ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 1614

By: Henke and Sherrer of the House

and

Smalley of the Senate

[motor vehicles - enacting the Oklahoma Transportation Network Company Services Act - regulating transportation network companies, services and drivers - effective date]

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause and entire bill and insert

An Act relating to motor vehicles; creating the Oklahoma Transportation Network Company Services Act; providing short title; defining terms; requiring permit for Transportation Network Companies; authorizing the Corporation Commission to regulate companies; authorizing fee for permit; authorizing Commission to promulgate rules; limiting authority of Commission; authorizing Commission to examine records of companies; providing penalties for noncompliance; requiring companies to maintain agent for process service purpose; authorizing companies to charge fares for service; stating requirements for providers; stating procedures for electronic records; requiring certain zero-tolerance drug and alcohol policy; stating penalties for violation; stating requirements for Transportation Network Company drivers; stating requirements for vehicles; stating policies for accepting certain rides and passengers;

requiring certain nondiscrimination policies; requiring companies to maintain certain records for certain time periods; requiring company drivers to maintain certain insurance coverage and financial responsibility; requiring proof of coverage; stating policies for disclosure of insurance coverage; authorizing exclusion of coverage by certain automobile insurance providers; stating procedure for certain insurance claims; prohibiting disclosure of certain passenger information; stating exceptions; providing for exclusive jurisdiction; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Transportation Network Company Services Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Transportation Network Company Services Act:

1. “Digital network” means any online-enabled application, software, website or system offered or utilized by a TNC that enables the prearrangement of rides with TNC drivers;

2. "Personal vehicle" means a vehicle that is used by a TNC driver in connection with providing prearranged rides and is:

a. owned, leased or otherwise authorized for use by the TNC driver, and

b. not a taxicab, limousine, or other similar for-hire motor carrier service.

3. "Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a Digital Network controlled by a Transportation Network Company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include shared expense carpool or vanpool arrangements or transportation provided using a taxi, limousine, or other for-hire vehicle pursuant to state law;

4. “Transportation network company” (“TNC”) means a business entity licensed pursuant to this act and operating in Oklahoma that uses a digital network or software application service to connect passengers to transportation network company services provided by transportation network company drivers. A TNC does not provide taxicab, limousine, or other similar for-hire motor carrier service. A TNC shall not be deemed to control, direct or manage the personal vehicles or participating drivers that connect to its digital network, except where agreed to by written contract. Further, a

transportation network company shall not include an individual, corporation, partnership, sole proprietorship, or other entity solely arranging non-emergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with a governmental entity or managed care organization;

5. "Transportation network company driver" ("TNC driver") means an individual who:

a. receives connections to potential passengers and related services from a TNC in exchange for payment of a fee to the TNC, and

b. uses a personal vehicle to provide prearranged rides to passengers upon connection through a digital network controlled by a TNC in return for compensation or payment of a fee; and

6. "Transportation network company passenger" ("TNC passenger") means an individual or persons who use a prearranged rides digital network to connect with a TNC driver who provides prearranged rides to the passenger in the driver's personal vehicle between points chosen by the passenger.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1012 of Title 47, unless there is created a duplication in numbering, reads as follows:

TNCs or TNC drivers shall not be considered motor carriers of persons as defined in Section 230.23 of Title 47 of the Oklahoma

Statutes, nor shall TNCs or TNC drivers be considered to provide taxicab, limousine, or similar for-hire motor carrier service.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1013 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. A person shall not operate a TNC in Oklahoma without first having obtained a permit from the Oklahoma Corporation Commission ("Commission").

B. The Commission shall issue a permit to each applicant that presents proof, in a form prescribed by the Commission, that the applicant meets the requirements for a TNC set forth in this act, and proof of insurance required this act and pays to the Commission an annual permit fee of Five Thousand Dollars ($5,000.00).

C. The Commission shall promulgate rules as needed to implement the provisions of this act. The Commission may also set additional fees and assess fines for noncompliance with this act or with promulgated rules.

D. The authority of the Commission shall be limited to permitting and regulation of TNCs to ensure compliance by TNCs with the provisions of this act and shall not include jurisdiction to adjudicate private causes of action arising from the provision of prearranged rides.

E. The Commission shall have the authority to examine the records of TNCs for the purpose of enforcement of this act,

including a random sample of the TNC's records related to prearranged rides and TNC drivers at the Oklahoma City offices of the Commission, unless an alternative location is agreed to by the Commission and the TNC. Such examinations shall not occur more than two times per year unless necessary to investigate a complaint. Records obtained by the Commission pursuant to this act shall not be subject to disclosure under the Oklahoma Open Records Act and shall be kept confidential by the Commission, except as may be required in a Commission proceeding.

F. Failure of a TNC to comply with the provisions of this act may result in the denial or revocation of the TNC permit or fines as assessed by the Commission.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1014 of Title 47, unless there is created a duplication in numbering, reads as follows:

TNCs shall maintain an agent for service of process in the State of Oklahoma.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1015 of Title 47, unless there is created a duplication in numbering, reads as follows:

TNCs may determine and charge a fare for the services provided to passengers; provided, that if a fare is charged the TNC shall disclose to passengers the fare-calculation method on its website or within the software application service. The TNC shall also provide

passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC driver's vehicle.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1016 of Title 47, unless there is created a duplication in numbering, reads as follows:

A TNC's software application or website shall display a picture of the TNC driver and the license plate number of the motor vehicle utilized for providing the prearranged ride before the passenger enters the TNC driver's vehicle.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1017 of Title 47, unless there is created a duplication in numbering, reads as follows:

Within a reasonable period of time, as established by the Commission, following the completion of a trip, the TNC shall transmit an electronic receipt to the passenger that lists:

1. The origin and destination of the trip;

2. The total time and distance of the trip; and

3. An itemization of the total fare paid, if any.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1018 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. TNCs shall implement a zero-tolerance policy against TNC drivers operating under the influence of drugs or alcohol while

providing prearranged rides or while logged into the TNC's digital network but not providing prearranged rides, and shall provide notice of this policy on its digital network, as well as procedures to report a complaint about a driver with whom a passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

B. Upon receipt of such passenger complaint alleging a violation of the zero-tolerance policy, the TNC shall immediately suspend such TNC driver's access to the TNC's digital network, and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

C. TNCs shall maintain records relevant to the enforcement of this requirement for a period of at least two (2) years from the date that a passenger complaint is received by the TNC.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1019 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Prior to permitting an individual to act as a TNC driver on its digital network, the TNC shall:

1. Require the individual to submit an application to the TNC, which includes information regarding his or her address, age, driver license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC;

2. Conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include a check of:

a. the Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation through a primary source search, and

b. the National Sex Offender Registry database; and

3. Obtain and review a driving history research report for such individual.

B. TNCs shall not permit an individual to act as a TNC driver on its digital network who:

1. Has had more than three moving violations in the prior three-year period, or one major violation, including but not limited to attempting to evade the police, reckless driving, or driving on a suspended or revoked license, in the prior three-year period;

2. Has been convicted, within the past seven (7) years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, theft, acts of violence, or acts of terror;

3. Is a match in the National Sex Offender Registry database;

4. Does not possess a valid driver license;

5. Does not possess current proof of motor vehicle registration for the motor vehicle(s) used to provide prearranged rides;

6. Does not possess proof of the automobile liability insurance required by law or rule for the motor vehicle(s) used to provide prearranged rides; or

7. Is not at least nineteen (19) years of age.

C. TNCs shall implement a procedure for periodic information updates for each TNC driver's vehicle(s) and motor vehicle insurance and for rechecks of each TNC driver for the criminal background and driving record information required by paragraph A of this section to ensure continued compliance by each driver with the requirements of paragraph B of this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1020 of Title 47, unless there is created a duplication in numbering, reads as follows:

TNCs shall require that any motor vehicle(s) that a TNC driver will use to provide prearranged rides meets the equipment standards required of private motor vehicles under Section 12-101 et seq. of Title 47 of the Oklahoma Statutes.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1021 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. TNCs shall implement a policy requiring TNC drivers to exclusively accept rides booked through a TNC's digital network or

software application service and prohibiting solicitation of street hails or acceptance of unsolicited street hails.

B. TNCs shall implement a policy prohibiting solicitation or acceptance of cash payments from passengers. Any payment for prearranged rides shall be made only electronically using the TNC's digital network or software application.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1022 of Title 47, unless there is created a duplication in numbering, reads as follows:

TNCs shall adopt a policy prohibiting the provision of prearranged rides in any vehicle with a manufacturer's designed seating capacity of more than fifteen (15) persons, including the driver, and prohibiting the transportation of multiple passengers in numbers exceeding the manufacturer's designed seating capacity.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1023 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. TNCs shall adopt a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief, religious affiliation, sex, disability, or age with respect to passengers and potential passengers and notify TNC drivers of such policy.

B. TNCs shall require TNC drivers to comply with all applicable laws regarding nondiscrimination against passengers or potential

passengers on the basis of destination, race, color, national origin, religious belief, religious affiliation, sex, disability, or age.

C. TNCs shall require TNC drivers to comply with all applicable laws relating to accommodation of service animals.

D. TNCs shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

E. TNCs shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange a wheelchair-accessible prearranged ride in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1024 of Title 47, unless there is created a duplication in numbering, reads as follows:

TNCs shall maintain:

1. Individual trip records for at least two (2) years from the date each trip was provided; and

2. TNC driver records at least until the two-year anniversary of the date on which a TNC driver's activation on the TNC digital network has ended.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1025 of Title 47, unless there is created duplication in numbering, reads as follows:

On or before July 1, 2015, and thereafter, a TNC driver or TNC on the TNC driver's behalf shall maintain primary automobile insurance that:

A. Recognizes that the driver is a TNC driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:

1. While the driver is logged on to the TNC's digital network; or

2. While the driver is engaged in providing prearranged rides.

B. The following automobile insurance requirements shall apply while a TNC driver is logged on to the TNC's digital network and is available to receive transportation requests but is not engaged in prearranged rides:

1. Primary automobile liability insurance in the amount of at least Fifty Thousand Dollars ($50,000.00) for death and bodily injury per person, One Hundred Thousand Dollars ($100,000.00) for death and bodily injury per incident, and Twenty-five Thousand Dollars ($25,000.00) for property damage;

2. Uninsured motorist coverage where not waived pursuant to Section 3636 of Title 36 of the Oklahoma Statutes; and

3. The coverage requirements of subsection B of this section may be satisfied by any of the following:

a. automobile insurance maintained by the TNC driver, or

b. automobile insurance maintained by the TNC, or

c. any combination of subparagraphs 1 and 2.

C. The following automobile insurance requirements shall apply while a TNC driver is engaged in a prearranged ride:

1. Primary automobile liability insurance that provides at least One Million Dollars ($1,000,000.00) for death, bodily injury, and property damage;

2. Uninsured motorist coverage where not waived pursuant to Section 3636 of Title 36 of the Oklahoma Statutes; and

3. The coverage requirements of subsection C of this section may be satisfied by any of the following:

a. automobile insurance maintained by the TNC driver, or

b. automobile insurance maintained by the TNC, or

c. any combination of subparagraphs 1 and 2.

D. If insurance maintained by TNC driver in subsections B or C has lapsed or does not provide the required coverage, insurance maintained by a TNC shall provide the coverage required by Section 16 beginning with the first dollar of a claim and have the duty to defend such claim.

E. Coverage under an automobile insurance policy maintained by the TNC shall not be dependent on a personal automobile insurer first

denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

F. Insurance required by Section 16 of this act may be placed with an insurer authorized to do business in this state or with a surplus lines eligible under Section 1100 of Title 36 of the Oklahoma Statutes, et seq.

G. Insurance satisfying the requirements of Section 16 of this act shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under Chapter 7 of the Oklahoma Highway Safety of Section 7-101 of Title 47 of the Oklahoma Statutes, et seq., while the TNC driver is logged into the network.

H. A TNC driver shall carry proof of coverage satisfying subsections B and C with him or her at all times during his or her use of a vehicle in connection with a transportation network company’s digital network. Proof of coverage may be presented in electronic format. In the event of an accident, a TNC driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers, upon request pursuant to Section 7-102 of Title 47 of the Oklahoma Statutes, et seq. Upon such request, a TNC driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the TNC's digital network or on a prearranged ride at the time of an accident.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1026 of Title 47, unless there is created duplication in numbering, reads as follows:

The TNC shall disclose in writing to TNC drivers the following before they are allowed to accept a request for a prearranged ride on the TNC's digital network:

A. The insurance coverage, including the types of coverage and the limits for each coverage, that the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC's digital network; and

B. That the TNC driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the TNC's digital network and is available to receive transportation requests or is engaged in prearranged rides depending on its terms.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1027 of Title 47, unless there is created duplication in numbering, reads as follows:

A. Insurers that write automobile insurance in Oklahoma may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a TNC driver is logged on to a TNC's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:

1. Liability coverage for bodily injury and property damage;

2. Uninsured and underinsured motorist coverage;

3. Medical payments coverage;

4. Comprehensive physical damage coverage; and

5. Collision physical damage coverage.

B. Such exclusions shall apply notwithstanding any requirement under Chapter 7 of the Oklahoma Highway Safety Code of Section 7-101 of Title 47 of the Oklahoma Statutes, et seq. Nothing in Section 18 of this act implies or requires that a personal automobile insurance policy provide coverage while the TNC driver is logged on to the TNC's digital network, while the TNC driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation.

Nothing shall be deemed to preclude an insurer from providing coverage for the TNC driver's vehicle, if it so chooses to do so by contract or endorsement.

C. Automobile insurers that exclude coverage as permitted in Section 16 shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this article shall be deemed to invalidate or limit an exclusion contained in a policy already in use or approved for use in this state prior to the enactment of this act that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

An automobile insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same TNC driver in satisfaction of the coverage requirements of Section 16 at the time of loss.

D. In a claims coverage investigation, Transportation network companies and any insurer potentially providing coverage under Section 16 shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the TNC driver if applicable, including the precise times that a TNC driver logged on and off of the TNC’s digital network in the twelve hour period immediately preceding and in the twelve hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under Section 16.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1028 of Title 47, unless there is created a duplication in numbering, reads as follows:

If a TNC's insurer makes a payment for a claim covered under comprehensive or collision insurance coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner to the owner of the vehicle and the primary lienholder.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1029 of Title 47, unless there is created a duplication in numbering, reads as follows:

TNCs shall not disclose a passenger's personally identifiable information to a third party unless:

1. The passenger consents;

2. Disclosure is required by a legal obligation; or

3. Disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms.

In addition, a TNC shall be permitted to share a passenger's name and telephone number with the TNC driver providing prearranged rides to such passenger only to facilitate correct identification of the passenger by the TNC driver, or to facilitate communication between the passenger and the driver regarding prearranged rides. TNCs shall prohibit the use by TNC drivers of passengers' name, telephone number, or other personal information for any purpose other than those listed in this section.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1030 of Title 47, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, the regulation, licensing or permitting of TNCs for the provisions of prearranged rides is within the exclusive jurisdiction of the Commission as set forth in the Oklahoma Transportation Network Company Services Act

and any rules promulgated by the Commission consistent with the Act. No political subdivision of the state may impose a tax on, or require a license for, a TNC or a TNC driver for the provision of prearranged rides or subject a TNC to the political subdivision's rate requirement, entry requirement, operational requirement or other requirements.

SECTION 22. This act shall become effective July 1, 2015.

SECTION 23. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 15th day of April, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

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Presiding Officer of the House of Representatives