

# SENATE BILL REPORT

## SB 6043

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As of February 5, 2018

**Title:** An act relating to transportation network companies.

**Brief Description:** Concerning transportation network companies.

**Sponsors:** Senators Hobbs, King, Mullet and Fain.

**Brief History:**

**Committee Activity:** Transportation: 1/22/18.

### Brief Summary of Bill

- Establishes statewide regulations for transportation network companies, including requirements for annual permits, administered by the Department of Licensing (DOL).
- Requires passenger surcharge fees to fund regulation, enforcement, and other activities.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Bryon Moore (786-7726)

**Background:** Certain private transportation providers, such as operators of airporters, limousines, for-hire vehicles, taxicabs, and charter and excursion buses, are regulated by state law. Generally, cities, counties, and port districts may license, control, and regulate for-hire vehicles within their respective jurisdictions. The regulation of cities, counties, and port districts may include regulating entry into the business of providing for-hire transportation services, requiring a license to be purchased, and regulating routes and operations of for-hire vehicles, including restricting access to airports.

Commercial transportation services providers are businesses that use a digital network or software application to connect passengers to drivers to provide prearranged rides. These providers are not taxicab companies, charterers or excursion service carriers, auto transportation companies, private nonprofit transportation providers, or limousine carriers. There are statutory requirements regarding liability insurance for personal vehicles being used for commercial transportation services. Insurance must be provided for all times that a

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driver is logged into a commercial transportation services provider's digital network or software application.

Commercial transportation services provider drivers, for-hire vehicle operators, limousine chauffeurs, and taxicab operators are exempt from workers' compensation requirements.

**Summary of Bill:** The term commercial transportation services provider is replaced with "transportation network company" (TNC). Statewide regulations are created governing TNCs, TNC drivers, and TNC vehicles.

Requirements to Operate a TNC. To operate a TNC, a person must obtain an annual permit from DOL. The permit fee is \$5,000 per year, which must be deposited into the newly created TNC Account (Account).

A TNC must:

- require annual background checks of drivers and safety inspections of vehicles;
- display a photograph of the TNC driver and the license plate before rider enters the vehicle;
- disclose the fare or estimated fare for the prearranged ride to the TNC rider;
- provide electronic receipts to the TNC riders within one week;
- maintain certain records regarding TNC drivers and trips;
- implement a zero alcohol and drug policy for TNC drivers while accessing the TNC digital network or provided prearranged rides, suspend a TNC driver upon receipt of a complaint alleging a violation of the zero tolerance policy, conduct investigations of allegations, and take appropriate action for any violations of the policy;
- adopt a nondiscrimination policy regarding riders; and
- follow all laws related to the transportation of service animals;

A TNC may not revoke or deny services to a rider who: makes a complaint about a TNC's conduct that the rider believes violates regulatory provisions; seeks information about a rider's rights under the provisions; or exercises his or her rights as a rider. A TNC may not impose additional charges for providing services to persons with disabilities. During a state of emergency, a TNC may not charge a ride more than two and one-half times the normal fare.

Requirements for TNC Drivers. To become a TNC driver, a person must:

- be at least 20 years old;
- submit an application with specific information and self-certify that they are physically and mentally fit to be a TNC driver; and
- have undergone a criminal background check conducted by the TNC or a third party on behalf of a TNC.

A TNC may not permit a person to be a TNC driver if the person:

- does not possess a valid driver's license and proof of insurance;
- has had more than three moving violations in the prior three years;
- has a violation of attempting to elude police, reckless driving, or driving on a suspended or revoked license within the prior three years;
- has been convicted in the previous seven years of: any class A or B felony; any violent offense, serious violent offense, or most serious offense; or driving under the

- influence, hit and run, or any other driving-related crime under the DUI and vehicular assault and vehicular homicide statutes; or
- has been convicted of any sex offense.

A TNC driver may not:

- solicit or accept trip requests that are not arranged through a TNC's digital network;
- provide TNC services for more than 14 consecutive hours in a 24-hour period; or
- allow another person to use the TNC driver's access to the TNC digital network.

Requirements of TNC vehicles. A TNC must require that vehicles used for prearranged rides must:

- not be more than 12 years old;
- meet emission requirements; and
- have received a safety inspection by a third party in the last year.

A TNC vehicle must display a TNC trade dress indication that is visible to riders.

Enforcement and Penalties. In addition to imposing monetary penalties, DOL may suspend or revoke a TNC permit, after notice and a hearing, if a TNC violates the regulatory provisions. Any deceptive, manipulative, or coordinated practice used by a TNC is a violation. In determining the amount of monetary penalty, the DOL must consider the size of the TNC, the gravity of the violation, the degree of good faith exercised by the TNC, and other factors. The Uniform Regulation of Business and Professions Act governs the regulation of TNC.

Violations of the regulatory provisions are unfair or deceptive acts in trade or commerce for the purposes of applying the Consumer Protection Act. The Attorney General (AG) must maintain a toll-free number for complaints from TNC riders and maintain a website to inform riders of their rights. The TNC must also maintain data on TNC rider complaints and allow the AG and DOL access to that data.

Audits. No more than twice a year, DOL, or the local authority for a city with a population of more than 500,000 or a county with a population of more than 1,000,000, may review a randomly chosen sample of records that the TNC is required to maintain to ensure compliance with the bill. The record sample may exclude information that would identify specific TNC drivers or riders.

Per Trip Surcharges. A TNC must assess a \$0.10 per trip surcharge fee to cover the costs of regulating TNCs. DOL may review the surcharge annually, and increase the surcharge by rule to cover the costs related to administering the regulations of DOL and local authorities.

On a quarterly basis, the TNC must submit the total amount of surcharge fees collected to the DOL, and submit a report listing the percentage of the total amount of fees from trips that originated in each city or unincorporated county during the reporting period. The fees must be deposited into the newly established TNC Account.

DOL must retain the amounts to cover its expenses of regulating TNCs. DOL must distribute the remaining portions of the surcharge fees collected to each municipality or county where a

trip originated during the reporting period. The distribution to municipalities and counties must be proportionate to the percentage of the yearly total amount of fees that originated in each municipality or county. Funds collected by municipalities and counties must be used to fund enforcement activities related to TNCs.

An additional \$0.10 surcharge fee must be assessed for each prearranged ride provided to a TNC rider that originates in a city with a population of 200,000 or more or a county with a population of 1,000,000 or more. The additional fee must offset costs associated with improving transportation options for persons with disabilities. The funds from the additional \$0.10 surcharge must be distributed directly to each city or county.

State Preemption. The state expressly occupies and preempts:

- the entire field of regulation of TNCs regarding licensing and permits for a TNC and TNC drivers;
- all requirements, applications, certification, examinations, and background checks for TNC drivers; and
- rates, routes, safety and equipment requirements, and operational requirements for a TNC.

The preemption allows a city with a population of 500,000 or more or a county with a population of 1,000,000 or more to enforce the bill or rules adopted by DOL.

The preemption does not affect local authority to impose safe and reliable requirements on for hire vehicle services as long as they are consistent with the bill. This preemption also does not affect local authority with respect to regulating and enforcing traffic flow, traffic patterns, and roadways, including the public right-of-way, to ensure public safety and convenience and, if applicable, imposing impact fees.

Any public entity operating a commercial airport may regulate TNC activities related to TNC services at the airport facility, including rates, entry, and other regulations but the state preserves authority over many areas specified in the bill. This does not preclude requiring the TNC to enter into a contract regarding operating on airport facility property.

Other Provisions. A TNC or TNC driver is not a common carrier, motor carrier, commuter ride sharing, taxicab, auto transportation company services, or metropolitan public transportation services pursuant to other statutory regulations.

Records submitted to the DOL or local law enforcement from a TNC are deemed confidential and are not subject to disclosure to a third party by DOL or local authority without prior written consent of the TNC.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The bill provides comprehensive regulation of TNCs that will support overall standardization and eliminate the patchwork of rules and regulations that exist now. The criminal background checks and 19-point vehicle safety inspections provide consumer protection. This will allow the TNC services to expand. It provides local flexibility with respect to traffic regulation and addressing other needs. This draws on the best practices in other states and reflects two years of work. The bill is a bipartisan compromise that reflects a middle ground between previous proposals. The bill will allow the expansion of flexible employment in an exciting industry.

CON: The background check in the bill is not adequate. If you do not want comprehensive background checks then that provision should be removed from the legislation. The bill would create a carve out that would undermine the coherent regulatory framework of for-hire vehicles. The provisions do not promote a level playing field. This bill lacks enough driver safety provisions. The standards and enforcement provisions are not strong enough. Greater local flexibility is needed to ensure adequate protection for TNC passengers.

OTHER: The bill needs technical language to clarify UTC regulations. This is not about creating a level playing field.

**Persons Testifying:** PRO: Matthew Wald, Drive Forward Seattle; Lynn Reed, Drive Forward Seattle; Michael Wolfe, Drive Forward Seattle; James Lockhart, Drive Forward Seattle; Time Time, Drive Forward Seattle; Chris Ihler, Drive Forward Seattle; Rose Feliciano, Internet Association; Laura Bisesto, Lyft; Caleb Weaver, Uber; Jo Deutsch, TechNet; Mike Ennis, Association of Washington Business; Chris Johnson, East King County Chambers of Commerce Legislative Coalition; Eric Maloney, Lyft driver.

CON: James McMahan, Washington Association of Sheriffs and Police Chiefs; Elisabeth Smith, ACLU of Washington; Lyset Cadena, City of Seattle; Shannon Stewart, Vancouver Cab Company; Cindi Laws, Director, Wheelchair Accessible Taxi Association of Washington; John Fricke, VP Operations, Capital Aeroporter; Jim Fricke, President/CEO, Capital Aeroporter; Kere Greene, Shuttle Express.

OTHER: Jason Lewis, UTC; Jennifer Smith, ESTA.

**Persons Signed In To Testify But Not Testifying:** No one.