

1 HB190
2 190174-6
3 By Representatives Faulkner, Garrett, Williams (JD), Fridy,
4 Shiver, Faust, Ainsworth, Pettus, Mooney and Drake
5 RFD: Commerce and Small Business
6 First Read: 11-JAN-18

1
2 ENROLLED, An Act,

3 Relating to transportation network companies; to
4 require transportation network companies to obtain a permit
5 from the Public Service Commission, maintain an agent for
6 service of process, implement a nondiscrimination policy,
7 implement a zero tolerance intoxicating substance policy, and
8 maintain certain records; to require drivers and vehicles that
9 provide rides through transportation network companies to meet
10 certain safety and consumer protection requirements; to
11 require transportation network companies to collect a local
12 assessment fee for each trip fare and remit it to the Public
13 Service Commission and require the commission to distribute a
14 portion of the fee to the municipality or county where a ride
15 originates; to prohibit municipalities and certain authorities
16 from imposing taxes or business licenses on transportation
17 network companies or transportation network company drivers or
18 vehicles; and in connection therewith would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds within the meaning of Amendment 621
21 of the Constitution of Alabama of 1901, now appearing as
22 Section 111.05 of the Official Recompilation of the
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 (1) COMMISSION. The Public Service Commission.

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

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

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

12 (5) TNC DRIVER. A TNC driver as defined in Section
13 32-7C-1, Code of Alabama 1975.

14 (6) TNC RIDER. A TNC rider as defined in Section
15 32-7C-1, Code of Alabama 1975.

16 (7) TNC VEHICLE. A personal vehicle, as defined in
17 Section 32-7C-1, Code of Alabama 1975.

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

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

1 (b) A TNC driver is not required to register the
2 vehicle that the TNC driver uses to provide prearranged rides
3 under this act as a commercial motor vehicle or for-hire
4 vehicle under the Alabama Motor Carrier Act, Chapter 3, Title
5 37, Code of Alabama 1975.

6 Section 3. (a) A person may not operate a TNC in the
7 state without first having obtained a permit from the
8 commission.

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

12 (c) A TNC operating under a municipal ordinance in a
13 municipality of this state on June 30, 2018, may operate at
14 any location in this state without the permit required under
15 subsection (a) until the later of:

16 (1) The thirtieth day after the date the permit
17 process is adopted by the commission.

18 (2) The date the TNC's application for a permit
19 under this section, submitted to the commission before the
20 date described in subdivision (1), is approved or denied.

21 (d) Any person who operates a TNC without having
22 obtained a permit in accordance with this section is guilty of
23 a Class C misdemeanor.

24 Section 4. (a) A TNC shall collect a local
25 assessment fee equal to one percent of the gross trip fare for

1 all prearranged rides that originate in the state in
2 accordance with this act.

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

6 a. The total local assessment fees collected by a
7 TNC.

8 b. For prearranged rides that originated within a
9 municipality, a report listing the percentage of the gross
10 trip fare that originated in each municipality during the
11 reporting period.

12 c. For prearranged rides that originated outside a
13 municipality, a report listing the percentage of the gross
14 trip fare that originated in the unincorporated portion of
15 each county during the reporting period.

16 (2) The TNC shall be responsible for determining
17 whether a prearranged ride originated within the boundaries of
18 a municipality or originated within the unincorporated portion
19 of a county.

20 (c) To ensure proper distribution of the local
21 assessment fee, the commission shall prepare and make
22 available for public use Geographic Information System (GIS)
23 data in the form of a file showing the state's county and
24 municipal boundaries. To the extent the commission updates the
25 GIS file, the commission shall notify TNCs and make available

1 to TNCs the updated GIS file. In addition to the requirements
2 of this section, municipalities shall provide annexation
3 information to the commission within 30 days after the
4 annexation is complete. Such information shall include a
5 written description of the boundary, along with a map or plat
6 that clearly defines the new territory added.

7 (d) The local assessment fees submitted to the
8 commission shall be administered by the commission and may
9 only be expended as provided in this section. The commission
10 may retain an amount necessary to cover the expenses derived
11 from regulation of TNCs and the collection, remittance, and
12 distribution of local assessment fees pursuant to this
13 section, provided the amount retained may not exceed 50
14 percent of the total local assessment fees collected.

15 (e) No later than 60 days after the end of each
16 calendar quarter, the commission shall distribute the local
17 assessment fees collected for the preceding calendar quarter,
18 minus the amount retained pursuant to subsection (d), to each
19 municipality where a prearranged ride originated and to each
20 county where a prearranged ride originated in the
21 unincorporated portion of the county, during that calendar
22 quarter. The distribution shall be proportionate to the
23 percentage of the gross trip fare that originated in each
24 applicable municipality and unincorporated portion of a
25 county.

1 (f) No more than every two years, the commission may
2 request that a TNC engage an independent third party auditor
3 to verify the local assessment fees submitted to the
4 commission pursuant to subdivision (1) of subsection (b) are
5 accurate. The TNC that is subject to the audit shall engage
6 the independent third party auditor, which shall be selected
7 at the sole discretion of the TNC, and bear all costs
8 associated with the third party audit. The independent third
9 party auditor must be a certified public accounting firm
10 licensed in the state and qualified to perform engagements in
11 accordance with American Institute of Certified Public
12 Accountants (AICPA) standards. The TNC shall provide the
13 commission with a copy of the third party audit report within
14 15 days of completion, which shall in no event occur later
15 than 90 days after receipt of the commission's written
16 request. The third party audit shall be limited to two
17 calendar quarters that may be selected by the commission. If
18 any underpayment of over three percent is identified through
19 the audit, the TNC shall remit the underpaid local assessment
20 fees to the appropriate municipality or county.

21 (g) The governing body of a municipality that
22 enacted a TNC ordinance prior to January 1, 2018, and
23 permitted at least one TNC to operate prior to January 1,
24 2018, pursuant to the TNC ordinance, may request the
25 commission to review the portions of a third party audit

1 report provided to the commission pursuant to subsection (f)
2 that are applicable to the municipality. If no third party
3 audit report is available for a TNC from the prior two-year
4 period at the time of the governing body's request, the
5 governing body that enacted a TNC ordinance prior to January
6 1, 2018, and permitted at least one TNC to operate prior to
7 January 1, 2018, may request the commission to initiate an
8 audit pursuant to subsection (f).

9 (h) Any record maintained by a TNC or submitted to
10 the commission or a political subdivision of the state
11 pursuant to this section shall be considered tax information
12 and may not be disclosed, as provided in subsection (a) of
13 Section 40-2A-10, Code of Alabama 1975, except as otherwise
14 provided in this section.

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

17 Section 6. A TNC may charge a fare for the services
18 provided to a TNC rider. If a fare is collected from a rider,
19 the TNC shall disclose to the rider the fare or fare
20 calculation on its digital network. If the fare is not
21 disclosed to the rider before the beginning of the prearranged
22 ride, the rider shall have the option to receive an estimated
23 fare before the beginning of the prearranged ride.

24 Section 7. The TNC's digital network shall display a
25 picture of the TNC driver, the first name of the TNC driver,

1 and the make, model, and license plate number of the TNC
2 driver's vehicle before the rider enters the TNC vehicle.

3 Section 8. Within a reasonable period of time
4 following the completion of a trip, a TNC shall transmit an
5 electronic receipt to the rider that lists all of the
6 following:

- 7 (1) The origin and destination of the trip.
- 8 (2) The total time and distance of the trip.
- 9 (3) The total fare paid.
- 10 (4) The TNC driver's first name.

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

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

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

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

1 a. A multistate or multi-jurisdiction criminal
2 records locator or other similar commercial nationwide
3 database with validation (primary source search).

4 b. The United State Department of Justice National
5 Sex Offender Public Website.

6 (3) The TNC shall obtain and review, or have a third
7 party obtain and review, a driving history report of each
8 applicant.

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

11 (1) Has had more than three moving violations in the
12 prior three-year period, or one of the following major
13 violations in the prior three-year period:

14 a. Fleeing or attempting to elude a law enforcement
15 officer.

16 b. Reckless driving.

17 c. Driving with a suspended or revoked license.

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

20 a. A felony.

21 b. Misdemeanor driving under the influence, reckless
22 driving, hit and run, or any other misdemeanor violent offense
23 or sexual battery.

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

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

2 (5) Does not possess proof of registration for the
3 motor vehicle or vehicles the applicant intends to use to
4 provide prearranged rides.

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

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

9 (c) (1) Any individual who impersonates a TNC driver
10 without having met the requirements of this section is guilty
11 of a Class C misdemeanor.

12 (2) If an individual unlawfully impersonates a TNC
13 driver under subdivision (1) while committing a felony, the
14 unlawful impersonation may be an aggravating factor under
15 Section 12-25-34.2, Code of Alabama 1975, for sentencing
16 purposes.

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

21 (b) The TNC shall include on its website a notice
22 concerning the TNC's zero tolerance intoxicating substance
23 policy and the means to make a complaint about a suspected
24 violation of the policy.

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

7 Section 12. A TNC driver may not accept a trip for
8 compensation, including soliciting or accepting passenger
9 rides on demand or through a street hail, other than a trip
10 arranged through a TNC's digital network. Any individual who
11 violates this section is guilty of a Class C misdemeanor.

12 Section 13. ~~(a) The TNC shall adopt a policy of~~
13 ~~nondiscrimination with respect to riders and potential riders.~~
14 ~~The TNC shall notify TNC drivers of the policy.~~

15 ~~(b) TNC drivers shall comply with all applicable~~
16 ~~laws regarding nondiscrimination against riders or potential~~
17 ~~riders.~~

18 ~~(c) TNC drivers shall comply with all applicable~~
19 ~~laws relating to the transportation of service animals.~~

20 ~~(d) A TNC may not impose additional charges for~~
21 ~~providing services to individuals with physical disabilities~~
22 ~~because of those disabilities.~~

23 (a) The TNC shall adopt a policy of
24 nondiscrimination against riders or potential riders who are
25 protected by Title 7, Civil Rights Act of 1964, 42 U.S.C.

1 2000e. et. seq. or the Americans With Disabilities Act of
2 1990.

3 (b) TNC drivers shall comply with all applicable
4 laws relating to the transportation of service animals.

5 (c) A TNC may not impose additional charges for
6 providing services to individuals with physical disabilities
7 because of those disabilities.

8 Section 14. (a) A TNC shall maintain the following
9 records:

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

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

15 (b) For the sole purpose of verifying that a TNC is
16 in compliance with subsection (a) and Section 10 and no more
17 than annually, the commission may visually inspect a random
18 sample of the records that the TNC is required to maintain
19 pursuant to subsection (a). All samples shall include records
20 sufficient to verify the TNC's compliance with the background
21 check requirements and standards set forth in Section 10. The
22 audit shall take place at a mutually agreed upon location in
23 Montgomery, Alabama, or through a mutually agreed upon secure
24 electronic process. Any record furnished to the commission may
25 exclude information that would identify specific TNC drivers

1 or riders, unless the commission demonstrates that there is
2 good cause to inspect the identifying information.

3 (c) The governing body of a municipality that
4 enacted a TNC ordinance prior to January 1, 2018, and
5 permitted at least one TNC to operate prior to January 1,
6 2018, pursuant to the TNC ordinance, may request from the
7 commission an analysis regarding a TNC's compliance with
8 Section 10 as it applies to that municipality based on the
9 audit performed by the commission pursuant to subsection (b).
10 If the requested analysis reveals a TNC is not in compliance
11 with Section 10, the commission shall include that information
12 in the analysis provided to the municipality and work in
13 coordination with the governing body to bring the TNC into
14 compliance. If no such audit analysis is available for a TNC
15 from the prior one-year period at the time of the governing
16 body's request, the governing body that enacted a TNC
17 ordinance prior to January 1, 2018, and permitted at least one
18 TNC to operate prior to January 1, 2018, may request that the
19 commission initiate an audit pursuant to subsection (b).

20 (d) In response to a specific complaint against a
21 TNC driver or a TNC, the commission may inspect records held
22 by the TNC pursuant to subsection (a) that are necessary to
23 investigate and resolve the complaint. The inspection shall
24 take place at a mutually agreed upon location in Montgomery,
25 Alabama, or through a mutually agreed upon secure electronic

1 process. Any record furnished to the commission may exclude
2 information that would identify specific TNC drivers or
3 riders, unless the identity of a driver or rider is relevant
4 to the complaint.

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

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

23 Section 15. (a) The failure of a TNC to comply with
24 this act or rule adopted pursuant to this act or commission
25 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, including, but
19 not limited to, rules providing for safety inspections of TNC
20 vehicles and establishing requirements for a distinctive TNC
21 emblem or signage, known as trade dress, to be displayed on
22 the exterior of a TNC vehicle.

23 Section 17. (a) It is the intent of the Legislature
24 to provide for uniformity of laws governing TNCs, TNC drivers,
25 and TNC vehicles throughout the state, and to provide that

1 TNCs, TNC drivers, and TNC vehicles be governed exclusively by
 2 state law, including Chapter 7C of Title 32, Code of Alabama
 3 1975 governing insurance requirements for TNCs and TNC
 4 drivers, and any rules adopted by the commission consistent
 5 with this act.

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

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

16 (2) Require a TNC or a TNC driver to obtain a
 17 business license or any other type of similar authorization to
 18 operate within the jurisdiction.

19 ~~(3) Subject a TNC or a TNC driver to a rate, entry,~~
 20 (3) Subject a TNC, a TNC driver, or a TNC vehicle to a rate,
 21 entry, operation, or other requirement of the county,
 22 municipality, special district, airport authority, port
 23 authority, or other local governmental entity if the rate,
 24 entry, operation, or other requirement relates to providing
 25 prearranged rides or transportation network services.

1 (c) This section does not prohibit the governing
2 body of a municipality from electing by ordinance to prohibit
3 TNCs from providing prearranged rides that originate within
4 its corporate limits. Notwithstanding the foregoing, the
5 governing body of a municipality may not specify additional or
6 alternative requirements, taxes, or licenses for TNCs, TNC
7 drivers, or TNC vehicles as conditions for operating within
8 its corporate limits

9 (d) This section does not prohibit an airport or
10 cruise terminal from charging reasonable pickup fees at that
11 airport or cruise terminal, for use of the airport's or cruise
12 terminal's facilities, or designating locations for staging,
13 pickup, and other similar operations at the airport or cruise
14 terminal.

15 (e) This section does not prohibit the Alabama State
16 Port Authority from regulating access to its properties and
17 facilities or from charging reasonable and necessary fees,
18 provided the regulations, fees, and any required credentials
19 are consistent with regulations, fees, and credentials that
20 apply to taxicab companies.

21 (f) This section shall not be construed to prohibit
22 any law enforcement officer from enforcing applicable penal or
23 traffic laws, or, in connection with the enforcement of
24 applicable penal or traffic laws, from requesting to review a

1 TNC driver's electronic waybill within the TNC's digital
2 network.

3 Section 18. The Public Service Commission shall make
4 available the GIS data required under subsection (c) of
5 Section 4 no later than July 1, 2018.

6 Section 19. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621 because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 20. This act shall become effective on July
13 1, 2018, following its passage and approval by the Governor or
14 its otherwise becoming law, except Section 4 shall become
15 operative on August 1, 2018.

