

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

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. SHORT TITLE.--Sections 1 through 22 of this
9 act may be cited as the "Transportation Network Company
10 Services Act".

11 SECTION 2. DEFINITIONS.--As used in the Transportation
12 Network Company Services Act:

13 A. "digital network" means an internet-supported
14 application, software, program, website or system offered or
15 utilized by a transportation network company that enables the
16 prearrangement of transportation by passengers with
17 transportation network company drivers;

18 B. "personal vehicle" means a vehicle that is used
19 by a transportation network company driver and is:

20 (1) owned, leased or otherwise authorized
21 for use by a transportation network company driver; and

22 (2) not a taxicab or other vehicle for hire;

23 C. "prearranged ride" means transportation
24 provided by a transportation network company driver, which
25 shall be deemed to commence when a driver accepts a

1 transportation request through a digital network and continue
2 until all passengers have exited from the personal vehicle at
3 the destination requested by the rider. "Prearranged ride"
4 does not include shared-expense vanpool or carpool
5 arrangements or transportation provided using a taxicab,
6 limousine or other vehicle for hire pursuant to the Motor
7 Carrier Act;

8 D. "transportation network company" means a
9 corporation, partnership, sole proprietorship or other entity
10 that is licensed pursuant to the Transportation Network
11 Company Services Act and lawfully operating in New Mexico
12 that uses a digital network, but which shall not be deemed to
13 control, direct or manage the personal vehicles or
14 transportation network company drivers that connect to its
15 digital network except where agreed to by written contract;

16 E. "transportation network company driver" or
17 "driver" means an individual who:

18 (1) accepts a prearranged ride requested
19 through a digital network and for a fee paid by a
20 transportation network company rider to the transportation
21 network company; and

22 (2) uses a personal vehicle to provide a
23 prearranged ride through a digital network;

24 F. "transportation network company insurance"
25 means a liability insurance policy that specifically covers a

1 transportation network company driver's use of a
2 transportation network company digital network; and

3 G. "transportation network company rider" or
4 "rider" means a person who uses a digital network for a
5 prearranged ride.

6 SECTION 3. NOT OTHER CARRIERS.--Transportation network
7 companies and transportation network company drivers shall
8 not be subject to the Motor Carrier Act or deemed to provide
9 any transportation service as defined in the Motor Carrier
10 Act. A transportation network company driver shall not be
11 required to register a personal vehicle as a commercial
12 vehicle or vehicle for hire.

13 SECTION 4. TRANSPORTATION NETWORK COMPANY PERMIT
14 REQUIRED.--

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

18 B. A permit issued to a transportation network
19 company by the public regulation commission shall be
20 effective for one year.

21 C. The public regulation commission shall issue a
22 permit to a transportation network company that meets the
23 requirements set forth in the Transportation Network Company
24 Services Act and any rules adopted by the commission pursuant
25 to that act. The transportation network company shall pay an

1 annual permit fee of ten thousand dollars (\$10,000) to the
2 commission.

3 SECTION 5. FARE COLLECTED FOR SERVICES.--On behalf of a
4 transportation network company driver, a transportation
5 network company may charge a fare for the services provided
6 to riders; provided that, if a fare is collected from a
7 rider, the transportation network company shall disclose to
8 the rider the fare calculation method, including the
9 applicable rates and any fees, and shall provide an estimated
10 fare before the rider enters a personal vehicle for a
11 prearranged ride.

12 SECTION 6. IDENTIFICATION OF TRANSPORTATION NETWORK
13 COMPANY VEHICLES AND DRIVERS.--A digital network shall
14 display a current photograph of the transportation network
15 company driver, and the license plate number, state of
16 vehicle registration and make and model of the personal
17 vehicle for a prearranged ride.

18 SECTION 7. ELECTRONIC RECEIPT.--Within twenty-four
19 hours after the completion of a prearranged ride, a
20 transportation network company shall electronically transmit
21 a receipt to the rider that includes:

22 A. the origin and destination addresses of the
23 prearranged ride;

24 B. the total time elapsed of and distance of the
25 prearranged ride; and

1 C. an itemization of the total fare paid, if any.

2 SECTION 8. FINANCIAL RESPONSIBILITY OF TRANSPORTATION
3 NETWORK COMPANIES.--

4 A. Either the transportation network company
5 driver, or the transportation network company on the driver's
6 behalf, shall maintain primary automobile insurance that
7 acknowledges that the driver is a transportation network
8 company driver or otherwise uses a vehicle to transport
9 riders for compensation and covers the driver:

10 (1) while the driver is logged on to the
11 transportation network company's digital network; or

12 (2) while the driver is engaged in a
13 prearranged ride.

14 B. While a transportation network company driver
15 is logged on to the transportation network company's digital
16 network, but is not engaged in a prearranged ride, the
17 following minimum automobile insurance requirements shall
18 apply: primary automobile liability insurance in the amount
19 of at least fifty thousand dollars (\$50,000) for death and
20 bodily injury per person, one hundred thousand dollars
21 (\$100,000) for death and bodily injury per incident and
22 twenty-five thousand dollars (\$25,000) for property damage
23 and uninsured and underinsured motorist coverage to the
24 extent required by Section 66-5-301 NMSA 1978.

25 C. While a transportation network company driver

1 is engaged in a prearranged ride, the following minimum
2 automobile insurance requirements shall apply:

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

6 (2) uninsured and underinsured motorist
7 coverage to the extent required by Section 66-5-301
8 NMSA 1978.

9 D. If insurance maintained by a transportation
10 network company driver has lapsed or does not provide the
11 minimum coverage required by this section, insurance
12 maintained by a transportation network company shall provide
13 the coverage required as the primary coverage.

14 E. Insurance required by this section shall be
15 obtained from an insurer authorized to do business in the
16 state or with a surplus lines insurer eligible pursuant to
17 the New Mexico Insurance Code.

18 F. Insurance satisfying the requirements of this
19 section shall be deemed to satisfy the insurance requirements
20 of the Mandatory Financial Responsibility Act for a
21 transportation network company driver while engaged in a
22 prearranged ride or logged onto a digital network.

23 G. At all times while a transportation network
24 company driver is logged onto a digital network, the driver
25 shall possess digital and physical proof of coverage required

1 by this section.

2 H. In the event of a motor vehicle accident
3 involving a transportation network company driver, which
4 occurs while the driver is logged on to a digital network or
5 engaged in a prearranged ride, the driver shall provide the
6 required proof of insurance coverage to all passengers, other
7 drivers, injured persons, automobile insurers and
8 investigating law enforcement officers. A transportation
9 network company driver shall also disclose whether the driver
10 was logged on to a digital network, or on a prearranged ride,
11 at the time of an accident.

12 SECTION 9. INSURANCE COVERAGE DISCLOSURES.--A

13 transportation network company shall disclose in writing to
14 its transportation network company drivers:

15 A. the insurance coverage that the transportation
16 network company provides the transportation network company
17 driver while the driver is logged on to a digital network,
18 including the types of coverage and the limits for each
19 coverage; and

20 B. that the transportation network company
21 driver's insurance policy might exclude coverage while the
22 driver is logged on to the transportation network company's
23 digital network or while engaged in a prearranged ride.

24 SECTION 10. AUTOMOBILE INSURANCE PROVISIONS.--

25 A. Insurers that write automobile insurance in

1 New Mexico may exclude any part or all coverage of and the
2 duty to defend and indemnify an owner or operator of a
3 personal vehicle for any loss or injury that occurs while a
4 driver is logged on to a digital network or while engaged in
5 a prearranged ride. Such exclusions shall apply
6 notwithstanding requirements of the Mandatory Financial
7 Responsibility Act.

8 B. In a claims coverage investigation, a
9 transportation network company and any insurer providing
10 coverage for the transportation network company driver shall
11 disclose the precise times that a transportation network
12 company driver logged on and off of the transportation
13 network company's digital network in the twelve-hour period
14 immediately preceding an accident, and in the twelve-hour
15 period immediately following the accident, and disclose all
16 coverage, exclusions and policy limits provided for all
17 insurance maintained under the Transportation Network Company
18 Services Act.

19 C. If a transportation network company's insurer
20 makes a payment for a claim covered under comprehensive
21 coverage or collision coverage, and for property damage to a
22 vehicle subject to a finance lien, the transportation network
23 company shall cause its insurer to issue the payment directly
24 to the business repairing the vehicle or jointly to the owner
25 of the vehicle and any lienholder.

1 SECTION 11. ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.--

2 A. A transportation network company shall
3 implement and enforce a zero-tolerance policy regarding drug
4 and alcohol use by transportation network company drivers.
5 The zero-tolerance policy shall prohibit any use or
6 impairment due to intoxicating drugs or liquor while a
7 transportation network company driver is providing
8 prearranged rides or is logged on to the transportation
9 network company's digital network.

10 B. A transportation network company shall publish
11 on its website notice of its zero-tolerance policy, as well
12 as procedures for a rider to report a complaint about a
13 driver suspected to have been under the influence of illegal
14 drugs or alcohol during a prearranged ride.

15 C. A transportation network company shall
16 immediately conduct an investigation into every reported
17 complaint of violation of its zero-tolerance policy, and the
18 policy shall include procedures for suspension or termination
19 of transportation network company drivers.

20 D. A transportation network company shall maintain
21 records relevant to the enforcement of the requirements of
22 this section for a period of at least four years from the
23 date that a rider complaint is received by the transportation
24 network company.

25 SECTION 12. TRANSPORTATION NETWORK COMPANY DRIVER

1 REQUIREMENTS.--

2 A. Before allowing a transportation network
3 company driver to accept prearranged ride requests through a
4 transportation network company's digital network:

5 (1) the prospective driver shall submit an
6 application to the transportation network company that
7 includes the individual's address, age, driver's license
8 number and state, driving history, motor vehicle registration
9 and proof of the insurance required;

10 (2) the transportation network company shall
11 obtain a local and national criminal background check for the
12 prospective driver that shall include:

13 (a) multistate or multi-jurisdiction
14 criminal records locator or other similar commercial
15 nationwide database with validation and primary source
16 search; and

17 (b) a national sex offender registry;
18 and

19 (3) the transportation network company shall
20 obtain and review a driving history research report for the
21 prospective driver.

22 B. A transportation network company shall not
23 permit a person to act as a transportation network company
24 driver who:

25 (1) has had more than three moving

1 violations in the preceding three-year period or one
2 violation in the preceding three-year period involving any
3 attempt to evade law enforcement, reckless driving or driving
4 on a suspended or revoked license;

5 (2) has been convicted within the past seven
6 years of:

7 (a) a felony;

8 (b) misdemeanor driving under the
9 influence, reckless driving, leaving the scene of an accident
10 or any other driving-related offense or any misdemeanor
11 violent offense or sexual offense; or

12 (c) more than three misdemeanors of any
13 kind;

14 (3) is identified by a national sex offender
15 registry;

16 (4) does not possess a valid license;

17 (5) does not possess proof of registration
18 for the motor vehicle used to provide prearranged rides;

19 (6) does not possess proof of automobile
20 liability insurance for the motor vehicle used to provide
21 prearranged rides; or

22 (7) is not at least twenty-one years old.

23 C. A transportation network company driver shall
24 not provide prearranged rides for more than twelve hours out
25 of any twenty-four-hour period.

1 SECTION 13. VEHICLE SAFETY.--

2 A. A transportation network company shall not
3 allow a driver to be connected to potential passengers using
4 the digital network or software application service of the
5 transportation network company if the motor vehicle operated
6 by the driver to provide transportation services:

7 (1) is not in compliance with all federal,
8 state and local laws concerning the operation and maintenance
9 of the motor vehicle;

10 (2) has fewer than four doors; or

11 (3) is designed to carry more than eight
12 passengers, including the driver.

13 B. A transportation network company shall inspect
14 or cause to be inspected every motor vehicle used by a driver
15 to provide transportation services before allowing the driver
16 to use the motor vehicle to provide prearranged rides and not
17 less than once each year thereafter.

18 C. The public regulation commission shall
19 promulgate rules and regulations setting forth the
20 requirements of annual inspection of a vehicle used by a
21 transportation network company driver while logged on to a
22 digital network or engaged in a prearranged ride.

23 SECTION 14. NO STREET HAILS.--A transportation network
24 company driver shall not solicit or accept street hails.

25 SECTION 15. NO CASH TRIPS.--A transportation network

1 company shall adopt and enforce a policy prohibiting
2 solicitation or acceptance of cash payments from riders.
3 Any payment for prearranged rides shall be made only
4 electronically by a digital network.

5 SECTION 16. NONDISCRIMINATION--ACCESSIBILITY.--

6 A. A transportation network company shall adopt a
7 written policy of nondiscrimination on the basis of
8 destination, race, color, national origin, religious belief
9 or affiliation, sex, disability, age, sexual orientation or
10 gender identity with respect to transportation network
11 company drivers, riders and potential riders and shall notify
12 transportation network company drivers of the policy.

13 B. Transportation network company drivers shall
14 comply with all applicable laws regarding nondiscrimination
15 against transportation network company drivers, riders or
16 potential riders on the basis of destination, race, color,
17 national origin, religious belief or affiliation, sex,
18 disability, age, sexual orientation or gender identity.

19 C. Transportation network company drivers shall
20 comply with all applicable laws relating to accommodation of
21 service animals.

22 D. A transportation network company shall not
23 impose additional charges for providing services to persons
24 with physical disabilities.

25 E. A transportation network company shall provide

1 riders an opportunity to indicate whether they require a
2 wheelchair-accessible vehicle. If a transportation network
3 company cannot arrange a wheelchair-accessible prearranged
4 ride in any instance, it shall direct the rider to an
5 alternate provider of wheelchair-accessible service, if
6 available.

7 SECTION 17. RECORDS.--

8 A. A transportation network company shall
9 maintain:

10 (1) individual prearranged ride records for
11 at least four years from the date each ride was provided; and

12 (2) individual records of transportation
13 network company drivers for at least four years after the
14 driver's relationship with the transportation network company
15 has ended.

16 B. A transportation network company and a
17 transportation network company driver shall not use or
18 disclose a transportation network company rider's personal
19 identifiable information to a third party unless the rider
20 consents; disclosure is required by court order; or
21 disclosure is required to investigate violations of the
22 Transportation Network Company Services Act.

23 SECTION 18. CONTROLLING AUTHORITY.--

24 A. No municipality or other local entity may
25 impose a tax on or require a license for a transportation

1 network company, a transportation network company driver or a
2 vehicle used by a transportation network company driver where
3 a tax or license relates to providing prearranged rides or
4 subjects a transportation network company to the
5 municipality's or other local entity's rate, tax, license,
6 entry, operational or other requirements, except for
7 generally applicable business licenses or taxes.

8 B. Nothing in this section prohibits an airport
9 with more than one million annual enplanements, as reported
10 by the federal aviation administration in the previous
11 calendar year, from requiring a transportation network
12 company to establish fees and other requirements to operate
13 at that airport.

14 SECTION 19. TRANSPORTATION DIVISION FUND CREATED--
15 ASSESSMENT AND COLLECTION OF FEES.--

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

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

14 SECTION 20. RECORDS PURSUANT TO RULES OF THE PUBLIC
15 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
4 employees or its duly authorized agents may, in a mutually
5 agreed setting, inspect those records held by a
6 transportation network company whose review is necessary to
7 ensure public safety; provided that such review shall be on
8 an audit rather than a 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 21. 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
19 violation 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
25 rule or order of the commission. In the case of a continuing

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
6 the recovery of any other penalty or be a bar to any criminal
7 prosecution.

8 SECTION 22. INVOLUNTARY SUSPENSION AND REVOCATION.--

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

12 (1) does not continuously maintain the
13 insurance coverage prescribed by the Transportation Network
14 Company Services Act;

15 (2) does not pay the fees owed by the
16 transportation network company and the transportation network
17 company's drivers; or

18 (3) operates in a manner that poses an
19 immediate or imminent threat to public safety.

20 B. Once suspended, the transportation network
21 company may apply for reinstatement by requesting a public
22 hearing before the public regulation commission and shall
23 establish that the basis for the suspension has been
24 corrected.

25 SECTION 23. Section 66-5-205.3 NMSA 1978 (being

1 Laws 2003, Chapter 171, Section 1) is amended to read:

2 "66-5-205.3. MOTOR VEHICLE INSURANCE POLICY--
3 PROCEDURES.--

4 A. A motor vehicle insurance policy shall:

5 (1) designate by explicit description or by
6 appropriate reference all motor vehicles to which coverage is
7 to be granted; and

8 (2) insure the person named in the policy
9 and a person using any such motor vehicle with the express or
10 implied permission of the named insured against loss from the
11 liability imposed by law for damages arising out of the
12 ownership, maintenance or use of the motor vehicle within a
13 jurisdiction, subject to the requirement to provide evidence
14 of financial responsibility pursuant to the Mandatory
15 Financial Responsibility Act.

16 B. A motor vehicle insurance policy shall insure a
17 person named as insured against loss from the liability
18 imposed upon the person by law for damages arising out of the
19 use, with the express or implied permission of the owner or
20 person in lawful possession, of a motor vehicle that the
21 insured person does not own. The policy shall insure the
22 person within the same territorial limits and in compliance
23 with the requirement of evidence of financial responsibility
24 as set forth in the Mandatory Financial Responsibility Act
25 with respect to a motor vehicle insurance policy. A motor

1 vehicle liability policy in which the described vehicle is a
2 private passenger car is not required to provide liability
3 insurance coverage for a non-owned truck tractor designed to
4 pull a trailer or semitrailer.

5 C. Permitted exceptions to coverage otherwise
6 required by Subsections A and B of this section may include
7 the following if excluded by the motor vehicle insurance
8 policy:

9 (1) an automobile business exclusion;

10 (2) a furnished for regular use exclusion;

11 (3) a vehicle rented for business use

12 exclusion if the exclusion is contained in the motor vehicle
13 insurance policy and is enforceable;

14 (4) an exclusion for any liability of the
15 United States government or its agencies when the provisions
16 of the Federal Tort Claims Act apply;

17 (5) an exclusion for liability of the
18 insured under any workers' compensation law;

19 (6) an exclusion for damages to property
20 owned by, rented to, in the charge of or transported by an
21 insured; provided, however, that this exclusion shall not
22 apply to damages to a residence or private garage rented by
23 an insured; and

24 (7) an exclusion to apply when a vehicle is
25 rented to others or used to carry persons for a charge,

1 including when a vehicle is being used while logged on to a
2 transportation network company's digital network or while a
3 driver provides a prearranged ride; provided, however, that
4 this exclusion shall not apply to use on a shared expense
5 basis.

6 D. The motor vehicle insurance policy shall state
7 the name and address of the insured, the coverage afforded by
8 the policy, the premium charged, the policy period and the
9 limits of liability. The policy shall also contain an
10 agreement or endorsement that states that the insurance is:

11 (1) provided in accordance with the coverage
12 defined in the Mandatory Financial Responsibility Act
13 regarding bodily injury and death or property damage or both;
14 and

15 (2) subject to all the provisions of that
16 act.

17 E. Every motor vehicle insurance policy shall be
18 subject to the following provisions, which may be contained
19 in the policy:

20 (1) the policy may not be canceled or
21 annulled as to the liability of the insurance carrier with
22 respect to the insurance required by the Mandatory Financial
23 Responsibility Act by an agreement between the insurance
24 carrier and the insured after the occurrence of the injury or
25 damage;

1 (2) the satisfaction by the insured of a
2 judgment for injury or damage shall not be a condition
3 precedent to the right or duty of the insurance carrier to
4 pay on account of injury or damage;

5 (3) the insurance carrier has the right to
6 settle a claim covered by the policy. If the settlement is
7 made in good faith, the amount of the settlement is
8 deductible from the limits of liability specified in the
9 Mandatory Financial Responsibility Act; and

10 (4) the policy, the declarations page, the
11 written application and a rider or an endorsement that does
12 not conflict with the provisions of the Mandatory Financial
13 Responsibility Act constitute the entire contract between the
14 parties.

15 F. A binder issued pending the issuance of a motor
16 vehicle insurance policy is deemed to fulfill the requirements
17 for the policy."

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