

## 1 HOUSE BILL NO. 428

2 INTRODUCED BY M. MACDONALD

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING REQUIREMENTS FOR TRANSPORTATION  
5 NETWORK COMPANIES TO PROVIDE SERVICES IN MONTANA; REQUIRING THE PUBLIC SERVICE  
6 COMMISSION TO PERMIT AND REGULATE TRANSPORTATION NETWORK COMPANIES; ESTABLISHING  
7 REQUIREMENTS FOR THE OPERATION OF TRANSPORTATION NETWORK COMPANIES; PROHIBITING  
8 A TRANSPORTATION NETWORK COMPANY FROM OPERATING IN A SERVICE TERRITORY SERVED BY  
9 A CLASS B MOTOR CARRIER; ESTABLISHING REQUIREMENTS FOR TRANSPORTATION NETWORK  
10 COMPANY DRIVERS; ESTABLISHING PENALTIES FOR VIOLATIONS OF TRANSPORTATION NETWORK  
11 COMPANY REQUIREMENTS; GRANTING RULEMAKING AUTHORITY; PROHIBITING LOCAL  
12 GOVERNMENTS FROM REGULATING TRANSPORTATION NETWORK COMPANY SERVICES;  
13 PROHIBITING A LOCAL GOVERNMENT WITH SELF-GOVERNING POWERS FROM REGULATING  
14 TRANSPORTATION NETWORK COMPANY SERVICES; AMENDING SECTIONS 7-1-111 AND 69-12-102,  
15 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
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17 WHEREAS, transportation network companies provide benefits for the Montana economy, environment,  
18 and transportation market and for Montana consumers; and

19 WHEREAS, transportation network companies increase mobility and accessibility by matching drivers  
20 with riders, allowing individuals to share transportation expenses, and providing safety mechanisms, including  
21 authentication through social media, driver background checks, vehicle inspections, global positioning system  
22 tracking, insurance coverage, and minimum age requirements for drivers; and

23 WHEREAS, transportation network companies enhance transportation options available to consumers  
24 and provide a variety of benefits, including increased public safety, improved environmental quality, reduced air  
25 emissions from personal vehicle trips, reduced traffic congestion, reduced need for parking infrastructure, and  
26 increased use of public transportation by facilitating riders' travel to and from transportation hubs; and

27 WHEREAS, transportation network companies do not provide transportation services in the traditional  
28 sense in that they do not own, control, operate, or manage vehicles, employ drivers, or transport riders. A  
29 transportation network company's essential function is to connect people to form a transportation community; and

30 WHEREAS, allowing transportation network companies in Montana is consistent with Montana's

1 commitment to entrepreneurs, innovation, and the environment; and

2 WHEREAS, transportation network companies are not traditional motor carriers and require a different  
3 regulatory scheme because they operate an online-based digital network.

4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6

7 **Section 1.** Section 7-1-111, MCA, is amended to read:

8 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from  
9 exercising the following:

10 (1) any power that applies to or affects any private or civil relationship, except as an incident to the  
11 exercise of an independent self-government power;

12 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (labor, collective  
13 bargaining for public employees, unemployment compensation, or workers' compensation), except that subject  
14 to those provisions, it may exercise any power of a public employer with regard to its employees;

15 (3) any power that applies to or affects the public school system, except that a local unit may impose an  
16 assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise  
17 any power that it is required by law to exercise regarding the public school system;

18 (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;

19 (5) any power that establishes a rate or price otherwise determined by a state agency;

20 (6) any power that applies to or affects any determination of the department of environmental quality with  
21 regard to any mining plan, permit, or contract;

22 (7) any power that applies to or affects any determination by the department of environmental quality  
23 with regard to a certificate of compliance;

24 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense  
25 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'  
26 imprisonment, or both, except as specifically authorized by statute;

27 (9) any power that applies to or affects the right to keep or bear arms, except that a local government  
28 has the power to regulate the carrying of concealed weapons;

29 (10) any power that applies to or affects a public employee's pension or retirement rights as established  
30 by state law, except that a local government may establish additional pension or retirement systems;

1 (11) any power that applies to or affects the standards of professional or occupational competence  
2 established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession  
3 or occupation;

4 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title  
5 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife);

6 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended  
7 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,  
8 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords  
9 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local  
10 government's jurisdiction.

11 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

12 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,  
13 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may  
14 enter into a cooperative agreement with the department of agriculture concerning the use and application of  
15 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local  
16 government from adopting or implementing zoning regulations or fire codes governing the physical location or  
17 siting of fertilizer manufacturing, storage, and sales facilities;

18 (16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,  
19 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired  
20 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal  
21 communications commission of the United States;

22 (17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna  
23 at heights and dimensions sufficient to accommodate amateur radio service communications by a person who  
24 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or  
25 higher class, issued by the federal communications commission of the United States;

26 (18) any power that regulates transportation of persons by transportation network companies regulated  
27 in accordance with [sections 3 through 8]."

28

29 **Section 2.** Section 69-12-102, MCA, is amended to read:

30 **"69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

- 1 (a) the operation of school buses that are used in conveying pupils or other students enrolled in classes  
2 to and from district or other schools or in transportation movements related to school activities that are sponsored  
3 or supervised by school authorities;
- 4 (b) the transportation by means of motor vehicles in the regular course of business of employees by a  
5 person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively  
6 in logging or mining operations, insofar as the use of employees in construction and production is concerned;
- 7 (c) the transportation of household goods and garbage by motor vehicle in a city, town, or village with  
8 a population of less than 500 persons according to the latest United States census or in the commercial areas  
9 of a city, town, or village with a population of less than 500 persons, as determined by the commission;
- 10 (d) the transportation of newspapers, newspaper supplements, periodicals, or magazines;
- 11 (e) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle  
12 wrecking facility or a motor vehicle graveyard;
- 13 (f) ambulances;
- 14 (g) the transportation by motor vehicle of not more than 15 passengers between their places of residence  
15 or termini near their residences and their places of employment in a single daily round trip if the driver is also  
16 going to or from the driver's place of employment;
- 17 (h) the operation of:
- 18 (i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14,  
19 part 2;
- 20 (ii) a municipal bus service pursuant to Title 7, chapter 14, part 44; or
- 21 (iii) any public transportation system recognized by the Montana department of transportation as a federal  
22 transit administration provider pursuant to 49 U.S.C. 5311;
- 23 (i) armored motor vehicles used for the transportation of valuable paintings and other items of unusual  
24 value requiring special handling and security;
- 25 (j) the transportation of household goods or garbage under an agreement between a motor carrier and  
26 an office or agency of the United States government;
- 27 (k) the transportation of persons provided by private, nonprofit organizations, including those recognized  
28 by the Montana department of transportation as federal transit administration providers pursuant to 49 U.S.C.  
29 5310. As used in this subsection (1)(k), "private, nonprofit organizations" means organizations recognized as  
30 nonprofit under section 501(c) of the Internal Revenue Code.

1 (l) the transportation of a group of passengers by charter service if:  
2 (i) the motor vehicle used for the transportation of the passengers is designed to carry more than 26  
3 passengers; and  
4 (ii) the motor carrier has obtained a USDOT number from the U.S. department of transportation as  
5 provided in 49 CFR 390.19; ~~or~~

6 (m) the transportation of a group of employees to or from a worksite by a motor carrier under contract  
7 with the employer for a period of time of at least 1 year; or

8 (n) the transportation of persons by transportation network companies regulated in accordance with  
9 [sections 3 through 8] that match drivers and passengers using a digital network, including but not limited to a  
10 mobile phone application, for transportation from an agreed-upon point of origin to an agreed-upon destination.

11 (2) Except for the identification of ownership requirements provided in 69-12-408, this chapter does not  
12 affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles  
13 or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles.

14 (3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."  
15

16 **NEW SECTION. Section 3. Definitions.** As used in [sections 3 through 8], unless the context requires  
17 otherwise, the following definitions apply:

18 (1) "Personal vehicle" means a vehicle that is used by a transportation network company driver in  
19 connection with providing transportation network company services for a transportation network company that  
20 meets the requirements of [sections 3 through 8].

21 (2) "Prearranged ride" means a period of time that begins when a transportation network company driver  
22 accepts a requested ride through a digital network, continues while the driver transports the transportation  
23 network company rider in a personal vehicle, and ends when the rider departs from the personal vehicle.

24 (3) "Transportation network company" means a corporation, partnership, sole proprietorship, or other  
25 entity, operating in Montana, that uses a digital network to connect transportation network company riders to  
26 transportation network company drivers for the purpose of providing transportation. A transportation network  
27 company does not provide services regulated in accordance with Title 69, chapter 12.

28 (4) "Transportation network company driver" or "driver" means an individual who uses the individual's  
29 personal vehicle to provide services for transportation network company riders matched through a transportation  
30 network company's digital network. A transportation network company driver is not required be an employee of

1 a transportation network company.

2 (5) "Transportation network company rider" or "rider" means an individual who uses a transportation  
3 network company's online application or digital network to connect with a transportation network company driver  
4 to obtain services in the driver's personal vehicle from an agreed-upon point of departure to an agreed-upon  
5 destination.

6 (6) "Transportation network company services" or "services" means the provision of transportation by a  
7 transportation network company driver to a transportation network company rider with whom the driver is matched  
8 through a transportation network company.

9

10 **NEW SECTION. Section 4. Regulation of transportation network companies -- rulemaking.** (1) A  
11 transportation network company shall operate in accordance with [sections 3 through 8] and may not provide  
12 transportation network company services:

13 (a) on any public highway in this state without obtaining a permit in accordance with [section 5] from the  
14 public service commission; or

15 (b) in a service territory serviced by a Class B motor carrier regulated by the public service commission  
16 in accordance with Title 69, chapter 12.

17 (2) In addition to obtaining a permit, a transportation network company shall file a certificate of insurance  
18 with the commission showing that the transportation network company meets applicable insurance requirements  
19 and has secured an insurance policy issued by an insurance company authorized to do business in this state with  
20 coverage in the amount of \$1 million per occurrence for incidents involving a transportation network company  
21 driver during a prearranged ride.

22 (3) Transportation network company drivers shall maintain personal automotive liability insurance with  
23 a liability limit at least equal to minimum requirements established by commission rule. A transportation network  
24 company shall verify that each prospective driver possesses proof of automobile insurance before allowing the  
25 prospective driver to provide services through the transportation network.

26 (4) The commission has the authority to supervise and regulate transportation network company services  
27 and to generally implement and enforce the provisions of [sections 3 through 8].

28 (5) The commission shall adopt rules necessary to:

29 (a) provide application and application renewal procedures for transportation network companies and  
30 necessary application fees to process applications;

- 1 (b) establish procedures to evaluate and make determinations on applications for a permit;
- 2 (c) require transportation network companies and drivers meet insurance requirements in accordance
- 3 with subsections (2) and (3);
- 4 (d) assess penalties or suspend, revoke, alter, or amend permits for violation of [sections 3 through 8];
- 5 (e) determine driver requirements in accordance with [section 7(4)]; and
- 6 (f) implement the provisions of [sections 3 through 8].

7

8 **NEW SECTION. Section 5. Permit required for transportation network companies -- penalty for**

9 **violation.** (1) (a) The commission shall issue a permit to each transportation network company that seeks an

10 application and meets the requirements of [sections 3 through 8].

11 (b) A transportation network company that obtains a permit shall pay a permit fee of \$325. The permit

12 is valid for 1 year and must be annually renewed with the commission.

13 (2) The commission shall determine the form and manner of application for a transportation network

14 company permit.

15 (3) If a transportation network company fails to comply with the requirements of [sections 3 through 8]

16 or the conditions of a permit issued by the commission, the commission may suspend, revoke, alter, or amend

17 a permit issued to the transportation network company.

18 (4) (a) For a violation of [sections 3 through 8] or a failure to comply with a commission order, decision,

19 or rule issued under [sections 3 through 8], a transportation network company may be subject to a penalty fee

20 not to exceed \$2,000 for each offense.

21 (b) The commission may not assess a penalty fee against a transportation network company driver.

22

23 **NEW SECTION. Section 6. Operational requirements.** (1) A transportation network company driver

24 may not provide services unless a transportation network company has matched the driver to a transportation

25 network company rider through a digital network.

26 (2) A transportation network company shall make available to prospective transportation network

27 company riders the method by which the transportation network company calculates fares or the applicable rates

28 being charged and an option to receive an estimated fare.

29 (3) Upon completion of a prearranged ride, a transportation network company shall transmit to the

30 transportation network company rider an electronic receipt, either by electronic mail or via text message,

1 documenting:

2 (a) the point of origin and destination of the prearranged ride;

3 (b) the total duration and distance of the prearranged ride; and

4 (c) the total fare paid, including the base fare and any additional charges incurred for distance traveled  
5 or duration of the prearranged ride.

6 (4) Before permitting a person to act as a transportation network company driver on its digital network,  
7 a transportation network company shall confirm that the person is at least 21 years of age and possesses:

8 (a) a valid driver's license;

9 (b) proof of automobile insurance; and

10 (c) proof of a Montana vehicle registration.

11 (5) A driver may not offer or provide transportation network company services for more than 12  
12 consecutive hours.

13 (6) A transportation network company shall:

14 (a) implement an intoxicating substance policy for transportation network company drivers that disallows  
15 any amount of intoxication of the driver while providing services; and

16 (b) include on its web site and mobile device application software a notice concerning the transportation  
17 network company's intoxicating substance policy.

18 (7) A transportation network company shall conduct or have a certified mechanic conduct a safety  
19 inspection of a prospective driver's vehicle before it is approved for use as a personal vehicle and shall have  
20 periodic inspections of personal vehicles, at intervals of at least one inspection a year. A safety inspection shall  
21 include an inspection of:

22 (a) service brakes;

23 (b) parking brakes;

24 (c) steering mechanism;

25 (d) windshield;

26 (e) rear window and other glass;

27 (f) windshield wipers;

28 (g) headlamps;

29 (h) taillamps;

30 (i) signal lamps;



- 1 (j) stop lamps;
- 2 (k) front seat adjustment mechanism;
- 3 (l) the opening, closing, and locking capability of the doors;
- 4 (m) horn;
- 5 (n) speedometer;
- 6 (o) bumpers;
- 7 (p) muffler and exhaust system;
- 8 (q) tire conditions, including tread depth;
- 9 (r) interior and exterior rear-view mirrors; and
- 10 (s) safety belts.
- 11 (8) A personal vehicle must:
- 12 (a) have at least 4 doors; and
- 13 (b) be designed to carry no more than eight passengers, including the driver.
- 14 (9) A transportation network company shall retain accurate inspection records for at least 6 months after
- 15 an inspection was conducted for each personal vehicle used by a driver.
- 16

17 **NEW SECTION. Section 7. Driver requirements.** (1) Before an individual is permitted to act as a

18 transportation network company driver through use of a transportation network company's digital network, the

19 individual shall:

- 20 (a) obtain a criminal history record check; and
- 21 (b) provide a copy of the criminal history record check to the transportation network company.
- 22 (2) Before permitting an individual to act as a transportation network company driver on its digital network,
- 23 a transportation network company shall obtain and review a driving history research report for the individual.
- 24 (3) A transportation network company shall retain accurate records of the criminal history record check
- 25 and the driving history research report for each driver who provides services for the transportation network
- 26 company for at least 6 months after the criminal history record check and driving history research report were
- 27 conducted.
- 28 (4) A transportation network company driver may not have been convicted by a court of a crime or traffic
- 29 violation described by commission rule as being of a nature that renders the person unfit to be a transportation
- 30 network company driver for a transportation network company.

1 (5) If a transportation network company rider files a complaint with the commission against a  
2 transportation network company or driver, the commission may inspect the transportation network company's  
3 records as reasonably necessary to investigate and resolve the complaint.

4  
5 **NEW SECTION. Section 8. Authority.** (1) Notwithstanding any other provision of law, transportation  
6 network company services are exclusively governed by [sections 3 through 8] and rules promulgated by the  
7 commission consistent with [sections 3 through 8].

8 (2) A local government as defined in 2-2-102 may not impose a tax or fee on, require a license for, or  
9 impose any other operational requirements on transportation network company services.

10  
11 **NEW SECTION. Section 9. Codification instruction.** [Sections 3 through 8] are intended to be codified  
12 as an integral part of Title 69, and the provisions of Title 69 apply to [sections 3 through 8].

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14 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

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- END -