

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 541
Transportation Committee Substitute Adopted 7/1/15
PROPOSED COMMITTEE SUBSTITUTE S541-PCS45388-TMxfr-38

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.



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1 b. The time that all passengers exit the vehicle and complete unloading
2 of the vehicle.

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

6 **"§ 20-280.2. Permissible services and limitations.**

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

11 (1) The transportation network company's online-enabled application or
12 platform must disclose the fee calculation method before a passenger makes
13 a ride request.

14 (2) The transportation network company's online-enabled application or
15 platform must provide the option for a passenger to receive an estimated fee
16 before the passenger makes a ride request.

17 (3) The transportation network company must send an electronic receipt to the
18 customer that includes the following:

19 a. The locations where the TNC service started and ended.

20 b. The total time and distance of the TNC service.

21 c. An itemization and calculation of the total fee paid.

22 (4) The fee must be paid electronically through the transportation network
23 company's online-enabled application or platform. No cash may be
24 exchanged for the TNC service.

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

26 **"§ 20-280.3. Permits.**

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

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

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

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

36 (1) Proof of insurance meeting the requirements of G.S. 20-280.4. This
37 subdivision does not apply to brokering transportation network companies.

38 (2) Resident agent for service of process.

39 (3) Proof the transportation network company is registered with the Secretary of
40 State to do business in the State if the transportation network company is a
41 foreign corporation.

42 (4) Policy of nondiscrimination based on customers' geographic departure point
43 or destination.

44 (5) Policy of nondiscrimination based on customers' race, color, national origin,
45 religious belief or affiliation, sex, disability, or age.

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

48 **"§ 20-280.4. Financial responsibility.**

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

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

1 disclose to directly interested parties, automobile insurers, and investigating police officers
2 whether the TNC driver was logged on or off of the transportation network company's
3 online-enabled application or platform at the time of the accident.

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

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

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

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

17 (3) The following notice in a distinctive clause: "If the vehicle with which you
18 provide transportation network company services has a lien against it, you
19 must notify the lienholder prior to providing transportation network
20 company services of your intent to provide transportation services with the
21 vehicle. You may disclose to the lienholder all insurance coverage
22 information provided to you by the transportation network company. If you
23 fail to provide the required insurance coverage under the terms of your
24 contract with the lienholder or show evidence to the lienholder of the
25 coverage provided by the transportation network company, you may violate
26 the terms of your contract."

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

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

33 (2) Personal injury protection coverage.

34 (3) Uninsured and underinsured motorist coverage.

35 (4) Medical payments coverage.

36 (5) Comprehensive physical damage coverage.

37 (6) Collision physical damage coverage.

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

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

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

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

- 1 (1) Description of the coverage, exclusions, and limits provided under any
2 insurance policy.
- 3 (2) Precise times that a TNC driver logged on and off of the transportation
4 network company's online-enabled application or platform in the 12-hour
5 period immediately preceding and in the 12-hour period immediately
6 following the accident.
- 7 (3) Precise times that a TNC driver provided TNC service in the 12-hour period
8 immediately preceding and in the 12-hour period immediately following the
9 accident.

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

11 **"§ 20-280.5. Safety requirements.**

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

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

- 20 (1) Photograph of the TNC driver.
- 21 (2) License plate number of the TNC driver's vehicle.
- 22 (3) Description of the TNC driver's vehicle.
- 23 (4) Approximate location of the TNC driver's vehicle displayed on a map.

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

- 25 (1) The record of each TNC service provided in this State for one year from the
26 date the TNC service occurred.
- 27 (2) The record of each TNC driver in this State for one year from the date the
28 TNC driver terminated their relationship with the transportation network
29 company.

30 **"§ 20-280.6. Background checks.**

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

- 33 (1) Require the individual to submit an application to the transportation network
34 company, including, at a minimum, the following:
 - 35 a. Address.
 - 36 b. Age.
 - 37 c. Drivers license number.
 - 38 d. Driving history.
 - 39 e. Motor vehicle registration.
 - 40 f. Automobile liability insurance information.
- 41 (2) Conduct, or have a third party conduct, a local and national criminal
42 background check for each applicant, including, at a minimum, the
43 following:
 - 44 a. Multi-State/Multi-Jurisdiction Criminal Records Locator or other
45 similar commercial nationwide database with validation (primary
46 source search).
 - 47 b. National Sex Offender Registry.
- 48 (3) Review, or have a third party review, a driving history research report for
49 such individual.

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

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

6 **(1)** Has had more than three moving violations in the prior three-year period or
7 one major violation in the prior three-year period, including attempting to
8 evade the police, reckless driving, or driving on a suspended or revoked
9 license.

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

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

15 **(4)** Does not possess a valid drivers license.

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

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

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

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

22 **"§ 20-280.7. Authority of Division.**

23 The Division may issue regulations to implement this Article.

24 **"§ 20-280.8. Presumption that TNC drivers are independent contractors.**

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

28 **"§ 20-280.9. Airport operators.**

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

31 **(b)** An airport operator is authorized to require an identifying decal be displayed by
32 TNC drivers.

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

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

39 **"§ 20-280.10. Statewide regulation.**

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

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

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

49 "(27) Passenger Vehicles. –

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

- b. ~~For hire~~ For-hire passenger vehicles. – Vehicles transporting persons for compensation. This classification shall not include the following:
1. ~~vehicles~~ Vehicles operated as ~~ambulances;~~ ambulances.
 2. ~~vehicles~~ Vehicles operated by the owner where the costs of operation are shared by the ~~passengers;~~ passengers.
 3. ~~vehicles~~ Vehicles operated pursuant to a ridesharing arrangement as defined in ~~G.S. 136-44.21;~~ G.S. 136-44.21.
 4. ~~vehicles~~ Vehicles transporting students for the public school system under contract with the State Board of ~~Education~~ Education.
 5. ~~or vehicles~~ Vehicles leased to the United States of America or any of its agencies on a nonprofit ~~basis;~~ basis.
 6. ~~or vehicles~~ Vehicles used for human ~~service or~~ service.
 7. Vehicles used for volunteer transportation.
 8. Vehicles operated in a TNC service, excluding vehicles operated in connection with a brokering transportation network company, regulated under Article 10A of Chapter 20 of the General Statutes.

...."

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

"§ 20-87. Passenger vehicle registration fees.

These fees shall be paid to the Division annually for the registration and licensing of passenger vehicles, according to the following classifications and schedules:

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

...."

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.

1 In licensing trades, occupations, and professions, the city may, consistent with the general law
2 of the State, require applicants for licenses to be examined and charge a reasonable fee therefor.

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

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

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

10 **"§ 160A-304. Regulation of taxis.**

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

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

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

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

- 41 (1) Conviction of a felony against this State, or conviction of any offense
42 against another state which would have been a felony if committed in this
43 State;
- 44 (2) Violation of any federal or State law relating to the use, possession, or sale
45 of alcoholic beverages or narcotic or barbiturate drugs;
- 46 (3) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate
47 drugs;
- 48 (4) Violation of any federal or State law relating to prostitution;
- 49 (5) Noncitizenship in the United States;
- 50 (6) Habitual violation of traffic laws or ordinances.

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

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

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

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

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