

1 HB509
2 164943-3
3 By Representative Williams (JD)
4 RFD: Commerce and Small Business
5 First Read: 16-APR-15

2
3
4
5
6
7
8 SYNOPSIS: Existing law does not specifically provide
9 for the operation of a transportation network
10 company (TNC) in the state. A TNC is a company that
11 uses an online-enabled digital network to connect
12 TNC riders with TNC drivers who use their personal
13 vehicles to transport the TNC riders on a
14 prearranged ride.

15 This bill would authorize the operation of a
16 TNC in the state and would require the Alabama
17 Public Service Commission to issue annual permits
18 for a fee and to promulgate rules consistent with
19 this act.

20 This bill would provide for fares charged
21 for a prearranged ride and would require the TNC to
22 send an electronic receipt of the fees charged to
23 the TNC rider.

24 This bill would require certain TNC and TNC
25 driver insurance requirements, including TNC and
26 insurer disclosure requirements regarding insurance
27 coverage and limits of liability.

1 This bill would require a TNC driver to meet
2 certain qualifications, including background
3 checks, and would require the personal vehicle of
4 the TNC driver to meet certain state vehicle safety
5 inspections and requirements.

6 This bill would provide that a TNC driver is
7 an independent contractor, under certain
8 conditions, and would impose certain recordkeeping
9 requirements on a TNC.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT

14
15 Relating to transportation; to provide for the
16 operation of a transportation network company; to require the
17 Alabama Public Service Commission to issue permits and
18 promulgate rules consistent with this act; to provide for
19 fares; to require certain insurance requirements and
20 disclosure requirements regarding insurance coverage and
21 limits of liability; to require certain driver qualifications;
22 to require background checks and certain state vehicle safety
23 inspections and requirements; to provide that a TNC driver is
24 an independent contractor, under certain conditions; and to
25 impose certain recordkeeping requirements on a TNC.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. For the purposes of this act, the
2 following terms shall have the following meanings:

3 (1) DIGITAL NETWORK. Any online-enabled application,
4 software, website, or system offered or utilized by a TNC that
5 enables a prearranged ride with a TNC driver.

6 (2) PERSONAL VEHICLE. A vehicle that is used by a
7 TNC driver and meets both of the following criteria:

8 a. Is owned, leased, or otherwise authorized for use
9 by the TNC driver.

10 b. Is not a taxicab, limousine, or for-hire vehicle.

11 (3) PREARRANGED RIDE. The provision of
12 transportation by a TNC driver to a TNC rider, beginning when
13 a TNC driver accepts a ride requested by a TNC rider through a
14 digital network controlled by a TNC, continuing while the TNC
15 driver transports a requesting TNC rider, and ending when the
16 last requesting TNC rider departs from the personal vehicle of
17 the TNC driver. A prearranged ride may not include
18 transportation provided using a taxi, limousine, or other
19 for-hire vehicle pursuant to the Alabama Motor Carrier Act,
20 Chapter 3, Title 37, Code of Alabama 1975.

21 (4) TNC. A transportation network company that is a
22 corporation, partnership, sole proprietorship, or other entity
23 licensed pursuant to this act and operating in the state that
24 uses a digital network to connect a TNC rider to a TNC driver
25 who provides a prearranged ride. A TNC may not control,
26 direct, or manage the personal vehicle or the TNC driver that

1 connects to its digital network, except where agreed to by
2 written contract.

3 (5) TNC DRIVER. An individual who meets both of the
4 following criteria:

5 a. Receives connections to potential passengers and
6 related services from a TNC in exchange for payment of a fee
7 to the TNC.

8 b. Uses a personal vehicle to offer or provide a
9 prearranged ride to a TNC rider upon connection through a
10 digital network controlled by a TNC in return for compensation
11 or payment of a fee.

12 (6) TNC RIDER. An individual who uses the digital
13 network of a TNC to connect with a TNC driver who provides a
14 prearranged ride to the TNC rider in the personal vehicle of
15 the TNC driver between points chosen by the TNC rider.

16 Section 2. (a) A TNC or a TNC driver is not a
17 broker, a common carrier by motor vehicle, a contract carrier
18 by motor vehicle, or a motor carrier, as defined by Section
19 37-3-2 of the Code of Alabama 1975, nor does a TNC or a TNC
20 driver provide taxicab service or for-hire vehicle service.

21 (b) A TNC driver may not be required to register the
22 personal vehicle the TNC driver uses for a prearranged ride as
23 a commercial vehicle or a for-hire vehicle.

24 Section 3. (a) A person may not operate a TNC in the
25 state without first having obtained a permit from the Alabama
26 Public Service Commission.

1 (b) The Alabama Public Service Commission shall
2 issue a permit to each applicant that meets the requirements
3 for a TNC pursuant to this act and each applicant shall pay an
4 annual permit fee of five thousand dollars (\$5,000) to the
5 Alabama Public Service Commission.

6 Section 4. A TNC shall maintain an agent for service
7 of process in the State of Alabama.

8 Section 5. (a) A TNC may charge a fare for a
9 prearranged ride provided to a TNC rider.

10 (b) If a fare is charged, the TNC shall disclose to
11 the TNC rider the fare calculation method on its website or
12 through the digital network of the TNC.

13 (c) If a fare is charged, the TNC shall provide the
14 TNC rider with the applicable rates being charged and the
15 option to receive an estimated fare before the TNC rider
16 enters the personal vehicle of the TNC driver.

17 Section 6. The digital network of the TNC shall
18 display a picture of the TNC driver and the license plate
19 number of the personal vehicle utilized by the TNC driver to
20 provide a prearranged ride before the TNC rider enters the
21 personal vehicle of the TNC driver.

22 Section 7. Within a reasonable period of time
23 following the completion of a trip, a TNC shall transmit an
24 electronic receipt to a TNC rider that lists all of the
25 following:

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

1 (3) An itemization of the total fare paid, if any.

2 Section 8. (a) On or before 90 days after the
3 effective date of this act, and thereafter, a TNC driver or a
4 TNC on the behalf of the TNC driver shall maintain primary
5 automobile insurance that recognizes that the driver is a TNC
6 driver or otherwise uses a personal vehicle to transport
7 passengers for compensation and cover the driver under both of
8 the following circumstances:

9 (1) While the TNC driver is logged on to the digital
10 network of a TNC.

11 (2) While the driver is engaged in a prearranged
12 ride.

13 (b) (1) The following automobile insurance
14 requirements shall apply while a participating TNC driver is
15 logged on to the digital network of a TNC and is available to
16 receive transportation requests but is not engaged in a
17 prearranged ride:

18 a. Primary automobile liability insurance in the
19 amount of at least fifty thousand dollars (\$50,000) for death
20 and 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 b. All other state mandated coverage for motor
24 vehicles, including the requirements under the Motor Vehicle
25 Safety-Responsibility Act, Chapter 7, Title 32, Code of
26 Alabama 1975.

1 (2) The coverage requirements of this subsection may
2 be satisfied by any of the following:

3 a. Automobile insurance maintained by the TNC
4 driver.

5 b. Automobile insurance maintained by the TNC.

6 c. Any combination of a. and b.

7 (c)(1) The following automobile insurance
8 requirements shall apply while a TNC driver is engaged in a
9 prearranged ride:

10 a. Primary automobile liability insurance that
11 provides at least one million dollars (\$1,000,000) for death,
12 bodily injury, and property damage.

13 b. All other state mandated coverage for motor
14 vehicles, including the requirements under the Motor Vehicle
15 Safety-Responsibility Act, Chapter 7, Title 32, Code of
16 Alabama 1975.

17 (2) The coverage requirements of this subsection may
18 be satisfied by any of the following:

19 a. Automobile insurance maintained by the TNC
20 driver.

21 b. Automobile insurance maintained by the TNC.

22 c. Any combination of a. and b.

23 (d) If insurance maintained by a TNC driver under
24 subsections (b) or (c) has lapsed or does not provide the
25 required coverage, insurance maintained by a TNC company shall
26 provide the coverage required by this section beginning with

1 the first dollar of a claim and shall have the duty to defend
2 the claim.

3 (e) Coverage under an automobile insurance policy
4 maintained by a TNC company may not be made dependent on a
5 personal automobile insurer first denying a claim and a
6 personal automobile insurance policy may not be required to
7 first deny a claim.

8 (f) Insurance required by this section may be placed
9 with an insurer licensed under state law or with a surplus
10 lines insurer eligible under state law.

11 (g) Insurance satisfying the requirements of this
12 section shall satisfy the financial responsibility requirement
13 for a motor vehicle under the Motor Vehicle
14 Safety-Responsibility Act, Chapter 7, Title 32, Code of
15 Alabama 1975.

16 (h) A TNC driver shall carry proof of coverage
17 satisfying this section with him or her at all times during
18 his or her use of a personal vehicle in connection with the
19 use of a digital network of a TNC. In the event of an
20 accident, a TNC driver shall provide this insurance coverage
21 information to the directly interested parties, automobile
22 insurers, and investigating police officers, upon request
23 pursuant to state law. Upon the request, a TNC driver shall
24 also disclose to directly interested parties, automobile
25 insurers, and investigating police officers, whether he or she
26 was logged on to the digital network of a TNC or on a
27 prearranged ride at the time of an accident.

1 Section 9. (a) The TNC shall disclose to a TNC
2 driver both of the following in writing before the TNC driver
3 is allowed to accept a request for a prearranged ride on the
4 digital network of the TNC:

5 (1) The insurance coverage, including the types of
6 coverage and limits of liability, that the TNC provides while
7 the TNC driver uses a personal vehicle in connection with the
8 use of the digital network of a TNC.

9 (2) That the automobile insurance policy of the TNC
10 driver may not provide any coverage while the TNC driver is
11 logged on to the digital network of a TNC and is available to
12 receive transportation requests or is engaged in a prearranged
13 ride, depending on its terms.

14 (b) (1) Insurers that write automobile insurance in
15 this state may exclude any and all coverage afforded under the
16 policy issued to an owner or operator of a personal vehicle
17 for any loss or injury that occurs while a TNC driver is
18 logged on to the digital network of a TNC or while a driver
19 provides a prearranged ride.

20 (2) The right to exclude all coverage may apply to
21 any coverage included in an automobile insurance policy,
22 including, but not limited to, any of the following:

23 a. Liability coverage for bodily injury and property
24 damage.

25 b. Personal injury protection coverage as defined by
26 state law.

27 c. Uninsured and underinsured motorist coverage.

1 d. Medical payments coverage.

2 e. Comprehensive physical damage coverage.

3 f. Collision physical damage coverage.

4 (3) The exclusions unless this subsection shall
5 apply notwithstanding any requirements under the Motor Vehicle
6 Safety-Responsibility Act, Chapter 7, Title 32, Code of
7 Alabama 1975.

8 (c) Nothing in this section implies or requires that
9 a personal automobile insurance policy provide coverage while
10 the driver is logged on to the digital network of a TNC, while
11 the TNC driver is engaged in a prearranged ride, or while the
12 driver otherwise uses a vehicle to transport passengers for
13 compensation.

14 (d) Nothing shall preclude an insurer from providing
15 coverage for the personal vehicle of a TNC driver, if it so
16 chooses to do so by contract or by endorsement.

17 (e) Automobile insurers that exclude the coverage
18 described in this section shall have no duty to defend or
19 indemnify any claim expressly excluded. Nothing in this act
20 shall invalidate or limit an exclusion contained in a policy,
21 including any policy in use or approved for use in this state
22 prior to the enactment of this act that excludes coverage for
23 vehicles used to carry persons or property for a charge or
24 available for hire by the public. An automobile insurer that
25 defends or indemnifies a claim against a driver that is
26 excluded under the terms of its policy, shall have a right of
27 contribution against other insurers that provide automobile

1 insurance to the same driver in satisfaction of the coverage
2 requirements of this section at the time of loss.

3 (f) In a claims coverage investigation, a TNC and
4 any insurer potentially providing coverage under this section
5 shall cooperate to facilitate the exchange of relevant
6 information with directly involved parties and any insurer of
7 the TNC driver, if applicable, including the precise times
8 that a TNC driver logged on and off of the digital network of
9 a TNC in the 12-hour period immediately following the accident
10 and disclose to one another a clear description of the
11 coverage, exclusions, and limits provided under any automobile
12 insurance maintained under this section.

13 Section 10. (a) (1) A TNC shall implement a zero
14 tolerance policy on the use of drugs or alcohol while a TNC
15 driver is providing a prearranged ride or is logged into the
16 digital network of a TNC but is not providing a prearranged
17 ride.

18 (2) A TNC shall provide notice of its zero tolerance
19 policy, as required by this section, on its website as well as
20 procedures to report a complaint about a TNC driver with whom
21 a TNC rider was matched and whom the TNC rider reasonably
22 suspects was under the influence of drugs or alcohol during
23 the course of the prearranged ride.

24 (b) (1) Upon receipt of a TNC rider complaint
25 alleging a violation of the zero tolerance policy, as required
26 by this section, the TNC shall immediately suspend the access

1 of the TNC driver to the digital network of the TNC and shall
2 conduct an investigation into the reported incident.

3 (2) The suspension shall be for the duration of the
4 investigation.

5 (c) A TNC shall maintain records relevant to the
6 enforcement of this section for a period of at least two years
7 from the date that a TNC rider complaint was received by the
8 TNC.

9 Section 11. (a) Prior to permitting an individual to
10 act as a TNC driver on its digital network, a TNC shall do all
11 of the following:

12 (1) Require the individual to submit an application
13 to the TNC, which includes all of the following information:

14 a. The legal name, address, and age of the
15 individual.

16 b. A copy of the driver's license, driving history,
17 motor vehicle registration, and automobile liability insurance
18 of the individual.

19 c. Any other information as may be required by the
20 TNC.

21 (2) Conduct or have a third party conduct a local
22 and national criminal background check for each applicant that
23 includes a search of both of the following:

24 a. Multi-state or multi-jurisdiction criminal
25 records locator or other similar commercial nationwide
26 database with validation.

27 b. National sex offender registry database.

1 (3) Obtain and review a driving history research
2 report for the individual.

3 (b) A TNC may not permit an individual to act as a
4 TNC driver on its digital network if the individual meets any
5 of the following:

6 (1) Has had more than three moving violations in the
7 prior three-year period, or one major violation in the prior
8 three-year period, including, but not limited to, any of the
9 following:

10 a. Attempting to evade the police.

11 b. Reckless driving.

12 c. Driving on a suspended or revoked license.

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

15 a. Driving under the influence of drugs or alcohol.

16 b. Fraud.

17 c. A sexual offense.

18 d. The use of a motor vehicle to commit a felony.

19 e. Any crime involving property damage.

20 f. Theft.

21 g. An act of violence.

22 h. An act of terror.

23 (3) Is a match in the National Sex Offender Registry
24 Database.

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

26 (5) Does not possess proof of registration or proof
27 of automobile liability insurance for the personal vehicle or

1 vehicles the individual will use to provide a prearranged
2 ride.

3 (6) Is not at least 19 years of age.

4 Section 12. (a) A TNC shall conduct, or have a third
5 party conduct, an annual safety inspection of any personal
6 vehicle that a TNC driver will use to provide a prearranged
7 ride, and maintain complete documentation of the inspections
8 at least for the period the current inspection remains valid.

9 (b) The safety inspection shall cover all of the
10 following equipment:

11 (1) Foot brakes.

12 (2) Emergency brakes.

13 (3) Steering mechanism.

14 (4) Windshield.

15 (5) Rear window and other glass.

16 (6) Windshield wipers.

17 (7) Head lights.

18 (8) Tail lights.

19 (9) Turn indicator lights.

20 (10) Stop lights.

21 (11) Front seat adjustment mechanism.

22 (12) Doors.

23 (13) Horn.

24 (14) Speedometer.

25 (15) Bumpers.

26 (16) Muffler and exhaust system.

27 (17) Condition of tires, including tread depth.

1 (18) Interior and exterior rear view mirrors.

2 (19) Safety belts and air bags for the driver and
3 passengers.

4 (c) A personal vehicle used by a TNC driver to
5 provide a prearranged ride may be a coupe, sedan, or other
6 light-duty vehicle including a van, minivan, sport utility
7 vehicle, hatchback, convertible, or pickup truck that is
8 equipped and licensed for operation on the public roads of
9 this state.

10 Section 13. A TNC driver may only accept a
11 prearranged ride booked through the digital network of a TNC
12 and may not solicit or accept street hails.

13 Section 14. (a) The TNC shall adopt a policy
14 prohibiting solicitation or acceptance of cash payments from a
15 TNC rider and notify all TNC drivers of this policy.

16 (b) Any payment for a prearranged ride shall be made
17 electronically using the digital network of a TNC. A TNC
18 driver may not solicit or accept cash payments from a TNC
19 rider.

20 Section 15. (a) A TNC shall adopt a policy of
21 nondiscrimination with respect to TNC riders and potential TNC
22 riders and notify all TNC drivers of its nondiscrimination
23 policy.

24 (b) A TNC driver shall comply with all applicable
25 laws regarding nondiscrimination against TNC riders or
26 potential TNC riders.

1 (c) A TNC driver shall comply with all applicable
2 laws relating to accommodation of service animals.

3 (d) A TNC may not impose additional charges for
4 providing services to persons with physical disabilities
5 because of those disabilities.

6 (e) A TNC shall provide TNC riders an opportunity to
7 indicate whether they require a wheelchair-accessible vehicle.
8 If a TNC cannot provide a wheelchair-accessible prearranged
9 ride, the TNC shall direct the TNC rider to an alternate
10 provider that can provide wheelchair-accessible services, if
11 available.

12 Section 16. A TNC shall maintain both of the
13 following:

14 (1) Individual trip records for at least one year
15 from the date each trip was provided.

16 (2) TNC driver records at least until the one year
17 anniversary of the date on which the activation of a TNC
18 driver on the TNC digital network has ended.

19 Section 17. (a) Notwithstanding any other provision
20 of law to the contrary, a TNC driver is an independent
21 contractor and not an employee of a TNC if all of the
22 following conditions are met:

23 (1) The TNC does not prescribe specific hours during
24 which a TNC driver must be logged into the digital network of
25 the TNC.

1 (2) The TNC imposes no restrictions on the ability
2 of the TNC driver to utilize the digital network of another
3 TNC.

4 (3) The TNC does not assign a TNC driver a
5 particular territory in which a prearranged ride can be
6 provided.

7 (4) The TNC does not restrict a TNC driver from
8 engaging in any other occupation or business.

9 (5) The TNC and the TNC driver agree in writing that
10 the driver is an independent contractor of the TNC.

11 (b) A TNC operating under this act is not required
12 to provide workers' compensation coverage to a TNC driver who
13 is classified as an independent contractor pursuant to this
14 section.

15 Section 18. (a) Notwithstanding any other provision
16 of law, a TNC and a TNC driver is governed exclusively by this
17 act and any rules promulgated by the Alabama Public Service
18 Commission consistent with this act.

19 (b) No municipality or other local entity may impose
20 a tax on, or require a license for, a TNC, a TNC driver, or a
21 personal vehicle used by a TNC driver where the tax or license
22 relates to providing a prearranged ride, or subject a TNC to
23 the municipality or other rate, entry, operational, or other
24 requirements of the local entity.

25 Section 19. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

