

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1614

By: Henke and Sherrer of the
House

and

Smalley of the Senate

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; creating the Oklahoma Transportation Network Company Services Act; providing short title; defining terms; requiring permit from the Oklahoma Corporation Commission prior to operating certain company; authorizing fee for permit; authorizing Corporation Commission to promulgate rules; stating authority of Corporation Commission; requiring agent for service of process; authorizing certain companies to charge fares for passenger services; stating requirements; requiring certain identification and receipts for services; stating requirements for transportation company drivers; stating requirements for motor vehicles used for prearranged rides; stating requirements for payments for services; stating limitation on multiple passengers; providing nondiscrimination policy; requiring companies to maintain records for certain time period; stating requirements for insurance; requiring disclosure of insurance information; providing for certain insurance exclusions; requiring exchange of certain insurance information; providing for payment of insurance claims; prohibiting disclosure of certain passenger information; stating exceptions; providing for exclusive jurisdiction of regulation by the Corporation Commission; providing for codification; and providing an effective date.

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

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

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

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

9 As used in the Oklahoma Transportation Network Company Services
10 Act:

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

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

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

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

20 3. "Prearranged ride" means the provision of transportation by
21 a driver to a rider, beginning when a driver accepts a ride
22 requested by a rider through a Digital Network controlled by a
23 Transportation Network Company, continuing while the driver
24 transports a requesting rider, and ending when the last requesting

1 rider departs from the personal vehicle. A prearranged ride does
2 not include transportation provided using a taxi, limousine, or
3 other for-hire vehicle pursuant to state law;

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

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

- 15 a. receives connections to potential passengers and
16 related services from a TNC in exchange for payment of
17 a fee to the TNC, and
- 18 b. uses a personal vehicle to provide TNC services to
19 passengers upon connection through a digital network
20 controlled by a TNC in return for compensation or
21 payment of a fee; and

22 6. "Transportation network company passenger" ("TNC passenger")
23 means an individual or persons who use a prearranged rides digital
24 network to connect with a TNC driver who provides prearranged rides

1 to the passenger in the driver's personal vehicle between points
2 chosen by the passenger; and

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

6 TNCs or TNC drivers shall not be considered motor carriers of
7 persons as defined in Section 230.23 of Title 47 of the Oklahoma
8 Statutes, nor shall TNCs or TNC drivers be considered to provide
9 taxicab, limousine, or similar for-hire motor carrier service.

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

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

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

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

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

6 E. The Commission shall have the authority to examine the
7 records of TNCs for the purpose of enforcement of this act,
8 including a random sample of the TNC's records related to
9 prearranged rides and TNC drivers:

10 1. No more than twice per year;

11 2. At the Oklahoma City offices of the Commission unless an
12 alternative location is agreed to by the Commission and the TNC; and

13 3. At any time to investigate a complaint. Records obtained by
14 the Commission pursuant to this act shall not be subject to
15 disclosure under the Oklahoma Open Records Act and shall be kept
16 confidential by the Commission, except as may be required in a
17 Commission proceeding.

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

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1014 of Title 47, unless there
23 is created a duplication in numbering, reads as follows:
24

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

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

6 TNCs may determine and charge a fare for the services provided
7 to passengers; provided, that if a fare is charged the TNC shall
8 disclose to passengers the fare-calculation method on its website or
9 within the software application service. The TNC shall also provide
10 passengers with the applicable rates being charged and the option to
11 receive an estimated fare before the passenger enters the TNC
12 driver's vehicle.

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

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

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1017 of Title 47, unless there
22 is created a duplication in numbering, reads as follows:
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1 Within a reasonable period of time, as established by the
2 Commission, following the completion of a trip, the TNC shall
3 transmit an electronic receipt to the passenger that lists:

- 4 1. The origin and destination of the trip;
- 5 2. The total time and distance of the trip; and
- 6 3. An itemization of the total fare paid, if any.

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

10 A. TNCs shall implement a zero-tolerance policy against TNC
11 drivers operating under the influence of drugs or alcohol while
12 providing prearranged rides or while logged into the TNC's digital
13 network but providing prearranged rides, and shall provide notice of
14 this policy on its digital network, as well as procedures to report
15 a complaint about a driver with whom a passenger was matched and
16 whom the passenger reasonably suspects was under the influence of
17 drugs or alcohol during the course of the trip.

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

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

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

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

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

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

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

20 b. the National Sex Offender Registry database; and

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

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

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

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

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

11 4. Does not possess a valid driver license;

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

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

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

18 C. TNCs shall implement a procedure for periodic information
19 updates for each TNC driver's vehicle(s) and motor vehicle insurance
20 and for rechecks of each TNC driver for the criminal background and
21 driving record information required by paragraph A of this section
22 to ensure continued compliance by each driver with the requirements
23 of paragraph B of this section.
24

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

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

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

11 A. TNCs shall implement a policy requiring TNC drivers to
12 exclusively accept rides booked through a TNC's digital network or
13 software application service and prohibiting solicitation of street
14 fails or acceptance of unsolicited street hails.

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

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

22 TNCs shall adopt a policy prohibiting the provision of
23 prearranged rides in any vehicle with a manufacturer's designed
24 seating capacity of more than fifteen (15) persons, including the

1 driver, and prohibiting the transportation of multiple passengers in
2 numbers exceeding the manufacturer's designed seating capacity.

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

6 A. TNCs shall adopt a policy of nondiscrimination on the basis
7 of destination, race, color, national origin, religious belief,
8 religious affiliation, sex, disability, age, sexual orientation, or
9 gender identity with respect to passengers and potential passengers
10 and notify TNC drivers of such policy.

11 B. TNCs shall require TNC drivers to comply with all applicable
12 laws regarding nondiscrimination against passengers or potential
13 passengers on the basis of destination, race, color, national
14 origin, religious belief, religious affiliation, sex, disability,
15 age, sexual orientation, or gender identity.

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

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

21 E. TNCs shall provide passengers an opportunity to indicate
22 whether they require a wheelchair-accessible vehicle. If a TNC
23 cannot arrange a wheelchair-accessible prearranged ride in any
24

1 instance, it shall direct the passenger to an alternate provider of
2 wheelchair-accessible service, if available.

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

6 TNCs shall maintain:

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

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

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

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

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

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

23 2. While the driver is engaged in providing prearranged rides.
24

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

5 1. Primary automobile liability insurance in the amount of at
6 least Fifty Thousand Dollars (\$50,000.00) for death and bodily injury
7 per person, One Hundred Thousand Dollars (\$100,000.00) for death and
8 bodily injury per incident, and Twenty-five Thousand Dollars
9 (\$25,000.00) for property damage;

10 2. Uninsured motorist coverage where required by Section 3636
11 of Title 36 of the Oklahoma Statutes; and

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

- 14 a. automobile insurance maintained by the TNC driver, or
- 15 b. automobile insurance maintained by the TNC, or
- 16 c. any combination of subparagraphs 1 and 2.

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

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

22 2. Uninsured motorist coverage where required by Section 3636
23 of Title 36 of the Oklahoma Statutes; and
24

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

- 3 a. automobile insurance maintained by the TNC driver, or
- 4 b. automobile insurance maintained by the TNC, or
- 5 c. any combination of subparagraphs 1 and 2.

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

11 E. Coverage under an automobile insurance policy maintained by
12 the TNC shall not be dependent on a personal automobile insurer first
13 denying a claim nor shall a personal automobile insurance policy be
14 required to first deny a claim.

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

19 G. Insurance satisfying the requirements of Section 16 of this
20 act shall be deemed to satisfy the financial responsibility
21 requirement for a motor vehicle under Chapter 7 of the Oklahoma
22 Highway Safety of Section 7-101 of Title 47 of the Oklahoma
23 Statutes, et seq.
24

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

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

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

20 A. The insurance coverage, including the types of coverage and
21 the limits for each coverage, that the TNC provides while the TNC
22 driver uses a personal vehicle in connection with a TNC's digital
23 network; and
24

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

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

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

- 15 1. Liability coverage for bodily injury and property damage;
- 16 2. Uninsured and underinsured motorist coverage;
- 17 3. Medical payments coverage;
- 18 4. Comprehensive physical damage coverage; and
- 19 5. Collision physical damage coverage.

20 B. Such exclusions shall apply notwithstanding any requirement
21 under Chapter 7 of the Oklahoma Highway Safety Code of Section 7-101
22 of Title 47 of the Oklahoma Statutes, et seq. Nothing in Section 18
23 of this act implies or requires that a personal automobile insurance
24 policy provide coverage while the TNC driver is logged on to the

1 TNC's digital network, while the TNC driver is engaged in a
2 prearranged ride or while the driver otherwise uses a vehicle to
3 transport passengers for compensation.

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

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

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

20 D. In a claims coverage investigation, Transportation network
21 companies and any insurer potentially providing coverage under
22 Section 16 shall cooperate to facilitate the exchange of relevant
23 information with directly involved parties and any insurer of the
24 TNC driver if applicable, including the precise times that a TNC

1 driver logged on and off of the TNC's digital network in the twelve
2 hour period immediately preceding and in the twelve hour period
3 immediately following the accident and disclose to one another a
4 clear description of the coverage, exclusions and limits provided
5 under any automobile insurance maintained under Section 16.

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

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

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

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

- 19 1. The passenger consents;
- 20 2. Disclosure is required by a legal obligation; or
- 21 3. Disclosure is required to protect or defend the terms of use
22 of the service or to investigate violations of those terms.

23 In addition, a TNC shall be permitted to share a passenger's name
24 and telephone number with the TNC driver providing prearranged rides

1 to such passenger only to facilitate correct identification of the
2 passenger by the TNC driver, or to facilitate communication between
3 the passenger and the driver regarding prearranged rides. TNCs
4 shall prohibit the use by TNC drivers of passengers' name, telephone
5 number, or other personal information for any purpose other than
6 those listed in this section.

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

10 Notwithstanding any other provision of law, the regulation,
11 licensing or permitting of TNCs for the provisions of prearranged
12 rides is within the exclusive jurisdiction of the Commission as set
13 forth in the Oklahoma Transportation Network Company Services Act
14 and any rules promulgated by the Commission consistent with the Act.
15 No political subdivision of the state may impose a tax on, or
16 require a license for, a TNC or a TNC driver for the provision of
17 prearranged rides or subject a TNC to the political subdivision's
18 rate requirement, entry requirement, operational requirement or
19 other requirements.

20 SECTION 22. This act shall become effective November 1, 2015.

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