

SENATE BILL REPORT

SB 6500

As of January 21, 2018

Title: An act relating to transportation network companies.

Brief Description: Concerning transportation network companies.

Sponsors: Senators Saldaña, Fortunato and Billig.

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.

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 of a TNC. A TNC must:

- certify to the DOL that all affiliated TNC drivers and vehicles have met all certification and operating requirements of the bill;
- provide a provide a weekly driver list with specified information to DOL;
- provide a daily TNC vehicle list;
- conduct annual safety inspections of vehicles and require background checks of drivers;
- provide information regarding the recertification of TNC drivers and vehicles;
- display a photograph of the TNC driver and the license plate before rider enters the vehicle;
- provide electronic receipts to the TNC receipts to TNC riders within one hour of trip completion;
- maintain certain records regarding TNC drivers and trips;
- suspend a TNC driver upon receipt of a complaint alleging a violation of the zero tolerance policy, inform DOL and local law enforcement of a complaint conduct investigations of allegations, and take appropriate action for any violations of the policy.
- implement a zero alcohol and drug policy for TNC drivers while accessing the TNC digital network or provided prearranged rides;
- adopt a nondiscrimination policy regarding riders; and
- provide notice of the zero tolerance and nondiscrimination policies on its web site, as well as procedures to report a complaint about a TNC driver;

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.

For hire operators, including a TNC, must:

- adopt and abide by a policy of nondiscrimination to passengers and potential passengers;
- comply with all applicable laws relating to the transportation of service animals; and
- may not impose additional charges for providing services to persons with disabilities because of those disabilities.

Requirements for TNC Drivers. A TNC driver must:

- have a valid driver's license;
- be at least 20 years old with 12 months of driving history;
- have a valid TNC company driver business license number;

- complete a safety and customer service driver training, if required by a local law enforcement officer;
- self-certify that they are physically and mentally fit to be a TNC driver; and
- be fingerprinted for Washington State Patrol and Federal Bureau of Investigation criminal background checks and submit to a multistate driving history search.

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 five years;
- has a violation of attempting to elude police, reckless driving, or driving on a suspended or revoked license, or negligent driving in the first degree within the prior five 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.

DOL may deny a permit to an individual to act as a TNC driver if the individual has had certain specified major violations in the prior five-year period.

At any time, DOL may require any TNC driver to be medically certified and examined by a physician licensed to practice in Washington state if it appears to the director that the driver has become physically or mentally unfit to be a for hire operator. Each TNC driver is subject to periodic random alcohol and drug testing as may be ordered by DOL.

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;
- allow another person to use the TNC driver's access to the TNC digital network; or
- withhold driver identification, proof of registration, proof of automobile insurance, waybill, and status as a TNC driver from a requesting department or local law enforcement officer.

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

- have valid registration and licensing;
- not be more than 12 years old;
- meet emission requirements; and
- have received an ASE 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 Civil Penalties. Upon notification that a TNC driver has violated a law or rule or regulation related to the provision of TNC services, the TNC must suspend the TNC driver's ability to accept trip requests and investigate the reported incident. If the driver is determined to have violated a law or rule or regulation that would make the driver ineligible to be a TNC driver, the person must remain suspended from accepting trip requests.

A TNC must provide specific information in response to a specific complaint alleging criminal conduct against any TNC driver or passenger. A TNC driver must report arrests, charges, convictions, and crashes to the TNC and DOL within 24 hours.

DOL must issue rules and regulations to establish a civil monetary schedule for penalties, and a process for administrative appeal of any penalty, denial, suspension, or revocation imposed by the. A schedule of suspension and revocation is specified. A local law enforcement officer may issue rules and regulations or use existing rules to establish a process for administrative appeal of any penalty. A procedure for judicial review to Superior Court is specified.

A violation of specified requirements of a TNC driver is a civil infraction. Local law enforcement agencies may set additional amounts for civil infractions within their jurisdiction. State or local law enforcement officers may issue a citation for any such violation. If a driver is cited, every TNC operator that allows the driver to provide services on its digital network is subject to a fine, the amount of which is set by DOL or local law enforcement agencies, as appropriate.

If DOL or a local law enforcement officer determines that a TNC or TNC driver is in violation of this bill or associated rules, DOL must issue a notice of violation and inform the company or driver of a right for a hearing.

On a quarterly basis, local law enforcement officers must report all violations committed by TNC companies and TNC drivers, and recommend the suspension, revocation, or other conditions, or limitation of companies or TNC drivers to DOL. Within ten calendar days of receipt of the local law enforcement officer's recommendation, DOL must impose the recommended action unless DOL responds in writing to the local law enforcement officer explaining why DOL disagrees with the local law enforcement officer's recommendation.

Discretion to suspend TNC operations in local jurisdictions rests with DOL and the local law enforcement agency for a city with a population of more than 500,000 or a county with a population of more than 1,000,000.

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, local law enforcement, and DOL access to that data on a quarterly basis.

Audits. No more than quarterly, 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 riders, except those involving a crime against a driver.

In response to a complaint or incident, DOL or a local law enforcement agency may inspect any of a TNC's records related to the complaint or incident at issue. Provisions are included

for supplemental audits and fees associated with third-party audits. Non-compliance with the audit requirements may constitute cause for suspension the TNC permit.

Per Trip Surcharges. A TNC must assess a 10 cent 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 by the DOL or local authorities.

A city with a population of more than 500,000 or a county with a population of more than 1,000,000, after reimbursing DOL for their proportionate regulation costs, must receive their fee revenue directly from the TNC.

For cities with a population of less than 500,000 and counties with a population of less than 1,000,000, the fee revenue will be deposited into the newly created TNC Account. After deducting DOL's proportionate amounts related to TNC regulations, DOL must distribute the remaining portions of the surcharge fees to each city or county where a trip originated during the reporting period.

A city or county may impose an independent per ride fee for local law enforcement costs, but they will then be ineligible to receive a distribution from the TNC Account. If independently imposing the fee, the local law enforcement agency may review and increase the per trip surcharge fee not more frequently than annually to cover their regulatory costs.

An additional 10 cent 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 additional fee may be adjusted by local law enforcement based on factors specified in the bill, including the level of need for wheelchair-accessible vehicles.

A city or county may impose an independent per ride fee for local accessibility, but they will then be ineligible to receive a distribution from the TNC Account.

State Preemption. The state preempts:

- licensing and permits for a TNC and TNC drivers;
- all requirements, applications, certifications, examinations, and background checks for TNC drivers, and the processing and adjudication of each, except that local jurisdictions may impose safety and customer service training; and
- all entry requirements for a TNC within the boundaries of this state.

This preemption allows cities with a population of more than 500,000 and counties with a population of more than 1,000,000 to enforce the provisions of the bill, including regulations adopted by the DOL. This preemption does not affect the authority of cities with a population of more than 500,000, counties with a population of more than 1,000,000, or port authorities to enforce, maintain, or amend any ordinance enacted before January 2017, that regulates a TNC, TNC drivers, or TNC vehicles.

The preemption does not affect local authority to impose requirement that apply to all businesses. This preemption also does not affect local authority with respect to regulating and enforcing traffic flow, traffic patterns, roadways, or the public right-of-way, highly automated vehicles or from imposing related fees including, but not limited to, impact fees, parking fees, and congestion/peak travel period fees.

Other Provisions. Local law enforcement officers may have access to the weekly driver lists upon request to DOL.

TNC's surety bond requirements may be alternatively satisfied by securing insurance coverage. If the Office of the Insurance Commissioner approves the alternative insurance coverage, the requirements may also apply to other for hire operators. No provision of the bill is construed to limit the right of an injured person to any private right of action against a for hire operator.

For hire operator drivers must undergo DOL approved training for the safe and secure transportation of passengers in wheelchairs prior to providing rides to passengers in wheelchairs.

Appropriation: None.

Fiscal Note: Requested on January 16, 2018.

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

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