

HOUSE TRANSPORTATION AND PUBLIC WORKS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 272

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

AN ACT

RELATING TO TRANSPORTATION; ENACTING THE TRANSPORTATION NETWORK  
COMPANY SERVICES ACT AND PROVIDING FOR ADMINISTRATION OF THE  
ACT BY THE PUBLIC REGULATION COMMISSION; CREATING A FUND;  
PROVIDING PENALTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Transportation Network Company Services Act".

**SECTION 2.** [NEW MATERIAL] PURPOSE.--The purpose of the  
Transportation Network Company Services Act is to ensure the  
safety, reliability and cost-effectiveness of transportation  
network company services within New Mexico and to preserve and  
enhance access to these transportation options for residents  
and visitors to the state.

**SECTION 3.** [NEW MATERIAL] DEFINITIONS.--As used in the

1 Transportation Network Company Services Act:

2 A. "transportation network company" means an entity  
3 that is licensed pursuant to the Transportation Network Company  
4 Services Act, that is operating in New Mexico and that uses a  
5 digital network or software application service to connect  
6 passengers to transportation network company services provided  
7 by transportation network company drivers. A transportation  
8 network company is not deemed to own, control, operate or  
9 manage the vehicles used by the transportation network company  
10 drivers and is not a taxicab association or a for-hire vehicle  
11 owner;

12 B. "transportation network company driver" means an  
13 individual who operates a motor vehicle that is:

14 (1) owned, leased or otherwise authorized for  
15 use by the individual;

16 (2) not a taxicab or a for-hire vehicle; and

17 (3) used to provide transportation network  
18 company services; and

19 C. "transportation network company services" means  
20 transportation of a passenger between points chosen by the  
21 passenger and prearranged with a transportation network company  
22 driver through the use of a transportation network company  
23 digital network or software application. Transportation  
24 network company services shall begin when a transportation  
25 network company driver accepts a request for transportation

1 received through the use of a transportation network company  
2 digital network or software application service, continue while  
3 the transportation network company driver transports the  
4 passenger in the transportation network company driver's  
5 vehicle and ends when the passenger exits the transportation  
6 network company driver's vehicle. "Transportation network  
7 company services" do not include taxicab, for-hire vehicle or  
8 street hail services.

9 SECTION 4. [NEW MATERIAL] NOT OTHER CARRIERS.--

10 Transportation network companies or transportation network  
11 company drivers are not motor carriers as defined in the Motor  
12 Carrier Act nor do they provide taxicab or for-hire service. A  
13 transportation network company driver's vehicle is not a  
14 commercial or for-hire vehicle and is not subject to  
15 registration as a commercial or for-hire motor vehicle.

16 SECTION 5. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY  
17 PERMIT.--

18 A. A person shall not operate a transportation  
19 network company in New Mexico without first having obtained a  
20 permit from the public regulation commission.

21 B. The public regulation commission shall issue a  
22 permit to each applicant that meets the requirements for a  
23 transportation network company as defined in the Transportation  
24 Network Company Services Act. The transportation network  
25 company shall pay an annual permit fee of five thousand dollars

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1 (\$5,000) to the commission.

2 SECTION 6. [NEW MATERIAL] AGENT.--A transportation  
3 network company shall maintain an agent for services of process  
4 in New Mexico.

5 SECTION 7. [NEW MATERIAL] FARE CHARGED FOR SERVICES.--A  
6 transportation network company may charge a fare for the  
7 services provided to passengers; provided that, if the fare is  
8 charged, the transportation network company shall disclose to  
9 passengers the fare calculation method on its web site or  
10 within the software application service. The transportation  
11 network company shall also provide passengers with the  
12 applicable rates being charged and the option to receive an  
13 estimated fare before the passenger enters the transportation  
14 network company's driver's vehicle.

15 SECTION 8. [NEW MATERIAL] IDENTIFICATION OF THE VEHICLES  
16 AND DRIVERS.--The transportation network company's web site or  
17 software application shall display a picture of the  
18 transportation network company driver and the license plate  
19 number of the motor vehicle used for providing the  
20 transportation network company service before the passenger  
21 enters the transportation network company driver's vehicle.

22 SECTION 9. [NEW MATERIAL] ELECTRONIC RECEIPT.--Within a  
23 reasonable period of time following the completion of a trip, a  
24 transportation network company shall transmit an electronic  
25 receipt to the passenger that lists:

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- 1           A. the origin and destination of the trip;  
2           B. the total time and distance of the trip; and  
3           C. an itemization of the total fare paid, if any.

4           **SECTION 10. [NEW MATERIAL] INSURANCE.--**

5           A. After July 1, 2015, transportation network  
6 companies and their drivers shall comply with the automobile  
7 liability insurance requirements of this section.

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

13                   (1) A transportation network company or a  
14 driver shall maintain contingent liability insurance with a  
15 liability limit equal to at least the minimum amount required  
16 by Section 66-5-208 NMSA 1978. At a minimum, the contingent  
17 liability insurance must provide liability coverage if the  
18 driver's insurer for personal automobile insurance validly  
19 denies coverage under the terms of the driver's personal  
20 automobile insurance policy or the driver otherwise does not  
21 have personal automobile insurance coverage. Nothing in this  
22 paragraph precludes an insurer's right to equitable  
23 subrogation. The requirements of this paragraph expire on June  
24 30, 2016.

25                   (2) After June 30, 2016, a driver or a

1 transportation network company on the driver's behalf shall  
2 maintain a primary liability automobile insurance policy that:

3 (a) recognizes that the driver is a  
4 transportation network company driver and provides coverage  
5 while the driver is logged into the transportation network  
6 company's digital network;

7 (b) meets at least the minimum coverage  
8 of Section 66-5-208 NMSA 1978; and

9 (c) is one of the following: 1) full-  
10 time coverage equivalent to the coverage required by Section  
11 65-2A-18 NMSA 1978; 2) an insurance rider to, or endorsement  
12 of, the driver's personal automobile insurance policy; or 3) a  
13 corporate liability insurance policy purchased by the  
14 transportation network company that provides primary coverage  
15 for the period of time in which a driver is logged into the  
16 digital network.

17 C. Nothing in this section requires a personal  
18 automobile insurance policy to provide coverage for the period  
19 of time in which a driver is logged into a transportation  
20 network company's digital network.

21 D. If more than one insurance policy provides valid  
22 and collectible coverage for a loss arising out of an  
23 occurrence involving a motor vehicle operated by a driver, the  
24 responsibility for the claim must be divided on a pro rata  
25 basis among all of the applicable policies. This equal

1 division of responsibility may only be modified by the written  
2 agreement of all of the insurers of the applicable policies and  
3 the owners of those policies.

4 E. The following automobile liability insurance  
5 requirements shall apply while a transportation network company  
6 driver is providing transportation network services:

7 (1) the provision of primary automobile  
8 liability insurance that recognizes the transportation network  
9 company driver's provision of transportation network services;

10 (2) the provision of automobile liability  
11 insurance of at least one million dollars (\$1,000,000) for  
12 death, personal injury and property damage;

13 (3) the provision of uninsured and  
14 underinsured motorist coverage of at least one million dollars  
15 (\$1,000,000) per occurrence; and

16 (4) the coverage requirements of this  
17 subsection may be satisfied by any of the following:

18 (a) automobile liability insurance  
19 maintained by the transportation network company driver;

20 (b) automobile liability insurance  
21 maintained by the transportation network company; or

22 (c) any combination of Subparagraphs (a)  
23 and (b) of this paragraph.

24 F. In every instance where insurance maintained by  
25 a transport network company driver to fulfill the insurance

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1 requirements of this section has lapsed, failed to provide the  
2 required coverage, denied a claim for the required coverage or  
3 otherwise ceased to exist, insurance maintained by the  
4 transportation network company shall provide the coverage  
5 required by this section beginning with the first dollar of a  
6 claim.

7 G. Insurance required by this section may be placed  
8 with an insurer authorized to do business in the state or with  
9 a surplus lines insurer eligible under Chapter 59A, Article 14  
10 NMSA 1978.

11 H. Insurance required by this section shall be  
12 deemed to satisfy the financial responsibility requirement for  
13 a motor vehicle under Chapter 66, Article 5 NMSA 1978.

14 SECTION 11. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY  
15 AND INSURER DISCLOSURE REQUIREMENTS.--

16 A. The transportation network company shall  
17 disclose in writing to transportation network drivers the  
18 following before they are allowed to accept a request for  
19 transportation network services on the transportation network  
20 company's digital network:

21 (1) the insurance coverage and limits of  
22 liability that the transportation network company provides  
23 while the transportation network company driver uses a personal  
24 vehicle in connection with the transportation network company's  
25 digital network; and



1                   (2) that the transportation network driver's  
2 own insurance policy might not provide coverage while the  
3 transportation network driver uses a vehicle in connection with  
4 a transportation network company's digital network depending on  
5 its terms.

6                   B. Insurers that write automobile liability  
7 insurance in New Mexico may, notwithstanding the provisions  
8 contained in Section 66-5-205.3 NMSA 1978, exclude any and all  
9 coverage and the duty to defend afforded under the owner's  
10 insurance policy for any loss or injury that occurs while an  
11 insured vehicle provides or is available to provide  
12 transportation network company services. This right to exclude  
13 coverage and the duty to indemnify and defend may apply to any  
14 coverage included in an automobile liability insurance policy,  
15 including:

16                   (1) liability coverage for bodily injury and  
17 property damage;

18                   (2) uninsured and underinsured motorist  
19 coverage;

20                   (3) medical payments coverage;

21                   (4) comprehensive physical damage coverage;

22 and

23                   (5) collision physical damage coverage.

24                   C. Automobile liability insurers that exclude  
25 coverage pursuant to this section shall have no duty to defend

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1 or indemnify any claim excluded. Nothing in this section  
2 shall be deemed to invalidate or limit an exclusion contained  
3 in a policy and approved for sale in New Mexico before the  
4 effective date of the Transportation Network Company Services  
5 Act.

6 D. Automobile liability insurance maintained by the  
7 transportation network company shall have the duty to defend  
8 and indemnify any claim excluded by a transportation network  
9 company driver's automobile liability insurer pursuant to this  
10 section.

11 E. An automobile liability insurer that defends or  
12 indemnifies a claim that is excluded under the terms of its  
13 policy pursuant to this section shall have a right of  
14 subrogation against automobile liability insurance maintained  
15 by the transportation network company to satisfy the coverage  
16 requirements of Section 10 of the Transportation Network  
17 Company Services Act.

18 F. In a claims coverage investigation,  
19 transportation network companies and any insurer providing  
20 coverage under Section 10 of the Transportation Network Company  
21 Services Act shall cooperate to facilitate the exchange of  
22 information, including the precise times that a transportation  
23 network company driver logged on and off of the transportation  
24 network company's digital network in the twenty-four-hour  
25 period immediately preceding the accident, and disclose to one

1 another a clear description of the coverage, exclusions and  
2 limits provided under any insurance policy that each party  
3 issued or maintained.

4 G. If the vehicle that a transportation network  
5 company driver plans to use to provide transportation network  
6 company services for a transportation network company has a  
7 lien against it, the transportation network company driver  
8 shall notify the lien holder that the driver will be using the  
9 vehicle for transportation services that may violate the terms  
10 of the contract with the lien holder.

11 SECTION 12. [NEW MATERIAL] ZERO TOLERANCE FOR DRUG OR  
12 ALCOHOL USE.--

13 A. The transportation network company shall  
14 implement a zero tolerance policy on the use of illegal drugs  
15 or alcohol while a transportation network company driver is  
16 providing transportation network company services or is logged  
17 into the transportation network company's digital network but  
18 is not providing transportation network company services. The  
19 transportation network company shall provide notice of this  
20 policy on its web site as well as procedures to report a  
21 complaint about a driver with whom a passenger was matched and  
22 who the passenger reasonably suspects was under the influence  
23 of illegal drugs or alcohol during the course of the trip.

24 B. Upon receipt of such passenger complaint  
25 alleging a violation of the zero tolerance policy, the

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1 transportation network company shall immediately suspend the  
2 transportation network company driver's access to the  
3 transportation network company's digital platform and shall  
4 conduct an investigation into the reported incident. The  
5 suspension shall last the duration of the investigation.

6 C. The transportation network company shall  
7 maintain records relevant to the enforcement of this  
8 requirement for a period of at least two years from the date  
9 that a passenger complaint is received by the transportation  
10 network company.

11 SECTION 13. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY  
12 DRIVER REQUIREMENTS.--

13 A. Prior to permitting an individual to act as a  
14 transportation network company driver on its digital platform,  
15 the transportation network company shall:

16 (1) require the individual to submit an  
17 application to the transportation network company, which  
18 includes information regarding the individual's address, age,  
19 driver's license, driving history, motor vehicle registration,  
20 automobile liability insurance and other information required  
21 by the transportation network company;

22 (2) conduct, or have a third party conduct, a  
23 local and national criminal background check for each applicant  
24 that shall include:

25 (a) a multistate, multi-jurisdiction

1 criminal records locator or other similar commercial nationwide  
2 database with validation; and

3 (b) the national sex offender registry  
4 database; and

5 (3) obtain and review a driving history  
6 research report for such individual.

7 B. The transportation network company shall not  
8 permit an individual to act as a transportation network company  
9 driver on its digital platform who:

10 (1) has had more than three moving violations  
11 in the prior three-year period, or one major violation in the  
12 prior three-year period, including but not limited to  
13 attempting to evade the police, reckless driving or driving on  
14 a suspended or revoked license;

15 (2) has been convicted, within the past seven  
16 years, of driving under the influence of illegal drugs or  
17 alcohol, fraud, a sexual offense, use of a motor vehicle to  
18 commit a felony, a crime involving property damage or theft, an  
19 act of violence or an act of terror;

20 (3) is a match in the national sex offender  
21 registry database;

22 (4) does not possess a valid driver's license;

23 (5) does not possess proof of registration for  
24 the motor vehicle used to provide transportation network  
25 company services;

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1 (6) does not possess proof of automobile  
2 liability insurance for the motor vehicle used to provide  
3 transportation network company services; or

4 (7) is not at least nineteen years of age.

5 SECTION 14. [NEW MATERIAL] VEHICLE SAFETY.--The  
6 transportation network company shall require that any motor  
7 vehicle that a transportation network company driver uses to  
8 provide transportation network company services meets New  
9 Mexico's vehicle equipment standards applicable to a private  
10 motor vehicle pursuant to the Motor Vehicle Code.

11 SECTION 15. [NEW MATERIAL] NO STREET HAILS.--A  
12 transportation network company driver shall exclusively accept  
13 rides booked through a transportation network company's digital  
14 network or software application service and shall not solicit  
15 or accept street hails.

16 SECTION 16. [NEW MATERIAL] NO CASH TIPS OR PAYMENT.--The  
17 transportation network company shall adopt a policy prohibiting  
18 solicitation or acceptance of cash tips or payments from  
19 passengers and notify transportation network company drivers of  
20 such policy. Transportation network company drivers shall not  
21 solicit or accept cash tips or payments from passengers. Any  
22 payment for transportation network company services shall be  
23 made only electronically using the transportation network  
24 company's digital network or software application.

25 SECTION 17. [NEW MATERIAL] NO DISCRIMINATION--

1 ACCESSIBILITY.--

2 A. The transportation network company shall adopt a  
3 policy of nondiscrimination on the basis of race, color,  
4 national origin, religious belief or affiliation, sex,  
5 disability, age, sexual orientation or gender identity with  
6 respect to passengers and potential passengers. The  
7 transportation network company shall notify transportation  
8 network company drivers of such policy.

9 B. Transportation network company drivers shall  
10 comply with all applicable laws regarding nondiscrimination  
11 against passengers or potential passengers on the basis of  
12 destination, race, color, national origin, religious belief or  
13 affiliation, sex, disability, age, sexual orientation or gender  
14 identity.

15 C. Transportation network company drivers shall  
16 comply with all applicable laws relating to accommodation of  
17 service animals.

18 D. A transportation network company shall not  
19 impose additional charges for providing services to persons  
20 with physical disabilities because of those disabilities.

21 E. A transportation network company shall provide  
22 passengers an opportunity to indicate whether they require a  
23 wheelchair-accessible vehicle. If a transportation network  
24 company cannot arrange wheelchair-accessible transportation  
25 network company service in any instance, it shall direct the

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1 passenger to an alternate provider of wheelchair-accessible  
2 service, if available.

3 SECTION 18. [NEW MATERIAL] TRIP RECORDS.--A

4 transportation network company shall maintain:

5 A. individual trip records for at least three years  
6 from the date each trip was provided; and

7 B. transportation network company driver records at  
8 least until the one-year anniversary of the date on which a  
9 transportation network company driver's activation on the  
10 transportation network company digital network has ended.

11 SECTION 19. [NEW MATERIAL] PERSONALLY IDENTIFIABLE

12 INFORMATION.--A transportation network company shall not  
13 disclose a passenger's personally identifiable information to a  
14 third party unless:

15 A. the passenger consents;

16 B. disclosure is required by a legal obligation; or

17 C. disclosure is required to protect or defend the  
18 terms of use of the service or to investigate violations of  
19 those terms. In addition to the foregoing, a transportation  
20 network company shall be permitted to share a passenger's name  
21 and telephone number with the transportation network company  
22 driver providing transportation network company services to  
23 such passenger in order to facilitate correct identification of  
24 the passenger by the transportation network company driver or  
25 to facilitate communication between the passenger and the

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1 transportation network company driver.

2 SECTION 20. [NEW MATERIAL] CONTROLLING AUTHORITY.--

3 Notwithstanding any other provision of law, transportation  
4 network companies and transportation network company drivers  
5 are governed exclusively by the Transportation Network Company  
6 Services Act and any rules or regulations promulgated by the  
7 public regulation commission consistent with that act. No  
8 municipality or other local entity may impose a tax on, or  
9 require a license for, a transportation network company, a  
10 transportation network company driver or a vehicle used by a  
11 transportation network company driver or subject a  
12 transportation network company to the municipality's or other  
13 local entity's rate, entry, operational or other requirements.

14 SECTION 21. [NEW MATERIAL] TRANSPORTATION DIVISION

15 FUND--CREATED--ASSESSMENT AND COLLECTION OF FEES.--

16 A. The transportation division fund is created in  
17 the state treasury for the purpose of ensuring the safety and  
18 financial responsibility of transportation network companies  
19 and transportation network company drivers. The fund shall  
20 consist of fees collected pursuant to the Transportation  
21 Network Company Services Act, administrative fines collected  
22 under that act, appropriations, gifts, grants, donations and  
23 earnings on investment of the fund. Balances in the fund shall  
24 not revert to the general fund or any other fund at the end of  
25 any fiscal year.

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1           B. The transportation division fund shall be  
2 administered by the public regulation commission. Money in the  
3 fund is appropriated to the commission to carry out its duties  
4 pursuant to the provisions of the Transportation Network  
5 Company Services Act. Not more than five percent of the fees  
6 collected pursuant to this section shall be used by the  
7 commission for administrative purposes.

8           C. Payments from the transportation division fund  
9 shall be made upon vouchers issued and signed by the director  
10 of the administrative services division of the public  
11 regulation commission or the director's authorized  
12 representative upon warrants drawn by the secretary of finance  
13 and administration.

14           SECTION 22. [NEW MATERIAL] RECORDS PURSUANT TO RULES OF  
15 THE PUBLIC REGULATION COMMISSION.--

16           A. A transportation network company holding a  
17 permit issued by the public regulation commission shall  
18 maintain the records required pursuant to the Transportation  
19 Network Company Services Act to be collected by the  
20 transportation network company, including records regarding  
21 transportation network company drivers.

22           B. In response to a specific complaint, the public  
23 regulation commission, its employees or its duly authorized  
24 agents may inspect those records held by a transportation  
25 network company for the investigation and resolution of the

1 complaint.

2 C. No more than semiannually and as determined by  
3 the public regulation commission, the commission, its employees  
4 or its duly authorized agents may, in a mutually agreed  
5 setting, inspect those records held by a transportation network  
6 company whose review is necessary to ensure public safety;  
7 provided that such review shall be on an audit rather than a  
8 comprehensive basis.

9 D. Any proprietary records obtained by the public  
10 regulation commission pursuant to this section shall not be  
11 subject to disclosure by the commission.

12 SECTION 23. [NEW MATERIAL] ADMINISTRATIVE PENALTIES.--

13 A. If the public regulation commission finds after  
14 investigation that a provision of the Transportation Network  
15 Company Services Act or an order or rule of the commission is  
16 being, has been or is about to be violated, it may issue an  
17 order specifying the actual or proposed acts or omissions to  
18 act that constitute a violation and require that the violation  
19 be discontinued, rectified or prevented.

20 B. Notwithstanding the existence of any other  
21 penalties, the public regulation commission may assess an  
22 administrative fine of not more than one thousand dollars  
23 (\$1,000) for each violation of a provision of the  
24 Transportation Network Company Services Act or of a lawful rule  
25 or order of the commission. In the case of a continuing

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1 violation, each day's violation shall be deemed to be a  
2 separate and distinct offense.

3 C. All penalties accruing under the Transportation  
4 Network Company Services Act shall be cumulative, and a suit  
5 for recovery of one penalty shall not be a bar to or affect the  
6 recovery of any other penalty or be a bar to any criminal  
7 prosecution.

8 SECTION 24. [NEW MATERIAL] INVOLUNTARY SUSPENSION AND  
9 REVOCATION.--

10 A. The public regulation commission shall  
11 immediately suspend, without notice or a hearing, the permit of  
12 a transportation network company for failure to:

13 (1) continuously maintain the amounts of  
14 financial responsibility prescribed by the Transportation  
15 Network Company Services Act; or

16 (2) pay the fees owed by the transportation  
17 network company and the transportation network company's  
18 drivers.

19 B. Once suspended, the transportation network  
20 company may apply for reinstatement by requesting a public  
21 hearing before the public regulation commission. At the public  
22 hearing on reinstatement, the transportation network company  
23 shall have the burden of proving that the reasons for the  
24 suspension no longer pertain.

25 SECTION 25. EFFECTIVE DATE.--The effective date of the

1 provisions of this act is July 1, 2015.

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