
Transportation Committee

HB 2716

Brief Description: Concerning transportation network companies.

Sponsors: Representatives Tarleton, Orcutt, Wylie and Harmsworth.

Brief Summary of Bill

- Establishes regulations for Transportation Network Companies (TNCs) and TNC drivers, TNC vehicle certification, certain TNC passenger protections, mandatory TNC record retention requirements, a zero tolerance policy for Driving Under the Influence for TNCs, and a non-discrimination policy for TNCs.
- Establishes a \$5,000 TNC annual permit fee, a 10 cent surcharge fee for state enforcement and regulation of TNC licensing, and a 10 cent surcharge to offset costs related to the improvement of transportation options for individuals with disabilities (applicable in jurisdictions of a certain size).
- Preempts local law in the areas of licensing and permits for TNCs and TNC drivers, all rate or fare requirements for TNCs within the boundaries of the state, the routes and operations of TNCs, and safety and equipment requirements for TNCs.

Hearing Date: 2/1/18

Staff: Jennifer Harris (786-7143).

Background:

Defined Terms.

"Commercial transportation services providers" are defined as businesses that use a digital network or software application to connect passengers to drivers for the purpose of providing a prearranged ride. A commercial transportation services provider is not a taxicab company; charter or excursion bus; auto transportation company; private, nonprofit transportation provider; limousine carrier; or commuter ride-sharing or flexible commuter ride-sharing arrangement.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

"For-hire vehicles" are defined to include all vehicles used for the transportation of passengers for compensation, except for:

- auto stages;
- school buses operating exclusively under a contract to a school district;
- ride-sharing vehicles;
- limousine carriers;
- vehicles used by nonprofit transportation providers for elderly or handicapped purposes and their attendants;
- vehicles used by auto transportation companies;
- vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices; and
- vehicles used by charter party carriers of passengers and excursion service carriers.

Insurance and Liability.

Commercial transportation services providers, drivers if approved by the Office of the Insurance Commissioner, or a combination of a provider and a driver, must obtain a primary automobile insurance policy covering every personal vehicle used to provide commercial transportation services as follows:

- before a driver accepts a requested ride: \$50,000 per person; \$100,000 per accident; and \$30,000 for property damage; and
- after a driver accepts a requested ride: a combined single limit liability coverage of \$1,000,000; and underinsured motorist coverage of \$1,000,000.

Commercial transportation services insurance policies must offer personal injury protection coverage and underinsured motorist coverage, in line with existing motor vehicle insurance law that allows for the insured to reject the coverage options. After July 1, 2016, an insurance company may not deny a claim arising exclusively out of the personal use of a private vehicle solely on the basis that the insured, at other times, used the vehicle to provide commercial transportation services.

The commercial transportation services insurance coverage requirements are alternatively satisfied by having for-hire vehicle or limousine insurance coverage applicable to the vehicle being used for commercial transportation services. Commercial transportation services provider drivers, for-hire vehicle operators, limousine chauffeurs, and taxicab operators are exempt from workers' compensation requirements.

Local Authority.

Cities, counties, and port districts may license, control, and regulate all for-hire vehicles operating within their respective jurisdictions, including:

1. regulating entry into the business;
2. requiring a license to be purchased to operate a for-hire vehicle;
3. holding the right to revoke, cancel, or refuse to reissue a license;
4. controlling the rates charged and the manner in which rates are calculated and collected;
5. regulating the routes and operations of for-hire vehicles;
6. establishing safety and equipment requirements; and

7. any other requirements adopted to ensure safe and reliable for-hire vehicle transportation service.

Cities, towns, counties, and port districts may license, control, and regulate privately operated taxicab transportation services operating within their respective jurisdictions to the same extent that they are permitted to regulate all for-hire vehicles operating within their respective jurisdictions.

Summary of Bill:

Defined Terms.

A "transportation network company" (TNC) uses a digital network to connect passengers with TNC drivers who provide prearranged rides. A TNC driver receives connections to potential passengers from a TNC via a digital network and uses a TNC company vehicle to offer or provide a prearranged ride to a passenger through a digital network controlled by a TNC in exchange for compensation or payment of a fee. A "transportation network company vehicle" is a vehicle used by a TNC driver that is owned, leased, or otherwise authorized for use by the TNC driver and is used to provide prearranged rides through the use of a digital network to a passenger for compensation.

A TNC or TNC driver is not considered a common carrier, contract carrier, exempt carrier, motor carrier, or private carrier under state law. It does not provide commuter ride sharing, taxicab, auto transportation company services, or metropolitan public transportation services. Ride-sharing vehicles are not deemed TNC vehicles, whether or not the ride-sharing operator receives compensation.

Transportation Network Company Permits.

A person must first obtain a permit from the Department of Licensing (DOL) to operate a TNC. A permit obtained prior to the registration deadline to be set by the DOL will continue to be valid until that time. The DOL must issue an annual permit to a TNC that meets the requirements for a TNC and pays an annual permit fee of \$5,000 to the DOL. The DOL must deposit the permit fee into the Transportation Network Company Account.

Transportation Network Company Drivers.

Before an individual can become a TNC driver, the following requirements must be met:

1. the individual must submit an application to the TNC, which includes identifying personal and vehicle information, information on his or her automobile liability insurance, and other information required by a TNC; and
2. the TNC, or a designated third party that is either nationally accredited or approved by the DOL, must conduct an annual local and national criminal background check that includes a review of multistate/multijurisdictional criminal records locator or other similar national database with validation, and the United States Department of Justice national sex offender public website; and
3. the TNC, or a designated third party, must obtain and review a driving history report for the individual.

A TNC may not permit an individual to act as a TNC driver on its digital network if he or she:

1. in the past three years, has more than three moving violations or who has committed one of the following major moving violations: Attempting to Elude the Police, Reckless Driving, or Driving on a Suspended or Revoked Driver's License;
2. in the past seven years, has been convicted of a class A or B felony, a violent or serious violent offense, a most serious offense, Driving under the Influence, Physical Control of a Vehicle Under the Influence, Driving under 21 Consuming Alcohol or Marijuana, a hit and run, or Reckless Driving, any sex offense, or is a match in a Department of Justice national sex offender public website;
3. does not possess a valid driver's license;
4. does not possess proof of automobile liability insurance at the levels required under state law for the vehicle to be used to provide TNC services;
5. is not at least 20 years old with at least 12 months of driving history; or
6. has not self-certified that he or she is physically and mentally fit to be a TNC driver.

Transportation Network Company Vehicle Certification.

A TNC driver is not required to register a TNC vehicle used to provide prearranged rides as a commercial or for-hire vehicle. A TNC must require that any motor vehicle that a TNC driver will use to provide prearranged rides:

1. is not more than 12 years old;
2. meets motor vehicle emission requirements; and
3. has received an annual safety inspection by a third party approved by the DOL that includes inspection of certain specified vehicle equipment.

Transportation network company vehicles in use must display trade dress visible to the passenger from outside the vehicle. A TNC company must inform TNC drivers of their responsibility to comply with all applicable safety recalls.

Transportation Network Company Passenger Protections.

A TNC company may charge a fare for TNC services on behalf of a TNC driver, but must disclose to the rider the fare or fare calculation method on its website or within its digital network. Before a rider enters a TNC vehicle, the TNC must provide either the fare or the option to receive an estimated fare. During a declared state of emergency, a TNC may not charge a fare for TNC company services that exceeds 2.5 times the fare that would otherwise be applicable.

A TNC company's digital network or website must display a photo of the TNC driver and the vehicle license plate number of the TNC vehicle before a passenger enters the vehicle. Within one week of trip completion, a TNC must transmit an electronic receipt to the passenger that provides trip information, including the total fare paid, with all charges and fees itemized.

A TNC driver, TNC, TNC's agent, or any person acting on a TNC's behalf may not revoke or deny service to a passenger or former passenger of a TNC if he or she:

1. has informed any other person or made a complaint that the driver or TNC engaged in conduct that he or she reasonably believes violates state TNC laws or regulations, or if a TNC driver or a TNC believes he or she has done so;

2. has sought information about passenger rights or informed others about their rights; or
3. has otherwise exercised rights protected under state TNC laws or regulations, or the TNC driver or a TNC believes he or she has done so.

The Attorney General must maintain a toll-free number for complaints from TNC riders and former riders and a website to inform riders of their rights. Transportation network companies must maintain data on passenger complaints. The DOL and the Attorney General must have access to this data.

Transportation Network Company Zero Tolerance and Non-Discrimination Policy.

A TNC must implement a zero tolerance policy that prohibits the use of drugs and alcohol while a TNC driver is providing prearranged rides or is logged into the TNC digital network. A TNC must provide notice of its zero tolerance policy on its website, as well as procedures to report a complaint about a TNC driver whom a passenger reasonably suspects has violated this policy. Once a complaint has been received, a TNC must suspend the ability of the TNC driver to accept trips as soon as possible, and investigate the reported incident. If the TNC determines that a violation occurred, it must, at a minimum, suspend the driver until the TNC determines that the driver is compliant with this policy. Transportation network companies must maintain records relevant to the enforcement of this policy for at least two years.

A TNC must also adopt a non-discrimination policy that prohibits drivers from discriminating against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity, and must comply with all applicable non-discrimination laws. A TNC must comply with all applicable laws related to the transportation of service animals, and may not impose additional charges for providing services to passengers with disabilities.

Other Transportation Network Company and Transportation Network Company Driver Regulations.

A TNC driver may only solicit or accept a trip request arranged through a TNC's digital network, and may not provide TNC services for more than 14 hours in a 24-hour period. A TNC driver may not permit any other individuals to use that driver's access to the TNC digital network.

A TNC must maintain individual trip records for at least three full calendar years and individual driver records for at least three full calendar years following the driver's ceasing to provide TNC services for the TNC. The DOL or local law enforcement agencies for cities with populations greater than 500,000 or counties with populations greater than 1 million may review a sample of TNC records to verify TNC compliance with state law no more than twice per year. The sample of records must be chosen randomly by the DOL or local authority in a manner agreeable to both parties. Any record sample provided to the DOL or local authority may exclude information that would identify TNC drivers or riders. Records provided for inspection are not subject to disclosure to a third party without prior written consent of the TNC and the TNC driver.

Enforcement.

If the DOL determines, after notice and hearing, that a TNC is in violation of state law or regulation covering TNCs, it may issue a monetary penalty or suspend or revoke a TNC permit, or both. The DOL must adopt rules and establish a process for the administrative appeal of any penalty, suspension, or revocation imposed by the DOL.

Any deceptive, manipulative, or coordinated practice used by a TNC to evade authorities, including through the use of a digital network or the system supporting the digital network, is considered a violation of state law.

Violations of state TNC laws and regulations by TNCs are considered unfair or deceptive acts in trade or commerce and an unfair method of competition for the purpose of the application of state unfair business practice consumer protection laws. The Uniform Regulation of Business and Professions Act governs the unlicensed practice, the issuance and denial of licenses, and the discipline of licenses under state law related to TNCs.

Transportation Network Company Fees and Surcharges.

As noted above, TNCs must pay the DOL an operating permit fee of \$5,000 annually. The DOL must deposit these funds in the Transportation Network Company Account, which is not subject to appropriation.

Each prearranged ride provided by a TNC driver while on the TNC's digital network must also be assessed a 10 cent trip passenger surcharge fee to cover the costs of enforcement and regulation of state TNC licensing and to be distributed to local political subdivisions of the state. The DOL may review the per-trip surcharge fee annually or less frequently, and may increase the fee by rule to cover costs related to continuing administration and enforcement by the DOL and local law enforcement agencies.

A TNC must submit to the DOL the total amount of passenger surcharge fees collected by the TNC, and for trips that originated in a city, town, or unincorporated county, a report listing the percentage of the total amount of passenger surcharge fees that originated in each city, town, or unincorporated county. The DOL must retain an amount necessary to cover expenses for the regulation and registration of TNCs and the collection, remittance, and distribution of passenger surcharge fees. The DOL must deposit these funds in the Transportation Network Company Account. The DOL must distribute the remaining portion of the passenger surcharge fees to each city, town, or county where a trip originated based on the percentage of trips that originated in each jurisdiction. The funds each city, town, and county receives must be used to fund enforcement activities related to TNC laws.

Each prearranged ride provided by a TNC driver that originates in a city with a population of 200,000 or more or in a county with a population of 1 million or more must be assessed an accessibility surcharge, which is a 10 cent surcharge fee to offset costs associated with improving transportation options for individuals with disabilities. The surcharge fee may be used to offset the operational costs incurred by owners and operators of wheelchair accessible taxicabs or for-hire vehicles, or wheelchair accessible TNC vehicles. This amount must be remitted by TNCs directly to each qualifying city and county.

Local Authority.

State law preempts local law in the following areas:

1. licensing and permits for TNCs and TNC drivers;
2. all requirements, applications, certifications, examinations, and background checks for TNC drivers, and the processing and adjudication of each;
3. the issuance, revocation, cancellation, or refusal to issue or renew a TNC company license or permit;
4. all rate or fare requirements for TNCs within the boundaries of the state, including control of the rates charged for TNC company services and the manner in which those rates are calculated and collected;
5. the routes and operations of TNCs, TNC drivers, and TNC vehicles; and
6. safety and equipment requirements for TNCs, TNC drivers, and TNC vehicles.

To the extent local law and regulation conflict with state law on TNCs, the state preempts the authority of cities and counties to regulate TNCs. Cities with a population of more than 500,000 and counties with a population of more than 1 million, however, may enforce state laws and the DOL regulations related to TNCs.

To the extent a public entity that operates a commercial airport facility's regulation of TNC activities does not conflict with state law related to TNCs, that public entity may regulate TNC activities related to that facility or on that facility property, including regulations related to rate, entry, and operational requirements. State law related to TNCs does not limit a public entity that operates a commercial airport facility's ability to require a TNC enter into a contract or agreement governing the operations of the TNC on airport facility property.

A city or county is not precluded from regulating or enforcing ordinances related to traffic flow, traffic patterns, roadways, or the public right of way, to ensure public safety, and, if applicable, to impose impact fees.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.