

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 680
Apr 13, 2015
HOUSE PRINCIPAL CLERK

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HOUSE DRH40301-TMxf-9 (02/11)

Short Title: Regulate Transportation Network Companies. (Public)

Sponsors: Representative Brawley.

Referred to:

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

6 The General Assembly of North Carolina enacts:

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

9 "Article 10A.

10 "Transportation Network Companies.

11 **"§ 20-280.1. Definitions.**

12 The following definitions apply in this Article:

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

32 **"§ 20-280.2. Permissible services and limitations.**

33 (a) A transportation network company holding a valid permit issued under this Article
34 and continuously meeting the requirements of this Article may operate in the State. The
35 transportation network company may charge a fee for the TNC service. The fee must meet the
36 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.~~ 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.