

2015 -- H 5487

=====
LC001165
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

—————
A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - TRANSPORTATION NETWORK
COMPANY SERVICES

Introduced By: Representatives Palangio, Carnevale, Gallison, Kennedy, and Nunes

Date Introduced: February 12, 2015

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 14.2

4 TRANSPORTATION NETWORK COMPANY SERVICES

5 **39-14.2-1. Definitions.** -- Terms used in this chapter shall be construed as follows, unless
6 another meaning is expressed or is clearly apparent from the language or context:

7 (1) "Division" means the division of public utilities and carriers;

8 (2) "Person" means and includes any individual, partnership, corporations, or other
9 association of individuals;

10 (3) "Transportation network company" or "TNC" means an entity licensed pursuant to
11 this chapter and operating in the state that uses a digital network or software application service to
12 connect passengers to transportation network company services provided by the TNC drivers. A
13 TNC is not deemed to own, control, operate or manage the vehicles used by the TNC drivers. A
14 TNC is not a jitney, as defined in § 39-13-1, a taxicab or limited public motor vehicle, as defined
15 in § 39-14-1, or a public motor vehicle, as defined in § 39-14.1-1. A TNC is not a common
16 carrier as defined in title 39;

17 (4) "Transportation network company services or "TNC services" means transportation of
18 a passenger between points chosen by the passenger and prearranged with the TNC driver

1 through the use of a digital network or software application. TNC services shall begin when the
2 TNC driver accepts a request for transportation received through the digital network or software
3 application service, continue while the TNC driver transports the passenger in the vehicle, and
4 end when the passenger exits the vehicle. TNC service is not a jitney, taxicab, for-hire vehicle or
5 street hail service.

6 (5) "Transportation network driver" or "TNC driver" means an individual who operates a
7 motor vehicle that is:

8 (i) Owned, leased or otherwise authorized for use by the individual;

9 (ii) Not a jitney, a taxicab or limited public motor vehicle, or a public motor vehicle; and

10 (iii) Used to provide TNC services.

11 **39-14.2-2. Not other carriers.** – TNCs or TNC drivers are not common carriers, as
12 defined in title 39; jitneys, as defined in § 39-13-1; taxicabs or limited public motor vehicles, as
13 defined in § 39-14-1; or public motor vehicles, as defined in § 39-14.1-1. In addition, a TNC
14 driver shall not be required to register the vehicle such driver uses for TNC services as a
15 commercial or for-hire vehicle.

16 **39-14.2-3. Permit required for transportation network company vehicle operation.** –

17 (a) A person shall not operate a TNC in the state until that person obtains a permit from the
18 division.

19 (b) The division shall issue a permit to each applicant that meets the requirements for a
20 TNC set forth in this chapter and pays an annual permit fee of five thousand dollars (\$5,000) to
21 the division. All revenues received under this section shall be deposited as general revenues.

22 **39-14.2-4. Agent.** – The TNC must maintain an agent for service of process in the state.

23 **39-14.2-5. Fare charged for services provided.** – A TNC may charge a fare for the
24 services provided to the passengers; provided that, if a fare is charged, the TNC shall disclose to
25 the passengers the fare calculation method on its website or within the software application
26 service. The TNC shall also provide passengers with the applicable rates being charged and the
27 option to receive an estimated fare before the passenger enters the TNC driver's vehicle.

28 **39-14.2-6. Identification of TNC vehicles and TNC drivers.** – The TNC's software
29 application or website shall display a picture of the TNC driver, and the license plate number of
30 the vehicle utilized for providing the TNC service before the passenger enters the TNC driver's
31 vehicle.

32 **39-14.2-7. Electronic receipt.** – Within a reasonable period of time following the
33 completion of a trip, a TNC shall transmit an electronic receipt to the passenger that lists: (1) The
34 origin and destination of the trip; (2) The total time and distance of the trip; and (3) An

1 itemization of the total fare paid, if any.

2 **39-14.2-8. Proof of financial responsibility.** – (a) On or before ninety (90) days after the
3 effective date of this chapter and thereafter, TNCs and TNC drivers shall comply with the
4 automobile liability insurance requirements of this chapter

5 (b) The following automobile liability insurance requirements shall apply during the time
6 that a TNC driver is logged into the TNC's digital network and available to receive requests for
7 transportation, but is not providing TNC services:

8 (1) Automobile liability insurance that meets at least the minimum liability coverage
9 requirements set by the Rhode Island department of business regulations pursuant to § 31-47-
10 2(13)(i).

11 (2) Automobile liability insurance that provides the minimum coverage requirements for
12 uninsured and underinsured motorist coverage where required by the Rhode Island department of
13 business regulation pursuant to §§ 27-7-2.1 and 31-31-7.

14 (3) Automobile liability insurance in the amounts required in subsection (b)(1) of this
15 section shall be maintained by a TNC and provide coverage in the event a participating TNC
16 driver's own automobile liability policy excludes coverage according to its policy terms or does
17 not provide coverage of at least the limits required in subsection (b)(1) of this section.

18 (c) The following automobile liability insurance requirements shall apply while a TNC
19 driver is providing TNC services:

20 (1) Provides a primary automobile liability insurance that recognizes the TNC driver's
21 provision of TNC services;

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

24 (3) Provides uninsured motorist coverage where required by the Rhode Island department
25 of business regulation pursuant to §§ 27-7-2.1 and 31-31-7.

26 (4) The coverage requirements of this subsection (c) may be satisfied by any of the
27 following:

28 (i) Automobile liability insurance maintained by the TNC driver; or

29 (ii) Automobile liability insurance maintained by the TNC; or

30 (iii) Any combination of paragraphs (i) and (ii) of this subdivision.

31 (d) In every instance where insurance maintained by a TNC driver to fulfill the insurance
32 requirements of this section has lapsed, failed to provide the required coverage, denied a claim for
33 the required coverage or otherwise ceased to exist, insurance maintained by a TNC shall provide
34 the coverage required by this section beginning with the first dollar of a claim.

1 (e) Insurance required by this section may be placed with an insurer authorized to do
2 business in the state or with a surplus lines insurer eligible under § 27-3-40. Insurance required
3 by this section shall be deemed to satisfy the financial responsibility requirement for a motor
4 vehicle under § 31-47-2(13)(i)(A).

5 **39-14.2-9. TNC and insurer disclosure requirements.** – (a) The TNC shall disclose in
6 writing to TNC drivers the following before they are allowed to accept a request for TNC services
7 on the TNC's digital network:

8 (1) The insurance coverage and limits of liability that the TNC provides while the TNC
9 driver uses a personal vehicle in connection with a TNC's digital network; and

10 (2) That the TNC driver's own insurance policy may not provide coverage while the TNC
11 driver uses a vehicle in connection with a TNC's digital network depending on its terms.

12 (b) Insurers that write automobile liability insurance in Rhode Island may:

13 (1) Exclude any and all coverage and the duty to defend afforded under the owner's
14 insurance policy for any loss or injury that occurs while an insured vehicle provides or is
15 available to provide TNC services, provided such exclusion is expressly set forth in the policy
16 and approved for sale in Rhode Island. This right to exclude coverage and the duty to indemnify
17 and defend may apply to any coverage included in an automobile liability insurance policy
18 including, but not limited to:

19 (i) Liability coverage for bodily injury and property damage;

20 (ii) Uninsured and underinsured motorist coverage;

21 (iii) Medical payments coverage;

22 (iv) Comprehensive physical damage coverage;

23 (v) Collision physical damage coverage; and

24 (vi) Medical payments coverage.

25 (c) The insurer must notify an insured after receiving notice of loss, and within the time
26 required by the Rhode Island department of business regulation pursuant to § 27-9.1-1 et seq., that
27 the insurer has no duty to defend or indemnify any person or organization for liability for a loss
28 that is properly excluded pursuant to the terms of the applicable primary or excess insurance
29 policy.

30 (d) Insurers that write automobile liability insurance in Rhode Island shall disclose on its
31 application for insurance, in a prominent place, whether or not the insurance policy provides
32 coverage while an insured vehicle provides or is available to provide TNC services. If an
33 automobile liability insurance policy contains an exclusion for TNC services, the insurer or its
34 agent must disclose in writing the exact language of such exclusion to the applicant during the

1 application process.

2 (e) In a claims coverage investigation, TNCs and any insurer providing coverage under §
3 39-14.2-7 shall cooperate to facilitate the exchange of information, including the precise times
4 that a TNC driver logged on and off of the TNC's digital network in the twenty-four (24) hour
5 period immediately preceding the accident and disclose to one another a clear description of the
6 coverage, exclusions and limits provided under any insurance policy each party issued or
7 maintained.

8 **39-14.2-10. Zero tolerance for drug and alcohol use.** – (a) The TNC shall implement a
9 zero tolerance policy on the use of drugs or alcohol while a TNC driver is providing TNC
10 services or is logged into the digital network, but is not providing TNC services, and shall provide
11 notice of this policy on its website, as well as procedures to report a complaint about a TNC
12 driver with whom a passenger was matched and whom the passenger reasonably suspects was
13 under the influence of drugs or alcohol during the course of the trip.

14 (b) Upon receipt of such passenger complaint alleging a violation of the zero tolerance
15 policy, the TNC shall immediately suspend such TNC driver's access to the digital network and
16 shall conduct an investigation into the reported incident. The suspension shall last the duration of
17 the investigation.

18 (c) The TNC shall maintain records relevant to the enforcement of this requirement for a
19 period of at least two (2) years from the date that a passenger complaint is received by the TNC.

20 **39-14.2-11. TNC Driver requirements.** – (a) Prior to permitting an individual to act as a
21 TNC driver on its digital website and software application, the TNC shall:

22 (1) Require the individual to submit an application to the TNC which includes
23 information regarding his or her address, age, driver's license, driving history, motor vehicle
24 registration, automobile liability insurance, and other information as may be required by the
25 TNC;

26 (2) Conduct, or have a third party conduct, a local and national criminal background
27 check for each applicant that shall include:

28 (i) Multi-state/multi-jurisdiction criminal records locator or other similar commercial
29 nationwide database with validation (primary source search); and

30 (ii) National sex offender registry database.

31 (3) Obtain and review a driving history research report for such individual.

32 (b) The TNC shall not permit an individual to act as a TNC driver for its digital website
33 who:

34 (1) Has had more than three (3) moving violations in the prior three (3) year period, or

1 one major violation in the prior three (3) year period (including, but not limited to, attempting to
2 evade the police, reckless driving, or driving on a suspended or revoked license);

3 (2) Has been convicted, within the past seven (7) years, of driving under the influence of
4 drugs or alcohol, fraud, sexual offenses, use of motor vehicle to commit a felony, a crime
5 involving property damage, and/or theft, acts of violence or acts or terror;

6 (3) Is found in the national sex offender registry database;

7 (4) Does not possess a valid driver's license;

8 (5) Does not possess proof of registration for the motor vehicle(s) used to provide TNC
9 services;

10 (6) Does not possess proof of automobile liability insurance for the motor vehicle(s) used
11 to provide TNC services; or

12 (7) Is not at least nineteen (19) years of age.

13 **39-14.2-12. Safety and sanitary condition of vehicles.** – A TNC shall require that any
14 motor vehicle(s) that a TNC driver will use to provide TNC services meets the vehicle safety
15 and/or emissions requirements for a private motor vehicle in Rhode Island or the state in which
16 the vehicle is registered.

17 **39-14.2-13. Operations of vehicles.** – A TNC driver shall exclusively accept rides
18 booked through a TNC's digital network or software application service and shall not solicit or
19 accept street hails.

20 **39-14.2-14. No cash trips.** – The TNC shall adopt a policy prohibiting solicitation or
21 acceptance of cash payments from passengers and notify TNC drivers of such policy. TNC
22 drivers shall not solicit or accept cash payments from passengers. Any payment for TNC services
23 shall be made only electronically using the digital network or software applications.

24 **39-14.2-15. No discrimination - accessibility.** – (a) The TNC shall adopt a policy of
25 non-discrimination on the basis of pick up location, destination, race, color, national origin,
26 religious belief or affiliation, sex, disability, age, sexual orientation/identity, or gender identity
27 with respect to passengers and potential passengers and notify TNC drivers of such policy.

28 (b) TNC drivers shall comply with all applicable laws regarding non-discrimination
29 against passengers or potential passengers on the basis of pick up location, destination, race,
30 color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or
31 gender identity.

32 (c) TNC drivers shall comply with all applicable laws relating to accommodation of
33 service animals.

34 (d) A TNC shall not impose additional charges for providing services to persons with

1 physical disabilities because of those disabilities.

2 (e) A TNC shall provide passengers an opportunity to indicate whether they require a
3 wheelchair accessible vehicle. If a TNC cannot arrange wheelchair accessible TNC service in any
4 instance, it shall direct the passenger to an alternate provider of wheelchair accessible service, if
5 available.

6 **39-14.2-16. Accessible transportation fund.** – There shall be established and set up on
7 the books of the state a separate fund to be known as the Rhode Island accessible transportation
8 fund. The fund shall consist of an annual surcharge fee of no more than ten thousand dollars
9 (\$10,000) per year by any TNC that does not provide wheelchair-accessible service and all other
10 monies credited or transferred to the fund from any other source under law. The division shall be
11 the trustee of the fund and may only expend monies in the fund, without further appropriation, to
12 enhance wheelchair-accessible service within the TNC industry.

13 **39-14.2-17. Records.** – A TNC shall maintain: (1) Individual trip records for at least one
14 year from the date each trip was provided; and (2) TNC driver records at least until the one year
15 anniversary of the date on which a TNC driver's activation on the digital network has ended.

16 **39-14.2-18. Personally identifiable information.** – A TNC shall not disclose a
17 passenger's personally identifiable information to a third party unless: the passenger consents,
18 disclosure is required by a legal obligation, or disclosure is required to protect or defend the terms
19 of use of the service or to investigate violations of those terms. In addition to the foregoing, a
20 TNC shall be permitted to share a passenger's name and/or telephone number with the TNC
21 driver providing TNC services to such passenger in order to facilitate correct identification of the
22 passenger by the TNC driver or to facilitate communication between the passenger and the TNC
23 driver.

24 **39-14.2-19. Controlling authority.** – Notwithstanding any other provisions of law,
25 TNCs and TNC drivers are governed exclusively by this chapter and any rules promulgated by
26 the division consistent with this chapter. No municipality or other local entity may impose a tax
27 on, or require a license for, a TNC, TNC driver, or a vehicle used by a TNC driver where such tax
28 or license is related to providing TNC services, or subject a TNC to the municipality or other
29 local entity's rate, entry, operation or other requirements.

30 SECTION 2. This act shall take effect upon passage.

=====
LC001165
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - TRANSPORTATION NETWORK
COMPANY SERVICES

1 This act would create a comprehensive regulatory scheme for motor vehicle passenger
2 services provided by transportation network companies which use digital network as software
3 application services to connect passengers to transportation providers.

4 This act would take effect upon passage.

=====
LC001165
=====