HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1614 By: Henke

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; enacting the Oklahoma Transportation Network Company Services Act; providing regulation of transportation network companies, transportation network drivers and transportation network services; defining terms; excluding certain companies, drivers and services from certain definitions; prohibiting certain acts; requiring certain permitting; requiring certain permit issuances by the Oklahoma Corporation Commission; establishing certain fee amount; requiring the promulgation of rules; requiring certain in-state presence; providing certain fare-setting procedures; requiring certain information be provided to certain individuals; requiring certain electronic receipt; requiring compliance with certain insurance requirements; providing certain insurance requirements; establishing certain insurance coverage in certain circumstance; making determination related to satisfaction of financial responsibility requirements; requiring certain disclosures; allowing for certain liability insurance exclusions; requiring certain notifications; requiring the exchange of certain information; requiring certain policies related to use of drugs and alcohol; requiring certain complaint process; requiring certain recordkeeping; requiring certain application information; requiring certain background check; requiring certain research; disqualifying certain individuals from acting as transportation network drivers; requiring vehicles meet certain standards; prohibiting certain actions; requiring certain policy

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related to cash payments; requiring adherence to certain nondiscrimination policy; requiring certain accommodations for the physically disabled; requiring retention of certain records; prohibiting the disclosure of certain information; providing exceptions; exempting transportation network companies and transportation network drivers from political subdivision regulation and oversight; providing for codification; and providing an effective date.

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. "Transportation network company (TNC)" means an entity licensed pursuant to this act and operating in Oklahoma that uses a digital network or a software application service to connect passengers to transportation network services provided by transportation network company drivers. A TNC shall not be deemed

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to own, control, operate or manage the vehicles used by TNC drivers. A TNC is not a taxicab association or a for-hire vehicle owner;

2. "Transportation network company driver (TNC driver)" means an individual who operates a motor vehicle that is:

a. owned, leased or otherwise authorized for use by the individual,

b. not a taxicab or motor carrier of persons, and

c. used to provide transportation Network Company Services; and

3. "Transportation network company services (TNC services)" means transportation of a passenger between points chosen by the passenger and prearranged with a TNC driver through the use of a TNC digital network or software application. TNC services shall begin when a TNC Driver accepts a request for transportation received through the TNC's digital network or software application service, continue while the TNC driver transports the passenger in the TNC driver's vehicle, and end when the passenger exits the TNC driver's vehicle. TNC service is not taxicab, for-hire vehicle or street-hail service.

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 or for-hire vehicle 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 Corporation Commission.

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

C. The Oklahoma Corporation Commission shall promulgate rules as needed to implement the provisions of this act.

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 TNC service 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 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:

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A. On or before November 1, 2015, and thereafter, TNCs and TNC drivers shall comply with the automobile liability insurance requirements of this section.

B. The following automobile liability insurance requirements shall apply during the time that a TNC driver is logged into the TNC's digital network and available to receive requests for transportation but is not providing TNC services:

1. Automobile liability insurance that meets the minimum liability insurance limits, as defined by Section 7-103 of Title 47 of the Oklahoma Statutes; and

2. Automobile liability insurance in the amounts required in paragraph 1 of this subsection shall be maintained by the TNC and provide coverage in the event a participating TNC driver's own automobile liability policy excludes coverage according to its policy terms or does not provide coverage of at least the limits required in paragraph 1 of this subsection.

C. 1. The following automobile liability insurance requirements shall apply while a TNC driver is providing TNC services:

a. primary automobile liability insurance that recognizes the TNC driver's provision of TNC services, and

b. automobile liability insurance of at least One Million Dollars ($1,000,000.00) for death, personal injury and property damage;

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

a. automobile liability insurance maintained by the TNC driver,

b. automobile liability insurance maintained by the TNC, or

c. any combination of subparagraphs a and b of this paragraph.

D. In every instance where insurance maintained by a TNC driver to fulfill the insurance requirements of this section has lapsed, failed to provide the required coverage, denied a claim for the required coverage or otherwise ceased to exist, insurance maintained by the TNC shall provide the coverage required by this section beginning with the first dollar of a claim.

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

F. Insurance required by this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under Section 7-101 et seq. of Title 47 of the Oklahoma Statutes.

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. TNCs shall disclose in writing to TNC drivers the following before they are allowed to accept a request for TNC services on the TNC's digital network:

1. The insurance coverage and limits of liability that the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC's digital network; and

2. That the TNC driver's own insurance policy may not provide coverage while the TNC driver uses a vehicle in connection with a TNC's digital network depending on its terms.

B. Insurers that write automobile liability insurance in Oklahoma may exclude any and all coverage and the duty to defend afforded under the owner's insurance policy for any loss or injury that occurs while an insured vehicle provides or is available to provide TNC services, provided such exclusion is expressly set forth in the policy and approved for sale in Oklahoma. This right to exclude coverage and the duty to indemnify and defend may apply to any coverage included in an automobile liability 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,

provided the insurer notifies an insured after a loss that the insurer has no duty to defend or indemnify any person or organization for liability for a loss that is properly excluded pursuant to the terms of the applicable primary or excess insurance policy.

C. In a claims coverage investigation, TNCs and any insurer providing coverage under Section 9 of this act shall cooperate to facilitate the exchange of information, including the precise times that a TNC driver logged on and off of the TNC's digital network in the twenty-four-hour period immediately preceding the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any insurance policy each party issued or maintained.

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:

A. TNCs shall implement a zero-tolerance policy on the use of drugs or alcohol while a TNC driver is providing TNC services or is logged into the TNC's digital network but is not providing TNC services, and shall provide notice of this policy on its website, 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 platform, 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 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. Prior to permitting an individual to act as a TNC driver on its digital platform, 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

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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 platform 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 proof of registration for the motor vehicle(s) used to provide TNC services;

6. Does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide TNC services; or

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

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

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 TNC driver shall exclusively accept rides booked through a TNC's digital network or software application service and shall not solicit or accept street hails.

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 adopt a policy prohibiting solicitation or acceptance of cash payments from passengers and notify TNC drivers of such policy. TNC drivers shall not solicit or accept cash payments from passengers. Any payment for TNC services shall be made only electronically using the TNC's digital network or software application.

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 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, age, sexual orientation, or gender identity with respect to passengers and potential passengers and notify TNC drivers of such policy.

B. TNC drivers shall 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, age, sexual orientation, or gender identity.

C. TNC drivers shall 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 wheelchair-accessible TNC service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

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 a duplication in numbering, reads as follows:

TNCs shall maintain:

1. Individual trip records for at least one (1) year from the date each trip was provided; and

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

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 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 TNC services to such passenger in order to facilitate correct identification of the passenger by the TNC driver, or to facilitate communication between the passenger and the driver.

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:

Notwithstanding any other provision of law, TNCs and TNC drivers are governed exclusively by the Oklahoma Transportation Network Company Services Act and any rules promulgated by the Oklahoma Corporation Commission consistent with the Oklahoma Transportation

Network Company Services Act. Neither a TNC nor a TNC driver shall be subject to regulation or oversight by political subdivisions of the state, and no political subdivision of the state may impose a tax on, or require a license for, a TNC or a TNC driver or subject a TNC to the political subdivision's rate requirement, entry requirement, operational requirement or other requirements.

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

COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, LABOR, AND RETIREMENT LAWS, dated 02/26/2015 - DO PASS, As Amended.

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