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SENATE DRS45258-TMxf-3A (02/11)

Short Title: Regulate Transportation Network Companies. (Public)

Sponsors: Senator Rabon (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REGULATE TRANSPORTATION NETWORK COMPANIES BY  
3 REQUIRING A PERMIT FROM DIVISION OF MOTOR VEHICLES, MAINTENANCE  
4 OF LIABILITY INSURANCE, AND BACKGROUND CHECKS FOR DRIVERS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 20 of the General Statutes is amended by adding a new  
7 Article to read:

8 "Article 10A.

9 "Transportation Network Companies.

10 "**§ 20-280.1. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Prearranged transportation services. – Transportation services available by  
13 advance request excluding for-hire passenger vehicles soliciting passengers  
14 for immediate transportation. No minimum waiting period is required  
15 between the advance request and the provision of the transportation services.
- 16 (2) TNC driver. – An individual that uses a passenger vehicle in connection with  
17 a transportation network company's online-enabled application or platform  
18 to connect with passengers.
- 19 (3) TNC service. – Prearranged transportation service provided by a TNC driver  
20 in connection with a transportation network company. The TNC service  
21 begins when the TNC driver accepts a ride request on the transportation  
22 network company's online-enabled application or platform and ends at the  
23 later of the following:
- 24 a. The time that the driver completes the transaction on the  
25 online-enabled application or platform.
- 26 b. The time that all passengers completely exit the vehicle and leave the  
27 immediate vicinity of the vehicle.
- 28 (4) Transportation network company. – Any person that provides prearranged  
29 transportation services for compensation using an online-enabled application  
30 or platform to connect passengers with drivers.

31 "**§ 20-280.2. Permissible services and limitations.**

32 (a) A transportation network company holding a valid permit issued under this Article  
33 and continuously meeting the requirements of this Article may operate in the State. The  
34 transportation network company may charge a fee for the TNC service. The fee must meet the  
35 following requirements:



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- 1           (1)   The transportation network company's online-enabled application or  
2           platform must disclose the fee calculation method before a passenger makes  
3           a ride request.
- 4           (2)   The transportation network company's online-enabled application or  
5           platform must provide the option for a passenger to receive an estimated fee  
6           before the passenger makes a ride request.
- 7           (3)   The transportation network company must send an electronic receipt to the  
8           customer that includes the following:
- 9               a.   The location where the TNC service started and ended.  
10              b.   The total time and distance of the TNC service.  
11              c.   An itemization and calculation of the total fee paid.
- 12           (4)   The fee must be paid electronically. No cash may be exchanged for the TNC  
13           service.
- 14           (b)   A TNC driver may provide transportation services for compensation in the State. A  
15           TNC driver may provide transportation services other than TNC services if the TNC driver  
16           meets the requirements to operate a for-hire passenger vehicle.

17   **"§ 20-280.3. Permits.**

- 18           (a)   Every transportation network company must obtain a permit from the Division  
19           before operating in the State. Every transportation network company must pay to the Division a  
20           nonrefundable application fee of five thousand dollars (\$5,000).
- 21           (b)   Every transportation network company must renew the permit annually and pay to  
22           the Division a nonrefundable renewal fee of five thousand dollars (\$5,000).
- 23           (c)   The Division must prescribe the form of the application for a permit and renewal of  
24           a permit.
- 25           (d)   The initial application and renewal application must require information sufficient  
26           to confirm compliance with this Article and include the following:
- 27               (1)   Proof of insurance meeting the requirements of G.S. 20-280.4.  
28               (2)   Resident agent for service of process.  
29               (3)   Proof the transportation network company is registered with the Secretary of  
30               State to do business in the State if the transportation network company is a  
31               foreign corporation.

32   **"§ 20-280.4. Financial responsibility.**

- 33           (a)   The transportation network company must provide liability insurance for bodily  
34           injury or death of others and for injury or destruction of property of others during the TNC  
35           service for each vehicle utilized by a TNC driver, exclusive of interest and costs, in an amount  
36           equal to or greater than one million five hundred thousand dollars (\$1,500,000). The insurance  
37           provided may exclude coverage if the vehicle being utilized by the TNC driver is covered by  
38           insurance which affords liability coverage equal to or greater than the amount required by this  
39           subsection.
- 40           (b)   The transportation network company must provide liability insurance for each  
41           vehicle being utilized by a TNC driver during the time such driver is available on the  
42           transportation network company's online-enabled application or platform subject to limits,  
43           exclusive of interest and costs, as follows: fifty thousand dollars (\$50,000) because of bodily  
44           injury or death of one person in any one accident and, subject to said limit for one person, one  
45           hundred thousand dollars (\$100,000) because of bodily injury or death of two or more persons  
46           in any one accident, and twenty-five thousand dollars (\$25,000) because of injury or  
47           destruction of property of others in any one accident. The insurance provided may exclude  
48           coverage if the TNC driver affords liability coverage equal to or greater than the amount  
49           required by this subsection.
- 50           (c)   Transportation network companies must disclose in writing to potential TNC drivers  
51           the following before the TNC driver provides TNC service:

1           (1)   The insurance coverage and limits of liability that the transportation network  
2           company provides while the TNC driver uses a private passenger vehicle to  
3           provide TNC service.

4           (2)   The TNC driver may not have coverage under their personal insurance  
5           policy while using the transportation network company's online-enabled  
6           application or platform.

7   **"§ 20-280.5. Safety requirements.**

8           (a)   The transportation network company must require TNC drivers have their vehicles  
9           inspected annually to meet State safety requirements.

10          (b)   The transportation network company's online-enabled application or platform must  
11          provide the following information to customers after a ride request is accepted by a TNC  
12          driver:

13               (1)   License plate number of the TNC driver's vehicle.

14               (2)   Description of the TNC driver's vehicle.

15               (3)   Approximate location of the TNC driver's vehicle displayed on a map.

16          (c)   The transportation network company must maintain the following records:

17               (1)   The record of each TNC service provided in this State for one year from the  
18               date the TNC service occurred.

19               (2)   The record of each TNC driver in this State for one year from the date the  
20               TNC driver terminated their relationship with the transportation network  
21               company.

22          (d)   Prior to permitting an individual to act as a TNC driver, the transportation network  
23          company must:

24               (1)   Require the individual to submit an application to the transportation network  
25               company including, at a minimum, the following:

26                   a.   Address.

27                   b.   Age.

28                   c.   Driver's license number.

29                   d.   Driving history.

30                   e.   Motor vehicle registration.

31                   f.   Automobile liability insurance information.

32               (2)   Conduct, or have a third party conduct, a local and national criminal  
33               background check for each applicant including, at a minimum, the  
34               following:

35                   a.   Multi-State/Multi-Jurisdiction Criminal Records Locator or other  
36                   similar commercial nationwide database with validation (primary  
37                   source search).

38                   b.   National Sex Offender Registry.

39               (3)   Review a driving history research report for such individual.

40          (b)   The transportation network company must not permit an individual to act as a TNC  
41          driver if any of the following apply:

42               (1)   Has had more than three moving violations in the prior three-year period, or  
43               one major violation in the prior three-year period (including, but not limited  
44               to, attempting to evade the police, reckless driving, or driving on a  
45               suspended or revoked license).

46               (2)   Has been convicted, within the past seven years, of driving under the  
47               influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle  
48               to commit a felony, a crime involving property damage, theft, acts of  
49               violence, or acts of terror.

50               (3)   Is a match in the National Sex Offender Registry.

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

- 1           (5)   Does not possess proof of registration for the motor vehicle to be used to
- 2                    provide TNC service.
- 3           (6)   Does not possess proof of automobile liability insurance for the motor
- 4                    vehicle to be used to provide TNC services.
- 5           (7)   Is not at least 19 years of age.

6 **"§ 20-280.6. Authority of Division.**

7       The Division may issue regulations to implement this Article.

8 **"§ 20-280.7. Presumption that TNC drivers are independent contractors.**

9       A rebuttable presumption exists that a TNC driver is an independent contractor and not an  
10 employee. The presumption may be rebutted by application of the common law test for  
11 determining employment status.

12 **"§ 20-280.8. Statewide regulation.**

13       (a)   Notwithstanding any other provision of law, no local authority, including an airport  
14 authority, is authorized to impose fees, require licenses, limit the operation of TNC services, or  
15 otherwise regulate TNC services. TNC services remain subject to all ordinances and local laws  
16 outside the scope of this Chapter including parking and traffic regulation.

17       (b)   Any contract provision or term of service contrary to this Article are void as against  
18 public policy."

19       **SECTION 2.** G.S. 20-4.01(27) reads as rewritten:

20       "(27) Passenger Vehicles. –

- 21           a.    Excursion passenger vehicles. – Vehicles transporting persons on
- 22                    sight-seeing or travel tours.
- 23           b.    ~~For hire~~ For-hire passenger vehicles. – Vehicles transporting persons
- 24                    for compensation. This classification shall not include the following:
- 25                    1.    ~~vehicles~~ Vehicles operated as ~~ambulances;~~ ambulances.
- 26                    2.    ~~vehicles~~ Vehicles operated by the owner where the costs of
- 27                            operation are shared by the ~~passengers;~~ passengers.
- 28                    3.    ~~vehicles~~ Vehicles operated pursuant to a ridesharing
- 29                            arrangement as defined in ~~G.S. 136-44.21;~~ G.S. 136-44.21.
- 30                    4.    ~~vehicles~~ Vehicles transporting students for the public school
- 31                            system under contract with the State Board of ~~Education~~
- 32                            Education.
- 33                    5.    ~~or vehicles~~ Vehicles leased to the United States of America or
- 34                            any of its agencies on a nonprofit ~~basis;~~ basis.
- 35                    6.    ~~or vehicles~~ Vehicles used for human ~~service or~~ service.
- 36                    7.    Vehicles used for volunteer transportation.
- 37                    8.    Vehicles operated in a TNC service regulated under Article
- 38                            10A of Chapter 20 of the General Statutes.

39                    ...."

40       **SECTION 3.** G.S. 20-87 reads as rewritten:

41 **"§ 20-87. Passenger vehicle registration fees.**

42       These fees shall be paid to the Division annually for the registration and licensing of

43 passenger vehicles, according to the following classifications and schedules:

- 44       (1)   For-Hire Passenger Vehicles. – The fee for a for-hire passenger vehicle ~~that~~
- 45                    ~~is operated for compensation and has with~~ a capacity of 15 passengers or
- 46                    less is seventy-eight dollars (\$78.00). The fee for a for-hire passenger
- 47                    vehicle ~~that is operated for compensation and has with~~ a capacity of more
- 48                    than 15 passengers is one dollar and forty cents (\$1.40) per hundred pounds
- 49                    of empty weight of the vehicle.

50                    ...."

51       **SECTION 4.** G.S. 153A-134 reads as rewritten:

**"§ 153A-134. Regulating and licensing businesses, trades, etc.**

(a) A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. This section does not authorize a county to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(b) This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152.

(c) Nothing in this section shall authorize a county to regulate and license ~~digital dispatching services for prearranged transportation services for hire~~ a TNC service regulated under Article 10A of Chapter 20 of the General Statutes."

**SECTION 5.** G.S. 160A-194 reads as rewritten:

**"§ 160A-194. Regulating and licensing businesses, trades, etc.**

(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor.

(b) Nothing in this section shall authorize a city to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(c) Nothing in this section shall authorize a city to regulate and license ~~digital dispatching services for prearranged transportation services for hire~~ a TNC service regulated under Article 10A of Chapter 20 of the General Statutes."

**SECTION 6.** G.S. 160A-304 reads as rewritten:

**"§ 160A-304. Regulation of taxis.**

(a) A city may by ordinance license and regulate all vehicles operated for hire in the city. The ordinance may require that the drivers and operators of taxicabs engaged in the business of transporting passengers for hire over the public streets shall obtain a license or permit from the city; provided, however, that the license or permit fee for taxicab drivers shall not exceed fifteen dollars (\$15.00). As a condition of licensure, the city may require an applicant for licensure to pass a controlled substance examination. The ordinances may also specify the types of taxicab services that are legal in the municipality; provided, that in all cases shared-ride services as well as exclusive-ride services shall be legal. Shared-ride service is defined as a taxi service in which two or more persons with either different origins or with different destinations, or both, occupy a taxicab at one time. Exclusive-ride service is defined as a taxi service in which the first passenger or party requests exclusive use of the taxicab. In the event the applicant is to be subjected to a national criminal history background check, the ordinance shall specifically authorize the use of FBI records. The ordinance shall require any applicant who is subjected to a national criminal history background check to be fingerprinted.

The Department of Public Safety may provide a criminal record check to the city for a person who has applied for a license or permit through the city. The city shall provide to the Department of Public Safety, along with the request, the fingerprints of the applicant, any additional information required by the Department of Public Safety, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the

1 fingerprints to the Federal Bureau of Investigation for a national criminal history check. The  
2 city shall keep all information pursuant to this subsection privileged, in accordance with  
3 applicable State law and federal guidelines, and the information shall be confidential and shall  
4 not be a public record under Chapter 132 of the General Statutes.

5 The Department of Public Safety may charge each applicant a fee for conducting the checks  
6 of criminal history records authorized by this subsection.

7 The following factors shall be deemed sufficient grounds for refusing to issue a permit or  
8 for revoking a permit already issued:

- 9 (1) Conviction of a felony against this State, or conviction of any offense  
10 against another state which would have been a felony if committed in this  
11 State;
- 12 (2) Violation of any federal or State law relating to the use, possession, or sale  
13 of alcoholic beverages or narcotic or barbiturate drugs;
- 14 (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate  
15 drugs;
- 16 (4) Violation of any federal or State law relating to prostitution;
- 17 (5) Noncitizenship in the United States;
- 18 (6) Habitual violation of traffic laws or ordinances.

19 The ordinance may also require operators and drivers of taxicabs to display prominently in each  
20 taxicab, so as to be visible to the passengers, the city taxi permit, the schedule of fares, a  
21 photograph of the driver, and any other identifying matter that the council may deem proper  
22 and advisable. The ordinance may also establish rates that may be charged by taxicab operators,  
23 may limit the number of taxis that may operate in the city, and may grant franchises to taxicab  
24 operators on any terms that the council may deem advisable.

25 (b) When a city ordinance grants a taxi franchise for operation of a stated number of  
26 taxis within the city, the holder of the franchise shall report at least quarterly to the council the  
27 average number of taxis actually in operation during the preceding quarter. The council may  
28 amend a taxi franchise to reduce the number of authorized vehicles by the average number not  
29 in actual operation during the preceding quarter, and may transfer the unused allotment to  
30 another franchised operator. Such amendments of taxi franchises shall not be subject to  
31 G.S. 160A-76. Allotments of taxis among franchised operators may be transferred only by the  
32 city council, and it shall be unlawful for any franchised operator to sell, assign, or otherwise  
33 transfer allotments under a taxi franchise.

34 (c) Nothing in this Chapter authorizes a city to adopt an ordinance doing any of the  
35 ~~following:~~following with respect to a TNC service regulated under Article 10A of Chapter 20  
36 of the General Statutes:

- 37 (1) ~~Requiring licensing or regulation of digital dispatching services for~~  
38 ~~prearranged transportation services for hire connected with vehicles operated~~  
39 ~~for hire in the city if the business providing the digital dispatching services~~  
40 ~~does not own or operate the vehicles for hire in the city.~~regulating.
- 41 (2) ~~Setting a minimum rate or minimum increment of time used to calculate a~~  
42 ~~rate for prearranged transportation services for hire.~~rate.
- 43 (3) ~~Requiring an operator to the use of a particular formula or method to~~  
44 ~~calculate rates charged.~~
- 45 (4) ~~Setting a minimum waiting period between requesting prearranged~~  
46 ~~transportation services and the provision of those transportation services~~  
47 ~~when the prearranged transportation services are digitally~~  
48 ~~dispatched.~~services.
- 49 (5) ~~Requiring a final destination to be set at the time of requesting prearranged~~  
50 ~~transportation services through digital dispatching services.~~services.

1           (6)    Requiring or prohibiting taxi franchises or taxi operators from contracting  
2                with a ~~person in the business of digital dispatching services for prearranged~~  
3                ~~transportation services for hire-transportation network company regulated~~  
4                under Article 10A of Chapter 20 of the General Statutes."

5           **SECTION 7.** This act becomes effective July 1, 2015.