

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. (2015-237, s. 1.)

**§ 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. (2015-237, s. 1.)

**§ 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. (2015-237, s. 1.)

**§ 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. (2015-237, s. 1.)

#### **§ 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. (2015-237, s. 1.)

#### **§ 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. (2015-237, s. 1.)

**§ 20-280.7. Authority of Division.**

The Division may issue regulations to implement this Article. (2015-237, s. 1.)

**§ 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. (2015-237, s. 1.)

**§ 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. (2015-237, s. 1.)

**§ 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. (2015-237, s. 1.)