

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 541
PROPOSED COMMITTEE SUBSTITUTE S541-PCS35296-TMxfr-37

Short Title: Regulate Transportation Network Companies.

(Public)

Sponsors:

Referred to:

March 30, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE TRANSPORTATION NETWORK COMPANIES.
3 The General Assembly of North Carolina enacts:

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

6 "Article 10A.

7 "Transportation Network Companies.

8 "§ 20-280.1. Definitions.

9 The following definitions apply in this Article:

- 10 (1) Airport operator. – Any person with police powers that owns or operates an
11 airport.
- 12 (2) Brokering transportation network company. – A transportation network
13 company, as defined by this section, that exclusively dispatches TNC drivers
14 that operate either of the following:
- 15 a. For-hire passenger vehicles regulated under G.S. 160A-304.
- 16 b. For-hire passenger vehicles regulated under G.S. 62-260(f) and
17 subject to the requirements for security for protection of the public
18 and safety of operation established for regulated motor common
19 carriers.
- 20 (3) Prearranged transportation services. – Transportation services available by
21 advance request excluding for-hire passenger vehicles soliciting passengers
22 for immediate transportation. No minimum waiting period is required
23 between the advance request and the provision of the transportation services.
- 24 (4) TNC driver. – An individual that uses a passenger vehicle in connection with
25 a transportation network company's online-enabled application or platform
26 to connect with passengers in exchange for payment of a fee to the
27 transportation network company.
- 28 (5) TNC service. – Prearranged transportation service provided by a TNC driver
29 in connection with a transportation network company. The TNC service
30 begins when the TNC driver accepts a ride request on the transportation
31 network company's online-enabled application or platform and ends at the
32 later of the following:
- 33 a. The time that the driver completes the transaction on the
34 online-enabled application or platform.
- 35 b. The time that all passengers exit the vehicle and complete unloading
36 of the vehicle.



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- 1 (6) Transportation network company. – Any person that uses an online-enabled
2 application or platform to connect passengers with TNC drivers who provide
3 prearranged transportation services.

4 **"§ 20-280.2. Permissible services and limitations.**

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

- 9 (1) The transportation network company's online-enabled application or
10 platform must disclose the fee calculation method before a passenger makes
11 a ride request.
12 (2) The transportation network company's online-enabled application or
13 platform must provide the option for a passenger to receive an estimated fee
14 before the passenger makes a ride request.
15 (3) The transportation network company must send an electronic receipt to the
16 customer that includes the following:
17 a. The locations where the TNC service started and ended.
18 b. The total time and distance of the TNC service.
19 c. An itemization and calculation of the total fee paid.
20 (4) The fee must be paid electronically through the transportation network
21 company's online-enabled application or platform. No cash may be
22 exchanged for the TNC service.

23 (b) A TNC driver may provide TNC service for compensation in the State.

24 **"§ 20-280.3. Permits.**

25 (a) Every transportation network company must obtain a permit from the Division
26 before operating in the State. Every transportation network company must pay to the Division a
27 nonrefundable application fee of five thousand dollars (\$5,000).

28 (b) Every transportation network company must renew the permit annually and pay to
29 the Division a nonrefundable renewal fee of five thousand dollars (\$5,000).

30 (c) The Division must prescribe the form of the application for a permit and renewal of
31 a permit.

32 (d) The initial application and renewal application must require information sufficient
33 to confirm compliance with this Article and include the following:

- 34 (1) Proof of insurance meeting the requirements of G.S. 20-280.4. This
35 subdivision does not apply to brokering transportation network companies.
36 (2) Resident agent for service of process.
37 (3) Proof the transportation network company is registered with the Secretary of
38 State to do business in the State if the transportation network company is a
39 foreign corporation.
40 (4) Policy of nondiscrimination based on customers' geographic departure point
41 or destination.

42 (e) The Division may retain the fees collected under this section and use the funds for
43 its operations.

44 **"§ 20-280.4. Financial responsibility.**

45 (a) Except as provided in subsection (n) of this section, TNC drivers or transportation
46 network companies must maintain primary automobile insurance that meets all of the following
47 requirements:

- 48 (1) Recognizes that the driver is a TNC driver or uses a vehicle to transport
49 passengers for compensation.

- 1 (2) The following automobile insurance requirements apply while a TNC driver
2 is logged on to the transportation network company's online-enabled
3 application or platform but is not providing TNC service:
4 a. Primary automobile liability insurance in the amount of at least fifty
5 thousand dollars (\$50,000) because of death of or bodily injury to
6 one person in any one accident and, subject to said limit for one
7 person, one hundred thousand dollars (\$100,000) because of death of
8 or bodily injury to two or more persons in any one accident, and at
9 least twenty-five thousand dollars (\$25,000) because of injury to or
10 destruction of property of others in any one accident.
11 b. Combined uninsured and underinsured motorist coverage, with limits
12 for combined uninsured and underinsured motorist bodily injury
13 coverage which at least equals the bodily injury liability limits of the
14 policy, and which otherwise complies with the requirements of
15 G.S. 20-279.21(b)(3) and (b)(4).
16 (3) The following automobile insurance requirements apply while a TNC driver
17 is engaged in TNC service:
18 a. Primary automobile liability insurance in the amount of at least one
19 million five hundred thousand dollars (\$1,500,000) because of death
20 of one or more persons, bodily injury to one or more persons, injury
21 to or destruction of property of others, or any combination thereof, in
22 any one accident.
23 b. Combined uninsured and underinsured motorist coverage, with limits
24 for combined uninsured and underinsured motorist bodily injury
25 coverage of at least one million dollars (\$1,000,000), and which
26 otherwise complies with the requirements of G.S. 20-279.21(b)(3)
27 and (b)(4).
28 (4) The coverage requirements of subdivisions (2) and (3) of this subsection
29 may be satisfied by any of the following:
30 a. Automobile insurance maintained by the TNC driver.
31 b. Automobile insurance maintained by the transportation network
32 company.
33 c. Any combination of sub-subdivisions a. and b. of this subdivision.
34 (b) If insurance maintained by the TNC driver under subsection (a) of this section has
35 lapsed or does not provide the required coverage, insurance maintained by the transportation
36 network company must provide the coverage required under subsection (a) of this section
37 beginning with the first dollar of a claim and must provide the defense of the claim.
38 (c) Insurance coverage under an automobile insurance policy maintained by the
39 transportation network company must not be dependent on a personal automobile insurer
40 denying a claim.
41 (d) Insurance required by this section may be placed with an insurer licensed in the
42 State or with a surplus lines insurer eligible to write policies in the State.
43 (e) Insurance satisfying the requirements of this section satisfies the financial
44 responsibility requirement for a motor vehicle.
45 (f) A TNC driver must carry proof of coverage satisfying the requirements of this
46 section at all times during use of a vehicle in connection with a transportation network
47 company's online-enabled application or platform. In the event of an accident, a TNC driver
48 must provide insurance coverage information directly to interested parties, automobile insurers,
49 and investigating police officers, upon request. Upon such request, a TNC driver must also
50 disclose to directly interested parties, automobile insurers, and investigating police officers

1 whether the TNC driver was logged on or off of the transportation network company's
2 online-enabled application or platform at the time of the accident.

3 (g) Before any vehicle is used in connection with a transportation network company's
4 online-enabled application or platform, a TNC driver must notify both the insurer of the vehicle
5 and any lienholder with an interest in the vehicle of the TNC driver's intent to use the vehicle in
6 connection with a transportation network company's online-enabled application or platform.

7 (h) Transportation network companies must disclose in writing to potential TNC drivers
8 the following before the TNC driver provides TNC service:

9 (1) The insurance coverage, including the types of coverage and the limits for
10 each coverage, that the transportation network company provides while the
11 TNC driver uses a private passenger vehicle in connection with a
12 transportation network company's online-enabled application or platform.

13 (2) The TNC driver may not have any coverage under a personal automobile
14 insurance policy while using the transportation network company's
15 online-enabled application or platform.

16 (3) The following notice in a distinctive clause: "If the vehicle with which you
17 provide transportation network company services has a lien against it, you
18 must notify the lien holder that you provide transportation network company
19 services with the vehicle. Providing such transportation network company
20 services may violate the terms of your contract with the lienholder."

21 (i) Insurers that write automobile insurance in the State may exclude coverage under
22 the policy issued to an owner or operator of a personal vehicle for any loss that occurs while the
23 driver is logged on to a transportation network company's online-enabled application or
24 platform or while the driver provides TNC service. This right to exclude all coverage applies to
25 any coverage included in an automobile insurance policy, including all of the following:

26 (1) Liability coverage for bodily injury and property damage.

27 (2) Personal injury protection coverage.

28 (3) Uninsured and underinsured motorist coverage.

29 (4) Medical payments coverage.

30 (5) Comprehensive physical damage coverage.

31 (6) Collision physical damage coverage.

32 (j) Automobile insurers that exclude the coverage described in subsection (i) of this
33 section have no duty to defend or indemnify any claim expressly excluded. An automobile
34 insurer that defends or indemnifies a claim against a driver that is excluded under the terms of
35 its policy has a right of contribution against other insurers that provide automobile insurance to
36 the same driver in satisfaction of the coverage requirements of this section.

37 (k) No insurer is required to sell a policy of insurance providing the coverage required
38 by this section.

39 (l) Notwithstanding G.S. 58-37-35(b)(1)e., no insurance policy providing coverage
40 required by this section is cedable to the North Carolina Reinsurance Facility due solely to the
41 requirements of this section.

42 (m) In a claims coverage investigation or accident, a TNC driver, transportation network
43 companies, any insurer potentially providing coverage under this section, and other directly
44 involved parties must exchange the following information:

45 (1) Description of the coverage, exclusions, and limits provided under any
46 insurance policy.

47 (2) Precise times that a TNC driver logged on and off of the transportation
48 network company's online-enabled application or platform in the 12-hour
49 period immediately preceding and in the 12-hour period immediately
50 following the accident.

1 (3) Precise times that a TNC driver provided TNC service in the 12-hour period
2 immediately preceding and in the 12-hour period immediately following the
3 accident.

4 (n) This section does not apply to brokering transportation network companies.

5 **"§ 20-280.5. Safety requirements.**

6 (a) The transportation network company must require TNC drivers have their vehicles
7 inspected annually to meet State safety requirements. The Division may, by regulation, specify
8 alternative inspections that are acceptable as equivalent inspections, such as an inspection
9 performed in another state. This subsection does not apply to brokering transportation network
10 companies.

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

14 (1) Photograph of the TNC driver.

15 (2) License plate number of the TNC driver's vehicle.

16 (3) Description of the TNC driver's vehicle.

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

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

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

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

24 **"§ 20-280.6. Background checks.**

25 (a) Prior to permitting an individual to act as a TNC driver, the transportation network
26 company must do all of the following:

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

29 a. Address.

30 b. Age.

31 c. Drivers license number.

32 d. Driving history.

33 e. Motor vehicle registration.

34 f. Automobile liability insurance information.

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

38 a. Multi-State/Multi-Jurisdiction Criminal Records Locator or other
39 similar commercial nationwide database with validation (primary
40 source search).

41 b. National Sex Offender Registry.

42 (3) Review, or have a third party review, a driving history research report for
43 such individual.

44 (b) The transportation network company must confirm that every TNC driver continues
45 to meet all the requirements of this section every five years starting from the date the TNC
46 driver met all the requirements of this section.

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

49 (1) Has had more than three moving violations in the prior three-year period or
50 one major violation in the prior three-year period, including attempting to

1 evade the police, reckless driving, or driving on a suspended or revoked
 2 license.

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

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

8 (4) Does not possess a valid drivers license.

9 (5) Does not possess proof of registration for the motor vehicle to be used to
 10 provide TNC services.

11 (6) Does not possess proof of automobile liability insurance for the motor
 12 vehicle to be used to provide TNC services.

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

14 (d) This section does not apply to brokering transportation network companies.

15 **"§ 20-280.7. Authority of Division.**

16 The Division may issue regulations to implement this Article.

17 **"§ 20-280.8. Presumption that TNC drivers are independent contractors.**

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

21 **"§ 20-280.9. Airport operators.**

22 (a) An airport operator is authorized to charge transportation network companies and
 23 TNC drivers a reasonable fee for their use of the airport's facility.

24 (b) An airport operator is authorized to require an identifying decal be displayed by
 25 TNC drivers.

26 (c) An airport operator is authorized to require the purchase and use of equipment or
 27 establish other appropriate mechanisms for monitoring and auditing compliance, including
 28 having a transportation network company provide data for purposes of monitoring and auditing
 29 compliance.

30 (d) An airport operator is authorized to designate a location where TNC drivers may
 31 stage on the airport operator's facility, drop-off passengers, and pick up passengers.

32 **"§ 20-280.10. Statewide regulation.**

33 (a) Notwithstanding any other provision of law and except as authorized by this
 34 Chapter, no county, city, airport operator, or other governmental agency is authorized to
 35 impose fees, require licenses, limit the operation of TNC services, or otherwise regulate TNC
 36 services. TNC services remain subject to all ordinances and local laws outside the scope of this
 37 Chapter, including parking and traffic regulation.

38 (b) Any contract provision or term of service in a transportation network company's
 39 contract with a State resident or person present in the State contrary to this Article is void as
 40 against public policy."

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

42 "(27) Passenger Vehicles. –

43 a. Excursion passenger vehicles. – Vehicles transporting persons on
 44 sight-seeing or travel tours.

45 b. ~~For hire~~ For-hire passenger vehicles. – Vehicles transporting persons
 46 for compensation. This classification shall not include the following:

47 1. ~~vehicles~~ Vehicles operated as ~~ambulances;~~ ambulances.

48 2. ~~vehicles~~ Vehicles operated by the owner where the costs of
 49 operation are shared by the ~~passengers;~~ passengers.

50 3. ~~vehicles~~ Vehicles operated pursuant to a ridesharing
 51 arrangement as defined in ~~G.S. 136-44.21;~~ G.S. 136-44.21.

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

2 "**§ 160A-304. Regulation of taxis.**

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

17 The Department of Public Safety may provide a criminal record check to the city for a
18 person who has applied for a license or permit through the city. The city shall provide to the
19 Department of Public Safety, along with the request, the fingerprints of the applicant, any
20 additional information required by the Department of Public Safety, and a form signed by the
21 applicant consenting to the check of the criminal record and to the use of the fingerprints and
22 other identifying information required by the State or national repositories. The applicant's
23 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's
24 criminal history record file, and the State Bureau of Investigation shall forward a set of the
25 fingerprints to the Federal Bureau of Investigation for a national criminal history check. The
26 city shall keep all information pursuant to this subsection privileged, in accordance with
27 applicable State law and federal guidelines, and the information shall be confidential and shall
28 not be a public record under Chapter 132 of the General Statutes.

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

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

- 33 (1) Conviction of a felony against this State, or conviction of any offense
34 against another state which would have been a felony if committed in this
35 State;
- 36 (2) Violation of any federal or State law relating to the use, possession, or sale
37 of alcoholic beverages or narcotic or barbiturate drugs;
- 38 (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate
39 drugs;
- 40 (4) Violation of any federal or State law relating to prostitution;
- 41 (5) Noncitizenship in the United States;
- 42 (6) Habitual violation of traffic laws or ordinances.

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

49 (b) When a city ordinance grants a taxi franchise for operation of a stated number of
50 taxis within the city, the holder of the franchise shall report at least quarterly to the council the
51 average number of taxis actually in operation during the preceding quarter. The council may

1 amend a taxi franchise to reduce the number of authorized vehicles by the average number not
2 in actual operation during the preceding quarter, and may transfer the unused allotment to
3 another franchised operator. Such amendments of taxi franchises shall not be subject to
4 G.S. 160A-76. Allotments of taxis among franchised operators may be transferred only by the
5 city council, and it shall be unlawful for any franchised operator to sell, assign, or otherwise
6 transfer allotments under a taxi franchise.

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

- 10 (1) ~~Requiring licensing or regulation of digital dispatching services for~~
11 ~~prearranged transportation services for hire connected with vehicles operated~~
12 ~~for hire in the city if the business providing the digital dispatching services~~
13 ~~does not own or operate the vehicles for hire in the city.~~regulating.
- 14 (2) ~~Setting a minimum rate or minimum increment of time used to calculate a~~
15 ~~rate for prearranged transportation services for hire.~~
- 16 (3) ~~Requiring an operator to use a particular formula or method to calculate rates~~
17 ~~charged.~~
- 18 (4) ~~Setting a minimum waiting period between requesting prearranged~~
19 ~~transportation services and the provision of those transportation services~~
20 ~~when the prearranged transportation services are digitally dispatched.~~
- 21 (5) ~~Requiring a final destination to be set at the time of requesting prearranged~~
22 ~~transportation services through digital dispatching services.~~
- 23 (6) ~~Requiring or prohibiting taxi franchises or taxi operators from contracting~~
24 ~~with a person in the business of digital dispatching services for prearranged~~
25 ~~transportation services for hire.~~transportation network company regulated
26 under Article 10A of Chapter 20 of the General Statutes."

27 **SECTION 7.** This act becomes effective October 1, 2015.