

1 HB97
2 189487-1
3 By Representative Faulkner
4 RFD: Commerce and Small Business
5 First Read: 09-JAN-18

2
3
4
5
6
7
8 SYNOPSIS: This bill would require transportation
9 network companies to obtain a permit from the
10 Public Service Commission, maintain an agent for
11 service of process, implement a nondiscrimination
12 policy, implement a zero tolerance intoxicating
13 substance policy, and maintain certain records.

14 This bill would require drivers and vehicles
15 that provide rides through transportation network
16 companies to meet certain safety and consumer
17 protection requirements.

18 This bill would require transportation
19 network companies to collect a local assessment fee
20 for each trip fare and remit it to the Public
21 Service Commission and require the commission to
22 distribute a portion of the fee to the municipality
23 or county where a ride originates.

24 This bill would also prohibit municipalities
25 and certain authorities from imposing taxes or
26 business licenses on transportation network

1 companies or transportation network company drivers
2 or vehicles.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to transportation network companies; to
9 require transportation network companies to obtain a permit
10 from the Public Service Commission, maintain an agent for
11 service of process, implement a nondiscrimination policy,
12 implement a zero tolerance intoxicating substance policy, and
13 maintain certain records; to require drivers and vehicles that
14 provide rides through transportation network companies to meet
15 certain safety and consumer protection requirements; to
16 require transportation network companies to collect a local
17 assessment fee for each trip fare and remit it to the Public
18 Service Commission and require the commission to distribute a
19 portion of the fee to the municipality or county where a ride
20 originates; to and prohibit municipalities and certain
21 authorities from imposing taxes or business licenses on
22 transportation network companies or transportation network
23 company drivers or vehicles.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. As used in this act, the following words
26 shall have the following meanings:

27 (1) COMMISSION. The Public Service Commission.

1 (2) DIGITAL NETWORK. Digital network, as defined in
2 Section 32-7C-1, Code of Alabama 1975.

3 (3) GROSS TRIP FARE. The sum of the base fare
4 charge, distance charge, and time charge for a complete trip
5 at rates published on the TNC's website. The term does not
6 include any additional fees, including airport or venue fees.

7 (4) TNC. A transportation network company, as
8 defined in Section 32-7C-1, Code of Alabama 1975.

9 (5) TNC DRIVER. A TNC driver as defined in Section
10 32-7C-1, Code of Alabama 1975.

11 (6) TNC RIDER. A TNC rider as defined in Section
12 32-7C-1, Code of Alabama 1975.

13 (7) TNC VEHICLE. A personal vehicle, as defined in
14 Section 32-7C-1, Code of Alabama 1975. The term may include a
15 vehicle that is let or rented to another person for
16 consideration.

17 (8) PREARRANGED RIDE. Prearranged ride, as defined
18 in Section 32-7C-1, Code of Alabama 1975.

19 Section 2. (a) A TNC or TNC driver is not a common
20 carrier, contract carrier, or motor carrier, as defined in
21 Section 37-3-2, Code of Alabama 1975, does not provide taxi or
22 for-hire vehicle services, and is not subject to the Alabama
23 Motor Carrier Act, Chapter 3, Title 37, Code of Alabama 1975.

24 (b) A TNC driver is not required to register the
25 vehicle that the TNC driver uses to provide prearranged rides
26 under this act as a commercial motor vehicle or for-hire

1 vehicle under the Alabama Motor Carrier Act, Chapter 3, Title
2 37, Code of Alabama 1975.

3 Section 3. (a) A person may not operate a TNC in the
4 state without first having obtained a permit from the
5 commission, provided that any TNC operating in the state
6 before July 1, 2018, may continue operating until the
7 commission creates a permit process and sets a registration
8 deadline.

9 (b) The commission shall issue a permit to each
10 applicant that meets the requirements for a TNC under this
11 act.

12 Section 4. (a) A TNC shall collect a local
13 assessment fee equal to one percent of the gross trip fare on
14 behalf of a TNC driver for all prearranged rides that
15 originate in the state in accordance with this act.

16 (b) (1) No later than 30 days after the end of each
17 calendar quarter, a TNC shall submit to the commission all of
18 the following:

19 a. The total local assessment fees collected by a
20 TNC.

21 b. For prearranged rides that originated within a
22 municipality, a report listing the percentage of the gross
23 trip fare that originated in each municipality during the
24 reporting period.

25 c. For prearranged rides that originated outside a
26 municipality, a report listing the percentage of the gross

1 trip fare that originated in the unincorporated portion of
2 each county during the reporting period.

3 (2) The TNC shall be responsible for determining
4 whether a prearranged ride originated within the boundaries of
5 a municipality or originated within the unincorporated portion
6 of a county.

7 (c) To ensure proper distribution of the local
8 assessment fee, the commission shall prepare and make
9 available for public use Geographic Information System (GIS)
10 data in the form of a file showing the state's county and
11 municipal boundaries. To the extent the commission updates the
12 GIS file, the commission shall notify TNCs and make available
13 to TNCs the updated GIS file. In addition to the requirements
14 of this section, municipalities shall provide annexation
15 information to the commission within 30 days after the
16 annexation is complete. Such information shall include a
17 written description of the boundary, along with a map or plat
18 that clearly defines the new territory added.

19 (d) The local assessment fees submitted to the
20 commission shall be administered by the commission and may
21 only be expended as provided in this section. The commission
22 may retain an amount necessary to cover the expenses derived
23 from regulation of TNCs and the collection, remittance, and
24 distribution of local assessment fees pursuant to this
25 section, provided the amount retained may not exceed 50
26 percent of the total local assessment fees collected.

1 (e) No later than 60 days after the end of each
2 calendar quarter, the commission shall distribute the local
3 assessment fees collected for the preceding calendar quarter,
4 minus the amount retained pursuant to subsection (d), to each
5 municipality where a prearranged ride originated and to each
6 county where a prearranged ride originated in the
7 unincorporated portion of the county, during that calendar
8 quarter. The distribution shall be proportionate to the
9 percentage of the gross trip fare that originated in each
10 applicable municipality and unincorporated portion of a
11 county.

12 (f) No more than every two years, the commission may
13 request that a TNC engage an independent third party auditor
14 to verify the local assessment fees submitted to the
15 commission pursuant to subdivision (1) of subsection (b) are
16 accurate. The TNC that is subject to the audit shall engage
17 the independent third party auditor, which shall be selected
18 at the sole discretion of the TNC, and bear all costs
19 associated with the third party audit. The independent third
20 party auditor must be a certified public accounting firm
21 licensed in the state and qualified to perform engagements in
22 accordance with American Institute of Certified Public
23 Accountants (AICPA) standards. The TNC shall provide the
24 commission with a copy of the third party audit report within
25 15 days of completion, which shall in no event occur later
26 than 90 days after receipt of the commission's written
27 request. The third party audit shall be limited to a single

1 calendar quarter that may be selected by the commission. If
2 any underpayment of over five percent is identified through
3 the audit, the TNC shall remit the underpaid local assessment
4 fees to the appropriate municipality or county.

5 (g) Any record maintained by a TNC or submitted to
6 the commission pursuant to this section shall be considered
7 tax information and may not be disclosed, as provided in
8 subsection (a) of Section 40-2A-10, Code of Alabama 1975.

9 Section 5. A TNC shall maintain an agent for service
10 of process in the state.

11 Section 6. A TNC may charge a fare for the services
12 provided to a TNC rider. If a fare is collected from a rider,
13 the TNC shall disclose to the rider the fare or fare
14 calculation on its digital network. If the fare is not
15 disclosed to the rider before the beginning of the prearranged
16 ride, the rider shall have the option to receive an estimated
17 fare before the beginning of the prearranged ride.

18 Section 7. The TNC's digital network shall display a
19 picture of the TNC driver and the license plate number of the
20 motor vehicle use for providing the prearranged ride before
21 the rider enters the TNC driver's vehicle.

22 Section 8. Within a reasonable period of time
23 following the completion of a trip, a TNC shall transmit an
24 electronic receipt to the rider on behalf of the TNC driver
25 that lists all of the following:

- 26 (1) The origin and destination of the trip.
- 27 (2) The total time and distance of the trip.

1 (3) The total fare paid.

2 Section 9. A TNC driver or a TNC on behalf of the
3 TNC driver shall maintain automobile insurance pursuant to
4 Chapter 7C of Title 32, Code of Alabama 1975.

5 Section 10. (a) Before allowing an individual to
6 accept trip requests through a TNC's digital network as a TNC
7 driver, all of the following must occur:

8 (1) The individual shall submit an application to
9 the TNC, that includes information regarding his or her
10 address, age, driver's license, motor vehicle registration,
11 and other information required by the TNC.

12 (2) The TNC shall conduct, or have a third party
13 conduct, a local and national criminal background check for
14 each applicant that shall include a review of the following:

15 a. A multistate or multi-jurisdiction criminal
16 records locator or other similar commercial nationwide
17 database with validation.

18 b. The United State Department of Justice National
19 Sex Offender Public Website.

20 (3) The TNC shall obtain and review, or have a third
21 party obtain and review, a driving history report of each
22 applicant.

23 (b) The TNC may not permit an individual to act as a
24 TNC driver on its digital network who:

25 (1) Has had more than three moving violations in the
26 prior three-year period, or one of the following major
27 violations in the prior three-year period:

1 a. Fleeing or attempting to elude a law enforcement
2 officer.

3 b. Reckless driving.

4 c. Driving with a suspended or revoked license.

5 (2) Has been convicted, within the past seven years,
6 of any of the following:

7 a. A felony.

8 b. Misdemeanor driving under the influence, reckless
9 driving, hit and run, or any other misdemeanor violent offense
10 or sexual battery.

11 (3) Is a match in the U.S. Department of Justice
12 National Sex Offender Public Website.

13 (4) Does not possess a valid driver's license.

14 (5) Does not possess proof of registration for the
15 motor vehicle or vehicles the applicant intends to use to
16 provide prearranged rides.

17 (6) Does not maintain proof of or does not possess
18 automobile insurance required under Chapter 7C of Title 32,
19 Code of Alabama 1975.

20 (7) Is under the age of 19 years.

21 Section 11. (a) A TNC shall establish and enforce a
22 zero tolerance intoxicating substance policy for TNC drivers
23 that prohibits any amount of intoxication of the driver while
24 providing transportation network services.

25 (b) The TNC shall include on its website a notice
26 concerning the TNC's zero tolerance intoxicating substance

1 policy and the means to make a complaint about a suspected
2 violation of the policy.

3 (c) Upon receipt of a rider complaint alleging a
4 violation of the zero tolerance intoxicating substance policy,
5 the TNC shall immediately suspend the TNC driver's access to
6 the TNC's digital network and conduct an investigation into
7 the reported incident. The suspension shall last the duration
8 of the investigation.

9 Section 12. A TNC driver may not accept a trip for
10 compensation other than a trip arranged through a TNC's
11 digital network.

12 Section 13. (a) The TNC shall adopt a policy of
13 nondiscrimination on the basis of destination, race, color,
14 national origin, religious belief or affiliation, sex,
15 disability, age, sexual orientation, or gender identity with
16 respect to riders and potential riders. The TNC shall notify
17 TNC drivers of the policy.

18 (b) TNC drivers shall comply with all applicable
19 laws regarding nondiscrimination against riders or potential
20 riders on the basis of destination, race, color, national
21 origin, religious belief or affiliation, sex, disability, age,
22 sexual orientation, or gender identity.

23 (c) TNC drivers shall comply with all applicable
24 laws relating to the transportation of service animals.

25 (d) A TNC may not impose additional charges for
26 providing services to individuals with physical disabilities
27 because of those disabilities.

1 Section 14. (a) A TNC shall maintain the following
2 records:

3 (1) Individual trip records for at least two years
4 from the date each trip was provided.

5 (2) Individual records of TNC drivers at least two
6 years from the date on which a TNC driver's relationship with
7 the TNC ended.

8 (b) For the sole purpose of verifying that a TNC is
9 in compliance with subsection (a) and Section 10 and no more
10 than annually, the commission may visually inspect a random
11 sample of up to five percent of the records that the TNC is
12 required to maintain pursuant to subsection (a). All samples
13 shall include records sufficient to verify the TNC's
14 compliance with the background check requirements and
15 standards set forth in Section 10. The audit shall take place
16 at a mutually agreed upon location in Montgomery, Alabama, or
17 through a mutually agreed upon secure electronic process. Any
18 record furnished to the commission may exclude information
19 that would identify specific TNC drivers or riders, unless the
20 commission demonstrates that there is good cause to inspect
21 the identifying information. Upon request of a municipality,
22 the commisison may brief the municipality on the finding of an
23 audit conducted pursuant to this subsection.

24 (c) In response to a specific complaint against a
25 TNC driver or a TNC, the commission may inspect records held
26 by the TNC pursuant to subsection (a) that are necessary to
27 investigate and resolve the complaint. The inspection shall

1 take place at a mutually agreed upon location in Montgomery,
2 Alabama, or through a mutually agreed upon secure electronic
3 process. Any record furnished to the commission may exclude
4 information that would identify specific TNC drivers or
5 riders, unless the identity of a driver or rider is relevant
6 to the complaint.

7 (d) Any records, including any information contained
8 therein that would identify specific TNC drivers or riders
9 inspected by the commission under this section are not public
10 records and are not subject to disclosure to a third party by
11 the commission without prior written consent of the TNC, and
12 are exempt from disclosure under Section 36-12-40, Code of
13 Alabama 1975. Nothing in this section shall be construed as
14 limiting the applicability of any other exemptions under
15 Section 36-12-40, Code of Alabama 1975, or the validity of any
16 court order.

17 (e) No political subdivision of the state, including
18 the commission, may disclose any records, data, or information
19 provided by a TNC pursuant to this act to a third party absent
20 a court order or subpoena. In the event that records, data, or
21 information provided pursuant to this act is sought through a
22 court order or subpoena, the commission or other political
23 subdivision shall promptly notify the TNC so as to afford the
24 TNC the opportunity to take actions to prevent disclosure.

25 Section 15. (a) The failure of a TNC to comply with
26 this act or rule adopted pursuant to this act or commission
27 order issued pursuant to this act may result in the revocation

1 of the TNC's permit by the commission or the assessment of a
2 civil penalty, or both, in accordance with procedures
3 established by the commission. The civil penalty for TNCs may
4 not exceed five hundred dollars (\$500) for each violation for
5 each day the TNC knew or should have known about the
6 violation.

7 (b) The failure by a TNC driver to comply with this
8 act or rule adopted pursuant to this act or commission order
9 issued pursuant to this act may result in the suspension of
10 the TNC driver from operating on any TNC's digital network or
11 the assessment of a civil penalty, or both, in accordance with
12 procedures established by the commission. The civil penalty
13 for TNC drivers may not exceed one hundred dollars (\$100) for
14 each violation for each day the TNC driver knew or should have
15 known about the violation.

16 Section 16. The commission may adopt rules to
17 implement and enforce this act in accordance with its
18 established rules of practice and procedures.

19 Section 17. (a) It is the intent of the Legislature
20 to provide for uniformity of laws governing TNCs, TNC drivers,
21 and TNC vehicles throughout the state, and to provide that
22 TNCs, TNC drivers, and TNC vehicles be governed exclusively by
23 this act, Chapter 7C of Title 32, Code of Alabama 1975
24 governing insurance requirements for TNCs and TNC drivers, and
25 any rules adopted by the commission consistent with this act.

1 (b) A county, municipality, special district,
2 airport authority, port authority, or other local governmental
3 entity or subdivision may not do any of the following:

4 (1) Impose a tax on, or require a license for, a TNC
5 or a TNC driver or TNC vehicle if the tax or license relates
6 to providing prearranged rides, or subjects a TNC, TNC driver,
7 or TNC vehicle to any rate, entry, operation, or other
8 requirement of the county, municipality, special district,
9 airport authority, port authority, or other local governmental
10 entity or subdivision.

11 (2) Require a TNC or a TNC driver to obtain a
12 business license or any other type of similar authorization to
13 operate within the jurisdiction.

14 (3) Subject a TNC or a TNC driver to a rate, entry,
15 operation, or other requirement of the county, municipality,
16 special district, airport authority, port authority, or other
17 local governmental entity.

18 (c) This section does not prohibit the governing
19 body of a municipality from electing by ordinance to prohibit
20 TNCs from operating within its corporate limits.
21 Notwithstanding the foregoing, the governing body of a
22 municipality may not specify additional or alternative
23 requirements, taxes, or licenses for TNCs, TNC drivers, or TNC
24 vehicles as conditions for operating within its corporate
25 limits

26 (d) This section does not prohibit an airport from
27 charging reasonable pickup fees at that airport, for use of

1 the airport's facilities or designating locations for staging,
2 pickup, and other similar operations at the airport.

3 (e) This section does not prohibit the Alabama State
4 Port Authority from regulating access to its properties and
5 facilities or from charging reasonable and necessary fees,
6 provided the regulations, fees, and any required credentials
7 are consistent with regulations, fees, and credentials that
8 apply to taxicab companies.

9 Section 18. Section 4 shall become operative 30 days
10 after the Public Service Commission makes available the GIS
11 data required under subsection (c) of Section 4.

12 Section 19. This act shall become effective on July
13 1, 2018, following its passage and approval by the Governor or
14 its otherwise becoming law, and Section 4 shall become
15 operative 30 days after the Public Service Commission makes
16 available the GIS data required under subsection (c) of
17 Section 4.