the Internal Revenue Service or the Division of
7 Taxation in the New Jersey Department of the Treasury within the
8 past year; or
- 9 h. first-class mail addressed to the applicant and received from
10 a federal, state, or local government agency within the past six
11 months.
- 12
- 13 17. a. Prior to allowing an applicant to log on to a transportation
14 network company's digital network as a transportation network
15 company driver or to provide a prearranged ride as a transportation
16 network company driver, the transportation network company, or a
17 third party designated by the transportation network company, shall
18 conduct a criminal background check, approved by the Division of
19 State Police in the Department of Law and Public Safety, which
20 shall include a search of:
- 21 (1) a multi-state and multi-jurisdictional criminal records locator
22 or other similar commercial nationwide database with validation;
23 and
- 24 (2) the United States Department of Justice's Dru Sjodin
25 National Sex Offender Public Website.
- 26 b. (1) If the method of conducting a criminal background
27 check by the transportation network company, or a third party
28 designated by the transportation network company, is not approved
29 by the Division of State Police, an applicant shall provide to the
30 Division of State Police the applicant's name, address, fingerprints,
31 and written consent for a criminal history record background check
32 to be performed by the Division of State Police, in accordance with
33 regulations adopted under chapter 59 of Title 13 of the New Jersey
34 Administrative Code, prior to logging on to a transportation
35 network company's digital network as a driver or providing a
36 prearranged ride as a transportation network company driver. If the
37 method of conducting a criminal background check by the
38 transportation network company, or a third party designated by the
39 transportation network company, is not approved by the Division of
40 State Police, a transportation network company shall not permit an
41 applicant to log on to its digital network as a driver or to provide a
42 prearranged ride as a driver until the Division of State Police
43 provides the transportation network company with information
44 concerning the applicant's eligibility to be a transportation network
45 company driver, pursuant to paragraph (2) of this subsection, based
46 upon results of the applicant's criminal history record background
47 check.

1 (2) The Superintendent of State Police shall inform the
2 transportation network company that an applicant is ineligible to be
3 a transportation network company driver if the applicant's criminal
4 history record background check reveals a conviction for a
5 disqualifying crime provided in subsection a. of section 19 of
6 P.L. , c. (C.) (pending before the Legislature as this bill).
7 (3) The cost of the criminal history record background check
8 conducted pursuant to this subsection, including all costs of
9 administering and processing the criminal history record
10 background check, shall be borne by the applicant.

11
12 18. Prior to allowing an applicant to log on to a transportation
13 network company's digital network as a transportation network
14 company driver or to provide a prearranged ride as a transportation
15 network company driver, the transportation network company, or a
16 third party designated by the transportation network company, shall
17 conduct a driving record check.

18
19 19. An applicant shall be prohibited from utilizing the
20 transportation network company's digital network as a
21 transportation network company driver or from providing a
22 prearranged ride as a transportation network company driver if:

23 a. the applicant's criminal background check conducted
24 pursuant to subsection a. of section 17 of P.L. ,
25 c. (C.) (pending before the Legislature as this bill) or
26 criminal history record background check conducted by the
27 Division of State Police pursuant to subsection b. of section 17 of
28 P.L. , c. (C.) (pending before the Legislature as this bill)
29 reveals:

30 (1) In New Jersey, any violation of the following crimes within
31 the past seven years as follows: aggravated assault, arson, burglary,
32 escape, extortion, homicide, kidnapping, robbery, aggravated sexual
33 assault, sexual assault, or endangering the welfare of a child
34 pursuant to N.J.S.2C:24-4, whether or not armed with or having
35 possession of any weapon enumerated in subsection r. of
36 N.J.S.2C:39-1, a crime pursuant to the provisions of N.J.S.2C:39-3,
37 N.J.S.2C:39-4, or N.J.S.2C:39-9, or other than a disorderly persons
38 or petty disorderly persons offense for the unlawful use, possession
39 or sale of a controlled dangerous substance as defined in
40 N.J.S.2C:35-2.

41 (2) In any other state, territory, commonwealth, or other
42 jurisdiction of the United States, or any country in the world, as a
43 result of a conviction in a court of competent jurisdiction, a crime
44 which in that other jurisdiction or country is comparable to one of
45 the crimes enumerated in paragraph (1) of this subsection; provided
46 however, that if a person who has been convicted of one of the
47 crimes enumerated in paragraph (1) or (2) of this subsection
48 produces a valid certificate of rehabilitation issued pursuant to

1 section 2 of P.L.2007, c.327 (C.2A:168A-8) or, if the criminal
2 offense occurred outside the State, an equivalent certificate from the
3 jurisdiction where the criminal offense occurred, the criminal
4 offense shall not disqualify the applicant from accessing the
5 transportation network company's digital network as a
6 transportation network company driver or from providing
7 prearranged rides as a transportation network company driver. A
8 transportation network company, or a third party designated by the
9 transportation network company, shall take reasonable measures to
10 confirm the validity of the certificate, such as contacting the
11 relevant court or government agency.

12 b. The applicant's driving record check reveals more than three
13 moving violations in the prior three-year period, or one of the
14 following violations in the prior three-year period:

- 15 (1) driving under the influence pursuant to R.S.39:4-50;
- 16 (2) resisting arrest; eluding an officer pursuant to N.J.S.2C:29-2;
- 17 (3) reckless driving pursuant to R.S.39:4-96;
- 18 (4) driving with a suspended or revoked license pursuant to
19 R.S.39:3-40; or
- 20 (5) a violation committed in any other state, territory,
21 commonwealth, or other jurisdiction of the United States that is
22 comparable to one of the violations enumerated in paragraph (1),
23 (2), (3), or (4) of this subsection.

24 c. The applicant is a match in the United States Department of
25 Justice's Dru Sjodin National Sex Offender Public Website;

26 d. The applicant is not a holder of a valid driver's license;

27 e. The applicant does not possess proof of valid vehicle
28 registration for the driver's personal vehicle to be used to provide
29 prearranged rides;

30 f. The applicant does not possess proof of valid automobile
31 liability insurance for the personal vehicle to be used to provide
32 prearranged rides; or

33 g. the applicant is under 21 years of age.

34

35 20. A transportation network company shall take steps to
36 prohibit unauthorized drivers from logging on to the transportation
37 network company's digital network as a transportation network
38 company driver, including:

39 a. assigning a unique network access key, which shall include a
40 username and password, for each authorized transportation network
41 company driver to enable the driver to log on to the transportation
42 network company's digital network;

43 b. requiring each driver to keep the network access key
44 confidential and prohibiting the driver from sharing this information
45 with a third party; and

46 c. establishing procedures for responding to complaints from a
47 transportation network company rider claiming the picture provided

1 of the driver on the transportation network company's website or
2 digital network does not match the driver of the prearranged ride.

3
4 21. A transportation network company shall require an
5 applicant's personal vehicle to be used to provide a prearranged ride
6 to meet the motor vehicle inspection requirements pursuant to
7 R.S.39:8-1 prior to permitting the applicant to log on to its digital
8 network as a transportation network company driver or to provide a
9 prearranged ride as a transportation network company driver. A
10 transportation network company shall require a transportation
11 network company driver to maintain a valid inspection certificate of
12 approval for the driver's personal vehicle used to provide
13 prearranged rides.

14
15 22. The commission shall issue an identifying marker in a
16 design determined by the chief administrator to every transportation
17 network company driver who logs on to a transportation network
18 company's digital network to provide prearranged rides. The
19 identifying marker shall indicate that the vehicle is a personal
20 vehicle used to provide prearranged rides through the transportation
21 network company's digital network. A transportation network
22 company driver shall prominently display the identifying marker in
23 a manner determined by the chief administrator whenever the driver
24 is in the personal vehicle and is logged on to the transportation
25 network company's digital network as a driver or is providing a
26 prearranged ride.

27
28 23. A transportation network company driver shall not solicit or
29 accept any ride that is not prearranged through a transportation
30 network company's digital network.

31
32 24. a. Notwithstanding any other provision of law, a
33 transportation network company shall maintain the following
34 records: (1) individual prearranged ride records for at least six years
35 following the date of the prearranged ride; and (2) individual
36 records of each transportation network company driver, including,
37 but not limited to, any records provided to the transportation
38 network company pursuant to sections 15 through 18 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), for at
40 least six years after the driver terminates status as a transportation
41 network company driver.

42 b. The New Jersey Motor Vehicle Commission or the Division
43 of Consumer Affairs in the Department of Law and Public Safety
44 may inspect records held by the transportation network company to
45 investigate and resolve a specific complaint filed against a
46 transportation network company driver. A record provided to the
47 commission or division pursuant to this section may exclude
48 information that tends to identify specific drivers or transportation

1 network company riders, unless the identity of the driver or rider is
2 relevant to the complaint.

3 c. The commission or division may require transportation
4 network company records maintained in-State to be available to the
5 commission or division within 14 business days of the
6 commission's or division's request to inspect records to investigate
7 and resolve a complaint pursuant to subsection b. of this section.

8 A transportation network company shall make out-of-State
9 records available to the commission or division, no later than 14
10 business days after the commission's or division's request to
11 inspect the records. The transportation network company may
12 request an extension if the 14 business day deadline imposes an
13 undue burden upon the transportation network company.

14 In the event of exigent circumstances, the commission or
15 division may require a transportation network company to make its
16 records available before 14 business days from the time of the
17 commission's or division's request if receipt of the records before
18 14 business days is reasonably necessary under the circumstances
19 for the investigation or resolution of a complaint pursuant to
20 subsection b. of this section.

21 d. For the purpose of verifying that a transportation network
22 company is in compliance with the requirements of P.L. ,
23 c. (C.) (pending before the Legislature as this bill) or to
24 assure the integrity and performance of a transportation network
25 company or a transportation network company driver, the
26 commission, division, or an authorized representative may visually
27 inspect transportation network company driver records including all
28 books, records, documents, papers, reports, or data relating to the
29 operation of a transportation network company, in whatever form
30 kept, including, but not limited to, records required to be
31 maintained by a transportation network company pursuant
32 subsection a. of this section. The inspection shall take place at a
33 mutually agreed location in the State. Any record provided to the
34 commission, division, or authorized representative may exclude
35 information that tends to identify specific drivers or riders.

36 e. Any records inspected by the commission, division, or
37 authorized representative under this section, shall be deemed
38 confidential, shall not be disclosed to a third party except with the
39 prior written consent of the transportation network company, and
40 shall not be considered a government record pursuant to P.L.1963,
41 c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the
42 common law concerning access to government records. Nothing in
43 this section shall be construed as limiting the applicability of any
44 other exemptions under P.L.1963, c.73 (C.47:1A-1 et seq.) or
45 P.L.2001, c.404 (C.47:1A-5 et al.).

46 f. A transportation network company's repeated failure to
47 comply with the provisions of this section or permit the commission
48 or division on the transportation network company's premises

1 during regular business hours to conduct investigations or reviews
2 shall be cause for suspension or revocation of the permit issued by
3 the commission to operate as a transportation network company
4 pursuant to section 3 of P.L. , c. (C.) (pending before the
5 Legislature as this bill), or any other fine, penalty, or enforcement
6 action as determined by the commission or division. The
7 commission's or division's investigation or review of the
8 transportation network company may include, but shall not be
9 limited to, discussions with customers and transportation network
10 company drivers, examination of motor vehicle records, questioning
11 of employees, and the use of other investigatory techniques as may
12 be necessary for the enforcement of this section and regulations
13 adopted by the commission or division.

14 g. The commission and division shall enter into a memorandum
15 of understanding to effectuate the authority granted to the
16 commission and division pursuant to this section.

17

18 25. a. Notwithstanding any other provision of law, a
19 transportation network company and a transportation network
20 company driver shall be governed exclusively by P.L. ,
21 c. (C.) (pending before the Legislature as this bill), any
22 supplements or amendments thereto, and any rules promulgated by
23 the commission or division pursuant to P.L. ,
24 c. (C.) (pending before the Legislature as this bill).

25 b. A county or municipality shall not require a transportation
26 network company or transportation network company driver to
27 obtain a license or permit to provide a prearranged ride in that
28 county or municipality, or require a driver to obtain a license or
29 permit for the driver's personal vehicle in order to provide a
30 prearranged ride in that county or municipality.

31 c. A county or municipality shall not impose a tax or fee that
32 only applies to a transportation network company or transportation
33 network company driver; provided that a transportation network
34 company or driver shall be subject to a tax or fee that applies
35 generally to all businesses or residents of the county or
36 municipality.

37

38 26. The Chief Administrator of the New Jersey Motor Vehicle
39 Commission and the Director of the Division of Consumer Affairs
40 in the Department of Law and Public Safety shall adopt, pursuant to
41 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
42 et seq.), rules and regulations to implement the provisions of
43 P.L. , c. (C.) (pending before the Legislature as this bill).

44

45 27. This act shall take effect on the first day of the sixth month
46 following enactment, except the New Jersey Motor Vehicle
47 Commission and the Division of Consumer Affairs in the

1 Department of Law and Public Safety may take anticipatory actions
2 necessary to implement the provisions of this act.

3

4

5

STATEMENT

6

7 This bill regulates transportation network companies. A
8 transportation network company (TNC) is defined as a corporation,
9 partnership, sole proprietorship, or other entity operating in New
10 Jersey that uses a digital network to connect a TNC rider (rider) to a
11 TNC driver (driver) to provide a prearranged ride.

12 The bill establishes safety and insurance requirements for TNCs
13 that conduct business in New Jersey. Under the bill, a TNC is
14 required to obtain a permit from the New Jersey Motor Vehicle
15 Commission (MVC) upon proof of required insurance, proof that
16 the TNC is licensed to conduct business in New Jersey, payment of
17 an initial and annual \$50,000 fee, and any other information the
18 MVC may require. The MVC may revoke a permit if the TNC does
19 not comply with the bill's provisions.

20 The TNC is required to appoint and maintain an agent for service
21 of process in New Jersey. Prearranged rides provided by a driver
22 are not to be considered transportation provided by an autocab, taxi,
23 limousine, autobus, jitney, motor bus, or other for-hire vehicle, and
24 is not to be considered ridesharing. A TNC or a driver is not to
25 provide taxi, limousine, or other for-hire vehicle service. A driver
26 is not to solicit or accept any ride that is not prearranged through a
27 transportation network company's digital network. The bill
28 provides that TNCs are to be regulated by the State, and that a
29 county or municipality is not to require a TNC or driver to obtain a
30 license or permit to provide prearranged rides in that county or
31 municipality, or require a TNC driver to obtain a license or permit
32 to use a personal vehicle to provide prearranged rides in that county
33 or municipality. A county or municipality is not to impose a tax or
34 fee that only applies to a TNC or driver; provided that, the TNC or
35 driver is to be subject to a tax or fee that applies generally to all
36 businesses or residents of the county or municipality.

37 A transportation network company is required to annually submit
38 data collected from prearranged rides provided through the
39 company's digital network to the Department of Transportation,
40 which is to include, but is not limited to, the points of origin and
41 destination of a prearranged ride and the date and time of a
42 prearranged ride.

43

Information to Riders

44 The bill requires a TNC to provide riders, on its website or
45 digital network, the fare and method by which the TNC calculates
46 fares, the applicable rates being charged, and the option to receive
47 an estimated fare prior to entering the driver's vehicle. A TNC is
48

1 also required to provide a rider or potential rider with the picture of
2 the driver that is to provide the prearranged ride and the license
3 plate number of the driver's vehicle used to provide the prearranged
4 ride. Within a reasonable time after completion of the prearranged
5 ride, the TNC is to provide the rider with an electronic receipt
6 detailing the points of origin and destination of the prearranged
7 ride, the total time and distance of the prearranged ride, and an
8 itemization of the total fare paid.

9
10 *Insurance Requirements*

11 Under the bill, a TNC, driver, or both, is required to maintain
12 primary automobile liability insurance in an amount of at least
13 \$50,000 for death or bodily injury per person, \$100,000 for death or
14 bodily injury per incident, and \$25,000 for property damage while
15 the driver is logged on to the TNC's digital network as a driver and
16 is available to receive requests for a prearranged ride, but is not
17 providing a prearranged ride. In this situation, the TNC, driver, or
18 both, is also required to maintain primary personal injury protection
19 benefits.

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

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

34 In addition, the bill requires a driver to carry paper or electronic
35 proof of the required insurance at all times while using a personal
36 vehicle in connection with a TNC's digital network. In the event of
37 an accident, a driver is required, upon request, to provide insurance
38 coverage information to the directly interested parties, automobile
39 insurers, and investigating law enforcement officers. A driver is
40 also required, upon request, to disclose to the directly interested
41 parties, automobile insurers, and investigating law enforcement
42 officers whether the driver was logged on to a digital network as a
43 driver or whether the driver was providing a prearranged ride at the
44 time of the accident.

45 The bill also provides that a TNC is not to permit a driver to
46 accept requests for prearranged rides on the TNC's digital network
47 until the TNC discloses in writing to the driver: (1) the insurance
48 coverage, including the types and limits of coverage, that the TNC

1 provides; and (2) that the driver's own private passenger automobile
2 insurance policy may or may not provide any coverage while the
3 driver is logged on to the digital network as a driver and is available
4 to receive requests for prearranged rides or while the driver is
5 providing a prearranged ride.

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

12

13 *TNC Maintenance of Certain Systems*

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

20

21 *Zero Tolerance Alcohol and Controlled Dangerous Substance* 22 *Policy*

23 Under the bill, a TNC is to implement a zero tolerance controlled
24 dangerous substance and alcohol policy while a driver is logged on
25 to the TNC's digital network as a driver or is providing a
26 prearranged ride through the TNC's digital network. The TNC is to
27 provide riders, on its website, digital network, or electronic receipt,
28 notice of the zero tolerance policy and procedures to report a
29 complaint about a driver's suspected violation of the policy. The
30 TNC is to investigate the complaint and, if results of the
31 investigation corroborate the rider's complaint, immediately revoke
32 the driver's access to the TNC's digital network. The TNC is to
33 maintain records concerning the enforcement of the zero tolerance
34 policy.

35

36 *Non-Discrimination and Accessibility Policy*

37 Under the bill, a TNC is required to adopt a non-discrimination
38 policy against riders or potential riders on the basis of destination,
39 race, color, national origin, religious belief or affiliation, sex,
40 disability, age, sexual orientation, or gender identity. Drivers are
41 required to comply with all applicable laws regarding non-
42 discrimination as well as laws relating to the accommodation of
43 service animals. A TNC is prohibited from charging an additional
44 fee for accommodation of a person with a physical disability.

45

46 *Driver Application Materials*

47 A TNC is to require a TNC driver applicant to submit an
48 application with the applicant's address, age, and social security

1 number, and a copy of the applicant's driver's license, motor
2 vehicle registration, and automobile liability insurance.

3

4 *Social Security Number Trace*

5 Before allowing an applicant to log on to a TNC's digital
6 network as a driver or to provide prearranged rides as a driver, a
7 TNC or a third party is to conduct a social security number trace
8 that identifies the applicant's addresses for the past seven years.
9 The applicant is to provide three of the following documents for
10 purposes of conducting the social security number trace: (1) the
11 applicant's driver's license; (2) the applicant's motor vehicle
12 registration; (3) the applicant's automobile liability insurance
13 policy; (4) a utility or credit card statement containing the
14 applicant's name and address issued within the past 90 days; (5) a
15 high school or college transcript containing the applicant's name
16 and address issued within the past two years; (6) a current lease or
17 rental agreement containing the applicant's name as the lessee or
18 renter; (7) a letter or correspondence addressed to the applicant and
19 received from the Internal Revenue Service or the Division of
20 Taxation in the New Jersey Department of the Treasury within the
21 past year; or (8) first-class mail addressed to the applicant and
22 received from a federal, state, or local government agency within
23 the past six months.

24

25 *Criminal Background Check and Driver's License Check*

26 The TNC or a third party is required to conduct a criminal
27 background check, approved by the Division of State Police (State
28 Police), before allowing an applicant to log on to the TNC's digital
29 network as a driver or to provide prearranged rides as a driver. The
30 criminal background check is to include a search of a multi-state
31 and multi-jurisdictional criminal records locator or similar
32 commercial nationwide database with validation and the United
33 States Department of Justice's Dru Sjodin National Sex Offender
34 Public Website.

35 If the method of conducting a criminal background check by a
36 TNC or third party is not approved by the State Police, an applicant
37 is to provide the State Police with the applicant's name, address,
38 fingerprints, and written consent for a criminal history record
39 background check to be performed by the State Police, in
40 accordance with regulations adopted under the New Jersey
41 Administrative Code, before the applicant is authorized to log on to
42 the TNC's digital network as a driver or to provide prearranged
43 rides. If the method of conducting a criminal background check by
44 a the TNC or third party is not approved by the State Police, a TNC
45 is not to permit an applicant to log on to its digital network as a
46 driver or provide prearranged rides until the State Police provide the
47 TNC with information concerning the applicant's eligibility to be a

1 driver. The applicant is to pay all costs associated with a criminal
2 history record background check conducted by the State Police.

3 A TNC or third party is also required to conduct a driving record
4 check of the applicant before allowing the applicant to log on to the
5 TNC's digital network as a driver to provide prearranged rides.

6

7 *Applicant Disqualification*

8 An applicant is disqualified from logging on to a TNC's digital
9 network as a driver or providing prearranged rides as a driver if the
10 applicant was convicted for any of the disqualifying crimes
11 provided in the bill, unless the applicant can provide a valid
12 certificate of rehabilitation. An applicant is also disqualified if the
13 applicant has received more than three moving violations in the past
14 three years, or, within the past three years, a violation for: (1)
15 driving under the influence; (2) resisting arrest, eluding an officer;
16 (3) reckless driving; (4) driving with a suspended or revoked
17 license, or (5) a comparable violation committed in any other state,
18 territory, commonwealth, or other jurisdiction of the United States.
19 Additionally, an applicant is disqualified if the applicant is a match
20 on the United States Department of Justice's Dru Sjodin National
21 Sex Offender Public Website, is not a holder of a valid driver's
22 license, does not possess proof of a valid vehicle registration, or
23 proof of valid automobile liability insurance, or is less than 21 years
24 old.

25

26 *Restricted Access to TNC Digital Network*

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

34

35 *Vehicle Inspection*

36 Prior to allowing an applicant to log on to the TNC's digital
37 network to provide a prearranged ride as a driver, a TNC is to
38 require that the applicant's personal vehicle to be used to provide
39 prearranged rides meets the State's inspection requirements for
40 passenger automobiles and that the driver maintains a valid
41 inspection certificate of approval for the personal vehicle.

42

43 *TNC Identifying Marker*

44 The MVC is required to issue an identifying marker to every
45 driver who logs on to a TNC's digital network to provide
46 prearranged rides. The identifying marker is to indicate that the
47 vehicle is used to provide prearranged rides. A driver is to
48 prominently display the identifying marker whenever the driver is

1 logged on to the TNC's digital network as a driver or is providing a
2 prearranged ride.

3

4 *Inspection of TNC Records*

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

9 The bill authorizes the MVC and the Division of Consumer
10 Affairs in the Department of Law and Public Safety (division) to
11 inspect TNC records to investigate and resolve a specific complaint
12 against a driver. The MVC or division may require TNC records
13 maintained in-State or out-of-State to be available to the MVC or
14 division within 14 business days of the MVC's or division's request
15 to inspect the records. A TNC may request an extension of the 14
16 business day deadline for out-of-State TNC records if the deadline
17 imposes an undue burden upon the TNC. In the event of exigent
18 circumstances, the MVC or division may require a TNC to make its
19 records available before 14 business days from the time of the
20 MVC's or division's request if receipt of the records before 14
21 business days is reasonably necessary under the circumstances for
22 the investigation or resolution of a complaint.

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

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

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

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

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

ASSEMBLY TRANSPORTATION AND INDEPENDENT
AUTHORITIES COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3695

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 19, 2016

The Assembly Transportation and Independent Authorities Committee reports favorably and with committee amendments Assembly Bill No. 3695.

As amended and reported, this bill regulates transportation network companies and may be known and 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 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) upon submission of certain information and the payment of an initial and annual \$25,000 fee. The MVC may revoke a permit if the TNC does not comply with the bill’s provisions.

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 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, and that 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 TNC 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 is not to impose a tax or fee that only applies to a TNC or driver; provided that, the TNC or driver is to be subject to a tax or fee that applies generally to all

businesses or residents of the county or municipality. The State is not to impose a tax or fee that only applies to a TNC or driver, except for certain exceptions; provided that, the TNC or driver is to be subject to a tax or fee that applies generally to all businesses or residents of the State.

A transportation network company is required to annually submit data collected from prearranged rides provided through the company's digital network to the Department of Transportation (DOT), which is to include the number of prearranged rides between the municipalities of origin and destination, the number of prearranged rides that pick up a rider and drop off a rider in the same municipality, and the date and time of a prearranged ride. Data submitted to the DOT is not to be considered a government record.

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 or potential 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. Within a reasonable time after 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 any 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 any combination of the two, is also required to maintain primary personal injury protection benefits.

A TNC, driver, or any 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, the TNC, driver, or any 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 any 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.

The bill also provides that a TNC is not to permit a driver to accept requests for prearranged rides 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 requests for prearranged rides 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, immediately revoke the driver's access to the TNC's digital network. 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. 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.

Driver Application Materials

A TNC is to require a TNC driver applicant 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.

Social Security Number Trace

Before allowing an applicant to log on to a 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 addresses for the past seven years. The applicant is to provide three 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; (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; or (8) first-class mail addressed to the applicant and received from a federal, state, or local government agency within the past six months.

Criminal Background Check and Driver's License Check

The TNC or a third party is required to conduct a criminal background check, approved by the Division of State Police (State Police), before allowing an applicant to log on to the TNC's digital network as a driver or to provide prearranged rides as a driver. The criminal background check is to include a search of a multi-state and multi-jurisdictional criminal records locator or similar commercial nationwide database with validation and the United States Department of Justice's Dru Sjodin National Sex Offender Public Website.

If the method of conducting a criminal background check by a TNC or third party is not approved by the State Police, an applicant is to provide the State Police with the applicant's name, address, fingerprints, and written consent for a criminal history record background check to be performed by the State Police, in accordance with regulations adopted under the New Jersey Administrative Code, before the applicant is authorized to log on to the TNC's digital network as a driver or to provide prearranged rides. If the method of conducting a criminal background check by a TNC or third party is not approved by the State Police, a TNC is not to permit an applicant to log on to its digital network as a driver or provide prearranged rides until the State Police provide the TNC with information concerning the applicant's eligibility to be a driver. The applicant is to pay all costs associated with a criminal history record background check conducted by the State Police.

A TNC or third party is also required to conduct a driving record check of the applicant before allowing the applicant to log on to the TNC's digital network as a driver to provide prearranged rides.

Applicant Disqualification

An applicant is disqualified from logging on to a TNC's digital network as a driver or providing prearranged rides as a driver if the applicant's criminal background check or criminal history record background check reveals a record of conviction of any of the disqualifying crimes provided in the bill, unless the applicant can provide a valid certificate of rehabilitation. An applicant is also disqualified if the applicant has received more than three moving violations in the past three years, or, within the past three years, a violation for: (1) driving under the influence; (2) resisting arrest, eluding an officer; (3) reckless driving; (4) driving with a suspended or revoked license, or (5) a comparable violation committed in any other state, territory, commonwealth, or other jurisdiction of the United States. Additionally, an applicant is disqualified if the applicant is a match on the United States Department of Justice's Dru Sjodin National Sex Offender Public Website, is not a holder of a valid driver's license, does not possess

proof of a valid vehicle registration, or proof of valid automobile liability insurance, or is less than 21 years old.

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 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 and that the driver maintains a valid inspection certificate of approval for the personal vehicle.

TNC Maintenance of Information and TNC Identifying Marker

A driver is to maintain information of the driver's smartphone while using a TNC's digital network to allow a law enforcement officer, or other city, State, or federal official, to confirm certain information for any driver including: (1) the driver's identity and color photo; (2) the vehicle make and model of the driver's personal vehicle; (3) the license plate number of the driver's personal vehicle; and (4) an electronic record of a prearranged ride that is underway. The driver is to produce this information upon the lawful request of a law enforcement officer, or other city, State, or federal official.

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.

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 the bill may be known and cited as the "Transportation Network Company Safety and Regulatory Act";
- change the definition of "digital network";
- provide that a TNC 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;
- provide that a TNC is to provide a written description of the company's zero tolerance policy, a written description of how

the company will comply with the criminal background checks required by the bill, and a written description of the company's policy of non-discrimination, in order to be issued a permit to operate in the State by the MVC;

- reduce the initial and annual permit fee from \$50,000 to \$25,000;
- provide that a TNC is to annually submit data collected from all prearranged rides through the company's digital network to the DOT including the number of prearranged rides between the municipalities of origin and destination, the number of prearranged rides that pick up a rider and drop off a rider within the same municipality, and the date and time of a prearranged ride, instead of requiring the TNC to provide data that includes the points of origin and destination of a prearranged ride;
- include a provision stating that any prearranged ride data submitted to the DOT is to be deemed confidential, is not to be disclosed to a third party except with the prior written consent of the TNC, and is not to be considered a government record;
- provide that if a fare is collected from a rider, the TNC is to provide a rider on its website or digital network the fare or method by which the TNC calculates fares, instead of requiring the TNC to provide on its website or digital network the fare and method by which the TNC calculates fares;
- require that a TNC, a driver, or any combination of the two is required to maintain certain insurance requirements under the bill;
- remove reference to a driver logged on to a TNC's digital network as a driver from certain provisions of the bill;
- provide that an insurer providing certain insurance coverage is to cooperate to facilitate the exchange of relevant information with directly interested parties and any insurer of the driver in a claims coverage investigation and is to disclose the applicable coverage, exclusions, and limits provided under any insurance maintained under the bill's insurance provision;
- provide that an applicant is prohibited from utilizing a TNC's digital network as a driver or from providing a prearranged ride as a driver if the applicant's criminal background check conducted by the TNC or a third party, or by the State Police, reveals a record of conviction in New Jersey or elsewhere of any of the enumerated crimes in the bill and removes the provision providing that the violation is to have occurred within the past seven years in order to be disqualified;

- remove “to be used to provide prearranged rides” from subsection f. of section 19 of the bill;
- remove language in section 22 and provide that a driver is to maintain information on the driver’s smartphone while using a TNC’s digital network that will allow a law enforcement officer, or other city, State, or federal official, to confirm certain information concerning the driver and to produce this information if requested by a law enforcement officer, or other city, State, or federal official;
- require a TNC to create an identifying marker to be submitted to the MVC and issued to every driver and displayed when the driver logs on to the TNC’s digital network as a driver or is providing 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 the State, except for certain circumstances, is 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 State; and
- make technical changes to the bill.

STATEMENT TO

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 3695

with Senate Floor Amendments
(Proposed by Senator SARLO)

ADOPTED: DECEMBER 19, 2016

These Senate amendments clarify that a “personal vehicle” as defined in the bill is not to be considered an automobile as defined in N.J.S.A.39:6A-2 while a transportation network company driver (driver) is providing a prearranged ride. The amendments increase the minimum uninsured and underinsured motorist coverage required when a driver is providing a prearranged ride from the statutory minimums to at least \$1,500,000 and provide that the limitation on lawsuit option set forth in subsection a. of N.J.S.A.39:6A-8 is not to be assertable by a transportation network company or driver in any action for damages arising from a prearranged ride, or asserted against any party not receiving personal injury protection benefits in any action for damages arising from a prearranged ride. The amendments also make technical changes to the bill.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 3695
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: NOVEMBER 10, 2016

SUMMARY

Synopsis: Regulates transportation network companies.

Type of Impact: Local and State revenue impact.

Agencies Affected: New Jersey Motor Vehicle Commission, Department of Transportation, Department of Law and Public Safety, Municipalities, and Counties

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below.		
State Revenue	Indeterminate – See comments below.		
Local Revenue	Indeterminate – See comments below.		

- The Office of Legislative Services (OLS) finds that the bill will have an indeterminate fiscal impact. The State will realize an increase in State revenue equivalent to the \$25,000 annual transportation network company (TNC) permit fee, multiplied by the number of TNCs that operate in the State. The State may also realize increased revenue from the \$500 penalty for each day a TNC operates without a permit in violation of the bill’s provisions and from fees imposed for vehicle inspections and, if applicable, criminal history record background checks conducted pursuant to the provisions of the bill.
- The State may realize increased costs for the administration of vehicle inspections and, if applicable, criminal history record background checks, but the fees paid by TNC drivers and applicants should offset those costs. The State is likely to realize an increase in Department of Transportation (DOT) administrative costs to enter into a memorandum of understanding with TNCs for the submission of data collected from prearranged rides provided wholly within the boundaries of the State and for the retention of this data. The State is likely to realize an increase in New Jersey Motor Vehicle Commission (MVC) administrative costs to issue and revoke TNC permits, receive TNC service of process information, and oversee the recording of TNC identification markers. The Office of the Attorney General (OAG), in the

Department of Law and Public Safety, will likely realize an increase in administrative costs to review and approve or disapprove the method that a TNC, or third party designated by the TNC, proposes to use to conduct criminal background checks. The MVC or Division of Consumer Affairs in the Department of Law and Public Safety (division) may realize an increase in administrative costs to oversee the maintenance and inspection of TNC records. The bill does not authorize the MVC, division, DOT, or OAG to be directly reimbursed for many of these costs, except that the MVC is to receive an annual permit fee of \$25,000 for each TNC operating in the State. It is not clear whether these administrative and regulatory functions will cost more than the \$25,000 annual permit fee per TNC. It is also not clear the amount of fines that will be imposed and collected pursuant to the \$500-per-day penalty for operating in the State without a permit in violation of the bill's provision. It is, therefore, not clear whether the State will realize an increase or decrease in net revenue.

- There is also likely to be an indeterminate decrease in local revenue for certain municipalities as a result of the bill but an increase in revenue for at least one municipality. The bill prevents counties and municipalities from imposing a tax or fee on a TNC or driver that is not also imposed on all other businesses or residents in that jurisdiction. However, the bill will not alter, supersede, or prohibit a financial access agreement between a TNC and a city of the first class with an international airport terminal, such as the city of Newark, which may increase that municipality's revenue. It is possible that this bill may have the impact of limiting the amount of local revenue that may have resulted from taxes or fees imposed on TNC services and financial access agreements entered into between a municipality and TNC while increasing local revenue for at least one municipality.

BILL DESCRIPTION

Assembly Substitute for Assembly Bill No. 3695 of 2016 regulates transportation network companies and may be cited as the "Transportation Network Company Safety and Regulatory Act." A TNC is defined, in part, as a corporation, partnership, sole proprietorship, or other entity that is registered as a business in the State or operates in the State and 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 MVC and provide the MVC with an initial and annual \$25,000 permit fee. After notice and a hearing, the MVC may revoke a permit if a TNC does not comply with the bill's provisions. A TNC that operates in the State without a permit in violation of the bill's provisions is subject to a penalty of \$500 and each day the TNC operates without a permit is considered an additional, separate, and distinct offense. A TNC is required to appoint and maintain an agent for service of process in New Jersey and submit this information to the MVC.

Prearranged rides provided by a TNC 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, or freight service and a driver is not to be required to register the driver's personal vehicle used to provide prearranged rides as a commercial or for-hire vehicle. A driver is not to solicit or accept any ride that is not prearranged through a transportation network company's digital network.

A transportation network company and the DOT are to enter into a memorandum of understanding concerning the transportation network company's submission of transportation

network company data collected from all prearranged rides provided wholly within the boundaries of the State and provided through the company's digital network. Data submitted to the DOT is not to be considered a government record.

Information to Riders

The bill requires a TNC to provide riders with the fare or method by which the TNC calculates fares if a fare is collected from a rider. A TNC is to provide riders with 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 prior to the rider entering the driver's vehicle. Within 48 hours after completion of the prearranged ride, a TNC is to provide a 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 any 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 any combination of the two, is also required to maintain primary personal injury protection benefits.

A TNC, driver, or any 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, the TNC, driver, or any 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 any 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 and information as to whether the driver was logged on to a digital network or providing a prearranged ride to the directly interested parties, automobile insurers, and investigating law enforcement officers.

Under the bill, if a TNC's insurer makes a payment for a claim for damage to a motor 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 motor vehicle or jointly to the owner of the motor vehicle and the primary lienholder on the covered motor vehicle.

The bill also provides that a TNC is not to permit a driver to accept requests for prearranged rides 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 TNC's digital network as a driver and is available to receive requests for prearranged rides 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 prior notice to the TNC. A TNC is not to restrict a driver from utilizing another TNC's digital network.

Zero Tolerance 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 within 72 hours from the time when results of the investigation corroborate the rider's complaint. 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 policy of non-discrimination with respect to 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 accessibility compliance information for persons with disabilities, 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 a TNC driver applicant 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.

A TNC registered as a business in the State or operating in the State prior to the bill's effective date has six months from the bill's effective date to have the Attorney General approve the method that the TNC, or third party designated by the TNC, proposes to use to conduct a criminal background check for an applicant or driver. If the Attorney General does not approve the method the TNC, or third party, proposes to use to conduct a criminal background check within six months, the TNC is not to permit an applicant to log on to the TNC's digital network

as a driver or provide a prearranged ride as a driver until the applicant submits to a criminal history record background check to be conducted by the Division of State Police (State Police) and the State Police provides the TNC with information concerning the applicant's eligibility to be a TNC driver.

A TNC that is not registered as a business in the State or operating in the State prior to the bill's effective date is not to operate in the State prior to: (1) the Attorney General, within six months of submission, approving the method that the TNC, or third party designated by the TNC, proposes to use to conduct a criminal background check; or (2) applicants submitting to a criminal history record background check to be conducted by the State Police.

The Attorney General is not to approve a TNC's or third party's criminal background check unless the check includes a multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database with validation and the United States Department of Justice's Dru Sjinin National Sex Offender Public Website.

If the Attorney General approves the method that a TNC, or third party, proposes to use to conduct a criminal background check, the TNC, or third party designated by the TNC, is to conduct a criminal background check approved by the Attorney General for an applicant prior to allowing the applicant to log on to the TNC's digital network as a driver or to provide prearranged rides as a driver. The TNC registered as a business in the State or operating in the State prior to the bill's effective date has 30 days from the bill's effective date to conduct, or have a third party conduct, a criminal background check for a driver utilizing the TNC's digital network prior to the bill's effective date, if the Attorney General approves the method that a TNC, or third party, proposes to use to conduct a criminal background check and the TNC or third party has not already completed a check for the driver.

If the Attorney General does not approve the method that a TNC, or third party, proposes to use to conduct a criminal background check, an applicant is required to provide to the State Police the applicant's name, address, fingerprints, and written consent for a criminal history record background check to be performed by the State Police. A TNC registered as a business in the State or operating in the State prior to the bill's effective date whose criminal background check was not approved by the Attorney General is to require a driver utilizing the TNC's digital network prior to the bill's effective date to provide to the State Police the driver's name, address, fingerprints, and written consent for a criminal history record background check to be performed by the State Police. The State Police are authorized to exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for use in determining an applicant's or driver's eligibility to be a driver.

Driver's License Check

A TNC or third party is required to conduct a driving record check of the applicant before allowing the applicant to log on to the TNC's digital network as a driver or to provide prearranged rides.

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 as a driver 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.

Social Security Number Trace

Before allowing an applicant to log on to a 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 addresses for the past seven years.

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 as a driver 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.

Applicant and Driver Disqualification

An applicant or driver is prohibited from utilizing the TNC's digital network as a driver or providing prearranged rides as a driver if the applicant or driver has been convicted of one or more of the disqualifying crimes provided in the bill, unless the applicant can provide a valid certificate of rehabilitation. An applicant or driver is also prohibited if the applicant or driver has received more than three moving violations in the past three years or has committed certain violations within the past three years. Additionally, an applicant or driver is prohibited from utilizing the TNC's digital network as a driver or providing a prearranged ride as a driver if the applicant or driver is a match in the United States Department of Justice's Dru Sjodin 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, does not possess proof of valid automobile liability insurance, or is under 21 years of age.

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. A TNC is to require a driver to maintain a valid inspection certificate of approval for the personal vehicle.

TNC Maintenance of Information and TNC Identifying Marker

A driver is to maintain electronic information while using a TNC's digital network to allow a law enforcement officer, or other city, State, or federal official, to confirm certain information for any driver including: (1) the driver's identity and color photo; (2) the make and model of the driver's personal vehicle; (3) the license plate number of the driver's personal vehicle; and (4) an electronic record of a prearranged ride that is underway. The driver is to produce this information upon the lawful request of a law enforcement officer, or other city, State, or federal official.

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.

Inspection of TNC Records

A TNC is to maintain 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 or the division to inspect TNC records necessary to investigate and resolve a specific complaint against a driver if the commission or division provides a written request for records and the basis for the request. The MVC or division may require TNC records maintained in-State or out-of-State to be available to the MVC or division for inspection.

The bill also authorizes the MVC or division to 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 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.

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.

Regulation of TNCs by State

The bill provides that TNCs are to be regulated by the State, and that 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 is not to impose a tax or fee that only applies to a TNC or driver; provided that, the TNC or driver is to be subject to a tax or fee that applies generally to all businesses or residents of the county or municipality.

Except for the initial and annual permit fee, the State is not to impose a tax or fee that only applies to a TNC or driver, provided that, the TNC or driver is to be subject to a tax or fee that applies generally to all businesses or residents of the State. The bill does not 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, provided the TNC complies with all other provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will have an indeterminate fiscal impact. The pre-arranged ridesharing industry is growing at a very rapid rate and TNCs have been in business for a short time, thus, making any projection on the size and growth rate of the industry highly uncertain.

The State will realize an increase in State revenue equivalent to the \$25,000 annual TNC permit fee, multiplied by the number of TNCs that operate in the State. The State may also realize increased revenue from the \$500 penalty for each day that a TNC operates without a

permit in violation of the bill's provisions, depending upon whether and how many TNCs operate in the State without a permit and for how long they do so, which can not be determined at this time. The State may also realize increased revenue from fees imposed for vehicle inspections and, if applicable, criminal history record background checks conducted by the Division of State Police pursuant to the provisions of the bill.

The State is likely to realize an increase in DOT administrative costs to enter into a memorandum of understanding with TNCs for the submission of data collected from prearranged rides provided wholly within the boundaries of the State and for the retention of this data. The State may realize increased costs for the administration of vehicle inspections and, if applicable, criminal history record background checks. The fees paid by TNC drivers or applicants for those services should offset the State's cost of administering the services. The OAG will likely realize an increase in administrative costs to review and approve or disapprove of the method that a TNC, or third party designated by the TNC, proposes to use to conduct criminal background checks.

The State is likely to realize an increase in MVC administrative costs to issue and revoke TNC permits, receive TNC service of process information, and oversee the recording of TNC identification markers. The State is also likely to realize an increase in MVC or division administrative costs to oversee the maintenance and inspection of TNC records. The bill does not authorize the MVC, division, DOT, or OAG to be directly reimbursed for many of these identified costs, except that, as stated earlier, the MVC is to receive a \$25,000 annual permit fee from each TNC operating in the State. The magnitude of some of these costs will be impacted by the number of TNCs and TNC drivers operating in the State and the number of prearranged rides that take place in the State, which cannot be determined at this time.

It is not clear whether these administrative and regulatory functions will cost more than \$25,000 annually per TNC. It is also unclear whether any TNCs will operate without a permit in the State and be subject to the \$500-per-day penalty. It is therefore unclear whether the State will realize an increase or decrease in net revenue. The bill requires visual inspection of TNC records by the MVC or division in certain circumstances so it is possible that full time staff may need to be added to enforce the bill's record maintenance and inspection provisions. The hiring of full-time State employees to enforce the provisions of this bill, if necessary, would very likely exceed \$25,000 in State costs for salary and fringe benefits resulting in a net cost to the State.

The administrative costs are likely to be impacted to some degree by the level of TNC compliance with the maintenance and inspection provisions of the bill. The less compliant a TNC is in maintaining accurate records and supplying them to the MVC or division upon request, the more administrative costs that the MVC or division will face in verifying and inspecting records. A TNC permit may be revoked if the TNC does not comply with the bill and supply records as requested pursuant to the maintenance and inspections provisions of the bill. The TNC is also subject to penalties, fines, and enforcement actions for not complying with these provisions. No penalties or fines have been established for a TNC's failure to comply at this time so it is not clear whether additional revenue may be generated as a result of this provision of the bill.

There is also likely to be an indeterminate decrease in local revenue as a result of the bill, except in at least one limited circumstance. The bill prevents any county or municipality from imposing a tax or fee on a TNC or driver that is not generally imposed on all other businesses or residents in that jurisdiction, except that the bill is not to alter, supersede, or prohibit a financial access agreement between a TNC and a city of the first class with an international airport terminal, such as the city of Newark, which may increase that municipality's revenue. The city of Newark entered into an agreement with Uber, a company considered a TNC under this bill, for \$10 million in payments over 10 years. Presumably, in the absence of this bill, municipalities

that are not a city of the first class with an international airport terminal may have formed similar arrangements with companies operating as TNCs. It is possible that this bill may have the impact of limiting the amount of local revenue that may have resulted from taxes and fees imposed on TNC services while increasing local revenue for cities of the first class with an international airport terminal that have entered into a financial access agreement with a TNC. The amount of the decrease in local revenue cannot be known because it is unclear how many municipalities may have taxed or imposed fees on TNC services or may have entered into financial access agreements with TNCs in the absence of this bill.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Lauren M. Vogel
Associate Counsel*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 2179

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MAY 16, 2016

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Monmouth)

Co-Sponsored by:

Senator Oroho

SYNOPSIS

“Transportation Network Company Safety and Regulatory Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/24/2016)

1 AN ACT concerning transportation network companies and
2 supplementing Title 39 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Sections 1 through 24 of P.L. , c. (C.) (pending
8 before the Legislature as this bill) shall be known and may be cited
9 as the “Transportation Network Company Safety and Regulatory
10 Act.”

11

12 2. The Legislature finds and declares that:

13 a. Advances in technology and access to cost-effective
14 smartphone applications have meaningfully improved the quality of
15 life of consumers in this State.

16 b. Transportation network companies provide innovative
17 services that use digital networks to connect riders with
18 transportation network company drivers who use their personal,
19 noncommercial vehicles to provide transportation.

20 c. These transportation network companies create economic
21 opportunities for New Jersey residents and provide riders
22 throughout the State with another transportation option where other
23 transportation options may not be readily accessible.

24 d. Transportation network companies frequently provide
25 transportation service across municipal and county boundaries and
26 are best regulated at the State, rather than the local level.

27 e. It is in the public interest for the State to preserve and
28 enhance access to this important transportation option for residents
29 and visitors of New Jersey.

30

31 3. As used in P.L. , c. (C.) (pending before the
32 Legislature as this bill):

33 “Applicant” means a person who applies to a transportation
34 network company to be a transportation network company driver.

35 “Certified background screener” means an entity certified by a
36 professional background screening accreditation organization and
37 subject to the federal Fair Credit Reporting Act (15 U.S.C. s.1681 et
38 seq.).

39 “Commission” means the New Jersey Motor Vehicle
40 Commission.

41 “Digital network” means any online-enabled technology
42 application, service, website, or system offered or utilized by a
43 transportation network company that enables the prearrangement of
44 rides between transportation network company riders and
45 transportation network company drivers.

46 “Division” means the Division of Consumer Affairs in the
47 Department of Law and Public Safety.

1 “Personal vehicle” means a motor vehicle that is used by a
2 transportation network company driver and is owned, leased, or
3 otherwise authorized for use by the transportation network company
4 driver. A personal vehicle shall not be considered an autocab or
5 taxi as defined in R.S.48:16-1, a limousine as defined in R.S.48:16-
6 13, an autobus or jitney as defined in R.S.48:16-23, a motor bus as
7 defined in section 1 of P.L.1991, c.154 (C.17:28-1.5), or any other
8 for-hire vehicle.

9 “Prearranged ride” means the provision of transportation by a
10 transportation network company driver to a transportation network
11 company rider, beginning when a driver accepts a ride requested by
12 a rider through a digital network controlled by a transportation
13 network company, continuing while the driver transports a
14 requesting rider, and ending when the last requesting rider departs
15 from the personal vehicle. A prearranged ride shall not include
16 transportation provided using an autocab, taxi, limousine, autobus,
17 jitney, motor bus, or other for-hire vehicle. A prearranged ride
18 shall not include ridesharing, as defined in R.S.39:1-1; or any
19 arrangement or service in which the driver receives a fee that does
20 not exceed the driver’s cost associated with providing the ride.

21 “Transportation network company” means a corporation,
22 partnership, sole proprietorship, or other entity that operates in this
23 State, and uses a digital network to connect a transportation
24 network company rider to a transportation network company driver
25 to provide a prearranged ride. A transportation network company
26 shall not be deemed to control, direct, or manage a transportation
27 network company driver or the driver’s personal vehicle that
28 connects to the company’s digital network, except where agreed to
29 by written contract.

30 “Transportation network company driver” or “driver” means a
31 person who: (1) receives connections to potential riders and related
32 services from a transportation network company in exchange for
33 payment of a fee to the transportation network company; and (2)
34 uses a personal vehicle to offer or provide a prearranged ride to a
35 rider upon connection through a digital network controlled by a
36 transportation network company in return for compensation or
37 payment of a fee.

38 “Transportation network company rider” or “rider” means a
39 person who uses a transportation network company’s digital
40 network to connect with a transportation network company driver to
41 receive a prearranged ride from the driver using the driver’s
42 personal vehicle between points chosen by the rider.

43
44 4. A transportation network company or a transportation
45 network company driver shall not provide a taxi, limousine, or other
46 for-hire vehicle service except as authorized pursuant to applicable
47 law. A transportation network company driver shall not be required

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1 to register the driver's personal vehicle used to provide prearranged
2 rides as a commercial or for-hire vehicle.

3

4 5. a. The commission shall issue a permit for the lawful
5 operation of a transportation network company in this State to each
6 transportation network company that meets the requirements
7 provided in P.L. , c. (C.) (pending before the
8 Legislature as this bill), and pays the commission an annual permit
9 fee of \$5,000.

10 b. A transportation network company shall not operate in this
11 State prior to obtaining a permit from the commission; provided
12 that, a transportation network company operating in the State prior
13 to the effective date of P.L. , c. (C.) (pending before the
14 Legislature as this bill) may continue to operate in the State until
15 the commission issues a written decision regarding the
16 transportation network company's permit application.

17 c. A transportation network company operating in the State
18 prior to the effective date of P.L. , c. (C.) (pending
19 before the Legislature as this bill) shall apply to the commission for
20 a permit pursuant to this section on or before the 30th day after the
21 commission begins accepting permit applications.

22

23 6. a. A transportation network company operating in the State
24 shall appoint and maintain an agent for service of process in this
25 State.

26 b. The transportation network company shall submit to the
27 commission within 10 days of receiving a permit, the name,
28 address, telephone number, or other contact information of the
29 agent. The transportation network company shall notify the
30 commission of any change of the agent, address, telephone number,
31 or other contact information for the agent, within 10 days of the
32 effective date of the change.

33

34 7. A transportation network company may, on behalf of a
35 transportation network company driver, collect a fare for
36 transportation service provided to a transportation network
37 company rider; provided that, if a fare is collected from a rider, the
38 transportation network company shall disclose to the rider on its
39 website or digital network the fare or method by which the
40 transportation network company calculates fares. The transportation
41 network company shall provide riders with the applicable rates
42 being charged by a transportation network company driver and the
43 option to receive an estimated fare prior to the rider entering the
44 driver's personal vehicle.

45

46 8. A transportation network company shall provide to a
47 transportation network company rider on its website or digital
48 network a picture of the transportation network company driver that

1 is to provide the prearranged ride and the license plate number of
2 the driver's personal vehicle that is to be used to provide the
3 prearranged ride prior to the rider entering the driver's personal
4 vehicle.

5

6 9. Within 48 hours following completion of a prearranged ride,
7 a transportation network company shall provide a transportation
8 network company rider with an electronic receipt which shall
9 include:

- 10 a. the points of origin and destination of the prearranged ride;
11 b. the total time and distance of the prearranged ride; and
12 c. an itemization of the total fare paid, if any.

13

14 10. a. A transportation network company driver, a transportation
15 network company, or a combination of the two shall, on or before
16 the effective date of P.L. , c. (C.) (pending before the
17 Legislature as this bill), maintain primary automobile insurance that
18 recognizes that the driver is a transportation network company
19 driver, or otherwise uses a personal vehicle to provide prearranged
20 rides, and covers the driver: (1) while the driver is logged on to the
21 transportation network company's digital network as a
22 transportation network company driver but is not providing a
23 prearranged ride; or (2) while the driver is providing a prearranged
24 ride.

25 b. Whenever a transportation network company driver is
26 logged on to the transportation network company's digital network
27 as a driver and is available to receive a prearranged ride request, but
28 is not providing a prearranged ride, the transportation network
29 company driver, transportation network company, or any
30 combination of the two shall maintain the following insurance
31 coverage:

32 (1) primary automobile liability insurance in the amount of at
33 least \$50,000 for death or bodily injury per person, \$100,000 for
34 death or bodily injury per incident, and \$25,000 for property
35 damage;

36 (2) primary personal injury protection benefits that provide
37 coverage amounts selected pursuant to section 4 of P.L.1972, c.70
38 (C.39:6A-4); and

39 (3) uninsured and underinsured motorist coverage to the extent
40 required pursuant to section 2 of P.L.1968, c.385 (C.17:28-1.1).

41 c. Whenever a transportation network company driver is
42 providing a prearranged ride, the transportation network company
43 driver, transportation network company, or any combination of the
44 two shall maintain the following insurance coverage:

45 (1) primary automobile liability insurance in the amount of at
46 least \$1,500,000 for death, bodily injury, and property damage;

47 (2) primary automobile insurance for medical payments benefits
48 in an amount of at least \$10,000 per person per incident, which

1 shall only apply to and provide coverage for the benefit of the
2 transportation network company driver; and

3 (3) uninsured and underinsured motorist coverage to the extent
4 required pursuant to section 2 of P.L.1968, c.385 (C.17:28-1.1).

5 d. If insurance coverage maintained by a transportation
6 network company driver pursuant to subsections b. and c. of this
7 section has lapsed or does not provide the required coverage,
8 insurance maintained by the transportation network company shall
9 provide the coverage required by subsections b. and c. of this
10 section beginning with the first dollar of a claim and the
11 transportation network company shall have the duty to defend the
12 claim.

13 e. Coverage under an automobile insurance policy maintained
14 by the transportation network company shall not be dependent upon
15 a private passenger automobile insurer first denying a claim nor
16 shall a private passenger automobile insurance policy be required to
17 first deny a claim.

18 f. Insurance coverage required by this section may be obtained
19 from an insurance company duly licensed to transact business under
20 the insurance laws of this State or by an eligible surplus lines
21 insurer under section 11 of P.L.1960, c.32 (C.17:22-6.45).

22 g. The coverage required pursuant to subsections b. and c. of
23 this section shall be deemed to meet the financial responsibility
24 requirements of the "Motor Vehicle Security-Responsibility Law,"
25 P.L.1952, 173 (C.39:6-23 et seq.), P.L.1972, c.197 (C.39:6B-1 et
26 seq.), and P.L.1972, c.70 (C.39:6A-1 et seq.).

27 h. A transportation network company driver shall carry proof
28 of insurance required pursuant to subsections b. and c. of this
29 section at all times while using a personal vehicle in connection
30 with a transportation network company's digital network. In the
31 event of an accident, a transportation network company driver shall,
32 upon request, provide insurance coverage information to the
33 directly interested parties, automobile insurers, and investigating
34 law enforcement officers. The insurance coverage information may
35 be displayed or provided in either paper or electronic form as
36 provided in R.S.39:3-29. A transportation network company driver
37 shall, upon request, disclose to the directly interested parties,
38 automobile insurers, and investigating law enforcement officers
39 whether the driver was logged on to a digital network as a driver or
40 whether the driver was providing a prearranged ride at the time of
41 the accident.

42
43 11. A transportation network company shall not permit a
44 transportation network company driver to accept a request for a
45 prearranged ride on the transportation network company's digital
46 network until the transportation network company discloses in
47 writing to the driver:

1 a. the insurance coverage, including the types and limits of
2 coverage, that the transportation network company provides while
3 the driver uses a personal vehicle in connection with a
4 transportation network company's digital network; and

5 b. that the driver's own private passenger automobile insurance
6 policy, depending on the driver's private passenger automobile
7 insurance policy, may or may not provide any coverage while the
8 driver is logged on to the transportation network company's digital
9 network as a driver and is available to receive requests for
10 prearranged rides, or is providing a prearranged ride.

11
12 12. a. Notwithstanding the "Motor Vehicle Security-
13 Responsibility Law," P.L.1952, c.173 (C.39:6-23 et seq.) and
14 P.L.1972, c.197 (C.39:6B-1 et seq.), an insurance company duly
15 licensed to transact business under the insurance laws of this State
16 may exclude any and all coverage afforded under a private
17 passenger automobile insurance policy issued to an owner or
18 operator of a personal vehicle for any loss or injury that occurs
19 while the personal vehicle is being used by a transportation network
20 company driver and the driver is logged on to a transportation
21 network company's digital network as a driver or is providing a
22 prearranged ride. This right to exclude all coverage may apply to
23 any coverage included in a private passenger automobile insurance
24 policy including, but not limited to:

- 25 (1) liability coverage for bodily injury and property damage;
26 (2) personal injury protection coverage;
27 (3) uninsured and underinsured motorist coverage;
28 (4) medical payments coverage;
29 (5) comprehensive physical damage coverage; and
30 (6) collision physical damage coverage.

31 Nothing in this section shall imply or require that a private
32 passenger automobile insurance policy provide coverage while the
33 driver is logged on to a transportation network company's digital
34 network as a driver, is providing a prearranged ride, or is otherwise
35 using a vehicle to transport riders for compensation.

36 Nothing in this section shall be construed to require an insurer to
37 use any particular policy language or reference to this section in
38 order to exclude any and all coverage for any loss or injury that
39 occurs while a driver is logged on to a transportation network
40 company's digital network as a driver or while a driver is providing
41 a prearranged ride.

42 Nothing in this section shall be deemed to preclude an insurer
43 from providing primary or excess coverage by contract or
44 endorsement for the transportation network company driver's
45 personal vehicle while the transportation network company driver is
46 logged on to a digital network as a driver or while the driver is
47 providing a prearranged ride.

1 b. An insurance company duly licensed to transact business
2 under the insurance laws of this State that excludes coverage
3 pursuant to subsection a. of this section shall have no duty to defend
4 or indemnify any claim expressly excluded thereunder. Nothing in
5 this section shall be deemed to invalidate or limit an exclusion
6 contained in a policy, including any policy in use or approved for
7 use in the State prior to enactment of P.L. , c. (C.)
8 (pending before the Legislature as this bill), that excludes coverage
9 for vehicles used to carry persons or property for a charge or
10 available for hire by the public. An automobile insurance company
11 that defends or indemnifies a claim against a driver that is excluded
12 under the terms of its policy shall have a right of contribution
13 against other insurers that provide automobile liability insurance to
14 the same driver in satisfaction of the coverage required pursuant to
15 subsections b. and c. of section 10 of P.L. , c. (C.)
16 (pending before the Legislature as this bill) at the time of loss.

17 c. In a claims coverage investigation, a transportation network
18 company shall provide, upon request, to a directly involved party or
19 any insurer of the transportation network company driver, if
20 applicable, the precise times that a transportation network company
21 driver logged on and off of the transportation network company's
22 digital network as a driver in the 12-hour periods immediately
23 preceding and immediately following the accident. Any insurer
24 potentially providing coverage under subsections b. and c. of
25 section 10 of P.L. c. (C.) (pending before the
26 Legislature as this bill) shall disclose, upon request by any other
27 insurer involved in the particular claim, the applicable coverage,
28 exclusions, and limits provided under any automobile insurance
29 maintained under section 10 of P.L. , c. (C.) (pending
30 before the Legislature as this bill).

31

32 13. a. A transportation network company shall:

33 (1) maintain a system that permits a transportation network
34 company driver to opt out of any communication with the
35 transportation network company at the driver's discretion;

36 (2) maintain a system that permits a driver to establish, at the
37 sole discretion of the driver, an independent business while
38 engaging with the transportation network company's digital
39 network; and

40 (3) maintain a system that permits a driver, at the sole discretion
41 of the driver, to operate in any municipality in the State without
42 providing prior notice to the transportation network company.

43 b. A transportation network company shall not restrict a
44 driver's ability to utilize another transportation network company's
45 digital network. A driver that connects with more than one
46 transportation network company's digital network shall be deemed
47 to be customarily engaged in an independently established
48 occupation.

1 c. Nothing in P.L. , c. (C.) (pending before the
2 Legislature as this bill) shall be construed to establish an employer-
3 employee relationship between a transportation network company
4 and a transportation network company driver.

5
6 14. a. A transportation network company shall implement a zero
7 tolerance policy on the use of drugs and alcohol that may impair a
8 transportation network company driver while the driver is providing
9 a prearranged ride or while the driver is logged on to the
10 transportation network company's digital network as a driver but is
11 not providing a prearranged ride.

12 b. The transportation network company shall provide on its
13 website, digital network, or electronic receipt, notice of the zero
14 tolerance policy and procedures for a transportation network
15 company rider to report a complaint about a driver of a prearranged
16 ride suspected of driving under the influence of drugs or alcohol.

17 c. Upon receiving a complaint from a rider alleging that a
18 driver violated the zero tolerance policy, the transportation network
19 company shall conduct an investigation into the reported incident
20 and, if results of the investigation corroborate the rider's complaint,
21 revoke the driver's access to the transportation network company's
22 digital network as soon as possible.

23 d. The transportation network company shall maintain records
24 relevant to the enforcement of the zero tolerance policy required
25 under this section for a period of at least two years from the date
26 that the transportation network company receives a rider's
27 complaint.

28
29 15. a. The transportation network company shall adopt a policy
30 of non-discrimination on the basis of destination, race, color,
31 national origin, religious belief or affiliation, sex, disability, age,
32 sexual orientation, or gender identity with respect to transportation
33 network company riders and potential riders. The transportation
34 network company shall notify a transportation network company
35 driver of the non-discrimination policy.

36 b. A transportation network company driver shall comply with
37 all applicable laws regarding non-discrimination against riders or
38 potential riders on the basis of destination, race, color, national
39 origin, religious belief or affiliation, sex, disability, age, sexual
40 orientation, or gender identity and shall comply with all applicable
41 laws relating to accommodation of service animals.

42 c. A transportation network company shall not impose
43 additional fees for accommodation of a person with a physical
44 disability.

45
46 16. a. A transportation network company shall require a
47 transportation network company driver applicant to submit a
48 transportation network company driver application to the

1 transportation network company. The application shall include the
2 applicant's address, age, and social security number, a copy of the
3 applicant's driver's license, motor vehicle registration, and
4 automobile liability insurance, and any other information required
5 by the transportation network company. A transportation network
6 company may permit an applicant to utilize the transportation
7 network company's digital network as a transportation network
8 company driver and to provide prearranged rides as a transportation
9 network company driver if: (1) the applicant has completed an
10 application under subsection a. of this section; and (2) the applicant
11 is not disqualified from being a transportation network company
12 driver pursuant to subsection c. of this section, based upon the
13 private background check conducted pursuant to subsection b. of
14 this section and the application materials provided pursuant to
15 subsection a. of this section, or pursuant to subsection b. of section
16 18 of P.L. , c. (C.) (pending before the Legislature as
17 this bill).

18 b. Prior to allowing an applicant to log on to a transportation
19 network company's digital network as a transportation network
20 company driver or to provide a prearranged ride as a transportation
21 network company driver, the transportation network company,
22 through a certified background screener, shall conduct a private
23 criminal background check, which shall include a search of:

24 (1) a multi-state and multi-jurisdictional criminal records locator
25 or other similar commercial nationwide database with validation;
26 and

27 (2) The United States Department of Justice's Dru Sjojin
28 National Sex Offender Public Website.

29 c. (1) An applicant shall be prohibited from utilizing the
30 transportation network company's digital network as a
31 transportation network company driver or from providing a
32 prearranged ride as a transportation network company driver if the
33 applicant's private criminal background check required pursuant
34 this subsection reveals a record of conviction of the following
35 crimes:

36 (a) In New Jersey, any violation within the past seven years as
37 follows: aggravated assault, arson, burglary, escape, extortion,
38 homicide, kidnapping, robbery, aggravated sexual assault, sexual
39 assault, or endangering the welfare of a child pursuant to
40 N.J.S.2C:24-4, whether or not armed with or having possession of
41 any weapon enumerated in subsection r. of N.J.S.2C:39-1, a crime
42 pursuant to the provisions of N.J.S.2C:39-3, N.J.S.2C:39-4, or
43 N.J.S.2C:39-9, or other than a disorderly persons or petty disorderly
44 persons offense for the unlawful use, possession, or sale of a
45 controlled dangerous substance as defined in N.J.S.2C:35-2.

46 (b) In any other state, territory, commonwealth, or other
47 jurisdiction of the United States, as a result of a conviction in a
48 court of competent jurisdiction, a crime which in that other

1 jurisdiction is comparable to one of the crimes enumerated in
2 subparagraph (a) of this paragraph; provided however, that if a
3 person who has been convicted of one of the crimes enumerated in
4 subparagraph (a) or (b) of this paragraph produces a valid certificate
5 of rehabilitation issued pursuant to section 2 of P.L.2007, c.327
6 (C.2A:168A-8) or, if the criminal offense occurred outside the
7 State, an equivalent certificate from the jurisdiction where the
8 criminal offense occurred, the criminal offense shall not disqualify
9 the applicant from accessing the transportation network company's
10 digital network as a transportation network company driver or from
11 providing prearranged rides as a transportation network company
12 driver. A transportation network company, or a third party
13 designated by the transportation network company, shall take
14 reasonable measures to confirm the validity of the certificate, such
15 as contacting the relevant court or government agency.

16 (2) An applicant shall be prohibited from utilizing the
17 transportation network company's digital network as a
18 transportation network company driver or from providing a
19 prearranged ride as a transportation network company driver if the
20 applicant:

21 (a) is a match in the United States Department of Justice's Dru
22 Sjodin National Sex Offender Public Website;

23 (b) is not a holder of a valid basic driver's license;

24 (c) does not possess proof of valid vehicle registration for the
25 driver's personal vehicle to be used to provide prearranged rides;

26 (d) does not possess proof of valid automobile liability
27 insurance for the personal vehicle to be used to provide prearranged
28 rides; or

29 (e) is under 19 years of age.

30 d. In addition to performing the private criminal background
31 check required pursuant to subsection b. of this section, a
32 transportation network company shall request, within seven days
33 from the commencement of a private criminal background check
34 provided in subsection b. of this section, the State Bureau of
35 Identification in the Division of State Police to conduct a criminal
36 history name search identification check of each driver and
37 applicant, in accordance with regulations adopted under chapter 59
38 of Title 13 of the New Jersey Administrative Code, by verifying the
39 driver's or applicant's name against the central repository of the
40 State Bureau of Identification. The State Bureau of Identification
41 shall electronically transmit the results of a criminal history name
42 search identification check to the transportation network company.

43 Notwithstanding subsection a. of this section, if the results of the
44 criminal history name search identification check reveal any
45 criminal convictions for the crimes set forth in paragraph (1) of
46 subsection c. of this section, the transportation network company
47 shall, within 48 hours of receipt of the results, prohibit a
48 transportation network company driver or applicant from logging on

1 to the transportation network company's digital network as a
2 transportation network company driver or providing a prearranged
3 ride as a transportation network company driver.

4 The transportation network company shall provide a
5 transportation network company driver or applicant who has been
6 prohibited from logging on to the transportation network company's
7 digital network as a transportation network company driver or from
8 providing prearranged rides as a transportation network company
9 driver due to a criminal conviction with adequate notice and an
10 opportunity to confirm or deny the accuracy of the information
11 contained in the criminal history name search identification check
12 in accordance with regulations adopted under chapter 59 of Title 13
13 of the New Jersey Administrative Code.

14 e. Notwithstanding the seven day time requirement pursuant to
15 subsection d. of this section, a transportation network company
16 shall have 30 days from the effective date of P.L. , c. (C.)
17 (pending before the Legislature as this bill) to request the State
18 Bureau of Identification to conduct a criminal history name search
19 identification check, as required pursuant to subsection d. of this
20 section, of a transportation network company driver who was
21 subject to a private criminal background check pursuant to
22 subsection b. of this section before the effective date of P.L. ,
23 c. (C.) (pending before the Legislature as this bill) and, as a
24 result of the private criminal background check, was found not to
25 have been convicted of any offense set forth in paragraph (1) of
26 subsection c. of this section.

27 f. Any records or information furnished to the State Bureau of
28 Identification by a transportation network company under
29 subsections d. and e. of this section, any records used to perform the
30 criminal history name search identification check, and the results of
31 a criminal history name search identification check conducted by
32 the State Bureau of Identification pursuant to subsections d. and e.
33 of this section shall not be used by the State Bureau of
34 Identification, the Division of State Police, or any other State
35 agency for any purpose other than performing a criminal history
36 name search identification check pursuant to subsections d. and e.
37 of this section; and shall not be considered a public record pursuant
38 to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5
39 et al.), or the common law concerning access to public records.
40 Nothing in this subsection shall be construed as limiting the
41 applicability of any other exemptions under P.L.1963, c.73
42 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

43 g. Any signature of an applicant, transportation network
44 company driver, or transportation network company that is required
45 to conduct a criminal history name search identification check
46 pursuant to this section may be obtained and transferred
47 electronically. A transportation network company shall submit
48 information and signatures necessary to perform a criminal history

1 name search identification check to the State Bureau of
2 Identification, and the State Bureau of Identification shall provide
3 results of the criminal history name search identification check
4 conducted pursuant to this section to the transportation network
5 company through a file transfer protocol server, until the State
6 Bureau of Identification implements a system to enable:

7 (1) a transportation network company to securely transfer
8 information and signatures electronically to the State Bureau of
9 Identification for the purpose of conducting a criminal history name
10 search identification check pursuant to this section; and

11 (2) the State Bureau of Identification to securely transfer results
12 of a criminal history name search identification check conducted
13 pursuant to this section electronically to the transportation network
14 company.

15 h. A transportation network company shall pay a fee not to
16 exceed \$100,000 annually to the State Bureau of Identification for
17 the purpose of processing a criminal history name search
18 identification check pursuant to subsections d. and e. of this section;
19 and no other fee shall be charged to an applicant, transportation
20 network company, or transportation network company driver to
21 conduct a criminal history name search identification check.

22
23 17. Prior to allowing an applicant to log on to a transportation
24 network company's digital network as a transportation network
25 company driver or to provide a prearranged ride as a transportation
26 network company driver, the transportation network company, or a
27 third party designated by the transportation network company, shall
28 conduct a social security trace that identifies the addresses of the
29 applicant for at least seven years prior to the date the application is
30 received by the transportation network company. An applicant shall
31 provide at least four of the following documents, in paper or
32 electronic form, to the transportation network company for purposes
33 of conducting a social security trace:

- 34 a. the applicant's driver's license;
35 b. the applicant's motor vehicle registration;
36 c. the applicant's automobile liability insurance policy;
37 d. a utility or credit card statement containing the applicant's
38 name and address issued within the past 90 days;
39 e. a high school or college transcript containing the applicant's
40 name and address issued within the past two years;
41 f. a current lease or rental agreement containing the applicant's
42 name as the lessee or renter; or a property tax bill containing the
43 applicant's name as the property owner or co-owner issued within
44 the past year;
45 g. a letter or correspondence addressed to the applicant and
46 received from the Internal Revenue Service or New Jersey Division
47 of Taxation within the past year;

1 h. first-class mail addressed to the applicant and received from
2 a federal, state, or local government agency within the past six
3 months;

4 i. a valid active duty United States military photo
5 identification card;

6 j. a valid United States passport; or

7 k. a valid United States permanent resident card.
8

9 18. a. Prior to allowing an applicant to log on to a transportation
10 network company's digital network as a transportation network
11 company driver or to provide a prearranged ride as a transportation
12 network company driver, the transportation network company, or a
13 third party designated by the transportation network company, shall
14 conduct a driving record check, which shall include information
15 concerning the applicant's driving violations and driver's status.

16 b. An applicant shall be prohibited from utilizing a
17 transportation network company's digital network as a
18 transportation network company driver or providing a prearranged
19 ride as a transportation network company driver if the applicant's
20 driving record reveals more than three moving violations in the
21 prior three-year period, or one of the following violations in the
22 prior three-year period:

23 (1) driving under the influence pursuant to R.S.39:4-50;

24 (2) resisting arrest; eluding an officer pursuant to N.J.S.2C:29-2;

25 (3) reckless driving pursuant to R.S.39:4-96; or

26 (4) driving with a suspended or revoked license pursuant to
27 R.S.39:3-40.
28

29 19. A transportation network company shall take steps to
30 prohibit unauthorized drivers from logging on to the transportation
31 network company's digital network as a transportation network
32 company driver, including:

33 a. assigning a unique network access key, which shall include a
34 username and password, for each authorized transportation network
35 company driver to enable the driver to log on to the transportation
36 network company's digital network;

37 b. requiring each driver to keep the network access key
38 confidential and prohibiting the driver from sharing this information
39 with a third party; and

40 c. establishing procedures for responding to complaints from a
41 transportation network company rider claiming the picture provided
42 of the driver on the transportation network company's website or
43 digital network does not match the driver of the prearranged ride.
44

45 20. A transportation network company shall require an
46 applicant's personal vehicle to be used to provide a prearranged ride
47 to meet the vehicle inspection requirements pursuant to R.S.39:8-1
48 prior to permitting the applicant to log on to its digital network as a

1 transportation network company driver or to provide a prearranged
2 ride as a transportation network company driver. A transportation
3 network company shall require a transportation network company
4 driver to maintain a valid decal or inspection certificate of approval
5 for the driver's personal vehicle used to provide prearranged rides.

6
7 21. A transportation network company driver shall not solicit or
8 accept any ride that is not prearranged through a transportation
9 network company's digital network.

10
11 22. A transportation network company driver providing a
12 prearranged ride shall produce, upon the request of a law
13 enforcement officer, in paper or electronic form, a valid driver's
14 license, valid motor vehicle registration card, proof of valid
15 insurance required pursuant to subsections b. and c. of section 10 of
16 P.L. , c. (C.) (pending before the Legislature as this
17 bill), and proof that the driver is authorized to provide prearranged
18 rides through the transportation network company's digital network.

19
20 23. a. Notwithstanding any other provision of law, a
21 transportation network company shall maintain the following
22 records: (1) individual prearranged ride records for at least six years
23 following the date of the prearranged ride; and (2) individual
24 records of each transportation network company driver, including,
25 but not limited to, any records provided to the transportation
26 network company pursuant to sections 16 through 18 of P.L. ,
27 c. (C.) (pending before the Legislature as this bill), for at
28 least six years after the driver terminates status as a transportation
29 network company driver.

30 b. The New Jersey Motor Vehicle Commission or the Division
31 of Consumer Affairs in the Department of Law and Public Safety
32 may inspect records held by the transportation network company to
33 investigate and resolve a specific complaint filed against a
34 transportation network company driver. A record provided to the
35 commission or division pursuant to this section may exclude
36 information that tends to identify specific drivers or transportation
37 network company riders, unless the identity of the driver or rider is
38 relevant to the complaint.

39 c. The commission or division may require transportation
40 network company records maintained in-State or out-of-State to be
41 available to the commission or division within 14 business days of
42 the commission's or division's request to inspect records to
43 investigate and resolve a complaint pursuant to subsection b. of this
44 section.

45 A transportation network company shall make out-of-State
46 records available to the commission or division, no later than 14
47 business days after the commission's or division's request to
48 inspect the records. The transportation network company may

1 request an extension if the 14 business day deadline imposes an
2 undue burden upon the transportation network company.

3 In the event of exigent circumstances, the commission or
4 division may require a transportation network company to make its
5 records available before 14 business days from the time of the
6 commission's or division's request if receipt of the records before
7 14 business days is reasonably necessary under the circumstances
8 for the investigation or resolution of a complaint pursuant to
9 subsection b. of this section.

10 d. For the purpose of verifying that a transportation network
11 company is in compliance with the requirements of P.L. ,
12 c. (C.) (pending before the Legislature as this bill) or to
13 assure the integrity and performance of a transportation network
14 company or a transportation network company driver, the
15 commission, division, or an authorized representative may visually
16 inspect transportation network company driver records including all
17 books, records, documents, papers, reports, or data relating to the
18 operation of a transportation network company, in whatever form
19 kept, including, but not limited to, records required to be
20 maintained by a transportation network company pursuant
21 subsection a. of this section. The inspection shall take place at a
22 mutually agreed location in the State. Any record provided to the
23 commission, division, or authorized representative may exclude
24 information that tends to identify specific drivers or riders.

25 e. Any records inspected by the commission, division, or
26 authorized representative under this section, shall be deemed
27 confidential, shall not be disclosed to a third party except with the
28 prior written consent of the transportation network company, and
29 shall not be considered a public record pursuant to P.L.1963, c.73
30 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the
31 common law concerning access to public records. Nothing in this
32 section shall be construed as limiting the applicability of any other
33 exemptions under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,
34 c.404 (C.47:1A-5 et al.).

35 f. A transportation network company's repeated failure to
36 comply with the provisions of this section or permit the commission
37 or division on the transportation network company's premises
38 during regular business hours to conduct investigations or reviews
39 shall be cause for suspension or revocation of the permit issued by
40 the commission to operate as a transportation network company
41 pursuant to section 5 of P.L. , c. (C.) (pending before
42 the Legislature as this bill), or any other fine, penalty, or
43 enforcement action as determined by the commission or division.
44 The commission's or division's investigation or review of the
45 transportation network company may include, but shall not be
46 limited to, discussions with customers and transportation network
47 company drivers, examination of motor vehicle records, questioning
48 of employees, and the use of other investigatory techniques as may

1 be necessary for the enforcement of this section and regulations
2 adopted by the commission or division.

3 g. The commission and division shall enter into a memorandum
4 of understanding to effectuate the authority granted to the
5 commission and division pursuant to this section.

6
7 24. Notwithstanding any other provision of law, a transportation
8 network company and a transportation network company driver
9 shall be governed exclusively by P.L. , c. (C.)
10 (pending before the Legislature as this bill), any supplements or
11 amendments thereto, and any rules promulgated by the commission
12 or division pursuant to P.L. , c. (C.) (pending before
13 the Legislature as this bill).

14 A county or municipality shall not require a transportation
15 network company or transportation network company driver to
16 obtain a license or permit to provide a prearranged ride in that
17 county or municipality, or require a driver to obtain a license or
18 permit for the driver's personal vehicle in order to provide a
19 prearranged ride in that county or municipality.

20 A county or municipality shall not impose a tax or fee that only
21 applies to a transportation network company or transportation
22 network company driver; provided that a transportation network
23 company or driver shall be subject to a tax or fee that applies
24 generally to all businesses or residents of the county or
25 municipality.

26 Except for the permit fee authorized pursuant to section 5
27 P.L. , c. (C.) (pending before the Legislature as this
28 bill) and applicable fee to process a criminal history name search
29 identification check, the State shall not impose a tax or fee that only
30 applies to a transportation network company or transportation
31 network company driver; provided that, a transportation network
32 company or driver shall be subject to a tax or fee that applies
33 generally to all businesses or residents of the State.

34
35 25. The Chief Administrator of the New Jersey Motor Vehicle
36 Commission and the Director of the Division of Consumer Affairs
37 in the Department of Law and Public Safety are authorized to adopt,
38 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
39 (C.52:14B-1 et seq.), rules and regulations to implement the
40 provisions of P.L. , c. (C.) (pending before the
41 Legislature as this bill).

42
43 26. This act shall take effect on the first day of the third month
44 following enactment, except the New Jersey Motor Vehicle
45 Commission and the Division of Consumer Affairs in the
46 Department of Law and Public Safety may take anticipatory actions
47 necessary to implement the provisions of this act.

STATEMENT

1

2

3 This bill regulates transportation network companies and may be
4 cited as the “Transportation Network Company Safety and
5 Regulatory Act.” A transportation network company (TNC) is
6 defined as a corporation, partnership, sole proprietorship, or other
7 entity operating in New Jersey that uses a digital network to
8 connect a TNC rider (rider) to a TNC driver (driver) to provide a
9 prearranged ride.

10 The bill establishes safety and insurance requirements for TNCs
11 that conduct business in New Jersey. Under the bill, a TNC is
12 required to obtain a permit from the New Jersey Motor Vehicle
13 Commission (MVC) upon payment of an annual \$5,000 fee, and to
14 appoint and maintain an agent for service of process in New Jersey.
15 Prearranged rides provided by a driver are not to be considered
16 transportation provided by an autocab, taxi, limousine, autobus,
17 jitney, motor bus, or other for-hire vehicle, and is not to be
18 considered ridesharing. A TNC or a driver is not to provide taxi,
19 limousine, or other for-hire vehicle service. A driver is not to be
20 required to register his or her personal vehicle used to provide
21 prearranged rides as a commercial or for-hire vehicle and is not to
22 solicit or accept any ride that is not prearranged through a
23 transportation network company’s digital network. The bill
24 provides that TNCs are to be regulated by the State, and that a
25 county or municipality is not to require a TNC or driver to obtain a
26 license or permit to provide prearranged rides in that county or
27 municipality, or require a driver to obtain a license or permit to use
28 a personal vehicle to provide prearranged rides in that county or
29 municipality. A county or municipality and the State, with certain
30 limited exceptions, are not to impose a tax or fee that only applies
31 to a TNC or driver; provided that, the TNC or driver is subject to a
32 tax or fee that applies generally to all businesses or residents of the
33 jurisdiction.

34

35 *Information to Riders*

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

1 *Insurance Requirements*

2 Under the bill, a TNC, driver, or combination of the two, is
3 required to maintain primary automobile liability insurance in an
4 amount of at least \$50,000 for death or bodily injury per person,
5 \$100,000 for death or bodily injury per incident, and \$25,000 for
6 property damage while the driver is logged on to the TNC's digital
7 network as a driver and is available to receive requests for a
8 prearranged ride, but is not providing a prearranged ride. In this
9 situation, the TNC, driver, or a combination of the two, is also
10 required to maintain primary personal injury protection benefits.

11 A TNC, driver, or combination of the two, is to maintain primary
12 automobile liability insurance in an amount of at least \$1,500,000
13 for death, bodily injury, and property damage while the driver is
14 providing a prearranged ride. In this situation, a TNC, driver, or
15 combination of the two is also required to maintain primary
16 automobile insurance for medical payments benefits to provide
17 coverage only for the benefit of the driver in an amount of at least
18 \$10,000 per person per incident.

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

27 In addition, the bill requires a driver to carry paper or electronic
28 proof of the required insurance at all times while using a personal
29 vehicle in connection with a TNC's digital network. In the event of
30 an accident, a driver is required, upon request, to provide insurance
31 coverage information to the directly interested parties, automobile
32 insurers, and investigating law enforcement officers. A driver is
33 also required, upon request, to disclose to the directly interested
34 parties, automobile insurers, and investigating law enforcement
35 officers whether the driver was logged on to a digital network as a
36 driver or whether the driver was providing a prearranged ride at the
37 time of the accident.

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

47 Under the bill, an insurance company may exclude any and all
48 coverage afforded under a private passenger automobile insurance

1 policy issued to an owner or operator of a personal vehicle for loss
2 or injury that occurs while the personal vehicle is being used by a
3 driver and the driver is logged on to the TNC's digital network as a
4 driver or is providing a prearranged ride.

5

6 *TNC Maintenance of Certain Systems*

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

13

14 *Zero Tolerance Alcohol and Drug Policy*

15 Under the bill, a TNC is to implement a zero tolerance drug and
16 alcohol policy while a driver is logged on to the TNC's digital
17 network as a driver or is providing a prearranged ride through the
18 TNC's digital network. The TNC is to provide riders, on its
19 website, digital network, or electronic receipt, notice of the zero
20 tolerance policy and procedures to report a complaint about a
21 driver's suspected violation of the policy. The TNC is to
22 investigate the complaint and, if results of the investigation
23 corroborate the rider's complaint, revoke the driver's access to the
24 TNC's digital network as soon as possible. The TNC is to maintain
25 records concerning the enforcement of the zero tolerance policy

26

27 *Non-Discrimination and Accessibility Policy*

28 Under the bill, a TNC is required to implement a non-
29 discrimination policy against riders or potential riders on the basis
30 of destination, race, color, national origin, religious belief or
31 affiliation, sex, disability, age, sexual orientation, or gender
32 identity. Drivers are required to comply with all applicable laws
33 regarding non-discrimination as well as laws relating to the
34 accommodation of service animals. A TNC is prohibited from
35 charging an additional fee for accommodation of a person with a
36 physical disability.

37

38 *Driver Application Materials and Criminal History Checks*

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

44 The TNC, through a certified background screener, is required to
45 conduct a private criminal background check before allowing an
46 applicant to log on to the TNC's digital network as a driver or to
47 provide a prearranged ride as a driver. The check is to include a
48 search of a multi-state and multi-jurisdictional criminal records

1 locator or similar commercial nationwide database with validation
2 and the United States Department of Justice's Dru Sjodin National
3 Sex Offender Public Website.

4 An applicant is disqualified from being a driver if the applicant
5 was convicted for any of the disqualifying crimes provided in the
6 bill unless the applicant can provide a valid certificate of
7 rehabilitation. An applicant is also disqualified if the applicant is a
8 match on the United States Department of Justice's Dru Sjodin
9 National Sex Offender Public Website, is not a holder of a valid
10 basic driver's license, does not possess proof of a valid vehicle
11 registration, or proof of valid personal automobile liability
12 insurance, or is less than 19 years old.

13 A TNC may permit an applicant to utilize the transportation
14 network company's digital network as a driver if: the applicant
15 completes an application and is not disqualified from being a
16 transportation network company driver based upon the application
17 materials submitted to the TNC, the private background check
18 conducted through a certified background screener, and the driving
19 record check conducted by the TNC or third party.

20 In addition to conducting a private criminal background check, a
21 TNC is required to request, within seven days of starting to perform
22 the private criminal background check, the State Bureau of
23 Identification to conduct a criminal history name search
24 identification check, in accordance with regulations adopted under
25 the New Jersey Administrative Code. If the results of the criminal
26 history name search identification check reveal that a driver or
27 applicant was convicted of a disqualifying crime provided in the
28 bill, the TNC is required to, within 48 hours of receipt of the
29 results, prohibit the driver or applicant from logging on to the
30 TNC's digital network as a driver or providing prearranged rides as
31 a driver. The TNC is to provide a driver or applicant with adequate
32 notice and the opportunity to confirm or deny the accuracy of the
33 information contained in the criminal history name search
34 identification check.

35 A TNC has 30 days after the effective date of the bill to request a
36 criminal history name search identification check for a driver who
37 was subject to a private criminal background check prior to the
38 effective date of the bill and was found not to have been convicted
39 of a disqualifying offense. Any records or information provided to
40 the State Bureau of Identification to conduct a check and the results
41 of a check are not to be used for any other purpose and are not
42 considered public records. An applicant's, driver's, or TNC's
43 signature needed to perform a criminal history name search
44 identification check may be obtained and transferred electronically
45 and the results of the check are to be transferred electronically
46 through a file transfer protocol server until the State Bureau of
47 Identification implements a system to enable: (1) a TNC to securely
48 transfer information and signatures electronically to the State

1 Bureau of Identification, and (2) the State Bureau of Identification
2 to securely transfer results of the check electronically to the TNC.
3 A TNC is required to pay a fee not to exceed \$100,000 annually to
4 the State Bureau of Identification to process the criminal history
5 name search identification checks. No other fee is to be assessed
6 against a TNC, driver, or applicant to conduct a criminal history
7 name search identification check.

8

9 *Social Security Trace*

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

32

33 *Driving Record Check*

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

42

43 *Restricted Access to TNC Digital Network*

44 The TNC is to restrict access to its digital network and prohibit
45 unauthorized drivers from logging on to the digital network as a
46 driver by assigning a unique network access key, which is to
47 include a username and password, that is not to be shared with a
48 third party. A TNC is to respond to complaints from riders that the

1 picture provided of the driver does not match the driver of the
2 prearranged ride.

3

4 *Vehicle Inspection*

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

12

13 *Law Enforcement Request for Documents*

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

19

20 *Maintenance and Inspection of TNC Records*

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

25 The bill authorizes the MVC and the Division of Consumer
26 Affairs in the Department of Law and Public Safety (division) to
27 inspect TNC records to investigate and resolve a specific complaint
28 against a driver. The MVC or division may require TNC records
29 maintained in-State or out-of-State to be available to the MVC or
30 division within 14 business days of the MVC's or division's request
31 to inspect the records. A TNC may request an extension of the 14
32 business day deadline for out-of-State TNC records if the deadline
33 imposes an undue burden upon the TNC. In the event of exigent
34 circumstances, the MVC or division may require a TNC to make its
35 records available before 14 business days from the time of the
36 MVC's or division's request if receipt of the records before 14
37 business days is reasonably necessary under the circumstances for
38 the investigation or resolution of a complaint.

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

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

47 A TNC that repeatedly fails to comply with the maintenance and
48 inspection provisions of the bill or to permit the MVC or division

1 on the TNC's premises during regular business hours to conduct
2 investigations or reviews is subject to suspension or revocation of
3 its permit to operate in the State. The TNC is also subject to any
4 other fine, penalty, or enforcement action determined by the MVC
5 or division.

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

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

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 Sjodin 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.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2179 STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JULY 11, 2016

SUMMARY

Synopsis: “Transportation Network Company Safety and Regulatory Act.”

Type of Impact: Local and State revenue impact.

Agencies Affected: New Jersey Motor Vehicle Commission, Municipalities, and Counties.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below.		
State Revenue	Indeterminate – See comments below.		
Local Revenue	Indeterminate – See comments below.		

- The Office of Legislative Services (OLS) finds that the bill will have an indeterminate fiscal impact. The State will realize an increase in State revenue equivalent to the \$25,000 annual transportation network company (TNC) permit fee, multiplied by the number of TNCs that operate in the State. The State may also realize increased revenue from fees imposed for vehicle inspections, driving record checks, and criminal history name search identification checks conducted pursuant to the provisions of this bill.
- The State may realize increased costs for the administration of vehicle inspections, driving record checks, and criminal history name search identification checks, which the bill provides that the TNC is to pay no more than \$100,000 for name search identification checks annually, but the fees paid by TNC drivers or applicants for those services should offset those costs. The State is likely to realize an increase in New Jersey Motor Vehicle Commission (MVC) administrative costs to oversee the recording of TNC identification markers, and the maintenance and inspection of TNC records as the bill does not authorize the MVC to be directly reimbursed for those costs. It is not clear whether these administrative and regulatory functions will cost more than \$25,000 annually per TNC or not so it is not clear whether the State will realize an increase or decrease in net revenue.

- There is also likely to be an indeterminate net decrease in local revenue as a result of the bill. It is not clear, and does not appear to have previously been determined, how the services provided through a TNC are defined under existing law. The type of transportation service would determine the amount of revenue that municipalities may have realized in the absence of this bill. Additionally, the city of Newark formed an agreement with a company that is to be considered a TNC under this bill, Uber, for \$10 million in payments over 10 years. It is not clear how that agreement may be impacted by this bill which prevents any county or municipality from imposing a tax or fee on a TNC or driver that is not also imposed on all other businesses or residents in that jurisdiction. It is possible that this bill may have the impact of significantly limiting the amount of local revenue that may have resulted from taxes and fees imposed on TNC services.

BILL DESCRIPTION

Senate Bill No. 2179 (1R) of 2016 regulates transportation network companies and may be cited as the “Transportation Network Company Safety and Regulatory Act.” A TNC is defined as a corporation, partnership, sole proprietorship, or other entity operating in New Jersey that uses a digital network to connect a TNC rider to a TNC 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 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, and that 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.

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 TNC, through a certified background screener, is required to conduct a private criminal background check before allowing an applicant to log on to the TNC's digital network as a driver or to provide a prearranged ride as a driver. The check is to include a search of a multi-state and multi-jurisdictional criminal records locator or similar commercial nationwide database with validation and the United States Department of Justice's Dru Sjodin National Sex Offender Public Website.

An applicant is disqualified from being a driver if the applicant was convicted of any of the disqualifying crimes provided in the bill within the past seven years unless the applicant can provide a valid certificate of rehabilitation. An applicant is also disqualified if the applicant is a match on the United States Department of Justice's Dru Sjodin 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.

A TNC may permit an applicant to utilize the transportation network company's digital network as a driver if: the applicant completes an application and is not disqualified from being a transportation network company driver based upon the application materials submitted to the TNC, the private background check conducted through a certified background screener, and the driving record check conducted by the TNC or third party.

In addition to conducting a private criminal background check, a TNC is required to request, within seven days of starting to perform the private criminal background check, the State Bureau of Identification to conduct a criminal history name search identification check, in accordance with regulations adopted under the New Jersey Administrative Code. If the results of the

criminal history name search identification check reveal that a driver or applicant was convicted of a disqualifying crime provided in the bill, the TNC is required to, within 48 hours of receipt of the results, prohibit the driver or applicant from logging on to the TNC's digital network as a driver or providing prearranged rides as a driver. The TNC is to provide a driver or applicant with adequate notice and the opportunity to confirm or deny the accuracy of the information contained in the criminal history name search identification check.

A TNC has 30 days after the effective date of the bill to request a criminal history name search identification check for a driver who was subject to a private criminal background check prior to the effective date of the bill and was found not to have been convicted of a disqualifying offense. Any records or information provided to the State Bureau of Identification to conduct a check and the results of a check are not to be used for any other purpose and are not considered government records. An applicant's, driver's, or TNC's signature needed to perform a criminal history name search identification check may be obtained and transferred electronically and the signatures and results of the check are to be transferred electronically through a file transfer protocol server until the State Bureau of Identification implements a system to enable: (1) a TNC to securely transfer information and signatures electronically to the State Bureau of Identification, and (2) the State Bureau of Identification to securely transfer results of the check electronically to the TNC. A TNC is required to pay a fee not to exceed \$100,000 annually to the State Bureau of Identification to process the criminal history name search identification checks. No other fee is to be charged to a TNC, driver, or applicant to conduct a criminal history name search identification check.

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.

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 is disqualified from being a driver if the applicant 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.

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.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will have an indeterminate fiscal impact. The pre-arranged ridesharing industry has been growing at a very rapid rate and TNC companies have been in business for a short time, thus, making any projection of the size and growth rate of the industry highly uncertain.

The State will realize an increase in State revenue equivalent to the \$25,000 annual TNC permit fee, multiplied by the number of TNCs that operate in the State. The State may also realize increased revenue from fees imposed for vehicle inspections, driving record checks (if conducted by MVC), and criminal history name search identification checks which the TNC is to pay no more than \$100,000 for annually, conducted pursuant to the provisions of this bill. The amount of revenue generated from those fees cannot be determined at this point in time because it is not clear how many TNC drivers and applicants will be generated by TNCs to pay those fees.

The State may realize increased costs for the administration of vehicle inspections, driving record checks, and criminal history name search identification checks, but the fees paid by TNC drivers or applicants for those services should offset the State's cost of administering those services.

The State is likely to realize an increase in MVC administrative costs to oversee the recording of TNC identification markers and the maintenance and inspection of TNC records as the bill does not authorize the MVC to be directly reimbursed for those costs. The magnitude of those costs will be impacted by the number of TNC drivers and trips, which cannot be determined at this time.

The administrative costs are likely to be impacted to some degree by the level of compliance with this statute by TNCs. The less complaint a TNC is in maintaining accurate records and supplying them to the MVC upon request, the more administrative costs that the MVC will face in verifying and inspecting records. A TNC permit may be revoked if the TNC does not comply with the bill and supply records as requested, the TNC is also subject to penalties, fines, and enforcement actions for non-compliance. No penalties or fines have been established at this time so it is not clear whether additional revenue may be generated as a result of this provision of the

statute. It is also not clear whether these administrative and regulatory functions will cost more than \$25,000 annually per TNC or not so it is not clear whether the State will realize an increase or decrease in net revenue. The bill requires visual inspection of records, so it is possible that full time staff may need to be added to enforce these record maintenance and inspection provisions. The hiring of full-time State employees to enforce the provisions of this bill, if necessary, would very likely exceed \$25,000 in State costs on salary and fringe benefit costs resulting in a net State cost.

There is also likely to be an indeterminate net decrease in local revenue as a result of the bill. It is not clear, and does not appear to have previously been determined, how the services provided through a TNC are defined under existing law. The type of transportation service deemed to be provided by a TNC under current law would determine the types of regulations and the amount of taxes and fees that a municipality would be able to impose on the transportation service. This bill may directly impact the amount of revenue that counties and municipalities may have realized in the absence of this bill.

Additionally, the city of Newark formed an agreement with a company that is to be considered a TNC under this bill, Uber, for \$10 million in payments over 10 years. It is not clear how that agreement will be impacted by this bill which prevents any county or municipality from imposing a tax or fee on a TNC or driver that is not generally imposed on all other businesses or residents in that jurisdiction. Presumably, in the absence of this bill, other municipalities may have formed similar arrangements with companies operating as TNCs. It is also likely that court cases may have determined the legal categorization of these ride sharing services and established unresolved issues surrounding jurisdiction to regulate and impose charges on ride sharing services. It is possible that this bill may have the impact of significantly limiting the amount of local revenue that may have resulted from charges and fees imposed on TNC services. The amount of the local revenue cannot be known because of unresolved legal and regulatory issues that have not been resolved and will be obviated by this bill.

Section: Authorities, Utilities, Transportation and Communications

*Analyst: Patrick Brennan
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE
SENATE SUBSTITUTE FOR
SENATE, No. 2179
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: NOVEMBER 10, 2016

SUMMARY

Synopsis: Regulates transportation network companies.

Type of Impact: Local and State revenue impact.

Agencies Affected: New Jersey Motor Vehicle Commission, Department of Transportation, Department of Law and Public Safety, Municipalities, and Counties

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below.		
State Revenue	Indeterminate – See comments below.		
Local Revenue	Indeterminate – See comments below.		

- The Office of Legislative Services (OLS) finds that the bill will have an indeterminate fiscal impact. The State will realize an increase in State revenue equivalent to the \$25,000 annual transportation network company (TNC) permit fee, multiplied by the number of TNCs that operate in the State. The State may also realize increased revenue from the \$500 penalty for each day a TNC operates without a permit in violation of the bill’s provisions and from fees imposed for vehicle inspections and, if applicable, criminal history record background checks conducted pursuant to the provisions of the bill.
- The State may realize increased costs for the administration of vehicle inspections and, if applicable, criminal history record background checks, but the fees paid by TNC drivers and applicants should offset those costs. The State is likely to realize an increase in Department of Transportation (DOT) administrative costs to enter into a memorandum of understanding with TNCs for the submission of data collected from prearranged rides provided wholly within the boundaries of the State and for the retention of this data. The State is likely to realize an increase in New Jersey Motor Vehicle Commission (MVC) administrative costs to issue and revoke TNC permits, receive TNC service of process information, and oversee the recording of TNC identification markers. The Office of the Attorney General (OAG), in the

Department of Law and Public Safety, will likely realize an increase in administrative costs to review and approve or disapprove the method that a TNC, or third party designated by the TNC, proposes to use to conduct criminal background checks. The MVC or Division of Consumer Affairs in the Department of Law and Public Safety (division) may realize an increase in administrative costs to oversee the maintenance and inspection of TNC records. The bill does not authorize the MVC, division, DOT, or OAG to be directly reimbursed for many of these costs, except that the MVC is to receive an annual permit fee of \$25,000 for each TNC operating in the State. It is not clear whether these administrative and regulatory functions will cost more than the \$25,000 annual permit fee per TNC. It is also not clear the amount of fines that will be imposed and collected pursuant to the \$500-per-day penalty for operating in the State without a permit in violation of the bill's provision. It is, therefore, not clear whether the State will realize an increase or decrease in net revenue.

- There is also likely to be an indeterminate decrease in local revenue for certain municipalities as a result of the bill but an increase in revenue for at least one municipality. The bill prevents counties and municipalities from imposing a tax or fee on a TNC or driver that is not also imposed on all other businesses or residents in that jurisdiction. However, the bill will not alter, supersede, or prohibit a financial access agreement between a TNC and a city of the first class with an international airport terminal, such as the city of Newark, which may increase that municipality's revenue. It is possible that this bill may have the impact of limiting the amount of local revenue that may have resulted from taxes or fees imposed on TNC services and financial access agreements entered into between a municipality and TNC while increasing local revenue for at least one municipality.

BILL DESCRIPTION

Senate Substitute for Senate Bill No. 2179 of 2016 regulates transportation network companies and may be cited as the "Transportation Network Company Safety and Regulatory Act." A TNC is defined, in part, as a corporation, partnership, sole proprietorship, or other entity that is registered as a business in the State or operates in the State and 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 MVC and provide the MVC with an initial and annual \$25,000 permit fee. After notice and a hearing, the MVC may revoke a permit if a TNC does not comply with the bill's provisions. A TNC that operates in the State without a permit in violation of the bill's provisions is subject to a penalty of \$500 and each day the TNC operates without a permit is considered an additional, separate, and distinct offense. A TNC is required to appoint and maintain an agent for service of process in New Jersey and submit this information to the MVC.

Prearranged rides provided by a TNC 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, or freight service and a driver is not to be required to register the driver's personal vehicle used to provide prearranged rides as a commercial or for-hire vehicle. A driver is not to solicit or accept any ride that is not prearranged through a transportation network company's digital network.

A transportation network company and the DOT are to enter into a memorandum of understanding concerning the transportation network company's submission of transportation

network company data collected from all prearranged rides provided wholly within the boundaries of the State and provided through the company's digital network. Data submitted to the DOT is not to be considered a government record.

Information to Riders

The bill requires a TNC to provide riders with the fare or method by which the TNC calculates fares if a fare is collected from a rider. A TNC is to provide riders with 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 prior to the rider entering the driver's vehicle. Within 48 hours after completion of the prearranged ride, a TNC is to provide a 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 any 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 any combination of the two, is also required to maintain primary personal injury protection benefits.

A TNC, driver, or any 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, the TNC, driver, or any 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 any 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 and information as to whether the driver was logged on to a digital network or providing a prearranged ride to the directly interested parties, automobile insurers, and investigating law enforcement officers.

Under the bill, if a TNC's insurer makes a payment for a claim for damage to a motor 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 motor vehicle or jointly to the owner of the motor vehicle and the primary lienholder on the covered motor vehicle.

The bill also provides that a TNC is not to permit a driver to accept requests for prearranged rides 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 TNC's digital network as a driver and is available to receive requests for prearranged rides 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 prior notice to the TNC. A TNC is not to restrict a driver from utilizing another TNC's digital network.

Zero Tolerance 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 within 72 hours from the time when results of the investigation corroborate the rider's complaint. 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 policy of non-discrimination with respect to 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 accessibility compliance information for persons with disabilities, 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 a TNC driver applicant 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.

A TNC registered as a business in the State or operating in the State prior to the bill's effective date has six months from the bill's effective date to have the Attorney General approve the method that the TNC, or third party designated by the TNC, proposes to use to conduct a criminal background check for an applicant or driver. If the Attorney General does not approve the method the TNC, or third party, proposes to use to conduct a criminal background check within six months, the TNC is not to permit an applicant to log on to the TNC's digital network

as a driver or provide a prearranged ride as a driver until the applicant submits to a criminal history record background check to be conducted by the Division of State Police (State Police) and the State Police provides the TNC with information concerning the applicant's eligibility to be a TNC driver.

A TNC that is not registered as a business in the State or operating in the State prior to the bill's effective date is not to operate in the State prior to: (1) the Attorney General, within six months of submission, approving the method that the TNC, or third party designated by the TNC, proposes to use to conduct a criminal background check; or (2) applicants submitting to a criminal history record background check to be conducted by the State Police.

The Attorney General is not to approve a TNC's or third party's criminal background check unless the check includes a multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database with validation and the United States Department of Justice's Dru Sjinin National Sex Offender Public Website.

If the Attorney General approves the method that a TNC, or third party, proposes to use to conduct a criminal background check, the TNC, or third party designated by the TNC, is to conduct a criminal background check approved by the Attorney General for an applicant prior to allowing the applicant to log on to the TNC's digital network as a driver or to provide prearranged rides as a driver. The TNC registered as a business in the State or operating in the State prior to the bill's effective date has 30 days from the bill's effective date to conduct, or have a third party conduct, a criminal background check for a driver utilizing the TNC's digital network prior to the bill's effective date, if the Attorney General approves the method that a TNC, or third party, proposes to use to conduct a criminal background check and the TNC or third party has not already completed a check for the driver.

If the Attorney General does not approve the method that a TNC, or third party, proposes to use to conduct a criminal background check, an applicant is required to provide to the State Police the applicant's name, address, fingerprints, and written consent for a criminal history record background check to be performed by the State Police. A TNC registered as a business in the State or operating in the State prior to the bill's effective date whose criminal background check was not approved by the Attorney General is to require a driver utilizing the TNC's digital network prior to the bill's effective date to provide to the State Police the driver's name, address, fingerprints, and written consent for a criminal history record background check to be performed by the State Police. The State Police are authorized to exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for use in determining an applicant's or driver's eligibility to be a driver.

Driver's License Check

A TNC or third party is required to conduct a driving record check of the applicant before allowing the applicant to log on to the TNC's digital network as a driver or to provide prearranged rides.

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 as a driver 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.

Social Security Number Trace

Before allowing an applicant to log on to a 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 addresses for the past seven years.

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 as a driver 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.

Applicant and Driver Disqualification

An applicant or driver is prohibited from utilizing the TNC's digital network as a driver or providing prearranged rides as a driver if the applicant or driver has been convicted of one or more of the disqualifying crimes provided in the bill, unless the applicant can provide a valid certificate of rehabilitation. An applicant or driver is also prohibited if the applicant or driver has received more than three moving violations in the past three years or has committed certain violations within the past three years. Additionally, an applicant or driver is prohibited from utilizing the TNC's digital network as a driver or providing a prearranged ride as a driver if the applicant or driver is a match in the United States Department of Justice's Dru Sjodin 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, does not possess proof of valid automobile liability insurance, or is under 21 years of age.

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. A TNC is to require a driver to maintain a valid inspection certificate of approval for the personal vehicle.

TNC Maintenance of Information and TNC Identifying Marker

A driver is to maintain electronic information while using a TNC's digital network to allow a law enforcement officer, or other city, State, or federal official, to confirm certain information for any driver including: (1) the driver's identity and color photo; (2) the make and model of the driver's personal vehicle; (3) the license plate number of the driver's personal vehicle; and (4) an electronic record of a prearranged ride that is underway. The driver is to produce this information upon the lawful request of a law enforcement officer, or other city, State, or federal official.

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.

Inspection of TNC Records

A TNC is to maintain 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 or the division to inspect TNC records necessary to investigate and resolve a specific complaint against a driver if the commission or division provides a written request for records and the basis for the request. The MVC or division may require TNC records maintained in-State or out-of-State to be available to the MVC or division for inspection.

The bill also authorizes the MVC or division to 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 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.

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.

Regulation of TNCs by State

The bill provides that TNCs are to be regulated by the State, and that 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 is not to impose a tax or fee that only applies to a TNC or driver; provided that, the TNC or driver is to be subject to a tax or fee that applies generally to all businesses or residents of the county or municipality.

Except for the initial and annual permit fee, the State is not to impose a tax or fee that only applies to a TNC or driver, provided that, the TNC or driver is to be subject to a tax or fee that applies generally to all businesses or residents of the State. The bill does not 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, provided the TNC complies with all other provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will have an indeterminate fiscal impact. The pre-arranged ridesharing industry is growing at a very rapid rate and TNCs have been in business for a short time, thus, making any projection on the size and growth rate of the industry highly uncertain.

The State will realize an increase in State revenue equivalent to the \$25,000 annual TNC permit fee, multiplied by the number of TNCs that operate in the State. The State may also realize increased revenue from the \$500 penalty for each day that a TNC operates without a

permit in violation of the bill's provisions, depending upon whether and how many TNCs operate in the State without a permit and for how long they do so, which cannot be determined at this time. The State may also realize increased revenue from fees imposed for vehicle inspections and, if applicable, criminal history record background checks conducted by the Division of State Police pursuant to the provisions of the bill.

The State is likely to realize an increase in DOT administrative costs to enter into a memorandum of understanding with TNCs for the submission of data collected from prearranged rides provided wholly within the boundaries of the State and for the retention of this data. The State may realize increased costs for the administration of vehicle inspections and, if applicable, criminal history record background checks. The fees paid by TNC drivers or applicants for those services should offset the State's cost of administering the services. The OAG will likely realize an increase in administrative costs to review and approve or disapprove of the method that a TNC, or third party designated by the TNC, proposes to use to conduct criminal background checks.

The State is likely to realize an increase in MVC administrative costs to issue and revoke TNC permits, receive TNC service of process information, and oversee the recording of TNC identification markers. The State is also likely to realize an increase in MVC or division administrative costs to oversee the maintenance and inspection of TNC records. The bill does not authorize the MVC, division, DOT, or OAG to be directly reimbursed for many of these identified costs, except that, as stated earlier, the MVC is to receive a \$25,000 annual permit fee from each TNC operating in the State. The magnitude of some of these costs will be impacted by the number of TNCs and TNC drivers operating in the State and the number of prearranged rides that take place in the State, which cannot be determined at this time.

It is not clear whether these administrative and regulatory functions will cost more than \$25,000 annually per TNC. It is also unclear whether any TNCs will operate without a permit in the State and be subject to the \$500-per-day penalty. It is therefore unclear whether the State will realize an increase or decrease in net revenue. The bill requires visual inspection of TNC records by the MVC or division in certain circumstances so it is possible that full time staff may need to be added to enforce the bill's record maintenance and inspection provisions. The hiring of full-time State employees to enforce the provisions of this bill, if necessary, would very likely exceed \$25,000 in State costs for salary and fringe benefits resulting in a net cost to the State.

The administrative costs are likely to be impacted to some degree by the level of TNC compliance with the maintenance and inspection provisions of the bill. The less compliant a TNC is in maintaining accurate records and supplying them to the MVC or division upon request, the more administrative costs that the MVC or division will face in verifying and inspecting records. A TNC permit may be revoked if the TNC does not comply with the bill and supply records as requested pursuant to the maintenance and inspections provisions of the bill. The TNC is also subject to penalties, fines, and enforcement actions for not complying with these provisions. No penalties or fines have been established for a TNC's failure to comply at this time so it is not clear whether additional revenue may be generated as a result of this provision of the bill.

There is also likely to be an indeterminate decrease in local revenue as a result of the bill, except in at least one limited circumstance. The bill prevents any county or municipality from imposing a tax or fee on a TNC or driver that is not generally imposed on all other businesses or residents in that jurisdiction, except that the bill is not to alter, supersede, or prohibit a financial access agreement between a TNC and a city of the first class with an international airport terminal, such as the city of Newark, which may increase that municipality's revenue. The city of Newark entered into an agreement with Uber, a company considered a TNC under this bill, for \$10 million in payments over 10 years. Presumably, in the absence of this bill, municipalities

that are not a city of the first class with an international airport terminal may have formed similar arrangements with companies operating as TNCs. It is possible that this bill may have the impact of limiting the amount of local revenue that may have resulted from taxes and fees imposed on TNC services while increasing local revenue for cities of the first class with an international airport terminal that have entered into a financial access agreement with a TNC. The amount of the decrease in local revenue cannot be known because it is unclear how many municipalities may have taxed or imposed fees on TNC services or may have entered into financial access agreements with TNCs in the absence of this bill.

Section: Authorities, Utilities, Transportation and Communications

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Christie Signs Bipartisan Business Friendly Legislation to Improve Safety in Ride Sharing Industry

Friday, February 10, 2017 Tags: [Bill Action](#)



Trenton, NJ – Governor Chris Christie signed today bipartisan legislation to allow for Statewide regulation of New Jersey’s ride sharing industry.

“This legislation makes it easier for this innovative business model to conduct business in our state, creating earning opportunities for our residents and providing transportation services that are already in high demand,” Governor Christie said. “This law ensures app-based ride services abide by safety and service standards, protecting riders, motorists and our roadways through commonsense drug, alcohol, inspection and background screenings, and requiring adequate insurance policies.”

BILL SIGNINGS:

AS for A-3695/SS for S-2179 (Lagana, Singleton, Wisniewski, DeCroce/Sarlo, Kyrillos) - Regulates transportation network companies

A-3696/S-2315 (Singleton, Lagana, Wisniewski, Vainieri Huttie, Moriarty/Sarlo, A.R. Bucco) - Eliminates sales and use tax on certain transportation services provided by a limousine operator

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