

1 SENATE BILL 395

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Phil A. Griego

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10 AN ACT

11 RELATING TO TRANSPORTATION; ENACTING THE TRANSPORTATION NETWORK
12 COMPANY SERVICES ACT AND PROVIDING FOR ADMINISTRATION OF THE
13 ACT BY THE PUBLIC REGULATION COMMISSION.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

24 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
25 Transportation Network Company Services Act:

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

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

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

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

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

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

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

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

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

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

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

20 B. The public regulation commission shall issue a
21 permit to each applicant that meets the requirements for a
22 transportation network company as defined in the Transportation
23 Network Company Services Act. The transportation network
24 company shall pay an annual permit fee of five thousand dollars
25 (\$5,000) to the commission.

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

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

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

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

- 25 A. the origin and destination of the trip;

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

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

4 A. After July 1, 2015, transportation network
5 companies and transportation network company drivers shall
6 comply with the Mandatory Financial Responsibility Act.

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

13 (1) insurance that meets at least the minimum
14 coverage requirements of Section 66-5-208 NMSA 1978; and

15 (2) insurance in the amounts required in
16 Paragraph (1) of this subsection shall be maintained by a
17 transportation network company and provide coverage in the
18 event that a participating transportation network company
19 driver's own automobile liability policy excludes coverage
20 according to its policy terms or does not provide coverage of
21 at least the limits required in Paragraph (1) of this
22 subsection.

23 C. The following automobile liability insurance
24 requirements shall apply while a transportation network company
25 driver is providing transportation network company services:

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

4 (2) automobile liability insurance of at least
5 one million dollars (\$1,000,000) for death, personal injury and
6 property damage; and

7 (3) either:

8 (a) automobile liability insurance
9 maintained by the transportation network company driver; or

10 (b) automobile liability insurance
11 maintained by the transportation network company.

12 SECTION 11. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY
13 INSURANCE DISCLOSURE REQUIREMENTS.--A transportation network
14 company shall disclose in writing to transportation network
15 company drivers, before they are allowed to accept a request
16 for services on the company's digital network, of the insurance
17 coverage and limits of liability that the company provides
18 while the driver uses a personal vehicle in connection with the
19 company's digital network and that the driver's own insurance
20 policy may not provide coverage while the driver uses a vehicle
21 in connection with the company's digital network, depending on
22 its terms.

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

25 A. The transportation network company shall

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1 implement a zero tolerance policy on the use of drugs or
2 alcohol while a transportation network company driver is
3 providing transportation network company services or is logged
4 into the transportation network company's digital network but
5 is not providing transportation network company services. The
6 transportation network company shall provide notice of this
7 policy on its web site as well as procedures to report a
8 complaint about a driver with whom a passenger was matched and
9 who the passenger reasonably suspects was under the influence
10 of drugs or alcohol during the course of the trip.

11 B. Upon receipt of such passenger complaint
12 alleging a violation of the zero tolerance policy, the
13 transportation network company shall immediately suspend the
14 transportation network company driver's access to the
15 transportation network company's digital platform and shall
16 conduct an investigation into the reported incident. The
17 suspension shall last the duration of the investigation.

18 C. The transportation network company shall
19 maintain records relevant to the enforcement of this
20 requirement for a period of at least two years from the date
21 that a passenger complaint is received by the transportation
22 network company.

23 SECTION 13. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY
24 DRIVER REQUIREMENTS.--

25 A. Prior to permitting an individual to act as a

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1 transportation network company driver on its digital platform,
2 the transportation network company shall:

3 (1) require the individual to submit an
4 application to the transportation network company, which
5 includes information regarding the individual's address, age,
6 driver's license, driving history, motor vehicle registration,
7 automobile liability insurance and other information required
8 by the transportation network company;

9 (2) conduct, or have a third party conduct, a
10 local and national criminal background check for each applicant
11 that shall include:

12 (a) a multistate, multi-jurisdiction
13 criminal records locator or other similar commercial nationwide
14 database with validation; and

15 (b) the national sex offender registry
16 database; and

17 (3) obtain and review a driving history
18 research report for such individual.

19 B. The transportation network company shall not
20 permit an individual to act as a transportation network company
21 driver on its digital platform who:

22 (1) has had more than three moving violations
23 in the prior three-year period, or one major violation in the
24 prior three-year period, including but not limited to
25 attempting to evade the police, reckless driving or driving on

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1 a suspended or revoked license;

2 (2) has been convicted, within the past seven
3 years, of driving under the influence of drugs or alcohol, or
4 who has been convicted at any time of fraud, sexual offenses,
5 use of a motor vehicle to commit a felony, a crime involving
6 property damage or theft, acts of violence or acts of terror;

7 (3) is a match in the national sex offender
8 registry database;

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

10 (5) does not possess proof of registration for
11 the motor vehicle used to provide transportation network
12 company services;

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

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

17 SECTION 14. [NEW MATERIAL] VEHICLE SAFETY AND
18 EMISSIONS.--The transportation network company shall require
19 that any motor vehicle that a transportation network company
20 driver uses to provide transportation network company services
21 meets New Mexico's vehicle equipment standards pursuant to the
22 Motor Vehicle Code.

23 SECTION 15. [NEW MATERIAL] NO STREET HAILS.--A
24 transportation network company driver shall exclusively accept
25 rides booked through a transportation network company's digital

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1 network or software application service and shall not solicit
2 or accept street hails.

3 SECTION 16. [NEW MATERIAL] NO CASH TIPS.--The
4 transportation network company shall adopt a policy prohibiting
5 solicitation or acceptance of cash payments from passengers and
6 notify transportation network company drivers of such policy.
7 Transportation network company drivers shall not solicit or
8 accept cash payments from passengers. Any payment for
9 transportation network company services shall be made only
10 electronically using the transportation network company's
11 digital network or software application.

12 SECTION 17. [NEW MATERIAL] NO DISCRIMINATION--
13 ACCESSIBILITY.--

14 A. The transportation network company shall adopt a
15 policy of nondiscrimination on the basis of race, color,
16 national origin, religious belief or affiliation, sex,
17 disability, age, sexual orientation or gender identity with
18 respect to passengers and potential passengers. The
19 transportation network company shall notify transportation
20 network company drivers of such policy.

21 B. Transportation network company drivers shall
22 comply with all applicable laws regarding nondiscrimination
23 against passengers or potential passengers on the basis of
24 destination, race, color, national origin, religious belief or
25 affiliation, sex, disability, age, sexual orientation or gender

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1 identity.

2 C. Transportation network company drivers shall
3 comply with all applicable laws relating to accommodation of
4 service animals.

5 D. A transportation network company shall not
6 impose additional charges for providing services to persons
7 with physical disabilities because of those disabilities.

8 E. A transportation network company shall provide
9 passengers an opportunity to indicate whether they require a
10 wheelchair-accessible vehicle. If a transportation network
11 company cannot arrange wheelchair-accessible transportation
12 network company service in any instance, it shall direct the
13 passenger to an alternate provider of wheelchair-accessible
14 service, if available.

15 SECTION 18. [NEW MATERIAL] RECORDS.--A transportation
16 network company shall maintain:

17 A. individual trip records for at least one year
18 from the date each trip was provided; and

19 B. transportation network company driver records at
20 least until the one-year anniversary of the date on which a
21 transportation network company driver's activation on the
22 transportation network company digital network has ended.

23 SECTION 19. [NEW MATERIAL] PERSONALLY IDENTIFIABLE
24 INFORMATION.--A transportation network company shall not
25 disclose a passenger's personally identifiable information to a

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1 third party unless:

2 A. the passenger consents;

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

4 C. disclosure is required to protect or defend the
5 terms of use of the service or to investigate violations of
6 those terms. In addition to the foregoing, a transportation
7 network company shall be permitted to share a passenger's name
8 or telephone number with the transportation network company
9 driver providing transportation network company services to
10 such passenger in order to facilitate correct identification of
11 the passenger by the transportation network company driver or
12 to facilitate communication between the passenger and the
13 transportation network company driver.

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

15 Notwithstanding any other provision of law, transportation
16 network companies and transportation network company drivers
17 are governed exclusively by the Transportation Network Company
18 Services Act and any rules or regulations promulgated by the
19 public regulation commission consistent with that act. No
20 municipality or other local entity may impose a tax on, or
21 require a license for, a transportation network company or a
22 transportation network company driver or subject a
23 transportation network company to the municipality's or other
24 local entity's rate, entry, operational or other requirements.

25 SECTION 21. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2015.

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