

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-237
SENATE BILL 541**

AN ACT TO REGULATE TRANSPORTATION NETWORK COMPANIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new Article to read:

"Article 10A.

"Transportation Network Companies.

"§ 20-280.1. Definitions.

The following definitions apply in this Article:

- (1) Airport operator. – Any person with police powers that owns or operates an airport.
- (2) Brokering transportation network company. – A transportation network company, as defined by this section, that exclusively dispatches TNC drivers that operate either of the following:
 - a. For-hire passenger vehicles regulated under G.S. 160A-304.
 - b. For-hire passenger vehicles regulated under G.S. 62-260(f) and subject to the requirements for security for protection of the public and safety of operation established for regulated motor common carriers.
- (3) Prearranged transportation services. – Transportation services available by advance request excluding for-hire passenger vehicles soliciting passengers for immediate transportation. No minimum waiting period is required between the advance request and the provision of the transportation services.
- (4) TNC driver. – An individual that uses a passenger vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers in exchange for payment of a fee to the transportation network company.
- (5) TNC service. – Prearranged transportation service provided by a TNC driver in connection with a transportation network company. The TNC service begins when the TNC driver accepts a ride request on the transportation network company's online-enabled application or platform and ends at the later of the following:
 - a. The time that the driver completes the transaction on the online-enabled application or platform.
 - b. The time that all passengers exit the vehicle and complete unloading of the vehicle.
- (6) Transportation network company (TNC). – Any person that uses an online-enabled application or platform to connect passengers with TNC drivers who provide prearranged transportation services.

"§ 20-280.2. Permissible services and limitations.

(a) A transportation network company holding a valid permit issued under this Article and continuously meeting the requirements of this Article may operate in the State. The transportation network company may charge a fee for the TNC service. The fee must meet the following requirements:

- (1) The transportation network company's online-enabled application or platform must disclose the fee calculation method before a passenger makes a ride request.



- (2) The transportation network company's online-enabled application or platform must provide the option for a passenger to receive an estimated fee before the passenger makes a ride request.
 - (3) The transportation network company must send an electronic receipt to the customer that includes the following:
 - a. The locations where the TNC service started and ended.
 - b. The total time and distance of the TNC service.
 - c. An itemization and calculation of the total fee paid.
 - (4) The fee must be paid electronically through the transportation network company's online-enabled application or platform. No cash may be exchanged for the TNC service.
- (b) A TNC driver may provide TNC service for compensation in the State.

"§ 20-280.3. Permits.

- (a) Every transportation network company must obtain a permit from the Division before operating in the State. Every transportation network company must pay to the Division a nonrefundable application fee of five thousand dollars (\$5,000).
- (b) Every transportation network company must renew the permit annually and pay to the Division a nonrefundable renewal fee of five thousand dollars (\$5,000).
- (c) The Division must prescribe the form of the application for a permit and renewal of a permit.
- (d) The initial application and renewal application must require information sufficient to confirm compliance with this Article and include the following:
 - (1) Proof of insurance meeting the requirements of G.S. 20-280.4. This subdivision does not apply to brokering transportation network companies.
 - (2) Resident agent for service of process.
 - (3) Proof the transportation network company is registered with the Secretary of State to do business in the State if the transportation network company is a foreign corporation.
 - (4) Policy of nondiscrimination based on customers' geographic departure point or destination.
 - (5) Policy of nondiscrimination based on customers' race, color, national origin, religious belief or affiliation, sex, disability, or age.
- (e) The Division may retain the fees collected under this section and use the funds for its operations.

"§ 20-280.4. Financial responsibility.

- (a) Except as provided in subsection (n) of this section, TNC drivers or transportation network companies must maintain primary automobile insurance that meets all of the following requirements:
 - (1) Recognizes that the driver is a TNC driver or uses a vehicle to transport passengers for compensation.
 - (2) The following automobile insurance requirements apply while a TNC driver is logged on to the transportation network company's online-enabled application or platform but is not providing TNC service:
 - a. Primary automobile liability insurance in the amount of at least fifty thousand dollars (\$50,000) because of death of or bodily injury to one person in any one accident and, subject to said limit for one person, one hundred thousand dollars (\$100,000) because of death of or bodily injury to two or more persons in any one accident, and at least twenty-five thousand dollars (\$25,000) because of injury to or destruction of property of others in any one accident.
 - b. Combined uninsured and underinsured motorist coverage, with limits for combined uninsured and underinsured motorist bodily injury coverage which at least equals the bodily injury liability limits of the policy, and which otherwise complies with the requirements of G.S. 20-279.21(b)(3) and (b)(4).
 - (3) The following automobile insurance requirements apply while a TNC driver is engaged in TNC service:
 - a. Primary automobile liability insurance in the amount of at least one million five hundred thousand dollars (\$1,500,000) because of death

of one or more persons, bodily injury to one or more persons, injury to or destruction of property of others, or any combination thereof, in any one accident.

b. Combined uninsured and underinsured motorist coverage, with limits for combined uninsured and underinsured motorist bodily injury coverage of at least one million dollars (\$1,000,000), and which otherwise complies with the requirements of G.S. 20-279.21(b)(3) and (b)(4).

(4) The coverage requirements of subdivisions (2) and (3) of this subsection may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver.

b. Automobile insurance maintained by the transportation network company.

c. Any combination of sub-subdivisions a. and b. of this subdivision.

(b) If insurance maintained by the TNC driver under subsection (a) of this section has lapsed or does not provide the required coverage, insurance maintained by the transportation network company must provide the coverage required under subsection (a) of this section beginning with the first dollar of a claim and must provide the defense of the claim.

(c) Insurance coverage under an automobile insurance policy maintained by the transportation network company must not be dependent on a personal automobile insurer denying a claim.

(d) Insurance required by this section may be placed with an insurer licensed in the State or with a surplus lines insurer eligible to write policies in the State.

(e) Insurance satisfying the requirements of this section satisfies the financial responsibility requirement for a motor vehicle.

(f) A TNC driver must carry proof of coverage satisfying the requirements of this section at all times during use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a TNC driver must provide insurance coverage information directly to interested parties, automobile insurers, and investigating police officers, upon request. Upon such request, a TNC driver must also disclose to directly interested parties, automobile insurers, and investigating police officers whether the TNC driver was logged on or off of the transportation network company's online-enabled application or platform at the time of the accident.

(g) Before any vehicle is used in connection with a transportation network company's online-enabled application or platform, a TNC driver must notify both the insurer of the vehicle and any lienholder with an interest in the vehicle of the TNC driver's intent to use the vehicle in connection with a transportation network company's online-enabled application or platform.

(h) Transportation network companies must disclose in writing to potential TNC drivers the following before the TNC driver provides TNC service:

(1) The insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the TNC driver uses a private passenger vehicle in connection with a transportation network company's online-enabled application or platform.

(2) The TNC driver may not have any coverage under a personal automobile insurance policy while using the transportation network company's online-enabled application or platform.

(3) The following notice in a distinctive clause: "If the vehicle with which you provide transportation network company services has a lien against it, you must notify the lienholder prior to providing transportation network company services of your intent to provide transportation services with the vehicle. You may disclose to the lienholder all insurance coverage information provided to you by the transportation network company. If you fail to provide the required insurance coverage under the terms of your contract with the lienholder or show evidence to the lienholder of the coverage provided by the transportation network company, you may violate the terms of your contract."

(i) Insurers that write automobile insurance in the State may exclude coverage under the policy issued to an owner or operator of a personal vehicle for any loss that occurs while the driver is logged on to a transportation network company's online-enabled application or

platform or while the driver provides TNC service. This right to exclude all coverage applies to any coverage included in an automobile insurance policy, including all of the following:

- (1) Liability coverage for bodily injury and property damage.
- (2) Personal injury protection coverage.
- (3) Uninsured and underinsured motorist coverage.
- (4) Medical payments coverage.
- (5) Comprehensive physical damage coverage.
- (6) Collision physical damage coverage.

(j) Automobile insurers that exclude the coverage described in subsection (i) of this section have no duty to defend or indemnify any claim expressly excluded. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy has a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of this section.

(k) No insurer is required to sell a policy of insurance providing the coverage required by this section.

(l) Notwithstanding G.S. 58-37-35(b)(1)e., no insurance policy providing coverage required by this section is cedable to the North Carolina Reinsurance Facility due solely to the requirements of this section.

(m) In a claims coverage investigation or accident, a TNC driver, transportation network companies, any insurer potentially providing coverage under this section, and other directly involved parties must exchange the following information:

- (1) Description of the coverage, exclusions, and limits provided under any insurance policy.
- (2) Precise times that a TNC driver logged on and off of the transportation network company's online-enabled application or platform in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident.
- (3) Precise times that a TNC driver provided TNC service in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident.

(n) This section does not apply to brokering transportation network companies.

"§ 20-280.5. Safety requirements.

(a) The transportation network company must require TNC drivers have their vehicles inspected annually to meet State safety requirements. The Division may, by regulation, specify alternative inspections that are acceptable as equivalent inspections, such as an inspection performed in another state. This subsection does not apply to brokering transportation network companies.

(b) The transportation network company's online-enabled application or platform must provide the following information to customers after a ride request is accepted by a TNC driver:

- (1) Photograph of the TNC driver.
- (2) License plate number of the TNC driver's vehicle.
- (3) Description of the TNC driver's vehicle.
- (4) Approximate location of the TNC driver's vehicle displayed on a map.

(c) The transportation network company must maintain the following records:

- (1) The record of each TNC service provided in this State for one year from the date the TNC service occurred.
- (2) The record of each TNC driver in this State for one year from the date the TNC driver terminated their relationship with the transportation network company.

"§ 20-280.6. Background checks.

(a) Prior to permitting an individual to act as a TNC driver, the transportation network company must do all of the following:

- (1) Require the individual to submit an application to the transportation network company, including, at a minimum, the following:
 - a. Address.
 - b. Age.
 - c. Drivers license number.
 - d. Driving history.

- e. Motor vehicle registration.
 - f. Automobile liability insurance information.
 - (2) Conduct, or have a third party conduct, a local and national criminal background check for each applicant, including, at a minimum, the following:
 - a. Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search).
 - b. National Sex Offender Registry.
 - (3) Review, or have a third party review, a driving history research report for such individual.
- (b) The transportation network company must confirm that every TNC driver continues to meet all the requirements of this section every five years starting from the date the TNC driver met all the requirements of this section.
- (c) The transportation network company must not permit an individual to act as a TNC driver if any of the following apply:
- (1) Has had more than three moving violations in the prior three-year period or one major violation in the prior three-year period, including attempting to evade the police, reckless driving, or driving on a suspended or revoked license.
 - (2) Has been convicted within the past seven years of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, or a crime involving property damage, theft, acts of violence, or acts of terror.
 - (3) Is a match in the National Sex Offender Registry.
 - (4) Does not possess a valid drivers license.
 - (5) Does not possess proof of registration for the motor vehicle to be used to provide TNC services.
 - (6) Does not possess proof of automobile liability insurance for the motor vehicle to be used to provide TNC services.
 - (7) Is not at least 19 years of age.
- (d) This section does not apply to brokering transportation network companies.

"§ 20-280.7. Authority of Division.

The Division may issue regulations to implement this Article.

"§ 20-280.8. Presumption that TNC drivers are independent contractors.

A rebuttable presumption exists that a TNC driver is an independent contractor and not an employee. The presumption may be rebutted by application of the common law test for determining employment status.

"§ 20-280.9. Airport operators.

(a) An airport operator is authorized to charge transportation network companies and TNC drivers a reasonable fee for their use of the airport's facility.

(b) An airport operator is authorized to require an identifying decal be displayed by TNC drivers.

(c) An airport operator is authorized to require the purchase and use of equipment or establish other appropriate mechanisms for monitoring and auditing compliance, including having a transportation network company provide data for purposes of monitoring and auditing compliance.

(d) An airport operator is authorized to designate a location where TNC drivers may stage on the airport operator's facility, drop off passengers, and pick up passengers.

"§ 20-280.10. Statewide regulation.

(a) Notwithstanding any other provision of law and except as authorized by this Chapter, no county, city, airport operator, or other governmental agency is authorized to impose fees, require licenses, limit the operation of TNC services, or otherwise regulate TNC services. TNC services remain subject to all ordinances and local laws outside the scope of this Chapter, including parking and traffic regulation.

(b) Any contract provision or term of service in a transportation network company's contract with a State resident or person present in the State contrary to this Article is void as against public policy."

SECTION 2. G.S. 20-4.01(27) reads as rewritten:

"(27) Passenger Vehicles. –

- a. Excursion passenger vehicles. – Vehicles transporting persons on sight-seeing or travel tours.
- b. ~~For hire~~ For-hire passenger vehicles. – Vehicles transporting persons for compensation. This classification shall not include the following:
 1. ~~vehicles~~ Vehicles operated as ~~ambulances~~; ambulances.
 2. ~~vehicles~~ Vehicles operated by the owner where the costs of operation are shared by the ~~passengers~~; passengers.
 3. ~~vehicles~~ Vehicles operated pursuant to a ridesharing arrangement as defined in ~~G.S. 136-44.21~~; G.S. 136-44.21.
 4. ~~vehicles~~ Vehicles transporting students for the public school system under contract with the State Board of ~~Education~~ Education.
 5. ~~or vehicles~~ Vehicles leased to the United States of America or any of its agencies on a nonprofit ~~basis~~; basis.
 6. ~~or vehicles~~ Vehicles used for human ~~service~~ or service.
 7. Vehicles used for volunteer transportation.
 8. Vehicles operated in a TNC service, excluding vehicles operated in connection with a brokering transportation network company, regulated under Article 10A of Chapter 20 of the General Statutes.

....."
SECTION 3. G.S. 20-87 reads as rewritten:

"§ 20-87. **Passenger vehicle registration fees.**

These fees shall be paid to the Division annually for the registration and licensing of passenger vehicles, according to the following classifications and schedules:

- (1) For-Hire Passenger Vehicles. – The fee for a for-hire passenger vehicle that is operated for compensation and has with a capacity of 15 passengers or less is seventy-eight dollars (\$78.00). The fee for a for-hire passenger vehicle that is operated for compensation and has with a capacity of more than 15 passengers is one dollar and forty cents (\$1.40) per hundred pounds of empty weight of the vehicle.

....."
SECTION 4. G.S. 153A-134 reads as rewritten:

"§ 153A-134. **Regulating and licensing businesses, trades, etc.**

(a) A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. This section does not authorize a county to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

~~(b) This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152.~~

(c) Nothing in this section shall authorize a county to regulate and license digital dispatching services for prearranged transportation services for hire; a TNC service regulated under Article 10A of Chapter 20 of the General Statutes."

SECTION 5. G.S. 160A-194 reads as rewritten:

"§ 160A-194. **Regulating and licensing businesses, trades, etc.**

(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor.

(b) Nothing in this section shall authorize a city to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(c) Nothing in this section shall authorize a city to regulate and license ~~digital dispatching services for prearranged transportation services for hire~~; a TNC service regulated under Article 10A of Chapter 20 of the General Statutes."

SECTION 6. G.S. 160A-304 reads as rewritten:

"§ 160A-304. Regulation of taxis.

(a) A city may by ordinance license and regulate all vehicles operated for hire in the city. The ordinance may require that the drivers and operators of taxicabs engaged in the business of transporting passengers for hire over the public streets shall obtain a license or permit from the city; provided, however, that the license or permit fee for taxicab drivers shall not exceed fifteen dollars (\$15.00). As a condition of licensure, the city may require an applicant for licensure to pass a controlled substance examination. The ordinances may also specify the types of taxicab services that are legal in the municipality; provided, that in all cases shared-ride services as well as exclusive-ride services shall be legal. Shared-ride service is defined as a taxi service in which two or more persons with either different origins or with different destinations, or both, occupy a taxicab at one time. Exclusive-ride service is defined as a taxi service in which the first passenger or party requests exclusive use of the taxicab. In the event the applicant is to be subjected to a national criminal history background check, the ordinance shall specifically authorize the use of FBI records. The ordinance shall require any applicant who is subjected to a national criminal history background check to be fingerprinted.

The Department of Public Safety may provide a criminal record check to the city for a person who has applied for a license or permit through the city. The city shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The city shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Public Safety may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

The following factors shall be deemed sufficient grounds for refusing to issue a permit or for revoking a permit already issued:

- (1) Conviction of a felony against this State, or conviction of any offense against another state which would have been a felony if committed in this State;
- (2) Violation of any federal or State law relating to the use, possession, or sale of alcoholic beverages or narcotic or barbiturate drugs;
- (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs;
- (4) Violation of any federal or State law relating to prostitution;
- (5) Noncitizenship in the United States;
- (6) Habitual violation of traffic laws or ordinances.

The ordinance may also require operators and drivers of taxicabs to display prominently in each taxicab, so as to be visible to the passengers, the city taxi permit, the schedule of fares, a photograph of the driver, and any other identifying matter that the council may deem proper and advisable. The ordinance may also establish rates that may be charged by taxicab operators, may limit the number of taxis that may operate in the city, and may grant franchises to taxicab operators on any terms that the council may deem advisable.

(b) When a city ordinance grants a taxi franchise for operation of a stated number of taxis within the city, the holder of the franchise shall report at least quarterly to the council the average number of taxis actually in operation during the preceding quarter. The council may amend a taxi franchise to reduce the number of authorized vehicles by the average number not in actual operation during the preceding quarter, and may transfer the unused allotment to another franchised operator. Such amendments of taxi franchises shall not be subject to G.S. 160A-76. Allotments of taxis among franchised operators may be transferred only by the

city council, and it shall be unlawful for any franchised operator to sell, assign, or otherwise transfer allotments under a taxi franchise.

(c) ~~Nothing in this Chapter authorizes a city to adopt an ordinance doing any of the following:~~following with respect to a TNC service regulated under Article 10A of Chapter 20 of the General Statutes:

- ~~(1) Requiring licensing or regulation of digital dispatching services for prearranged transportation services for hire connected with vehicles operated for hire in the city if the business providing the digital dispatching services does not own or operate the vehicles for hire in the city.~~regulating.
- ~~(2) Setting a minimum rate or minimum increment of time used to calculate a rate for prearranged transportation services for hire.~~
- ~~(3) Requiring an operator to use a particular formula or method to calculate rates charged.~~
- ~~(4) Setting a minimum waiting period between requesting prearranged transportation services and the provision of those transportation services when the prearranged transportation services are digitally dispatched.~~
- ~~(5) Requiring a final destination to be set at the time of requesting prearranged transportation services through digital dispatching services.~~
- ~~(6) Requiring or prohibiting taxi franchises or taxi operators from contracting with a person in the business of digital dispatching services for prearranged transportation services for hire.~~transportation network company regulated under Article 10A of Chapter 20 of the General Statutes."

SECTION 7. This act becomes effective October 1, 2015.

In the General Assembly read three times and ratified this the 31st day of August, 2015.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 11:30 a.m. this 4th day of September, 2015