

Transportation Network Companies in Virginia

2014 Report

Virginia Department of Motor Vehicles
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1 Executive Summary

This report documents the research, analysis, findings and recommendations of a study of transportation network companies (TNCs) that was requested by the chairs of the Senate Transportation Committee and the House Transportation Committee and that was led by the Department of Motor Vehicles (DMV). TNCs, which include companies such as Uber, Lyft, and Sidecar, employ smart phones and related technology to connect riders with drivers who use their personal vehicles to transport passengers.¹ The objective of DMV’s study was to determine whether current Virginia law regarding for-hire passenger carriers provided an adequate framework to ensure that TNCs would provide a safe and reliable service to the public, or whether the law needed to be amended.

In carrying out the study DMV undertook a comprehensive review and analysis of current Virginia law regarding taxicabs, limousines, and other types of passenger carriers. The agency also researched and analyzed the regulatory approaches other jurisdictions had taken to TNCs, particularly the states of California and Colorado and the cities of Seattle and Chicago. In addition, DMV’s study team met regularly with and solicited input from a broad range of stakeholders, including representatives from the TNCs; from the taxicab, limousine, and motorcoach industries (both owners and drivers); from the Virginia Municipal League, the Virginia Association of Counties, and several individual localities; from airport authorities; from the insurance industry and the State Corporation Commission’s Bureau of Insurance; from the Virginia State Police and local law enforcement; from advocates for the disabled; from trial lawyers; and from other affected state agencies, including the Department of Taxation, the Department of Aviation, and the Department of Rail and Public Transportation. As a result of all these efforts, DMV concluded that Virginia law should be amended to address a number of specific features of TNC operations that raised concerns about consumer protection and public safety.

Detailed recommendations are presented in the fifth chapter of this report, but in summary the highlights of the recommended regulatory framework are as follows:

- *Licensing of TNCs.* TNCs are to be licensed by DMV, provided they meet certain minimum standards, identical to the standards that apply under current law to other types of passenger carriers, that demonstrate the TNC’s fitness to operate and its compliance with the requirements for licensure (proof of insurance, payment of fees, appointment of agent for service of process, etc.).
- *Screening of drivers.* TNCs must ensure that all their drivers are at least 21 years old and are properly licensed to drive. TNCs must conduct comprehensive criminal

¹ Some companies operating as TNCs also offer other services, such as Uber’s “Uber Black,” which brokers passenger transportation in professionally chauffeured commercial vehicles. Such services—which are discussed in sections 2.2 and 3.1 of this report—already fall within the scope of current Virginia law and thus lay outside the scope of the study.

background checks and driving record checks on every individual applying to work as a TNC driver, and at regular intervals after the individual has begun working as a TNC driver. The background checks must include checking the individual's status in the Virginia's Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offenders Public Website.

A criminal record that includes a conviction, guilty plea, or plea of *nolo contendere* to any violent crime (as defined in subsection C of § 17.1-805) will bar an individual from acting as a TNC driver. Anyone required to register as a sex offender will also be barred from operating as a TNC driver.

A driving history record that includes a conviction, guilty plea, or plea of *nolo contendere* to any of the following offenses in the preceding seven years will bar the individual from operating as a TNC driver:

- underage drinking and driving
- DUI
- operation of a motor vehicle after license revocation resulting from repeated DUI offenses
- any felony offense (beyond those classed as violent crimes)

In addition, a record of any of the following within the preceding three years will bar the individual from operating as a TNC driver:

- three or more moving violations
 - refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath
 - reckless driving
 - operating a motor vehicle with a suspended or revoked license
 - escaping or eluding a law-enforcement officer
- *Standards for vehicles.* Only personal vehicles may be used, and they must meet the following standards:
 - must be validly titled and registered either in Virginia or in another jurisdiction
 - must have a current Virginia state safety inspection (even if not registered in Virginia)
 - must have a maximum seating capacity of no more than seven persons, excluding the driver

- must be insured by a policy providing coverage for commercial use of the vehicle
- must be registered with DMV for TNC use
- must display both (a) an identification marker issued by DMV identifying the vehicle as registered for TNC use and (b) an identification marker issued by the TNC that clearly identifies the TNC with which the vehicle is associated
- *Insurance.* TNC drivers must be covered by a motor vehicle liability insurance policy that specifically covers liabilities arising from a driver's use of a vehicle to provide TNC services. The liability coverage must meet the following minimums:
 - From the moment a TNC driver accepts a ride request until the driver completes the transaction on the TNC's platform or until the ride is complete, whichever is later, the insurance must provide at least \$1 million in primary liability coverage. The policy must also provide the same amount in uninsured motorist and underinsured motorist coverage.
 - At all other times when a TNC driver is logged on to the TNC's online-enabled application or platform, the TNC insurance must provide primary liability coverage of at least \$50,000 per person/\$100,000 per incident for bodily injury, and at least \$30,000 per incident for property damage. In addition, the TNC must maintain insurance that provides excess coverage insuring the TNC and the driver for at least \$200,000 per occurrence for any liability arising from the driver using a vehicle in connection with a TNC's online-enabled application or platform.

Although the insurance requirements may be met with a commercial insurance policy, it may also be satisfied by a personal automobile insurance policy, amendment, or endorsement covering the use of a vehicle in connection with TNC operations, or by a combination of commercial and personal insurance policies.

- *Other operating requirements.* The following are some of the key additional requirements for TNC operations:
 - The TNC must provide a credential to each driver, which may be displayed on the TNC's mobile app, that includes information identifying the driver, the vehicle, and the TNC with which the driver is affiliated.
 - Before a passenger enters a TNC driver's vehicle, the TNC's app must provide the passenger with the name and a photograph of the driver who will provide transportation and with the vehicle's license plate number.
 - At the end of the trip, the customer must be given an electronic receipt that includes the date and time of the trip, the fare charged, a map of the route taken, and information identifying the TNC, the driver, and the vehicle.

- A TNC must make available immediately upon request to authorized representatives of DMV, law enforcement agencies, and airport authorities information about individual trips arranged through the TNC, including information identifying the driver, vehicle, origin and destination points of the trip, and passenger pick-up and drop-off times.
- The TNC must disclose to passengers, via its app and website, information regarding its screening criteria for drivers, its zero-tolerance policy regarding drugs and alcohol, its method for calculating fares, its means of reporting driver misconduct, and other matters.
- The TNC must disclose to its drivers the nature and limits of its insurance coverage, the possible limits of the driver's personal automobile insurance coverage with respect to TNC operations, and the possible concerns of lienholders regarding commercial use of a personal vehicle, among other things.
- TNCs and their drivers must provide services to the general public without discrimination on the basis of age, race, sex, disability, origin or destination of the trip, or on any other basis prohibited by law. Among other things, this means that they may not impose additional charges for providing services to persons with physical or mental disabilities because of those disabilities, and that they may not refuse passengers with service animals. DMV may deny, suspend or revoke the operating authority or levy civil penalties against a TNC for failure to comply with the Americans with Disabilities Act or the Virginians with Disabilities Act.
- A TNC may provide service on a prearranged basis only. Street hails are prohibited.
- TNC drivers may only accept riders through the TNC's mobile app or digital platform. A TNC driver may not otherwise arrange or accept any fares for for-hire transportation services.
- TNCs may not conduct any operations on the property of or into any airport, unless such operations are authorized by the airport authority involved.
- *Record keeping and reporting.* DMV will have the authority to conduct periodic reviews of TNCs to confirm compliance with the above requirements. TNCs must therefore keep and maintain records necessary to demonstrate such compliance, including the results of criminal history and driving record reports on TNC drivers, proof of insurance, vehicle safety inspection records, and any other information DMV identifies as necessary to confirm compliance. For purposes of compliance review, such records must be kept and retained for three years in a manner that permits systematic retrieval. TNCs must also maintain records that may be needed by law enforcement authorities, including ride-specific data. Any of the information

obtained by DMV, law enforcement, or airport officials will be considered privileged information and will not be subject to disclosure except to other law enforcement authorities as needed.

- *Fees.* Fees adequate to cover DMV's costs of administering the laws regarding TNCs include (a) an annual per-vehicle fee of \$50 for each vehicle that provides TNC services, (b) an initial TNC license fee of \$70,000 to be paid by the TNC, and (c) an annual fee of \$3,000 for renewal of the TNC's license. It is recommended that this fee structure be reviewed one year after implementation to determine if costs are fully recovered or if these fees should be adjusted to achieve that objective.

2 Introduction

During the 2014 Session of the General Assembly, the chairs of the House and Senate transportation committees called upon the Department of Motor Vehicles (DMV) to undertake a study of businesses that employ smart phones and related technology to connect riders with drivers who use their personal vehicles to transport passengers.² These businesses, which include companies such as Uber, Lyft, and Sidecar, are commonly known as transportation network companies (TNCs).³ The objective of DMV’s study was to determine whether current Virginia law regarding for-hire passenger carriers provided an adequate framework to ensure that TNCs would provide a safe and reliable service to the public, or whether the law needed to be amended. This report documents the research, analysis, findings and recommendations of the TNC study.

2.1 Events Giving Rise to this Study

TNCs are a fairly new phenomenon; the first ones began operating in early 2012 in San Francisco. Three companies launched competing TNC services within a few months of each other:

- *Sidecar*. The company was formed in January 2012 by Sunil Paul and Jahan Khanna. After several months of beta testing, Sidecar formally launched its “personal vehicle sharing program” in June 2012.⁴ The program allowed individuals to use an iOS or Android app to request rides from people operating their personal vehicles, and to make a payment (or “donation,” as Sidecar called them) for the service.

² The letters charging DMV with leading this study are reproduced as Appendix B to this report.

³ The California Public Utilities Commission (PUC) coined the term “transportation network company” in a 2013 rulemaking that established the operational requirements for companies arranging passenger transportation using drivers’ personal vehicles. The PUC defined a TNC as “an organization . . . that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their personal vehicles.” California Public Utilities Commission R.12-12-011, Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry, D.13-09-045 (September 19, 2013), p. 2. The term has since been widely adopted outside California, as the TNCs—most of whom also originated in California—have begun operating in other states and cities.

It should be noted that the PUC’s definition of a TNC—which is followed throughout this report—does not include services such as Uber’s “Uber Black” and other types of passenger transportation involving professionally chauffeured commercial vehicles. At least in Virginia, such services clearly fall within the existing regulatory framework for motor carriers of passengers, and thus lay beyond the scope of this study’s inquiry.

⁴ Sarah Mitroff, “Sidecar Brings the Airbnb Approach to Your Car,” *Wired*, <http://www.wired.com/2012/06/sidecar/> (June 26, 2012). Two years earlier, Sunil Paul had successfully lobbied the California legislature to amend the state’s insurance code to provide that the use of a vehicle in a “personal vehicle sharing program” is not subject to any livery exclusion contained in the vehicle owner’s personal automobile insurance policy. See 2010 Cal. Stat. ch. 454.

- *Lyft*. Logan Green and John Zimmer founded Zimride in 2007 to provide a way for Facebook users to find people offering or needing to share a ride, as well as a way to facilitate payment of the driver's costs (Zimride itself did not set any fares). The focus of the service was on long trips, such as to or from a college campus, a ski resort, or some other destination that the driver and rider had in common.⁵ In May 2012 the company announced the launch of a new service, Lyft, which would allow riders and drivers to use mobile devices to arrange on-demand transportation over shorter distances.⁶ In July 2013 Zimride changed its name to Lyft and sold its original ride-matching service to Enterprise Holdings, parent of Enterprise Rent-a-Car.⁷
- *Uber*. Founded by Travis Kalanick and Garrett Camp in 2009 as UberCab, the company launched a service in San Francisco in May 2010 whereby individuals could use a mobile app or SMS text message to hail a black sedan or luxury vehicle operated by a licensed chauffeur.⁸ Rebranding its original operations "Uber Black," the company launched a new service in July 2012: Uber X, which expanded the range of vehicles available for hire to include SUVs and hybrid electric cars.⁹ The following February, Uber opened its Uber X platform to drivers without a chauffeur's license, and allowed them to use their own personal vehicles to transport passengers.¹⁰

From their origins in San Francisco these companies' operations quickly spread across the United States, including metro Washington, DC. By fall 2013 DMV had evidence that Lyft and Uber X drivers were operating in northern Virginia; however, it was unclear initially whether they were transporting passengers point-to-point within the Commonwealth, or only on trips that crossed the Potomac.

In January 2014 two companion bills were introduced in the Virginia General Assembly that sought to facilitate TNC operations within the Commonwealth. Senator John Watkins's

⁵ Andrea Koskey, "Website Hooks Up Bay Area Drivers, Riders for Runs to Tahoe," *San Francisco Examiner*, <http://www.sfexaminer.com/sanfrancisco/website-hooks-up-bay-area-drivers-riders-for-runs-to-tahoe/Content?oid=2188987> (December 29, 2011).

⁶ Kim-Mai Cutler, "Zimride's Lyft Is Going to Give Uber Some Lower-Priced Competition," *TechCrunch*, <http://techcrunch.com/2012/05/22/zimrides-lyft-is-going-to-give-uber-some-lower-priced-competition/> (May 22, 2012).

⁷ Ken Yeung, "Lyft Founders Sell Zimride, Their Carpooling Startup, to Enterprise Rent-a-Car's Parent Company," *The Next Web*, <http://thenextweb.com/insider/2013/07/12/lyft-founders-sell-zimride-their-carpooling-startup-to-enterprise-rent-a-cars-parent-company/> (July 12, 2013).

⁸ "Uber's Founding," <http://blog.uber.com/2010/12/22/ubers-founding/> (December 22, 2010).

⁹ Alexia Tsotsis, "Uber Opens up Platform to Non-Limo Vehicles with 'Uber X,' Service Will Be 35% Less Expensive," *TechCrunch*, <http://techcrunch.com/2012/07/01/uber-opens-up-platform-to-non-limo-vehicles-with-uber-x-service-will-be-35-less-expensive/> (July 1, 2012).

¹⁰ "Uber SF to Add More Drivers to UberX: More Cars, Shorter Wait Times," <http://blog.uber.com/2013/02/25/uber-sf-to-add-more-drivers-to-uberx-more-cars-shorter-wait-times/> (February 25, 2013).

Senate Bill 531 and Delegate Ronald Villanueva’s House Bill 908 proposed eliminating two requirements that apply to the services offered by contract passenger carriers: the minimum trip duration of one hour, and the mandate that each vehicle carry a trip sheet showing passenger destinations.¹¹ After discussing the legislation further with industry representatives and with DMV, the patrons agreed to have their bills continued to the 2015 legislative session, pending the outcome of the DMV-led study of TNCs called for by the chairs of the transportation committees.

It should be noted that in late June and early July 2014, DMV received requests from Uber (through its subsidiary Rasier LLC) and Lyft for temporary authorization to provide TNC services in Virginia. These requests were made pursuant to § 46.2-2011.1 of the *Code*, which authorizes DMV to temporarily authorize a passenger transportation service that is immediately and urgently needed and that existing carriers are unable to provide. After reviewing the companies’ applications and consulting the Governor’s office and the Office of the Attorney General, DMV determined that both Uber and Lyft had met the statutory threshold for issuance of temporary authority. As a result of this decision and the issuance of temporary authority, both Uber and Lyft currently are able to provide TNC services legally in Virginia, so long as they adhere to the operating guidelines set forth in the authorizing letters and documents that DMV issued to each company. The companies’ temporary operating authority is effective for 180 days: from August 6, 2014, until February 2, 2015. If conditions warrant, then in February 2014 DMV may issue temporary authority for a second 180-day period. Neither Uber nor Lyft will be able to continue operations, at least not as TNCs, beyond the end of that second authorization without legislative action.

2.2 Study Objectives, Participants, and Methods

As indicated above, the principal objective of this study was to determine whether current Virginia law provides an adequate framework for TNCs to provide safe, reliable services to consumers. However, DMV determined—in part on the basis of comments from industry stakeholders indicating an interest in establishing a “level playing field” for all types of carriers—that study participants not only should evaluate the appropriate regulatory response to TNCs, but also should take a fresh look at the regulatory requirements currently imposed on other passenger transportation services in the Commonwealth, to determine whether any of those requirements were either inadequate or unnecessary. Evaluating opportunities for the reform of existing passenger carrier laws thus became a secondary objective of the study.

DMV identified a broad range of stakeholders with an interest in this study, including representatives from the TNCs; from the taxicab, limousine, and motorcoach industries; from the Virginia Municipal League, the Virginia Association of Counties, and several individual localities; from airport authorities;¹² from the insurance industry and the State Corporation

¹¹ For a description of contract passenger carriers and the requirements they must meet under Virginia law, see section 3.1.3 of this report.

¹² Airports have unique challenges and enforcement obligations that warrant protection. For example, federal agencies such as the Department of Homeland Security and its agency the Transportation Security

Commission’s Bureau of Insurance; from the Virginia State Police and local law enforcement; and from other affected state agencies, including the Department of Taxation, the Department of Aviation, and the Department of Rail and Public Transportation.¹³ In April, DMV began meeting with these groups individually, to seek their help in identifying issues relevant to the study’s objectives. At the same time, the agency solicited written comments and proposals from stakeholders. Among other things, in April DMV sent an email to passenger carriers having an email address on file with the agency—approximately 1300 businesses—alerting them to the study, asking for their input, and asking them to share this request with their drivers, their passengers, and any others who might have an interest in the study. Many of the companies responded, as did over 100 drivers and a number of individual passengers. Over the course of the study, DMV maintained an open door to any other stakeholders, beyond those the agency had initially identified, who wished to provide comments and suggestions. Representatives of trial lawyers, of the disabled community, and of an organization of taxicab drivers¹⁴ all stepped forward at various times while the study was underway, and were welcomed to share their input with the study team.

In addition to evaluating stakeholder comments, the study team undertook a comprehensive review and analysis of current Virginia law regarding passenger carriers, and researched and analyzed the regulatory approaches other jurisdictions had taken to TNCs. Drawing upon this research and the feedback and recommendations received from stakeholders, DMV convened a second series of meetings with individual stakeholder groups in July and August. Discussion focused on three different approaches to achieving the study’s objectives: (1) a proposal that had been submitted by the taxicab industry, (2) legislation recently enacted in Colorado to regulate TNCs, and (3) a concept prepared by the DMV study team that incorporated elements of the Colorado law but that also included rules modeled on other states’ laws and regulations and drawn from Virginia motor carrier laws, and that proposed a substantial deregulation (state and local) of existing for-hire carriers. On the basis of the feedback received at this second round of meetings, the study team drafted a revised regulatory framework, which was then submitted for review to a stakeholder leadership team, consisting of representatives selected by the members of each of the stakeholder groups. The stakeholder leadership team met with DMV’s study working group in September to discuss the revised proposal and to make further recommendations.

Following the September meeting, DMV made its final revisions to the proposed regulatory framework, drafted implementing legislation, and prepared this report documenting its

Administration impose numerous security requirements on airports, including curbside security and traffic management protocols, which must be actively managed and satisfied to avoid penalties. Additionally, airports are obligated under federal grant assurances to be self-sustaining through a schedule of charges (49 U.S.C. § 47107(a)(13)) and to raise revenue from both aeronautical and non-aeronautical users of airport facilities.

¹³ For a complete list of stakeholders participating in the study see Appendix D.

¹⁴ While DMV met with a number of groups, not all issues those groups raised lay within the scope of this study. Nevertheless, written comments from these groups have been included in Appendix E.

work. Drafts of the legislation and of this report were submitted to stakeholders for comment. All stakeholder comments DMV received are included in Appendix F to this report.

2.3 Structure of this Report

The remaining chapters in this report summarize the bases for the recommended legislation. Chapter 3 digests current Virginia law on for-hire passenger carriers and not-for-profit ridesharing arrangements, and compares TNCs to these other types of passenger transportation. Chapter 4 sets forth the approaches taken by the four jurisdictions that, as of this writing, have enacted or promulgated rules regarding TNC operations: the states of California and Colorado and the cities of Chicago and San Francisco.¹⁵ Chapter 5 presents a summary and explanation of the agency's final recommendations. The recommended legislation itself is contained in Appendix A.

¹⁵ As of this writing, the Council of the District of Columbia had passed a bill (Legislation # 20-753 (engrossed October 28, 2014)) regarding the operation of TNCs, but the legislation had not yet been signed by the mayor or reviewed by Congress.

3 Types of Passenger Transportation Services Currently Offered in Virginia

Many different types of passenger transportation services operate in the Commonwealth. This chapter provides an overview of two established types of services recognized in Virginia law—services provided through commercial motor carriers and through noncommercial ridesharing arrangements—as well as the services offered by TNCs.

3.1 Motor Carriers

A “motor carrier” is defined in Va. Code § 46.2-2000 as “any person who undertakes, whether directly or by lease, to transport passengers for compensation over the highways of the Commonwealth.” In general, anyone who either provides or arranges the transportation of passengers by motor carrier on an intrastate basis is subject to state regulation in Virginia.¹⁶ Taxicabs are also subject to any requirements established by the localities in which they operate. The statewide requirements that apply to different types of motor carriers, which are set forth in Chapter 20 of Title 46.2 of the *Code of Virginia*, are summarized below.

3.1.1 Irregular Route Common Carriers

An irregular route common carrier transports the general public for individual fees over any routes within specified areas of Virginia. (Airport shuttles are one example of this type of motor carrier.) Irregular route common carriers operate pursuant to a certificate of public convenience and necessity, which DMV will issue only upon satisfactory review of the applicant’s experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law, as well as of the need for the proposed service. The carrier’s certificate lists the service areas within which it may operate.

Other operating requirements and restrictions that apply to irregular route common carriers include:

- filing a tariff with DMV that includes all of the carrier’s rates and any rules, policies or guidelines the carrier will impose on its customers (*e.g.*, cancellation policy)
- charging no more for services than the tariff rates on file with DMV
- providing both the public and DMV 30 days advance notice of any proposed changes to tariff rates, and receiving DMV’s approval before actually changing the rates
- operating only vehicles that are designed to carry 15 persons or less, including the driver
- displaying for-hire license plates on the vehicle

¹⁶ For exceptions, see Va. Code § 46.2-2000.1.

- not picking up or delivering passengers to their residence in the City of Norfolk, unless the vehicle is specially equipped to transport disabled persons
- obtaining written approval from DMV prior to discontinuing operations in any or all of the service areas
- not refusing service without good cause
- providing services to the general public without discrimination

Irregular route common carriers must carry liability insurance that offers bodily injury and property damage coverage of at least \$350,000, if operating a vehicle designed to carry up to six passengers (including the driver); if operating a vehicle with a seating capacity of seven to fifteen passengers, the insurance must cover losses of at least \$1,500,000. Carriers are also required to keep a \$25,000 surety bond or letter of credit on file with DMV for three years from the date the carrier's operating authority certificate is issued.

There is a \$50 filing fee for a certificate of public convenience and necessity, and an annual operating authority registration fee of \$3 per vehicle.

3.1.2 Regular Route Common Carriers

A regular route common carrier transports the general public for individual fees over specific routes. A commuter bus is an example of this type of carrier. Like irregular route common carriers, regular route carriers operate pursuant to a certificate of public convenience and necessity, which DMV will issue only upon satisfactory review of the applicant's experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law, as well as of the need for the proposed service. The carrier's certificate lists the routes over which it may operate.

The operational requirements and restrictions are generally the same as for irregular route common carriers, but with these differences:

- regular route common carriers may operate vehicles with seating capacities, including the driver, of 16 or more (requiring the driver to have a commercial driver's license)
- before the carrier can change its time schedules (which are filed with DMV, along with fares and other information, as part of the tariff) it must provide 10 days' notice to the public and to DMV, and must receive written approval of the change from DMV
- the carrier must notify DMV of all interruptions of service that may last more than 24 hours; interruptions due to an act of God need not be reported unless the interruption continues for more than 72 hours; all interruptions must be promptly reported to the carrier's agents on the affected routes

Insurance coverage and surety bond requirements are the same as for irregular route common carriers, although carriers who operate vehicles that can carry 16 or more passengers must have bodily injury and property damage limits of \$5 million.

Fees are the same as for irregular route common carriers.

3.1.3 Contract Passenger Carriers

A contract passenger carrier contracts to transport groups of passengers and charges a group fee. Carriers operate pursuant to a certificate of fitness, which DMV will issue only upon satisfactory review of the applicant's experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law.

Other operating requirements and restrictions applicable to contract passenger carriers include the following:

- the trip must be prearranged under a contract made with a group through a representative of the group
- even if the trip lasts less than one hour, the contract cannot be for less than a one-hour period, and no other group may be transported during the time frame of the contract
- a copy of the contract or of a trip sheet must be carried in the vehicle during the trip
- the contract or trip sheet must contain the name of the group being transported, the origin and destination of the trip, and the date and approximate time of pickup
- the contract or trip sheet must be maintained at the carrier's place of business for three years, and made immediately available upon request to DMV, law enforcement, or an airport authority
- the carrier may not station its vehicle in front of or across the street from a hotel or motel, or within 100 feet of a taxicab stand, without a completed trip sheet or contract order in the vehicle, or a written agreement with an airport authority or the hotel or motel owner providing office space for the carrier's business at the airport, hotel, or motel
- the vehicle must display for-hire license plates

Insurance and surety bond requirements are the same as for regular route common carriers.

Fees are the same as for irregular route and regular route common carriers.

3.1.4 Employee Hauler Carriers

An employee hauler carrier transports employees of a business to and from their place of work. Carriers operate pursuant to a permit issued by DMV. DMV does not assess the

applicant's experience, qualifications, character, fitness, financial responsibility, or compliance with the requirements of Virginia law.

Additional operational requirements and restrictions for this carrier type include the following:

- in order to transport the employees of any business not listed on the permit, the carrier must apply for and receive an amended permit
- employees may only be transported from a predetermined location (home, bus stop, park and ride, etc.) to their place of business and from their place of business back to the pick-up location
- carriers may not transport employees from one work location to another
- the vehicle must display for-hire license plates

Insurance requirements are the same as for common carriers and contract passenger carriers, but a surety bond is not required.

Permit application fees are the same as certificate application fees for common carriers and contract passenger carriers. There is also an annual operating authority registration fee of \$3 per vehicle, as for the other carrier types.

3.1.5 Nonprofit/Tax-Exempt Passenger Carriers

A nonprofit/tax-exempt passenger carrier is a non-profit corporation that uses only minibuses to transport its own members or the elderly, disabled, or economically disadvantaged members of a community. A minibus is any motor vehicle having a seating capacity of not less than seven nor more than 31 passengers, including the driver, and used in the transportation of passengers. Carriers operate pursuant to a permit issued by DMV. DMV does not assess the applicant's experience, qualifications, character, fitness, financial responsibility, or compliance with the requirements of Virginia law.

Other operational requirements and restrictions for this carrier include the following:

- the carrier is limited to transporting members of its organization, if the organization is a membership corporation
- the carrier is limited to transporting elderly, handicapped, or economically disadvantaged members of the community it serves, if the carrier's organization is not a membership corporation
- a carrier may not operate over the same route or on an adjacent route with a similar schedule as a regular route common carrier or as a public transportation authority
- the vehicle must display for-hire license plates

Insurance and bond requirements are the same as for employee hauler carriers.

There is no permit fee for these carriers, just the annual operating authority registration fee of \$3 per vehicle.

3.1.6 Sight-Seeing Carriers

A sight-seeing carrier transports the general public to and from points of interest in Virginia primarily for the passengers' experience and enjoyment and/or to promote tourism. Carriers operate pursuant to a certificate of fitness, which DMV will issue only upon satisfactory review of the applicant's experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law.

Other operating requirements and restrictions include:

- providing services to the general public without discrimination
- not refusing service without good cause
- operating only on a round-trip basis
- notifying DMV prior to discontinuing operation on any or all of the service routes
- issuing a ticket that must display the points of interest and the round-trip fare
- displaying for-hire license plates

Insurance and surety bond requirements are the same as for common carriers and contract passenger carriers.

Fees are the same as for common carriers and contract passenger carriers.

3.1.7 Nonemergency Medical Transportation Carriers

This type of motor carrier exclusively provides nonemergency medical transportation and provides such transportation only through the Department of Medical Assistance Services (DMAS), through a broker operating under a contract with DMAS, or as a Medicaid Managed Care organization contracted with DMAS to provide such transportation. Carriers operate pursuant to a certificate of fitness, which DMV will issue only upon satisfactory review of the applicant's experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law.

Insurance and surety bond requirements are the same as for common carriers, contract passenger carriers, and sight-seeing carriers.

Fees are also the same as for those carriers.

3.1.8 Taxicabs

A taxicab transports passengers in vehicles that are designed to carry no more than six passengers, excluding the driver. Taxicabs operate pursuant to a permit issued by DMV. DMV

does not assess the applicant's experience, qualifications, character, fitness, financial responsibility, or compliance with the requirements of Virginia law.

Other operating requirements and restrictions include:

- not operating on a predetermined route
- not picking up passengers at a public transportation terminal (such as a bus station, airport, train station, etc.) and delivering them to another public transportation terminal on a regular basis
- equipping each vehicle with a roof sign and marking the exterior of the vehicle with the word or words "taxicab," "taxi," or "cab," permanently attached in letters at least three inches high, such that the roof sign and markings, taken together, clearly reflect that the vehicle is operating as a taxicab or performing a taxicab service
- complying with the ordinances of all cities and counties in which the taxicab operates

It bears repeating that taxicabs differ from other types of passenger carriers in that they are subject to local regulation, and thus must meet local requirements in addition to those set forth in state law. Specific requirements vary in number, scope, and rigor depending on the jurisdiction.

At the state level, taxicabs are required to carry liability insurance covering \$125,000 in bodily injury and property damage per incident. There is no surety bond requirement.

In line with most other carriers, taxicabs must pay a \$50 permit fee and an annual operating authority registration fee of \$3 per vehicle.

3.1.9 Brokers

A broker arranges for the transportation of passengers by motor carriers authorized by DMV, but is not itself a motor carrier or an employee or agent of a motor carrier.

Brokers are required to obtain a license from DMV, which authorizes the broker to arrange transportation of passengers for trips within Virginia. There is a \$50 filing fee for the license.

Brokers may only arrange for the transportation of passengers with motor carriers that have been authorized by DMV to conduct such operations. A broker must obtain and maintain a copy of the certificate of public convenience and necessity issued to those carriers.

Each broker is required to keep a surety bond or letter of credit in the amount of \$25,000 on file with DMV.

3.2 Ridesharing Arrangements

Although some TNCs have occasionally referred to their business as "ridesharing," this term has a specific meaning in Virginia law, one that excludes for-profit transportation services.

Section 46.2-1400 of the *Code of Virginia* defines a ridesharing arrangement as “the transportation of persons in a motor vehicle when such transportation is incidental to the principal purpose of the driver, which is to reach a destination and not to transport persons for profit. The term includes ridesharing arrangements known as carpools, vanpools, and bus pools.” Participants in a ridesharing arrangement may pay for the service, but payments cannot exceed the expenses of operating the vehicle; otherwise, the service is subject to commercial motor carrier laws.¹⁷

Ridesharing arrangements often originate in casual agreements among friends or acquaintances, but they also take other forms. For instance, in northern Virginia many drivers commuting to and from work will pick up and drop off anonymous riders at designated locations, so that their vehicles will be eligible to use HOV lanes. This practice, known as “slugging,” generally does not involve any payment for service; drivers provide riders with transportation, and in exchange the riders enable the drivers to use travel lanes that will shorten their commuting times. A number of local and regional transportation authorities also facilitate ridesharing arrangements by offering services that help to match up drivers with riders. The Department of Rail and Public Transit maintains an online database of these commuter services in localities across Virginia.¹⁸

3.3 Transportation Network Companies

For purposes of its study and this report, DMV has followed the substance of the California PUC’s definition of a TNC: “an organization . . . that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their personal vehicles.”¹⁹ As reflected in this definition, TNCs differ from other types of passenger transportation providers in their unique combination of four characteristics:

¹⁷ Va. Code § 46.2-2000.1(5).

¹⁸ “Commuter Service Assistance Service Providers,” <http://www.drpt.virginia.gov/locator/allproviders.aspx?type=1>.

¹⁹ California Public Utilities Commission R.12-12-011, Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry, D.13-09-045 (September 19, 2013), p. 2.

Note that the PUC’s definition is at odds with how TNCs have often represented themselves. In particular, TNCs have frequently contended that they are not transportation companies and do not provide transportation, but instead are merely technology companies that have developed a solution that is used by those who provide transportation. See, for example, California Public Utilities Commission R.12-12-011, Application of Uber Technologies, Inc. for Rehearing of Decision 13-09-045 (Oct. 23, 2013), p. 4 (Uber “operates no vehicles, and does not hold itself out or advertise itself as a transportation service provider. . . . On the contrary, Uber is a technology company that licenses the Uber App to transportation service providers). Similar language is contained in the terms of service for Uber (<https://www.uber.com/legal/usa/terms> (last updated May 17, 2013)), Lyft (<https://www.lyft.com/terms> (last updated May 22, 2014)) and Sidecar (<http://www.side.cr/terms> (last updated April 22, 2014)).

- *TNCs provide prearranged transportation.* Riders use apps on smart phones and other mobile devices to summon drivers either to their current location—identified, in many cases, via GPS technology in the mobile device—or to another pick-up point. This is similar to arranging a limousine or taxicab ride through a dispatch service; however, TNCs differ from most taxicabs in that TNCs only authorize rides that are arranged through the mobile app, which precludes street hails and solicitation of rides at taxi stands and other fixed points.²⁰
- *TNCs provide transportation for compensation.* In this respect they more closely resemble taxicabs, limousines, and other for-hire passenger carriers than they do carpools or other not-for-profit ridesharing arrangements.²¹
- *TNCs use mobile apps and other online platforms to connect riders and drivers.* Although TNCs have been innovative in the use of mobile apps and GPS to arrange transportation quickly and efficiently, there are similar mobile apps for dispatching taxis and limousines (such as Curb and Hailo) and for arranging carpools (e.g., Carma, Zimride). Moreover, Uber and Lyft, the two leading TNCs, also offer services for transportation in licensed for-hire carriers (Uber Black, Uber Taxi, Lyft’s service in New York City) and for carpooling (Uber Pool, Lyft Line).
- *TNC drivers use personal vehicles.* Like carpools and other ridesharing arrangements, TNCs use personal vehicles belonging, in most instances, to drivers who are not trained professionals. The fact that these personal vehicles are not dedicated to commercial activity, but are also used—perhaps a majority of the time—for personal transportation complicates their status for insurance purposes, as Virginia personal auto policies’ livery exclusion generally will rule out coverage for incidents arising while the vehicle is used commercially, while the commercial insurance currently available to TNC drivers generally will not cover incidents arising from personal use of the vehicle. It may also create issues if the vehicle was financed by a lender who was not informed that the vehicle would be used for commercial purposes.

²⁰ A driver who had no scruples about violating the TNC’s terms of service could of course solicit and accept riders “off the app.” TNCs prohibit such practices because they receive no portion of the fare for rides that are arranged off the app, without their knowledge.

²¹ It should be noted however that not all rides offered by all TNCs are for compensation. Lyft, for example, collects discretionary “donations” in some localities—generally new markets where it is trying to establish a user base. On its web site Lyft states that in cities where drivers collect donations, “there is not a set amount for what a ride should cost, but rather a suggestion of what the ride should be. It is at the passengers [sic] discretion to leave the donation amount of their choosing.” “Donations vs. Charges,” <https://www.lyft.com/help/article/1415358>. If a passenger chooses not to make a donation, then obviously the ride is not for compensation. A Lyft representative explained to the study team, however, that drivers are able to view the payment history of every customer who solicits a ride, and may choose not to pick up someone who has repeatedly declined to make a donation.

Although the transportation services arranged through TNCs are not dissimilar to the services offered by some types of motor carriers—particularly irregular route common carriers and taxicabs—the differences are such that subjecting TNCs to the same requirements and restrictions as those of other carriers would probably destroy TNCs’ ability to operate under their current business model. One important feature of that business model is its dependence upon the TNC attracting a “critical mass” of drivers in order to be able to provide timely service to riders. This is especially important since, in contrast to most other for-hire passenger transportation, TNC drivers generally are free to set their own hours and to work as infrequently as they wish. TNCs depend upon a robust supply of part-time and occasional drivers using their personal vehicles to transport passengers. Rules that create additional regulatory hurdles and costs for potential drivers, or that encumber drivers’ personal use of their vehicles, impair TNCs’ ability to recruit workers. Nevertheless, public safety and consumer protection require TNCs and their drivers to adhere to at least some of the same standards for fitness and financial responsibility that other commercial operators must meet. The challenge is thus to develop a set of rules that adequately protects passengers and promotes safety, but that does not effectively regulate TNCs’ business model out of existence.

4 Regulation of Transportation Network Companies in Other Jurisdictions

Over the past four years TNCs have established operations in cities across the United States and around the world. Like Virginia, many of these other jurisdictions have compared the services offered by TNCs to those offered by other types of passenger carriers, and have tried to determine how TNCs ought to be regulated. The study team's research discovered only one jurisdiction that had evidently concluded no regulation at all was the best approach: North Carolina.²² All the others either had established or had proposed establishing standards for TNC services.

This chapter details the rules in the four jurisdictions that have, as of this writing, promulgated regulations or enacted laws governing TNCs: California, Colorado, Seattle, and Chicago.²³ The rules adopted in each of these jurisdictions have much in common; all require, among other things, TNCs to be licensed or permitted, drivers to have criminal background and driving record checks, vehicles to be inspected for safety and to fall within certain size and seating capacity limits, customers to be served in a nondiscriminatory manner, and insurance to cover incidents that arise during operations. Even so, as the following summaries reveal, there are significant differences in the number and rigor of the rules from one jurisdiction to the next.

4.1 California

Rules adopted pursuant to Decision 13-09-045 of the California Public Utilities Commission (PUC) were the first to use the term “transportation network company” to refer to Uber, Lyft, and those offering similar services.²⁴ The rules establish the PUC's jurisdiction over TNCs,²⁵ require TNCs (but not their drivers) to obtain a permit from the PUC before operating, and set forth standards that TNCs must meet regarding driver and vehicle safety, insurance, nondiscrimination, and other operational matters. Additional insurance rules were later set forth

²² Session Law 2013-413 amended N.C.G.S. § 160A-194 to prohibit local regulation of “digital dispatching services for prearranged transportation services for hire.” The act did not provide for the regulation of such services by the state.

²³ As of this writing, the Council of the District of Columbia had passed a bill (Legislation # 20-753 (engrossed October 28, 2014)) regarding the operation of TNCs, but the legislation had not yet been signed by the mayor or reviewed by Congress.

²⁴ California Public Utilities Commission R.12-12-011, Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry, D.13-09-045 (September 19, 2013).

²⁵ The PUC classifies TNCs as a type of “passenger charter-party carrier,” which are subject to the agency's regulatory authority pursuant to Chapter 8 of the California Public Utilities Code.

in statute.²⁶ A TNC that fails to adhere to the state’s requirements may have its permit revoked or otherwise be subject to sanctions by the PUC.

4.1.1 Drivers

TNCs must conduct criminal background checks for each applicant before the applicant may become a driver. The background check must be a national criminal background check, including the national sex offender database, and be based on the applicant’s name and social security number. Convictions within seven years for violent crimes, DUI, fraud, use of a motor vehicle to commit a felony, sexual offenses, acts of terror, or crimes involving property damage or theft will bar applicants from becoming TNC drivers.

TNCs must implement and disclose a zero-tolerance policy with respect to drivers’ use of intoxicating substances. TNCs must disclose to riders how to report a driver suspected of being under the influence of intoxicating substances, and must suspend a driver promptly after a zero-tolerance complaint is filed.

TNC drivers must possess a valid California driver’s license, must be at least 21 years of age, and must provide at least one year of driving history before providing TNC services. TNCs must check each driver’s driving record prior to allowing a driver on the platform, and quarterly thereafter.²⁷ Drivers with convictions for reckless driving, driving under the influence, hit and run, or driving with a suspended or revoked license may not be permitted to work as TNC drivers. Drivers may have a maximum of two points on their driving records for lesser offenses, *e.g.*, equipment problems, speeding, or child safety seat violations.

TNCs are required to establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer service. This program is to be filed with the PUC, and TNCs must report to the agency on an annual basis the number of drivers that became eligible and completed the course.

TNCs are required to file an annual report with the PUC’s Safety and Enforcement Division showing the number of drivers who were found to have committed a violation and/or suspended, including a list of zero-tolerance complaints and the outcome of the investigation into those complaints. TNCs must also submit an annual report that shows the average and mean number of hours and miles each TNC driver spent driving for the TNC.

4.1.2 Vehicles

Prior to operating, and annually thereafter, vehicles used to provide TNC services must pass a 19-point safety inspection.

²⁶ See 2014 Cal. Stat. ch. 389.

²⁷ The PUC regulations contemplate that California law may be amended to allow TNCs to enroll in the California Department of Motor Vehicles’ “Employer Pull Notice” (EPN) program, under which motor carriers receive automatic notice of adverse entries or actions on an employee driver’s driving record. In that event, enrollment in EPN would take the place of the quarterly record check.

TNCs may only use street-legal coupes, sedans, or light-duty vehicles including vans, minivans, sport utility vehicles (SUVs) and pickup trucks. Hatchbacks and convertibles are acceptable. However, vehicles may not be significantly modified from factory specifications (hence no “stretch” vehicles, etc.). TNC drivers are prohibited from transporting more than 7 passengers on any given ride.

4.1.3 Insurance

Under the regulations currently in effect in California, TNCs must provide commercial liability insurance coverage of at least \$1 million per incident for incidents involving vehicles and drivers while providing TNC services. This coverage must be available to cover claims regardless of whether the driver maintains insurance adequate to cover any portion of the claim. TNC drivers must provide proof of both their personal insurance and the commercial insurance in case of an accident.

In July 2014 the PUC issued a proposed decision seeking to clarify the meaning of “TNC services” and the levels of insurance coverage that apply under various circumstances.²⁸ However, legislation enacted in September 2014 addressed these matters in statutory rules that will become effective July 1, 2015.²⁹ The legislation requires TNC drivers to be covered by “transportation network company insurance” (“TNC insurance”) defined as “a liability insurance policy that specifically covers liabilities arising from a driver’s use of a vehicle in connection with a transportation network company’s online-enabled application or platform.” In particular, the legislation provides for two levels of coverage under TNC insurance:

- From the moment a TNC driver accepts a ride request until the driver completes the transaction on the TNC’s platform or until the ride is complete, whichever is later, the TNC insurance must provide at least \$1 million in primary liability coverage, as well as at least \$1 million in uninsured motorist and underinsured motorist coverage. Either the TNC or the driver may provide the policy, but if the driver provides the insurance then the TNC must verify coverage, and must provide coverage on a first-dollar basis in the event the driver’s policy has lapsed or ceased to exist. The TNC insurer has the duty to defend and indemnify the insured.
- At all other times when a TNC driver is logged on to the TNC’s online-enabled application or platform, the TNC insurance must provide primary liability coverage of at least \$50,000/\$100,000 per incident for personal injury, and at least \$30,000 per incident for property damage. The policy may be maintained either by the TNC or by the driver (subject to the same conditions that apply to insurance coverage during the period the driver is engaged). If it is maintained by

²⁸ California Public Utilities Commission R.12-12-011, Proposed Decision of Commissioner Peevey Modifying Decision 13-09-045, Agenda ID # 13072 (Rev. 1) (July 10, 2014), pp. 2-3.

²⁹ 2014 Cal. Stat. ch. 389.

the TNC then the insurance need only provide coverage in the event the driver's TNC insurance has ceased to exist or has been canceled, or if the driver does not otherwise maintain TNC insurance. In addition to this TNC insurance, the TNC must maintain insurance that provides excess coverage insuring the TNC and the driver for at least \$200,000 per occurrence for any liability arising from the driver using a vehicle in connection with a TNC's online-enabled application or platform. The legislation further stipulates that the insurer providing insurance coverage under these laws is solely responsible for defending any liability claim arising from an accident occurring within the period the coverage is in effect.

As noted, coverage under TNC insurance is primary under all circumstances while the driver is logged on; the new law underscores this point by providing that coverage under the TNC policy is "not . . . dependent on a personal automobile insurance policy first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim."

California's legislation addresses a number of issues regarding drivers' personal auto insurance policies. The new law authorizes personal automobile insurers, at their discretion, to offer policies, amendments, or endorsements covering the use of a vehicle in connection with TNC operations. However, the law expressly provides that private passenger automobile insurance policies are not required to provide primary or excess coverage while a driver is engaged in TNC operations. The law also explicitly states that the personal insurance shall not provide any coverage while the driver is on the TNC's network, unless the policy (or an endorsement or amendment to the policy) expressly provides for such coverage, nor shall the personal insurer have a duty to defend or indemnify for the driver's activities while working for the TNC, absent express policy terms to the contrary.

TNCs are required under the new law to disclose in writing to their drivers, as part of their agreement with those drivers, the insurance coverage and limits of liability that the TNC provides. In addition, TNCs must advise drivers in writing that their personal automobile insurance policies "will not provide coverage because the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform," and will not provide collision or comprehensive coverage for damage to the vehicle that occurs while the driver is on the TNC's network.

4.1.4 Nondiscrimination

TNCs must allow passengers to indicate whether they require a wheelchair-accessible vehicle or a vehicle otherwise accessible to individuals with disabilities. TNCs are required to file an annual report with the PUC's Safety and Enforcement Division that details the number and percentage of customers who requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles. They are also required to file an accessibility plan with the PUC, which must include the following:

- a timeline for modifying apps so that they allow passengers to indicate their access needs, including the need for a wheelchair accessible vehicle

- a plan for how the TNC will provide appropriate vehicles for passengers who specify access needs, including a plan to provide incentives for individuals who own accessible vehicles to become TNC drivers
- a timeline for modifying apps and TNC websites so that they meet accessibility standards
- a timeline for modifying apps so that they allow passengers to indicate that they are accompanied by a service animal, and for adopting a policy that service animals will be accommodated
- a plan for ensuring that drivers' review of customers will not be used in a manner that results in discrimination, including any policies that will be adopted and any monitoring that will take place by the TNC to enforce this requirement

Although TNCs are allowed to provide platforms that enable drivers and passengers to “rate” each other, TNCs must ensure that such ratings are not based on unlawful discrimination, and that drivers do not discriminate against passengers or potential passengers on the basis of geographic endpoints of the ride, race, color, national origin, religion, sex, disability, age, or sexual orientation/identity. TNCs are required to file an annual report with the PUC’s Safety and Enforcement Division that details, among other things, the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates, and the number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates.

4.1.5 Other Operating Requirements

TNCs must clearly disclose, on their app and website, that TNCs facilitate rides between passengers and private drivers using their own personal vehicles. Additionally, the disclosure must state that each TNC is required to maintain insurance policies providing a minimum of \$1,000,000 per incident coverage for incidents involving vehicles and drivers while they are providing TNC services.

TNC drivers may only transport passengers on a prearranged basis. For the purpose of TNC services, a ride is considered prearranged if the ride is solicited and accepted via a TNC digital platform before the ride commences. Upon request of law enforcement or other officials a driver must produce a physical or electronic record of a ride in progress sufficient to establish that it was prearranged. TNC drivers are strictly prohibited from accepting street hails. They also are prohibited from conducting any operations at airports unless such operations are authorized by the airport authority.

The app used by a TNC to connect drivers and passengers must show the passenger a picture of the driver and a picture of the vehicle the driver is approved to use, including the license plate number identifying the vehicle. In addition, TNC vehicles must display consistent “trade dress” (*i.e.*, distinctive signage or displays on the vehicle) when providing TNC services. The trade dress should allow a passenger, government official, or member of the public to

readily associate a vehicle with a particular TNC. Magnetic or removable trade dress is acceptable. TNCs are required to file a photograph of their trade dress with the PUC's Safety and Enforcement Division.

On a quarterly basis, the PUC may collect, "as part of overall fees," one-third of one percent of the total revenues from TNC services in California.

Each TNC must keep records of all trips made by its drivers, and must make those records available to the PUC on demand.

4.2 Colorado

Legislation enacted in 2014 amended Colorado law to establish specific operational requirements for TNCs and to exempt them from the rules governing other types of commercial passenger transportation.³⁰ Pursuant to this legislation, TNCs are subject to the regulatory authority of the Colorado Public Utilities Commission (PUC), which issues permits to TNCs (not drivers) authorizing them to provide service, for an annual fee of \$111,250.³¹

4.2.1 Drivers

A TNC must confirm that every person applying to work as a TNC driver is at least 21 years old and has a valid driver's license, proof of automobile insurance, proof of vehicle registration in Colorado, and proof (pursuant to PUC rules) that he or she is medically fit to drive.

Before beginning work as a TNC driver, and every five years after beginning such work, an individual must obtain a criminal history record check, either through a law enforcement agency as provided under Colorado law or through a privately administered national criminal history record check, including the national sex offender database. The individual must then provide a copy of the criminal history record check to the TNC.

An individual will be disqualified from driving for the TNC if the criminal history record check reveals that the person has ever been convicted of or pled guilty or *nolo contendere* to certain felony offenses involving fraud, violence against a person, or crimes involving property. Those who have been convicted of or pled guilty or *nolo contendere* to any other felony within the previous five years are also ineligible, as are those who have been convicted of or pled guilty or *nolo contendere* to driving under the influence of drugs or alcohol in the past seven years.

³⁰ 2014 Colo. Sess. Laws, Chap. 323. Although the legislation excludes TNCs from state rules applicable to other passenger carriers, it is unclear whether local regulation is precluded.

³¹ It is the study team's understanding that Colorado authorities expected only two TNCs—Uber and Lyft—to be issued permits, and that the annual fee was priced so that each company would pay half of the estimated annual costs of regulating TNCs.

Before permitting an individual to act as a driver, a TNC must obtain and review a driving history research report for the individual. Anyone with the following moving violations is disqualified from serving as a driver:

- more than three moving violations in the three-year period preceding the individual's application to serve as a driver; or
- a major moving violation in the three-year period preceding the individual's application to serve as a driver, including eluding a law enforcement officer, reckless driving, and operating a motor vehicle in violation of the terms of a restricted license.

Each TNC must implement an intoxicating substance policy for a driver that disallows any amount of intoxication while the driver is providing services. The TNC must include on its web site and mobile applications a notice concerning this policy.

Drivers are prohibited from offering or providing TNC services for more than twelve consecutive hours.

4.2.2 Vehicles

Personal vehicles must have at least four doors and be designed to carry no more than eight passengers, including the driver. They must have initial and annual safety inspections, performed either by the TNC or by a certified mechanic.

Each TNC must require that each personal vehicle providing TNC services display an exterior marking that identifies it as a vehicle for hire.

4.2.3 Insurance

TNCs are required to file with the PUC evidence that either the TNC or the driver has secured primary liability insurance coverage of at least \$1 million per occurrence for incidents involving the driver during a prearranged ride.

For the period of time when a driver is logged into a TNC's platform but is not engaged in a prearranged ride, the Colorado legislation put in place both an interim standard (effective through January 15, 2015) and a long-term standard (effective thereafter). The interim standard requires either the TNC or the driver to maintain contingent liability insurance—*i.e.*, coverage that applies only if “the driver's insurer for personal automobile insurance validly denies coverage . . . or the driver otherwise does not have personal automobile insurance coverage”—that meets Colorado's statutory minimums for a personal auto liability policy: \$25,000 per person and \$50,000 per incident for bodily injury and \$15,000 per incident for property damage. The long-term standard doubles these limits—to \$50,000/\$100,000 for bodily injury and \$30,000 for property damage—and makes the coverage primary rather than contingent. However, the legislation also directs the Colorado Division of Insurance to study whether the levels of coverage provided for under the long-term standard “are appropriate for the risk involved with transportation network company services,” and to present its findings and recommendations to

the legislature by January 15, 2015. The long-term standard set forth in the legislation may thus prove short-lived.

If the TNC provides the insurance required for TNC operations, then it must submit documentary evidence of coverage to the PUC. If responsibility is placed on a driver to purchase the insurance, then the TNC must verify that the driver has purchased the policy.

TNCs must make the following disclosure to prospective drivers in the terms of service: “While operating on the transportation network company’s digital network, your personal automobile insurance policy might not afford liability coverage, depending on the policy’s terms.”

While the Colorado law authorizes coverage for TNC-related activities under a rider or endorsement to the driver’s personal liability policy, the law also stipulates that nothing in statute requires a personal automobile insurance policy to provide coverage for the period of time in which a driver is logged into a TNC’s network.

If more than one insurance policy provides valid and collectible coverage for a loss arising out of an occurrence involving a motor vehicle operated by a driver, Colorado rules require responsibility for the claim to be divided on a pro rata basis among all of the applicable policies. This equal division of responsibility may only be modified by the written agreement of all of the insurers and the owners of the policies.

4.2.4 Nondiscrimination

TNCs must provide services to the public in a nondiscriminatory manner, consistent with the provisions of Colorado human rights laws and without regard to the geographic location of the departure point or destination, once the driver and rider have been matched. A driver may not refuse to transport a passenger unless:

- the passenger is acting in an unlawful, disorderly, or endangering manner;
- the passenger is unable to care for himself or herself and is not in the charge of a responsible companion; or
- the driver has already committed to providing a ride for another rider.

TNCs may not impose additional charges for providing services to persons with physical or mental disabilities because of those disabilities.

TNC drivers must permit a service animal to accompany a rider on a prearranged ride.

If a rider with physical or mental disabilities requires the use of the rider’s mobility equipment, the driver must store the mobility equipment in the vehicle during a prearranged ride if the vehicle is reasonably capable of storing the equipment. If the driver is unable to store the rider’s mobility equipment, the driver must refer the rider to another driver or transportation service with a vehicle that is equipped to meet the rider’s needs.

Violations of the nondiscrimination rules are subject to a civil penalty up to one thousand dollars. TNCs are not liable for a driver's violation of the rules unless the driver's violation has been previously reported to the TNC in writing, and the TNC has failed to reasonably address the alleged violation.

4.2.5 Other Operating Requirements

TNC drivers may not provide services unless the TNC has matched the driver to a rider through its digital network. Street hails are prohibited.

TNCs must make available to prospective riders and drivers the method by which the company calculates fares or the applicable rates being charged and an option to receive an estimated fare. The passenger must then be given a detailed receipt upon completion of the prearranged ride.

TNCs must make the following disclosure to prospective drivers in the terms of service: "If the vehicle that you plan to use to provide transportation network company services for our transportation network company has a lien against it, you must notify the lienholder that you will be using the vehicle for transportation services that may violate the terms of your contract with the lienholder."

TNCs are required to make a customer support telephone number available on its digital network or web site for rider inquiries.

TNCs are prohibited from disclosing to a third party any personally identifiable information concerning a user of the TNC's services, unless:

- the TNC obtains the user's consent to disclose personally identifiable information;
- disclosure is necessary to comply with a legal obligation; or
- disclosure is necessary to protect or defend the terms and conditions for use of the service or to investigate violations of the terms and conditions.

This limitation on disclosure does not apply to the disclosure of aggregated user data and other information about the user that is not personally identifiable.

The PUC is authorized to promulgate regulations requiring proof of TNCs' financial responsibility.

The Colorado Division of Workers' Compensation is to determine whether TNCs have an obligation to provide or offer for purchase workers' compensation insurance coverage to TNC drivers.

4.3 Seattle

Seattle first enacted an ordinance regulating TNCs in March 2014,³² but implementation and enforcement were suspended shortly thereafter pending the outcome of stakeholder meetings to develop new rules. Those new rules for TNCs were approved by City Council on July 14, 2014, and signed by Mayor Murray the following day.³³ Although the new rules depart from the old ones in a number of respects, perhaps the most significant difference is that they abolish any cap on the number of TNC drivers that may operate in Seattle.

Seattle's set of rules is far more detailed and extensive than California's or Colorado's, and includes numerous important changes to the laws governing taxis and other for-hire passenger carriers as well. Many of these changes create a uniform set of standards—or at least substantively similar sets of requirements—for all passenger carrier types on matters such as insurance, vehicle inspections, driver background checks, recordkeeping, and reporting. Other changes—such as creating a medallion system for Seattle's taxicabs, and allowing other for-hire carriers (except TNCs) to accept street hails—alter the competitive landscape in other ways.

Given the scope and scale of Seattle's TNC ordinance, even a selective survey of its main provisions requires more space than the summaries of other jurisdictions' rules.

4.3.1 Drivers

Drivers must be affiliated with a TNC that has been licensed by the city, and must themselves hold a for-hire driver's license issued by the city. The initial and annual renewal application for the for-hire driver's license must include the following:

- driver's name, aliases, residence and business address, residence and business telephone numbers
- driver's place and date of birth (must be at least 21 years old), height, weight, color of hair and eyes
- driver's Washington State driver's license number (Social Security number is optional)
- proof that the driver is authorized to work in the United States
- driver's consent to a fingerprint-based criminal background check through Washington State Patrol and Federal Bureau of Investigation criminal databases conducted by the city, or to have a copy of a criminal background check provided directly from a city-approved third-party vendor (approved vendors must, at a minimum, include local, state, and national databases; access at least five years of database history; and demonstrate competency in providing accurate information)

³² City of Seattle Ordinance No. 124441 (March 19, 2014).

³³ City of Seattle Ordinance No. 124524 (July 15, 2014).

- information indicating whether or not the driver has ever had a for-hire or driver's license suspended, revoked, or denied and for what cause
- a copy of the driver's driving abstract from the Washington State Department of Licensing or a signed statement authorizing the Director to obtain a current copy of the driver's driving abstract from the Washington State Department of Licensing
- a statement listing all reportable accidents and all moving violations the driver was involved in during the previous three years
- completion of a driver education course and associated tests, which driver training program must include completion of the National Safety Council's Defensive Driving Course, and completion of at least one additional driving training program approved by the city (a refresher course may be required if requested by the TNC or if the city has reasonable grounds, based on documented complaints and/or violations, to believe that such a course is necessary)
- a statement under penalty of perjury of the driver's physical and mental fitness to act as a for-hire driver (the city may at any time require any licensee or applicant to be medically examined if it appears that the licensee is or has become physically or mentally unfit to be a for-hire driver)

TNCs must notify the city within two working days of the TNC having knowledge of any of the following (among other things):

- a conviction, bail forfeiture or other adverse finding received by a TNC driver for any criminal offense or traffic violation that occurs during or arises out of the driver's operation of the vehicle while active on any TNC dispatch
- a conviction, bail forfeiture or other adverse finding received by a TNC driver for any other criminal offense directly bearing on the driver's fitness to operate a vehicle or the affiliated driver's fitness to be licensed, including but not limited to theft, fraud, robbery, burglary, assault, sex crimes, alcohol, drugs, or prostitution
- a vehicle accident required to be reported to the State of Washington involving any TNC driver
- any restriction, suspension or revocation of a State of Washington driver's license issued to a TNC driver

In addition, TNCs must notify the city within five working days of any revocation of a TNC driver's access to the TNC dispatch application, for-hire license or TNC vehicle endorsement.

TNCs must employ a zero-tolerance drug and alcohol policy with respect to TNC drivers. The TNC must include a notice on its website, dispatch system application, and passenger trip confirmations of its zero-tolerance policy and the methods to report a driver the passenger reasonably suspects was under the influence of drugs or alcohol during the trip. The website and

application dispatch system must include contact information for reporting a complaint, including reporting it to city officials.

TNCs must review criminal background checks and driving records on every driver and maintain records thereof. Drivers convicted of any traffic and/or criminal offense directly bearing on the driver's fitness including but not limited to theft, fraud, robbery, burglary, assault, sex crimes, alcohol, drugs, or prostitution may not be permitted to provide TNC services. Drivers with convictions within the last 7 years for any alcohol or drug related offense, reckless driving, hit and run, or driving with a suspended or revoked license may not be permitted to provide TNC services.

Knowledge examinations may be administered to drivers by the City of Seattle and/or King County or by an approved TNC or third-party vendor. Examination procedures and content must be approved by the city and must test the applicant's knowledge of applicable codes and regulations; ability to speak and understand oral and written English sufficient for fulfilling the minimum acceptable standards for a for-hire driver; knowledge of vehicle safety requirements; knowledge of local geography and of local public and tourist destinations and attractions; and knowledge of risk factors for crimes against for-hire drivers, emergency procedures, and equipment for drivers' personal safety.

Drivers may not be in control of a for-hire vehicle for more than 12 hours spread over a total of 15 hours in any 24-hour period. Thereafter, the driver may not drive any for-hire vehicle until ten consecutive hours have elapsed.

Drivers must use mobile phones in hands-free mode, consistent with state law.

The city will revoke a driver's for-hire license for any of the following offenses committed while active on the TNC dispatch system:

- the driver receives a bail forfeiture, conviction, or other final adverse finding for crimes pertaining to hit-and-run, or for crimes pertaining to DUI while operating a TNC endorsed vehicle
- the driver's Washington State driver's license expires or is revoked
- the driver has committed a serious ("Class C") violation in any one-year period
- the driver, while driving a TNC endorsed vehicle, picks up a street hail, cruises, or otherwise solicits trips whether active on the TNC dispatch system or not
- the driver, while driving a TNC endorsed vehicle, provides a ride that is not booked through the TNC application dispatch system
- the driver drives a vehicle while on the TNC application that is not affiliated with the TNC

- the driver drives a vehicle while on the TNC application that is neither a for-hire vehicle nor a taxicab licensed under this city ordinance nor a vehicle with a TNC vehicle endorsement

In addition, the city may revoke the driver's for-hire license if:

- the driver is found to be in possession of illegal drugs or an open container of alcohol while in control of or while operating any taxicab or for-hire vehicle
- the driver has received a conviction, bail forfeiture, or other final adverse finding involving crimes pertaining to prostitution, gambling, physical violence, Uniform Controlled Substances Act, fraud, theft, robbery, larceny, burglary, extortion and/or crimes directly related to the driver's ability to operate a for-hire vehicle

4.3.2 Vehicles

Prior to providing TNC services and annually thereafter, a TNC must require every affiliated vehicle to undergo a uniform vehicle safety inspection, approved by the city, that utilizes an approved mechanic who certifies in writing that the vehicle is mechanically sound and fit for driving. The approved mechanic must also certify in writing that the plates, decals, and customer notices required and supplied by the city are legible and properly displayed. TNCs must maintain vehicle inspection records.

A vehicle that is used to provide service through a TNC must:

- either be a taxicab or other for-hire vehicle licensed by the city, or a personal vehicle with a TNC vehicle endorsement issued by the city
- be affiliated with a TNC licensed by the city
- be affiliated with a driver who holds a for-hire driver's license issued by the city
- have passed the vehicle safety inspection described above
- be no more than 10 years old

Either the driver or the TNC, acting on the driver's behalf, may apply for the required vehicle endorsement. In either case, the application must include the following:

- the driver's name, aliases, residence and business address, residence and business telephone numbers
- the driver's place and date of birth (must be at least 21 years old), height, weight, color of hair and eyes
- the driver's Washington State driver's license number (providing a Social Security number is optional)
- proof that the driver is authorized to work in the United States

- evidence of vehicle insurance as required by ordinance
- evidence that the driver has a for-hire driver's license
- proof that the driver's vehicle has passed the uniform vehicle safety inspection
- proof that the driver's vehicle is no more than 10 years old

The endorsement application must be completed and the above information provided during any annual license renewal. Upon approval of the application, the city issues a TNC vehicle endorsement, which takes the form of a certificate that includes the vehicle identification number, the registered owner's full legal name, the vehicle's license plate number, the endorsement's expiration date, and a unique certificate number that corresponds to the number on a TNC vehicle endorsement sticker affixed to the for-hire driver's license and to the number on a decal affixed to the affiliated vehicle.

The city will deny a TNC vehicle endorsement application if it determines that:

- the applicant has failed to submit a complete, satisfactory application
- the applicant has failed to affiliate with a licensed TNC
- the applicant has made any material misstatement or omission in the application for an endorsement
- the applicant fails to meet certain vehicle requirements set forth in the municipal code
- within three years of the date of application, the applicant has had a conviction, bail forfeiture or other final adverse finding of criminal fraud, larceny, theft, prostitution, extortion, racketeering, robbery, or violation of the Uniform Controlled Substances Act where such crime involved the use of the endorsed vehicle

In addition, the city may deny any TNC vehicle endorsement application if it determines that:

- within five years of the date of application, the applicant has had a conviction, bail forfeiture, or other final adverse finding involving crimes reasonably related to the applicant's ability to operate a for-hire business, including but not limited to prostitution, gambling, fraud, larceny, extortion, income tax evasion
- within two years of the date of application, the applicant has been found, either through a criminal conviction, bail forfeiture or other final adverse finding (including in a civil suit or administrative proceeding) to have exhibited past conduct in driving or operating a for-hire vehicle which would lead the city to reasonably conclude that the applicant will not comply with the city's provisions related to vehicle requirements and the safe operation of the vehicle
- within two years of the date of application, the applicant has engaged in the business of operating any taxicab or for-hire vehicle within the city without a current valid license from the city

- within 12 months of the date of application, the applicant has violated King County or Port of Seattle ordinance or regulation pertaining to the operation of taxicabs while in those jurisdictions, if such violation would constitute grounds for license revocation or denial if occurring within the city
- within 12 months of the date of application, the applicant has had its Seattle for-hire vehicle license revoked

Before beginning a shift, a driver must check the lights, brakes, tires, steering, seat belts, and other vehicle equipment listed on the vehicle safety checklist as prescribed by rule to see that they are working properly. The driver must also ensure that the vehicle license, vehicle registration and proof of insurance card are in the vehicle.

Although signage or other “trade dress” may be placed on the vehicle body, it cannot exceed four square feet, or be put on the roof, or cover any windows or vehicle lights, or obscure the view of any mirrors.

4.3.3 Insurance

Seattle requires TNC drivers to maintain a personal auto insurance policy. In the event the insurance policy lapses or is canceled, or a vehicle is deleted from the policy, proof of a new policy including the vehicle must be filed with the city before the vehicle is canceled or deleted from the previous policy.

The situation with commercial insurance is more complicated. After some debate, the City Council concluded that state law would have to be amended in order to effect fundamental changes to insurance coverage requirements for for-hire vehicles.³⁴ Accordingly, the ordinance establishes rules that will apply during a “provisional period,” which will last either until the effective date of changes to State insurance requirements for for-hire transportation services, or until two weeks after the end of the 2015 Washington State legislative session, whichever comes first. During the provisional period, either the registered owner of a vehicle with a TNC endorsement, or the TNC on behalf of the registered owner, must file with the city evidence that each vehicle has liability insurance in an amount no less than the minimum required by state law (\$100,000 per person and \$300,000 per incident for personal injury and \$25,000 per incident for property damage)³⁵ and underinsured motorist coverage of at least \$100,000 per person and \$300,000 per incident for personal injury at any time the driver is active on the TNC dispatch system. “Active on the TNC dispatch system,” as explained in the ordinance, “includes but is not limited to: when the driver is logged onto the transportation network company (TNC) application showing that the driver is available to pick up passengers; when a passenger is in the vehicle; when TNC records show the vehicle has been connected with a passenger; or when the

³⁴ Taylor Soper, “Seattle Legalizes Uber, Lyft to Operate Without Caps,” *GeekWire* (July 14, 2014), <http://www.geekwire.com/2014/seattle-legalizes-uber-lyft-operate-without-caps/>.

³⁵ RCW 46.72.050.

driver has been connected with a passenger and is en route to provide transportation services to the passenger.” The policy must also:

- be issued by either an admitted carrier in the State of Washington with an A.M. Best Rating of at least B VII, or a surplus line insurer with an A.M. Best Rating of at least B+ VII
- name The City of Seattle as an additional insured
- provide that the insurer will notify the city, in writing, of any cancellation and/or nonrenewal at least 30 days before that cancellation and/or nonrenewal takes effect

By the first business day immediately following the end of the provisional period, the driver or the TNC must have on file with the city evidence that the vehicle has an insurance policy that complies with state insurance requirements effective at that time. If there is no change to state insurance requirements by the conclusion of the provisional period, then the insurance requirements for TNCs will be the same as in the provisional period, except for the following:

- If the policy is not issued by an admitted carrier, there must be evidence that an exemption has been met allowing for the use of a surplus line insurer. The city may, however, temporarily suspend this requirement if no other viable insurance options are available to the industry.
- The policy may not include any aggregate limits, or named driver requirements or exclusions. Other limitations or restrictions beyond the standard insurance services office (ISO) business auto policy form are subject to approval by the city.

4.3.4 Nondiscrimination

Drivers are required to provide customers with professional and courteous service at all times. They may not refuse to transport any person except when:

- the driver has already been dispatched on another call
- the driver arrives at the place of pick-up and upon arrival the passenger is acting in a disorderly or threatening manner, or otherwise is acting in a manner that would cause a reasonable person to believe that the for-hire driver’s health or safety, or that of others, may be endangered
- the passenger cannot, upon request, show ability to pay the fare

Drivers are prohibited from making any “discriminatory charges” to any person, or make any rebate or in any manner reduce the charge to any person, except in conformity with the discounts or surcharges contained in the filed rates.

TNCs must allow passengers to indicate whether they require a wheelchair-accessible vehicle and connect passengers to those services via a web link, application, or phone number.

TNCs (along with taxicab and for-hire vehicle licensees) are assessed a \$0.10 per ride surcharge for all rides originating in the city, which is to be used to offset the higher operational costs of wheelchair accessible taxi (WAT) services for owners and operators. Funds are to be distributed by reimbursement for documented, itemized costs. Following the first year of collecting the surcharge, the city may adjust the rate, depending upon reimbursed costs for purchasing and retrofitting accessible vehicles, the actual need for purchasing and retrofitting accessible vehicles in the upcoming year, total number of WAT rides, and other factors. Within two years of the effective date of the ordinance, the Director of Finance and Administrative Services, with input from the Seattle Commission for People with Disabilities, will promulgate rules to determine the need for additional wheelchair accessible taxicabs or for-hire vehicles and how to fund potential new retrofits from the wheelchair accessible services fund.

4.3.5 Other Operating Requirements

TNCs may only operate under a license issued by the city. The TNC's initial and annual renewal application for a license must include, among other things:

- the TNC's name and contact information
- the form of business entity under which the TNC will operate (*e.g.*, corporation, partnership)
- verification that the TNC uses only one application dispatch system, as approved by the city
- the "trade dress," if any that the TNC intends to use to help passengers and others identify its vehicles
- the name and contact information of the TNC's representative
- evidence that all vehicles affiliated with the TNC are covered by insurance as required by law
- vehicle registration for each vehicle affiliated with the TNC
- certification of a uniform vehicle safety inspection for each vehicle affiliated with the TNC
- any other information required by regulations adopted pursuant to this chapter
- the above application and information must be completed for each annual license renewal

The TNC must inform the city in writing within seven days if any of this information changes, ceases to be true or is superseded in any way by new information.

The city will revoke a TNC's license under any of the following circumstances (among others):

- the TNC, or any person employed to manage Seattle operations, receives a bail forfeiture, conviction or other final adverse finding for crimes of fraud, theft, larceny, extortion, embezzlement, racketeering, Uniform Controlled Substances Act, prostitution, alcohol and/or narcotics where the commission of such crimes involved or used a TNC or for-hire vehicle; however, the license may be reinstated if the employee is removed immediately from all operational or management duties or authority and is divested of all ownership in the TNC as soon as possible
- the TNC, or any person employed to manage Seattle operations, receives a bail forfeiture, conviction or other final adverse finding involving crimes directly related to the applicant's ability to operate a TNC, including but not limited to prostitution, gambling, fraud, larceny, extortion, income tax evasion; however, the license may be reinstated if the employee is removed immediately from all operational or management duties or authority and is divested of all ownership in the TNC as soon as possible
- the TNC knowingly permits an affiliated vehicle to be active on the TNC dispatch system that has not undergone the required vehicle safety inspection
- the TNC has failed to meet the insurance requirements imposed upon it
- an affiliated driver is active on the TNC dispatch system without the required vehicle insurance
- the TNC fails to pay all penalties imposed by the city that are either not contested or are upheld after review

In addition, the city may revoke a TNC's license if the TNC:

- dispatches to an unlicensed or unaffiliated driver
- dispatches to an unaffiliated vehicle
- dispatches to a vehicle that is neither a for-hire vehicle or taxicab, nor a vehicle with a TNC vehicle endorsement
- knowingly permits a third party to use the TNC dispatch system
- knowingly permits a TNC endorsed driver driving a TNC endorsed vehicle to pick up hails, cruise, or otherwise solicit trips
- knowingly allows a TNC driver driving a TNC endorsed vehicle to take trips not dispatched by the TNC
- fails to review driving records of TNC drivers and maintain records as required
- knowingly permits TNC drivers with a disqualifying conviction to continue affiliating with a TNC and/or operating as a TNC driver

TNCs are assessed a fee of \$0.10 per ride for all trips originating in Seattle to cover the estimated enforcement and regulatory costs of TNC licensing, vehicle endorsements and driver licensing. After six months or any time thereafter, the city may adjust this based on the number of new TNC licenses, for-hire driver's licenses and vehicle endorsements issued, and total TNC trips originating in Seattle. The purpose of any adjustment is to ensure that the per-ride fee covers the estimated enforcement and regulatory costs of TNC licensing, vehicle endorsements and driver licensing. Total TNC industry fees may not exceed \$525,000 in year one.

TNCs must provide the city with documentation explaining or demonstrating that their rate structure is transparent to the rider prior to confirming the ride.

TNC drivers are prohibited from accepting cash payment for fares. Payment may only be made electronically via the TNC application dispatch system.

Drivers must provide each passenger an electronic or paper receipt.

Drivers must use the most direct available route on all trips unless the passenger specifically requests to change the route.

While active on a TNC's dispatch system, a driver may not operate a vehicle that is unaffiliated with a TNC to transport passengers. Failure to abide by this requirement will result in revocation of the driver's for-hire license.

TNC drivers driving with a TNC endorsed vehicle may not pick up, cruise or otherwise solicit trips. Violation of this rule will result in revocation of the for-hire license.

TNCs are required to maintain accurate and complete operational records for the trailing two years, including, but not limited to:

- total number of rides provided
- percentage or number of rides picked up in each zip code
- pick up and drop off zip codes of each ride
- percentage by zip code of rides that are requested but unfulfilled
- number of collisions, including the name and number of the affiliated TNC driver, collision fault, injuries, and estimated damage
- number of requested rides for an accessible vehicle
- crimes against driver reports
- passenger complaints
- any other data identified by the city to ensure compliance

Drivers are required to report the required information to TNCs on a weekly basis, and TNCs must submit complete data to the city electronically on a quarterly basis.

4.4 Chicago

Chicago's ordinance regarding TNCs was enacted May 28, 2014, and became effective August 26, 2014.³⁶ The city's rules include some interesting approaches to addressing differences between TNCs and taxicab services—such as the imposition of less stringent requirements for companies whose drivers average no more than 20 hours per week (“Class A”) than for those with a higher average among drivers (“Class B”)—although some details may be preempted by state legislation.³⁷ For instance, the legislation that is pending in the Illinois legislature would require every individual driver who works for a TNC more than 18 hours per week to obtain a chauffeur's license. Under Chicago's ordinance, whether a chauffeur's license is required depends only on which class of TNC the driver works for, not on how many hours the individual driver actually works (all drivers for Class B TNCs must possess a chauffeur's license). Also, the state legislation requires localities to impose the same requirements on TNCs as they do on other locally licensed passenger carriers with respect to providing wheelchair-accessible vehicles. Chicago's ordinance, which places primary responsibility on taxicabs to provide wheelchair-accessible vehicles (and establishes a source of funds to help them meet that responsibility), conflicts with this requirement.

4.4.1 Drivers

Class A TNCs must follow a process approved by the city for determining that a prospective driver meets the following qualifications:

- has had a valid driver's license for at least one year prior to applying to become a TNC driver
- is at least 21 years old
- has not been convicted of reckless driving, hit and run, or driving with a suspended or revoked license
- has not been convicted of or placed on supervision for two or more moving violations
- within the preceding five years, has not been found guilty, been held in custody, or been on parole for the commission of a felony, a crime involving moral turpitude, the illegal sale or possession of a controlled substance, the indecent solicitation of a child or any criminal sexual abuse or similar crime, or driving under the influences
- has not had an Illinois driver's license suspended or revoked within the preceding 12 months

³⁶ City of Chicago SO2014-1367 (May 28, 2014).

³⁷ 98th General Assembly, House Bill 4075 (enrolled July 14, 2014). The bill was vetoed by the Governor on August 25, 2014. As of this writing, the Illinois General Assembly has not taken a vote to override the veto.

- has not had a public chauffeur license or restricted public chauffeur license suspended, revoked or non-renewed by the city within the preceding 5 years
- has successfully completed a TNC driver’s training program that has been approved by the city, that has been conducted by the TNC or other authorities approved by the city, and that, among other things, has covered topics related to services for people with disabilities
- has not been listed by the city (due to a complaint filed with city authorities) as ineligible to be a transportation network driver

Class A TNCs must perform a criminal background check on each applicant to be a TNC driver, obtain each applicant’s driving record, and ascertain that all the above requirements are met before engaging the applicant as a driver. The TNC must repeat this process annually for each driver, and keep records of its determinations for three years.

TNCs must maintain and enforce a zero-tolerance policy, approved by the city, for intoxicating substances. Information concerning the policy, and the methods for reporting violations, must be included on the TNC’s web site, mobile application, and passenger receipts. Promptly after a complaint is filed, the TNC must suspend the driver pending further investigation. Those who knowingly make a false zero-tolerance complaint are subject to penalties under the city’s law prohibiting false statements.

No alcoholic beverage may be transported in a TNC vehicle unless it is in its original package with an unbroken seal.

TNCs must provide drivers with identification cards showing each driver’s name and photograph. The driver must display this identification card at all times while logged on to the TNC network, and must also display a copy of the city’s ground transportation tax registration emblem for the vehicle, and the distinctive emblem that has been issued to the vehicle (see the section on vehicles, below). The driver must carry proof of insurance in the vehicle at all times, as well as an electronic or paper copy of the agreement or terms of service between the driver and the TNC.

TNCs must implement processes to ensure that no driver operates a TNC vehicle for more than 10 hours within a 24-hour period. No driver, and no vehicle, may operate for more than 10 hours within a 24-hour period.

The ordinance voids as contrary to public policy any terms or conditions in the agreement between the TNC and the driver that would prohibit the driver from working for another TNC.

4.4.2 Vehicles

TNC vehicles must be kept clean at all times they are used to provide service.

Vehicles must:

- be rated by the manufacturer to carry fewer than 10 persons, including the driver

- not be used to transport more than seven passengers
- have at least two doors
- be a coupe, sedan, or light-duty vehicle, including a van, minivan, sport utility vehicle, pickup truck, hatchback or convertible
- meet applicable Federal Motor Vehicle Safety Standards for vehicles of its size, type and proposed use
- not have been issued the title class of “salvage,” “rebuilt,” “junk,” “total loss,” or any equivalent classification in any jurisdiction
- not be licensed as a taxi or public transportation vehicle in any jurisdiction
- not have any commercial advertisements displayed on the exterior or in the interior

Vehicles used in Class A networks must be inspected according to standards approved by the commissioner, and must pass such inspection.

Vehicles used in Class B networks must be no more than six years old (although the city may by regulation authorize an older vehicle for up to two years if the vehicle passes inspection by the city). All Class B vehicles must pass a comprehensive annual inspection at a city-licensed motor vehicle repair shop or at a facility designated by the city. If the vehicle is wheelchair-accessible, it must also be inspected for compliance with legally required safety standards.

TNC vehicles must display “consistent and distinctive signage” while providing services. The signage must be readable at a distance of at least 50 feet in daylight, and must identify the particular vehicle as associated with a particular TNC. TNCs are required to file an illustration of their distinctive signage with the city.

In addition, TNC vehicles must display a “consistent and distinctive emblem” while providing services. The city may regulate the manner of display, method of issuance, design and contents of this emblem. Emblems displayed on wheelchair-accessible transportation network vehicles must specify or mark that such vehicles are wheelchair-accessible.

4.4.3 Insurance

TNCs must provide the city with proof that they possess both of the following:

- Commercial general liability insurance to cover claims up to \$1 million against the TNC or its employees. The insurance must be primary and noncontributory, must name the city as an additional insured; and must include a provision requiring 30 days’ advance notice to the city prior to cancellation, lapse, or any change to the policy.
- Commercial automobile liability insurance to cover claims against the TNC or its drivers. Minimum coverage must be \$1 million for incidents occurring from the time the TNC driver has accepted a ride until the completion of the ride. At any other time

the driver is logged onto the TNCs app and is available to pick up passengers, the coverage must meet the minimum required under Illinois law for passenger vehicle liability insurance (\$20,000/\$40,000 bodily injury, \$15,000 property damage). The TNC must provide 30 days' advance notice to the city prior to cancellation, lapse, or any change to the policy.

These insurance policies must cover claims regardless of whether the TNC driver maintains insurance adequate to cover any portion of the claim.

TNCs must disclose on their apps and websites that they are required to maintain insurance policies as provided above. They must also provide drivers with proof of the insurance.

4.4.4 Nondiscrimination

TNCs and their drivers must comply with all federal, state and city non-discrimination laws, and may not discriminate against any potential or existing employee, driver, or passenger on account of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income.

TNCs have an "affirmative duty" to respond to requests for service in underserved areas and to insure drivers' compliance with this duty. TNCs must immediately report to the city any driver who fails to comply.

All TNC drivers must accept, without extra charge, riders with service animals. By January 1, 2015, TNCs' apps must be accessible to customers who are blind, visually impaired, deaf and hard of hearing. Apps must also provide customers with an opportunity to indicate whether they need a wheelchair-accessible vehicle. TNCs must accommodate these passengers either by connecting them with TNC drivers who operate wheelchair-accessible vehicles, or by entering into a service agreement with other parties who will then dispatch wheelchair-accessible vehicles through the TNC's app.

In addition to other fees, Class A TNCs are required to pay \$0.10 per vehicle per ride accepted to the city's accessibility fund for each vehicle in the TNC's network that is not wheelchair-accessible. Class B TNCs pay \$100.00 per vehicle per year to the fund for each vehicle that is not wheelchair-accessible. The accessibility fund is used to improve the services of both taxicabs and TNCs for people with disabilities. Chicago's ordinance requires taxicab services with 10 or more vehicles to make at least 10% of their fleets wheelchair-accessible by January 1, 2018, if sufficient revenue has been collected in the accessibility fund.

The ordinance authorizes the mayor to form a "ground transportation vehicles underserved areas task force," to consider which areas of the city are underserved and the role new technologies may play in providing efficient services, and to recommend measures to improve service delivery.

4.4.5 Other Operating Requirements

TNCs must be licensed by the city, and no driver may operate as a TNC driver unless affiliated with a TNC that has been licensed by the city. Any vehicle used to provide TNC services in violation of this requirement may be impounded.

Initially, a TNC may choose to apply for either a Class A or a Class B license; however, after six months of operations, those issued a Class A license must present satisfactory evidence to the city that its drivers work, on average, no more than 20 hours per week. The TNC must also present such evidence when applying for renewal of a Class A license.

As part of the application for an original license or a renewal, a TNC also must provide the following information:

- the full name, driver's license number and address of drivers registered with the TNC
- the license plate number, registered owner and the vehicle identification numbers of the vehicles registered with the TNC, with a document attesting that each vehicle meets the inspection and vehicle standard requirements
- a list of wheelchair-accessible vehicles registered with the TNC
- evidence of the insurance policies required under the city ordinance

In addition, sole proprietors and the authorized agents of TNCs organized as corporations, limited liability companies, and partnerships must submit to fingerprinting and provide their photographs.

Chicago's ordinance voids as contrary to public policy any terms or conditions in the agreement between the TNC and the driver, or between the TNC and any customer, that would act as a waiver of the TNC's liability to the driver, the customer, or the public, or that would prohibit the driver from engaging as a transportation network driver with other licensees.

TNCs and their drivers are prohibited from soliciting potential passengers, and from accepting street hails. TNC vehicles may only be used to provide prearranged transportation service. TNC drivers are prohibited from picking up passengers at designated taxicab stands or loading zones. Pending review by the city, they are also prohibited from taking on passengers at O'Hare International Airport, Midway International Airport and the McCormick Place convention center. TNC vehicles may not be parked on any public way for longer than is reasonably necessary to accept passengers who have prearranged transportation services.

A TNC's mobile app or other platform must show the passenger the driver's identification card, as well as a picture of the TNC vehicle the driver is approved to use (including the license plate number). If the app allows drivers to rate their passengers, it must have a feature that allows passengers to opt out from being rated by drivers.

TNCs may charge fares based on distance travelled or time elapsed, or based on distance travelled and time elapsed, or a flat prearranged fare, or a suggested donation. In any case, the

TNC must display its fare rate on the digital platform that it uses to connect drivers and passengers. The platform must include a button for displaying a fare quote for any requested trip.

Not only TNCs but also taxicabs and other passenger carriers licensed by the city are authorized under the ordinance to charge rates that are higher than the standard rates displayed on a digital platform, but only if the following conditions are met:

- customers are notified, either through the website, app, other digital platform, or email, of the time period when the higher fare rate will apply
- customers requesting a trip have the option of obtaining, via the digital platform, a reasonable fare estimate (expressed as a price range), in addition to any applicable rate multiplier
- the fare charged does not exceed the estimate by more than 20%, unless the customer changes the destination or route from the one initially requested
- the customer requesting the ride expressly agrees to the fare estimate

The city may adopt regulations regarding the allowable amounts of fare increases.

TNCs are required to keep records for a minimum of three years and make them available to the city for inspection. TNCs must also provide periodic reports to the city that include the following information:

- the number and percentage of customers who requested wheelchair accessible vehicles and the number of filled requests
- the number and percentage of rides requested and accepted, and the number of rides requested and not accepted, by the TNC's drivers, organized according to the geographic parameters and time frames specified by the city
- information on any of the TNC's drivers who were alleged to have committed a violation of the ordinance or their terms of service or who have been suspended or banned from driving for the TNC, including any zero-tolerance complaints and the outcome of the investigation into those complaints
- detailed information on any accident or other incident that involved the TNC's driver and that was reported to the TNC, including the cause of the incident, and any amount paid as compensation to any party in the incident
- the average and mean number of hours and miles each of the TNC's drivers spent driving for the TNC

In addition, for law enforcement and emergency response purposes, TNCs must provide at the city's request access to real-time tracking of drivers and vehicles, including access to the driver's identifying information, GPS location data, and whether the driver is engaged with a passenger.

If specialized hardware or software is required for real-time tracking, the TNC must provide it to the city.

The city may seek all applicable penalties against TNCs that violate the city's rules, including fines, license suspension, license revocation, and restitution or other equitable relief. Specific penalties are to be set forth in regulations.

If the city is informed by a law enforcement agency or a court that a TNC has been charged with a felony arising in connection with the TNC's business, the TNC's license will be suspended until final adjudication is made with respect to the charges.

In addition to license application fees (\$10,000 for Class A, \$25,000 for Class B) and the \$0.10 per ride collected for the accessibility fund, the city levies a TNC tax of \$0.20 per ride. TNCs are responsible for collecting the tax from vehicle owners and remitting it to the city. If the TNC fails to do so, then the driver is responsible for paying the tax directly.

5 Recommendations for the Regulation of TNCs in Virginia

In preparing the recommendations set forth in this chapter, the study team considered the applicability and adaptability of existing rules regarding other types of passenger transportation in the Commonwealth (described in third chapter of this report), as well as regulators' responses to TNCs in other jurisdictions (described in the fourth chapter). The team also consulted stakeholders and solicited their suggestions as to how best to regulate TNCs in Virginia. As described above in section 2.2, stakeholder involvement in the study was ongoing and involved vigorous exchanges of ideas, drafts, suggestions, and revisions, all the way through the publication of this report. It would overtax the reader to relate a full history of these dialogues; the back and forth compelled all sides to retreat from some of the more radical regulatory and deregulatory proposals that were initially put forward, and to agree for the most part on the basic issues that the Commonwealth needed to tackle, if not on the details of particular solutions to address them. In particular, there was a consensus, or at least a concession, that TNCs should not be forced into the same regulatory mold as taxicabs. Therefore it was decided that local deregulation of taxis would not be pursued as part of the legislation. Above all, there was a general agreement that the protection of consumers and the promotion of public safety dictated a need for proper rules, as well as a role for government oversight of TNC operations.

What follows is a description of the DMV study team's final recommendations for the regulation of TNCs in Virginia, along with an explanation of the reasoning behind specific provisions. While the study team believes that nearly all the recommendations have some stakeholder support, the team also recognizes that few are supported unanimously. Legislation implementing the following recommendations is attached as Appendix A to this report. Stakeholders' responses to the recommendations and draft legislation have been collected in Appendix E.

5.1 Summary of Regulatory Framework; Definitions

In brief, the recommendation is to amend the *Code of Virginia* to establish transportation network companies as a distinctive type of passenger transportation service that is issued its own type of operating authority and that is subject, like other providers of for-hire passenger transportation, to its own particular requirements and restrictions. As with contract passenger carriers, non-profit tax exempt passenger carriers, sight seeing carriers, and nonemergency medical transportation carriers, DMV would authorize a TNC's operations by issuing a certificate of fitness, rather than a certificate of public convenience and necessity. The TNC's operating authority will be valid throughout the Commonwealth. Current law authorizing local regulation of existing types of passenger carriers (in particular, Va. Code § 46.2-2063) would remain unchanged. However, localities would be precluded from regulating TNCs, as well as the drivers and vehicles providing transportation through TNCs.

The proposed new laws would define a number of new terms related to TNC operations. Some of the key terms, which will be used in the following pages, would be defined as follows:

- “Operation of a TNC partner vehicle” means offering, making available, or using a TNC partner vehicle to provide prearranged rides, including (i) any time a TNC partner is logged into a TNC platform showing that the TNC partner is available to pick up passengers; (ii) any time a passenger is in the TNC partner vehicle; (iii) any time the transportation network company’s dispatch records show that the TNC partner vehicle has been dispatched; and (iv) any time the TNC partner has accepted a ride request through the TNC platform and is en route to a passenger.
- “Personal vehicle” means a motor vehicle that is not used to transport passengers for compensation except as a TNC partner vehicle.
- “Prearranged ride” means passenger transportation for compensation in a TNC partner vehicle arranged through a TNC platform. The term includes the period of time that begins when a TNC partner accepts a ride requested through a TNC platform, continues while the TNC partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits the TNC partner vehicle.
- “TNC insurance” means a motor vehicle liability insurance policy that specifically covers liabilities arising from a TNC partner’s use of the vehicle in connection with a transportation network company’s TNC platform.
- “TNC partner” means a person authorized by a transportation network company to use a TNC partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.
- “TNC partner vehicle” means a personal vehicle authorized by a transportation network company and used by a TNC partner to provide prearranged rides on an intrastate basis in the Commonwealth.
- “TNC platform” means any online-enabled application or digital platform offered or utilized by a transportation network company that enables prearrangement of rides with TNC partners.
- “Transportation network company” means a person who provides prearranged rides using a TNC platform that connects passengers with TNC partners.

Note that these definitions do not encompass any operation involving professionally chauffeured commercial vehicles (*e.g.*, Uber Black), which will remain subject to current motor carrier laws.

5.2 Licensing of TNCs

Like existing types of passenger carriers, TNCs should have to:

- Maintain a registered agent in the Commonwealth for service of process.
- File a \$25,000 performance bond or letter of credit for the first three years of operation. These bonds are intended to help cover losses incurred by TNC customers

as a result of fraud, breach of contract, or other violations of law in the conduct of the business. In addition, DMV has found that the performance bond requirement helps to ensure the financial fitness of a company applying to operate as a motor carrier.

- File a standardized form with DMV to demonstrate compliance with insurance requirements.
- Pay the fees associated with granting and renewing authority (see section 5.10, below).

As with others to whom DMV issues a certificate of fitness, TNCs should have to complete a fitness examination, which would include a criminal background check and driver record check of company principals, and a review of the company's records with the Better Business Bureau, the Consumer Protection section of the Office of the Attorney General, and DMV Motor Carrier Services. DMV would also review any protests related to the applicant's fitness that had been filed with the agency regarding the TNC's application for operating authority.

5.3 Screening of Drivers

Although TNCs already conduct background checks on prospective TNC partners, it is recommended that Virginia follow other jurisdictions in statutorily requiring the TNCs to conduct these background checks, in specifying how the checks are to be performed, and in codifying which offenses will disqualify an individual from working as a TNC partner in Virginia. Specifically, TNCs should be required to apply the following standards to TNC partners:

- *Criminal history.* Prior to authorizing an individual to act as a TNC partner in Virginia, and every two years after such authorization, the TNC must review that individual's criminal history.

Along with each criminal history record check, the TNC must check an individual's status in the Virginia's Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offenders Public Website.

- *Driving history.* TNCs may not allow anyone to act as a TNC partner in Virginia unless that individual is at least 21 years old and holds a valid driver's license.

Prior to permitting an individual to act as a TNC partner, and every six months after an individual has become a TNC partner, the TNC must check the individual's driver's license records in his or her state of licensure. The six-month review requirement is waived for any TNC partner the TNC elects to have monitored through Driver Alert, DMV's driver record monitoring program, or a similar program offered by another state.

- *Barrier offenses.* A transportation network company shall not authorize an individual to act as a TNC partner in Virginia if that individual:

- is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 of the Code of Virginia, or is listed on the U.S. Department of Justice’s National Sex Offenders Public Website;
- has ever been convicted of a violent crime (as defined in subsection C of § 17.1-805);³⁸
- within the preceding seven years has been convicted of (i) any felony offense (other than a violent crime), (ii) DUI or driving after the forfeiture of a license due to a DUI offense, or (iii) an offense resulting in revocation of a driver’s license pursuant to § 46.2-389 or § 46.2-391;³⁹ or
- within the preceding three years has been convicted of (i) three or more moving violations; (ii) eluding a law enforcement officer; (iii) reckless driving; (iv) operating a motor vehicle with a suspended or revoked license, in violation of § 46.2-301; or (v) refusal to submit to a chemical test to determine the alcohol or drug content of the person’s blood or breath.

These barrier offenses were modeled in part on those enacted in Colorado, but the bars for registered sex offenders and for those convicted of a violent crime were derived from the barrier offenses for tow truck drivers set forth in § 46.2-116 of the *Code of Virginia*.

In addition to following these statutory screening requirements, it is recommended that TNCs be required to publish on their websites and digital platforms all of the barrier offenses listed in the *Code of Virginia*, as well as any other disqualifying offenses and screening criteria that the TNC may have for TNC partners.

5.4 Requirements for Vehicles

TNCs should be required to associate each TNC partner with a TNC partner vehicle that meets the following criteria:

- The vehicle must be a personal vehicle.

³⁸ The statutory definition includes most felony offenses involving homicide, terrorism, kidnapping, assault and bodily wounding, robbery, criminal sexual assault, arson, and burglary, among other violent crimes.

³⁹ Section 46.2-391 provides for license revocation for multiple DUI convictions. Section 46.2-389 lists several DUI offenses and felonies (voluntary and involuntary manslaughter while operating a motor vehicle, DUI manslaughter, DUI maiming, hit-and-run resulting in death or injury, and commission of any felony in which a motor vehicle was used) as grounds for revocation, along with two other grounds not otherwise captured in the list of barrier offenses applicable to TNC partners:

- perjury or the making of a false affidavit to the Department under the laws regarding licensure of drivers or any other law of the Commonwealth requiring the registration of motor vehicles or regulating their operation on the highways; and
- the making of a false statement to the Department on any application for a driver’s license.

- The vehicle must not have been issued a certificate of title, either in Virginia or in any other jurisdiction, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification.
- The vehicle must be legally registered in the state where it is titled.
- The vehicle must have a seating capacity of no more than seven passengers, excluding the TNC partner. This maximum seating capacity is slightly higher than the maximum allowed for taxicabs (six passengers, excluding the driver), but would allow for the operation of some minivans and SUVs that might otherwise be excluded.
- The vehicle must be insured by a policy or policies providing coverage for commercial use of the vehicle.
- All vehicles registered for TNC purposes and operating in the Commonwealth must have a valid Virginia safety inspection and carry proof of such inspection in the vehicle. This includes any vehicles that are titled and registered in another jurisdiction.
- The vehicle must be registered for TNC use with DMV, regardless of whether or not the vehicle is plated in Virginia or another jurisdiction, and must display a uniquely numbered identification marker issued by DMV specifically for that vehicle. The vehicle owner or lessee is responsible for this registration, and must complete the registration process online if and when DMV makes online registration available. If at any time DMV receives notice that the TNC insurance covering the vehicle has been canceled, the agency will revoke the identification marker. In addition, DMV may deny, suspend or revoke an identification marker for any of the following reasons:
 - the vehicle is not properly registered
 - the vehicle is sold
 - the TNC partner is using the vehicle for invalid operations (e.g., transporting passengers for cash fares).

The DMV registration and identification marker requirements provide a way for law enforcement to verify that a vehicle has been authorized to operate as a TNC partner vehicle, and for DMV to collect and disclose information for local governments and insurance companies, consistent with the provisions of § 46.2-208 of the *Code of Virginia*. The identification marker also serves as another indicator for the consumer that a vehicle is a legitimate TNC partner vehicle.

- In addition to the DMV-issued identification marker, the vehicle must display a TNC-issued identification marker while operating as a TNC partner vehicle. This identification marker must identify the TNC with which the vehicle is associated and

must be displayed in a manner that complies with Virginia law (*i.e.*, its size and location must not interfere with the safe operation of the vehicle). The identification marker must be of such size, shape and color as to be readily visible during daylight hours from a distance of 50 feet while the vehicle is stationary. Although the identification marker may be removable, it must remain visible at all times while the vehicle is operating as a TNC partner vehicle.

5.5 Insurance Requirements

It is recommended that every TNC partner be covered by motor vehicle liability insurance that specifically covers liabilities arising from a TNC partner's use of a TNC partner vehicle in connection with a TNC platform. Two levels of coverage are recommended:

- From the moment a TNC partner accepts a ride request until the transaction has been completed or until the ride is complete, whichever is later, the TNC insurance must provide at least \$1 million in primary liability coverage, as well as at least \$1 million in uninsured motorist and underinsured motorist coverage. Either the TNC or the driver may provide the policy, but if the driver provides the insurance then the TNC must verify coverage, and must provide coverage on a first-dollar basis in the event the driver's policy has lapsed or ceased to exist. TNC insurers have the exclusive duty to defend and indemnify the insured.
- At all other times when a TNC partner is operating a TNC partner vehicle, the TNC insurance must provide primary liability coverage of at least \$50,000 per person and \$100,000 per incident for bodily injury or death, and at least \$30,000 per incident for property damage. The policy may be maintained either by the TNC or by the TNC partner. If it is maintained by the TNC then the insurance need only provide coverage in the event the driver's TNC insurance has ceased to exist or has been canceled, or if the TNC partner does not otherwise maintain TNC insurance. TNC insurers have the exclusive duty to defend and indemnify the insured.

Note that the recommendation does not include motor vehicle physical damage coverage for the TNC partner vehicle. Since the absence of such coverage creates risks for both vehicle owners and lienholders, it is recommended that TNCs be required to disclose those risks to TNC partners, and that TNC partners be required to disclose to lienholders their intended commercial use of vehicles.

In addition to the TNC insurance, it is recommended that the TNC be required to maintain insurance providing excess liability coverage of at least \$200,000 per occurrence for any liability arising from the TNC partner using a vehicle in connection with the TNC platform. While representatives from the TNC industry accepted the basic liability limits for TNC insurance set forth above, they strongly advised against requiring an additional \$200,000 in excess liability insurance. The study team nevertheless was moved by the following considerations to recommend the excess liability insurance coverage during those times when

only the lower limits of the TNC insurance policy (\$50,000/\$100,000 bodily injury and \$30,000 property damage) are in effect:

- A 2012 study by the U.S. Department of Transportation's John A. Volpe Transportation Systems Center assessed the adequacy and effectiveness of the current levels of financial responsibility in meeting carrier liabilities.⁴⁰ The study weighed the benefits of improved compensation for crash victims, internalization of freight and passenger transportation costs, and reduction in crashes involving trucks and buses, against the costs imposed on commercial vehicle operations, the insurance industry, and other relevant considerations. The study found:
 - that catastrophic motor carrier related crashes are relatively rare, but costs for severe and critical injury crashes can easily exceed \$1 million;
 - that insurance premiums have declined in real terms since the 1980s; and
 - that current insurance limits do not adequately cover catastrophic crashes, mainly due to increased medical costs.

These findings have provided preliminary support for increasing minimum insurance requirements from their current levels.

- As required under the most recent federal surface transportation reauthorization, MAP-21,⁴¹ FMCSA is currently evaluating the appropriate level of financial responsibility for motor carriers and has placed this rulemaking among their top priorities. The cost benefit evaluation that FMCSA will undertake in determining whether to increase the financial responsibility requirements will include an examination of the following impacts:
 - Reduction in the exporting of crash costs onto the general public.
 - Removal of unsafe carriers from the industry.
 - Improve the behavior of motor carriers that continue to operate.
 - Reduce industry wide crash costs by removing unsafe carriers and encouraging safer behavior among remaining carriers.
 - Improve efficiency of insurance market by screening out carriers at risk for high-cost crashes and improving industry's ability to match cost to risk.
 - Loss of beneficial service if safe carriers are driven out by higher insurance rates.

⁴⁰ U.S. Department of Transportation, Federal Motor Carrier Safety Administration, *Financial Responsibility Requirements for Commercial Motor Vehicles*, FMCSA-RRA-12-045 (2012).

⁴¹ Moving Ahead for Progress in the 21st Century Act, Pub. L. No. 112-141, 126 Stat. 405 (2012).

The study team's recommended legislation also includes the following provisions regarding insurance:

- Personal automobile insurers may, at their discretion, offer policies, amendments, or endorsements covering the use of a vehicle in connection with TNC operations. However, the legislation expressly provides that personal automobile insurance policies are not required to provide primary or excess coverage while a driver is engaged in TNC operations. The legislation also explicitly states that the personal insurance shall not provide any coverage while a driver is on a TNC's network unless the insurance policy expressly provides for such coverage, nor shall a personal insurer have a duty to defend or indemnify for a driver's activities while working for a TNC, absent express policy terms to the contrary.
- As part of their written agreements with TNC partners, TNCs must:
 - disclose the liability insurance coverage, and the limits of liability, of any TNC insurance provided by the TNC, and must advise the TNC partner that the TNC partner's personal automobile insurance policy does not provide liability coverage when the TNC partner uses a vehicle in connection with a transportation network company's TNC platform, unless the policy expressly provides for TNC insurance coverage;
 - disclose the uninsured motorist and underinsured motorist coverage and policy limits provided by the transportation network company while the TNC partner uses a vehicle in connection with the TNC platform, and must advise the TNC partner that the TNC partner's personal automobile insurance policy does not provide uninsured motorist and underinsured motorist coverage when the TNC partner uses a vehicle in connection with a transportation network company's TNC platform, unless such policy expressly provides for TNC insurance coverage; and
 - disclose that the TNC partner's personal automobile insurance policy does not provide collision or comprehensive coverage for damage to the vehicle used by the TNC partner in connection with the TNC platform, and must advise the TNC partner that the TNC partner's personal automobile insurance policy does not provide collision or comprehensive coverage for damage to the vehicle when the TNC partner uses a vehicle in connection with a transportation network company's TNC platform, unless the policy expressly provides for TNC insurance coverage.
- No contract, receipt, rule, or regulation shall exempt any TNC from the liability which would exist had no contract been made or entered into and no such contract, receipt, rule, or regulation for exemption from liability for injury or loss occasioned by the neglect or misconduct of such TNC shall be valid. The legislation further stipulates that "liability" here means the liability imposed by

law upon a TNC for any loss, damage, or injury to passengers in its custody and care as a TNC.

5.6 Operational Requirements and Restrictions for TNCs

To promote public safety, protect consumers from fraud, and ensure that passenger transportation services are provided in a nondiscriminatory manner to all Virginians, TNCs should be required to observe the following additional operational requirements and restrictions:

- A TNC platform must include the following information:
 - the TNC’s screening criteria for TNC partners as well as the barrier crimes described above under section 5.3;
 - the TNC’s zero-tolerance drug/alcohol policy;
 - the method by which the TNC calculates fares or the applicable rates being charged and an option for the customer to receive an estimated fare;
 - the standards and maintenance policies that apply to TNC partner vehicles;
 - the training and testing policies that apply to TNC partners;
 - the method for reporting a TNC partner the passenger reasonably suspects was under the influence of drugs or alcohol while operating the TNC partner vehicle; and
 - contact information and methods for reporting complaints.
- A TNC must notify its TNC partner of the possibility that commercial use of the TNC partner vehicle may violate the terms of a vehicle financing agreement.
- A TNC must provide (via the TNC platform or otherwise) its TNC partners with proof of any applicable insurance policy and must require each TNC partner to carry evidence of any company policy. The TNC must require the TNC partner to present such proof to law enforcement, an airport authority, or the Washington Metropolitan Area Transit Commission (WMATC) upon request.
- A TNC must provide a credential to each TNC partner, which may be displayed as part of the TNC platform, that includes the following:
 - the TNC’s name or logo;
 - the name and a photograph of the TNC partner;
 - the identifying number issued by the TNC to the TNC partner; and
 - the make, model, and license plate number and issuing jurisdiction of the TNC partner vehicle.

A TNC must require the TNC partner to present this credential to law enforcement, an airport authority, WMATC, or a passenger upon request.

- A TNC platform must provide a person prearranging a ride with the following information, before the passenger enters the TNC partner vehicle:
 - a photograph of the TNC partner who will provide transportation;
 - the TNC partner's name; and
 - the TNC partner vehicle's license plate number and issuing jurisdiction..
- A TNC must provide markings for each TNC partner vehicle that meet the criteria outlined above in section 5.4, and must require each TNC partner to display the marking at all times while operating a TNC partner vehicle.
- A TNC must make the following information available through the TNC platform at all times that a TNC partner vehicle is in operation:
 - the name of the TNC;
 - the name and TNC-issued identifying number of the TNC partner;
 - the TNC partner vehicle's license plate number and issuing jurisdiction; and
 - the date, approximate time, and location where the passenger will be picked up.

This information must be made available immediately upon request to authorized representatives of DMV, law enforcement agencies, WMATC, and airport authorities. The TNC must retain the information and make it available for inspection as provided by law.

- A TNC platform must provide the person prearranging a ride with an electronic receipt that includes the following:
 - a map of the route taken;
 - the total fare;
 - the date and time of trip;
 - the TNC partner's photo and name; and
 - TNC partner vehicle information, including the vehicle's make, model, year, and license plate number and issuing jurisdiction.
- A TNC's service policy must not discriminate on the basis of age, race, sex, disability, origin or destination of the trip, or on any other basis prohibited by state or federal law. DMV may deny, suspend or revoke the operating authority or levy civil penalties against a TNC for failure to comply with the Americans with Disabilities

Act of 1990, 42 U.S.C. § 12101 *et seq.* or the Virginians with Disabilities Act, Va. Code § 51.5-1 *et seq.*

- A TNC may not impose additional charges for providing services to persons with physical or mental disabilities because of those disabilities.
- A TNC platform must allow passengers to indicate whether they require a wheelchair-accessible vehicle or a vehicle otherwise accessible to individuals with disabilities. (This requirement must be met no later than July 1, 2016.)
- A TNC may only dispatch rides to a TNC partner/TNC partner vehicle combination that has been approved by the TNC as part of the TNC partner's application process with the TNC.
- TNCs may provide service on a prearranged basis only and only through a TNC platform. Street hails and all other arrangements for services are prohibited.
- TNCs may not conduct any operations on the property of or into any airport, unless such operations are authorized by the airport authority involved.

In addition, DMV should be authorized to treat a TNC's failure to abide by any of the provisions listed above as grounds for suspension or revocation of the TNC's operating authority, and as grounds for the imposition of criminal or civil penalties as provided in Va. Code §§ 46.2-2011.22 and 46.2-2011.23.

5.7 Operational Requirements and Restrictions for TNC Partners

The following recommendations regarding TNC partner operations mirror and complement the recommendations set forth above in other sections.

- A TNC partner must carry proof of all insurance policies that may apply and present that proof to law enforcement, WMATC, an airport authority, or a passenger upon request.
- A TNC partner must carry proof of the vehicle's registration for use as a TNC partner vehicle and of a valid Virginia safety inspection and present that proof to law enforcement, WMATC, or an airport authority upon request.
- A TNC partner must carry the TNC-provided identification credential described above in section 5.6 and display the credential to law enforcement, an airport authority, WMATC, or a passenger upon request.
- A TNC partner must display the TNC-issued vehicle marking described above in section 5.4 at all times while operating a TNC partner vehicle.
- A TNC partner must make the following information available through the TNC's online-enabled application or platform at all times that a TNC partner vehicle is in operation:

- the name of the TNC;
- the name and TNC-issued identifying number of the TNC partner;
- the TNC partner vehicle's license plate number and issuing jurisdiction.; and
- the date, approximate time, and location where the passenger will be picked up.

This information must be made available immediately upon request to authorized representatives of DMV, law enforcement agencies, WMATC, and airport authorities. The TNC must retain the information and make it available for inspection as provided by law.

- A TNC partner must provide services to the general public without discrimination on the basis of age, race, sex, disability, origin or destination of the trip, or on any other basis prohibited by state or federal law.
- A TNC partner must permit a service animal to accompany a rider on a prearranged ride.
- A TNC partner may refuse to transport a passenger for any reason not prohibited by law, including:
 - when the individual is acting in an unlawful, disorderly, or endangering manner;
 - when the individual is unable to care for himself or herself and is not in the charge of a responsible companion; and
 - when the TNC partner has already committed to providing a ride for another passenger.
- A TNC partner may only operate a TNC partner vehicle authorized by DMV and only in a TNC partner/TNC partner vehicle combination that has been approved by the TNC.
- TNC partners may provide service on a prearranged basis only and may only accept arrangements for services with TNC riders through a TNC platform. A TNC partner may not otherwise arrange or accept any compensation for for-hire transportation services.
- TNC partners are prohibited from accepting payment for fares. Payments may only be made electronically via the TNC platform.
- A TNC partner must access the TNC platform in a manner consistent with Virginia traffic laws.
- A TNC partner may not operate a motor vehicle more than 13 hours in any 24-hour period, as provided in Va. Code § 46.2-812.

- A TNC partner must inform the TNC of any of the following:
 - a change in the TNC partner vehicle's registration;
 - a change in the status of the TNC partner's driver's license;
 - a change in the insurance covering the TNC partner vehicle; or
 - any motor vehicle moving violations, or arrests or convictions for criminal offenses, that could bar the TNC partner from acting as a TNC partner.

DMV should be authorized to treat a TNC partner's failure to abide by any of the above provisions as grounds for the revocation or suspension of the TNC partner vehicle registration, and as possible grounds for criminal or civil penalties as provided in Va. Code §§ 46.2-2011.22 and 46.2-2011.23.

5.8 Nondiscrimination and Access to Service

Apart from the operational requirements and restrictions described above in sections 5.6 and 5.7, no other steps regarding nondiscrimination and access to service are recommended at the present time. It should be noted however that none of the recommendations set forth in this chapter affects localities' authority to regulate the taxicab industry, or their authority to establish local requirements for vehicles that service those with disabilities or to subsidize such services. If evidence emerges over time that the availability of wheelchair-accessible or other transportation options has decreased, a fee could be levied on TNCs, TNC partner vehicles and/or TNC rides and distributed to localities to help fund alternatives for providing transportation services to underserved populations.

5.9 TNC Record Keeping and Reporting Requirements

Much of the regulatory apparatus recommended above involves TNCs actively screening and monitoring drivers and ensuring that vehicle, insurance, and other requirements are met. To ensure that the TNCs meet their responsibilities under the proposed new laws, the following recordkeeping and reporting requirements should be enacted:

- DMV should be authorized to conduct periodic reviews of TNCs to confirm compliance with:
 - partner screening requirements and operational regulations;
 - vehicle screening requirements and operational regulations;
 - requirements to disclose certain information to partners; and
 - other operational requirements.
- TNCs must be required to keep and maintain the following records to demonstrate such compliance:

- TNC partner criminal history reports;
- TNC partner sex offender registry checks;
- TNC partner driving record checks, including any records associated with participation in an ongoing TNC partner monitoring program such as DMV's Driver Alert Program;
- proof of required insurance coverage as provided above under section 5.5;
- proof that TNC partners' age and driving status were checked and confirmed;
- proof that TNC partner vehicles are validly registered and have a current Virginia safety inspection;
- proof that TNC partners were notified of potential lien interest violations and of TNC insurance coverage and limits; and
- any other data identified by DMV as necessary to confirm compliance.

For purposes of compliance review, such records must be kept and retained for three years in a manner that permits systematic retrieval. Such records must be made available to DMV representatives upon request for the purpose of evaluating compliance, and must be presented to DMV in a format acceptable to the Commissioner.

DMV, together with local, state, and federal law enforcement and airport authorities, is charged with upholding the law. TNCs should be required to cooperate with law enforcement officials in the performance of their official duties, and to keep and maintain the following records for that purpose:

- data on TNC partner activity while logged into the TNC platform, including ride-specific data regarding the origin, destination, date, and time of travel;
- any actions taken against a TNC partner;
- any contracts or agreements between the TNC and TNC partners;
- data identifying TNC partners (name, date of birth, driver's license number and issuing jurisdiction);
- data identifying TNC partner vehicles (make, model, model year, vehicle identification number (VIN), license plate number and issuing jurisdiction); and
- summary data regarding the number of TNC partners and TNC partner vehicles.

Any of the above information obtained by DMV, law enforcement, WMATC, or airport officials should be considered privileged information and should not be subject to disclosure except as follows:

- On written request of a DMV, law enforcement, WMATC, or airport official, such information may be released to the requesting official if the information is required to carry out official functions and the information will only be used by such official for the performance of their official duties.
- Information obtained by DMV in the course of periodic compliance reviews will not be subject to disclosure through a court order. However, this will not prevent a party from seeking such information directly from a TNC.

Failure to abide by any of the recordkeeping provisions described above should be grounds for DMV to suspend or revoke a TNC's operating authority.

In addition to compliance review and law enforcement, there are valid insurance reasons for TNCs to meet certain record-keeping standards. Like California, Virginia should require TNCs and their insurers, in a claims coverage investigation, to cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times of an accident involving a TNC partner and the precise times that the TNC partner logged on and off the TNC platform.

Finally, it is recommended that TNCs be limited in the use they make of personal information they collect about passengers. Specifically, TNCs should be prohibited from disclosing to a third party any personally identifiable information concerning a user of the TNC's services, unless:

- the TNC obtains the user's consent to disclose personally identifiable information;
- disclosure is necessary to comply with a legal obligation; or
- disclosure is necessary to protect or defend the terms and conditions for use of the service or to investigate violations of the terms and conditions.

5.10 Fees

The study team estimated the first year costs of implementing the above recommendations at approximately \$632,000 and the annual recurring costs at \$310,000. Nearly two thirds of the annual recurring costs (\$192,000) reflects the expense of hiring an additional three full-time employees in DMV's law enforcement division to review TNCs' compliance with the law. Additional licensing, complaint-handling, insurance monitoring, and other expenses account for the balance of the total annual cost.

The following schedule of fees is designed to allow the costs of the TNC program to be fully covered:

- An annual fee of \$50 for each vehicle registered as a TNC partner vehicle. The fee may be paid either by the TNC partner or by the TNC on the TNC partner's behalf.
- An initial license fee of \$70,000 to be paid by the TNC. The fee for renewal of the TNC's certificate will be \$3,000.

The adequacy of these fees is based on the study team's estimates that five TNCs would apply for a certificate to operate in Virginia (generating \$350,000 in initial license fee revenue and \$15,000 in annual revenue from annual renewals) and that 5,900 vehicles⁴² would be registered for use as TNC partner vehicles (generating \$295,000 in registration fees).

It is recommended that this fee structure be reviewed one year after implementation to determine if costs are fully recovered or if these fees should be adjusted to achieve that objective.

⁴² The estimate was based on adding 500 to the approximate number of taxicabs currently operating in Virginia: 5,400.

Appendix A. Legislation Implementing the Study Recommendations

**Transportation Network Companies in Virginia
Draft Legislation**

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 46.2-694, as it is currently effective and as it may become
2 effective, 46.2-711, 46.2-749.5, 46.2-753, 46.2-755, 46.2-1400, 46.2-2000, 46.2-2001.3,
3 46.2-2011.5, 46.2-2011.6, 46.2-2011.22, 46.2-2011.24, 46.2-2011.29 and 46.2-2051 of
4 the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 20 of Title
5 46.2 an article numbered 15, consisting of sections numbered 2099.45 through 2099.52,
6 relating to transportation network companies.

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That §§ 46.2-694, as it is currently effective and as it may become effective, 46.2-711,**
9 **46.2-749.5, 46.2-753, 46.2-755, 46.2-1400, 46.2-2000, 46.2-2001.3, 46.2-2011.5, 46.2-2011.6,**
10 **46.2-2011.22, 46.2-2011.24, 46.2-2011.29 and 46.2-2051 of the Code of Virginia are amended**
11 **and reenacted and that the Code of Virginia is amended by adding in Chapter 20 of Title**
12 **46.2 an article numbered 15, consisting of sections numbered 2099.45 through 2099.52, as**
13 **follows:**

14 **§ 46.2-694. (Contingent expiration date) Fees for vehicles designed and used for**
15 **transportation of passengers; weights used for computing fees; burden of proof.**

16 A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and
17 used for the transportation of passengers on the highways in the Commonwealth are:

18 1. Thirty-three dollars for each private passenger car or motor home if the passenger car
19 or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of
20 passengers for compensation and is not kept or used for rent or for hire, or is not operated under
21 a lease without a chauffeur; however, the fee provided under this subsection shall apply to a
22 private passenger car or motor home that weighs 4,000 pounds or less and is used as a TNC
23 partner vehicle as defined in § 46.2-2000.

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24 2. Thirty-eight dollars for each passenger car or motor home which weighs more than
25 4,000 pounds, provided that it is not used for the transportation of passengers for compensation
26 and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur;
27 however, the fee provided under this subsection shall apply to a passenger car or motor home
28 that weighs more than 4,000 pounds and is used as a TNC partner vehicle as defined in § 46.2-
29 2000.

30 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other
31 than a motorcycle with a normal seating capacity of more than 10 adults, including the driver, if
32 the private motor vehicle is not used for the transportation of passengers for compensation and is
33 not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no
34 case shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle
35 weighs more than 4,000 pounds.

36 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall
37 the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs
38 more than 4,000 pounds.

39 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters
40 for human beings.

41 6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor
42 vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate
43 or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay
44 the fees prescribed in subdivision 7 on submission to the Commissioner of a declaration of
45 operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor
46 vehicle weighs more than 4,000 pounds.

47 7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor
48 vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is
49 made to be licensed under this subsection. An additional \$5 shall be charged if the motor vehicle
50 weighs more than 4,000 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor
51 carrier of passengers, operating two or more vehicles both within and outside the Commonwealth
52 and registered for insurance purposes with the Surface Transportation Board of the U.S.

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53 Department of Transportation, Federal Highway Administration, may apply to the Commissioner
54 for prorated registration. Upon the filing of such application, in such form as the Commissioner
55 may prescribe, the Commissioner shall apportion the registration fees provided in this subsection
56 so that the total registration fees to be paid for such vehicles of such carrier shall be that
57 proportion of the total fees, if there were no apportionment, that the total number of miles
58 traveled by such vehicles of such carrier within the Commonwealth bears to the total number of
59 miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in
60 each instance is the estimated total mileage to be traveled by such vehicles during the license
61 year for which such fees are paid, subject to the adjustment in accordance with an audit to be
62 made by representatives of the Commissioner at the end of such license year, the expense of such
63 audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall
64 be registered and licensed in Virginia and the annual registration fee to be paid for each such
65 vehicle shall not be less than \$33. For the purpose of determining such apportioned registration
66 fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the
67 Commonwealth shall be subject to inclusion in determining the apportionment provided for
68 herein.

69 8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor
70 vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a
71 chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the
72 vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as
73 common carriers or as TNC partner vehicles as defined in § 46.2-2000.

74 9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire
75 operated with a chauffeur for the transportation of passengers, and which operates or should
76 operate under permits issued by the Department as required by law. An additional fee of \$5 shall
77 be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to
78 vehicles used as common carriers or as TNC partner vehicles as defined in § 46.2-2000.

79 10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be
80 added a surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

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81 10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a
82 special fund to be used to meet the expenses of the Department.

83 10b. Eighteen dollars for an autocycle.

84 11. Twenty-three dollars for a bus used exclusively for transportation to and from church
85 school, for the purpose of religious instruction, or church, for the purpose of divine worship. If
86 the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

87 12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other
88 passenger-carrying vehicles.

89 13. An additional fee of \$4.25 per year shall be charged and collected at the time of
90 registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through
91 12. All funds collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be
92 set aside as a special fund to be used only for emergency medical service purposes. The moneys
93 in the special emergency medical services fund shall be distributed as follows:

94 a. Two percent shall be distributed to the State Department of Health to provide funding
95 to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of
96 conducting volunteer recruitment, retention, and training activities;

97 b. Thirty percent shall be distributed to the State Department of Health to support (i)
98 emergency medical services training programs (excluding advanced life support classes); (ii)
99 advanced life support training; (iii) recruitment and retention programs (all funds for such
100 support shall be used to recruit and retain volunteer emergency medical services personnel only,
101 including public awareness campaigns, technical assistance programs, and similar activities); (iv)
102 emergency medical services system development, initiatives, and priorities based on needs
103 identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and
104 statewide performance contracts for emergency medical services to meet the objectives
105 stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii)
106 improved emergency preparedness and response. Any funds set aside for distribution under this
107 provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue
108 Squad Assistance Fund;

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109 c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

110 d. Ten percent shall be available to the State Department of Health's Office of
111 Emergency Medical Services for use in emergency medical services; and

112 e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such
113 vehicle is registered, to provide funding for training of volunteer or salaried emergency medical
114 service personnel of licensed, nonprofit emergency medical services agencies and for the
115 purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit
116 emergency medical and rescue services.

117 All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008
118 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and
119 used only to pay for the costs associated with the certification and recertification training of
120 emergency medical services personnel.

121 The Comptroller shall clearly designate on the warrant, check, or other means of
122 transmitting these funds that such moneys are only to be used for purposes set forth in this
123 subdivision. Such funds shall be in addition to any local appropriations and local governing
124 bodies shall not use these funds to supplant local funds. Each local governing body shall report
125 annually to the Board of Health on the use of the funds returned to it pursuant to this section. In
126 any case in which the local governing body grants the funds to a regional emergency medical
127 services council to be distributed to the licensed, nonprofit emergency medical and rescue
128 services, the local governing body shall remain responsible for the proper use of the funds. If, at
129 the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this
130 section for that year has not been received from a local governing body, any funds due to that
131 local governing body for the next fiscal year shall be retained until such time as the report has
132 been submitted to the Board.

133 B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of
134 § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of
135 this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest
136 cent, multiplied by the number of months in the registration period for such motor vehicles,
137 trailers, and semitrailers.

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138 C. The manufacturer's shipping weight or scale weight shall be used for computing all
139 fees required by this section to be based upon the weight of the vehicle.

140 D. The applicant for registration bears the burden of proof that the vehicle for which
141 registration is sought is entitled by weight, design, and use to be registered at the fee tendered by
142 the applicant to the Commissioner or to his authorized agent.

143 **§ 46.2-694. (Contingent effective date) Fees for vehicles designed and used for**
144 **transportation of passengers; weights used for computing fees; burden of proof.**

145 A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and
146 used for the transportation of passengers on the highways in the Commonwealth are:

147 1. Twenty-three dollars for each private passenger car or motor home if the passenger car
148 or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of
149 passengers for compensation and is not kept or used for rent or for hire, or is not operated under
150 a lease without a chauffeur; however, the fee provided under this subsection shall apply to a
151 private passenger car or motor home that weighs 4,000 pounds or less and is used as a TNC
152 partner vehicle as defined in § 46.2-2000.

153 2. Twenty-eight dollars for each passenger car or motor home which weighs more than
154 4,000 pounds, provided that it is not used for the transportation of passengers for compensation
155 and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur;
156 however, the fee provided under this subsection shall apply to a passenger car or motor home
157 that weighs more than 4,000 pounds and is used as a TNC partner vehicle as defined in § 46.2-
158 2000.

159 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other
160 than a motorcycle with a normal seating capacity of more than 10 adults, including the driver, if
161 the private motor vehicle is not used for the transportation of passengers for compensation and is
162 not kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no
163 case shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle
164 weighs more than 4,000 pounds.

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165 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall
166 the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs
167 more than 4,000 pounds.

168 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters
169 for human beings.

170 6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor
171 vehicle, trailer, or semitrailer used as a common carrier of passengers, operating either intrastate
172 or interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay
173 the fees prescribed in subdivision 7 on submission to the Commissioner of a declaration of
174 operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor
175 vehicle weighs more than 4,000 pounds.

176 7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor
177 vehicle, trailer, or semitrailer used as a common carrier of interstate passengers if election is
178 made to be licensed under this subsection. An additional \$5 shall be charged if the motor vehicle
179 weighs more than 4,000 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor
180 carrier of passengers, operating two or more vehicles both within and outside the Commonwealth
181 and registered for insurance purposes with the Surface Transportation Board of the U.S.
182 Department of Transportation, Federal Highway Administration, may apply to the Commissioner
183 for prorated registration. Upon the filing of such application, in such form as the Commissioner
184 may prescribe, the Commissioner shall apportion the registration fees provided in this subsection
185 so that the total registration fees to be paid for such vehicles of such carrier shall be that
186 proportion of the total fees, if there were no apportionment, that the total number of miles
187 traveled by such vehicles of such carrier within the Commonwealth bears to the total number of
188 miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in
189 each instance is the estimated total mileage to be traveled by such vehicles during the license
190 year for which such fees are paid, subject to the adjustment in accordance with an audit to be
191 made by representatives of the Commissioner at the end of such license year, the expense of such
192 audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall
193 be registered and licensed in Virginia and the annual registration fee to be paid for each such
194 vehicle shall not be less than \$33. For the purpose of determining such apportioned registration

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195 fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the
196 Commonwealth shall be subject to inclusion in determining the apportionment provided for
197 herein.

198 8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor
199 vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a
200 chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the
201 vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as
202 common carriers or as TNC partner vehicles as defined in § 46.2-2000.

203 9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire
204 operated with a chauffeur for the transportation of passengers, and which operates or should
205 operate under permits issued by the Department as required by law. An additional fee of \$5 shall
206 be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to
207 vehicles used as common carriers or as TNC partner vehicles as defined in § 46.2-2000.

208 10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be
209 added a surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

210 10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a
211 special fund to be used to meet the expenses of the Department.

212 10b. Eighteen dollars for an autocycle.

213 11. Twenty-three dollars for a bus used exclusively for transportation to and from church
214 school, for the purpose of religious instruction, or church, for the purpose of divine worship. If
215 the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

216 12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other
217 passenger-carrying vehicles.

218 13. An additional fee of \$4.25 per year shall be charged and collected at the time of
219 registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through
220 12. All funds collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be
221 set aside as a special fund to be used only for emergency medical service purposes. The moneys
222 in the special emergency medical services fund shall be distributed as follows:

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223 a. Two percent shall be distributed to the State Department of Health to provide funding
224 to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of
225 conducting volunteer recruitment, retention and training activities;

226 b. Thirty percent shall be distributed to the State Department of Health to support (i)
227 emergency medical services training programs (excluding advanced life support classes); (ii)
228 advanced life support training; (iii) recruitment and retention programs (all funds for such
229 support shall be used to recruit and retain volunteer emergency medical services personnel only,
230 including public awareness campaigns, technical assistance programs, and similar activities); (iv)
231 emergency medical services system development, initiatives, and priorities based on needs
232 identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and
233 statewide performance contracts for emergency medical services to meet the objectives
234 stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii)
235 improved emergency preparedness and response. Any funds set aside for distribution under this
236 provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue
237 Squad Assistance Fund;

238 c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

239 d. Ten percent shall be available to the State Department of Health's Office of
240 Emergency Medical Services for use in emergency medical services; and

241 e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such
242 vehicle is registered, to provide funding for training of volunteer or salaried emergency medical
243 service personnel of licensed, nonprofit emergency medical services agencies and for the
244 purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit
245 emergency medical and rescue services.

246 All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008
247 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and
248 used only to pay for the costs associated with the certification and recertification training of
249 emergency medical services personnel.

250 The Comptroller shall clearly designate on the warrant, check, or other means of
251 transmitting these funds that such moneys are only to be used for purposes set forth in this

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252 subdivision. Such funds shall be in addition to any local appropriations and local governing
253 bodies shall not use these funds to supplant local funds. Each local governing body shall report
254 annually to the Board of Health on the use of the funds returned to it pursuant to this section. In
255 any case in which the local governing body grants the funds to a regional emergency medical
256 services council to be distributed to the licensed, nonprofit emergency medical and rescue
257 services, the local governing body shall remain responsible for the proper use of the funds. If, at
258 the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this
259 section for that year has not been received from a local governing body, any funds due to that
260 local governing body for the next fiscal year shall be retained until such time as the report has
261 been submitted to the Board.

262 B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of
263 § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of
264 this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest
265 cent, multiplied by the number of months in the registration period for such motor vehicles,
266 trailers, and semitrailers.

267 C. The manufacturer's shipping weight or scale weight shall be used for computing all
268 fees required by this section to be based upon the weight of the vehicle.

269 D. The applicant for registration bears the burden of proof that the vehicle for which
270 registration is sought is entitled by weight, design, and use to be registered at the fee tendered by
271 the applicant to the Commissioner or to his authorized agent.

272 **§ 46.2-711. Furnishing number and design of plates; displaying on vehicles required.**

273 A. The Department shall furnish one license plate for every registered moped,
274 motorcycle, auticycle, tractor truck, semitrailer, or trailer, and two license plates for every other
275 registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen
276 vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers,
277 commercial vehicles, and trucks, other than license plates for dealers, may be of such design as
278 to prevent removal without mutilating some part of the indicia forming a part of the license plate,
279 when secured to the bracket.

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280 B. The Department shall issue appropriately designated license plates for:

281 1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for
282 private trips, other than TNC partner vehicles as defined in § 46.2-2000;

283 2. Taxicabs;

284 3. Passenger-carrying vehicles operated by common carriers or restricted common
285 carriers;

286 4. Property-carrying motor vehicles to applicants who operate as private carriers only;

287 5. Applicants, other than TNC partners as defined in § 46.2-2000, who operate motor
288 vehicles as carriers for rent or hire;

289 6. Vehicles operated by nonemergency medical transportation carriers as defined in §
290 46.2-2000; and

291 7. Trailers and semitrailers.

292 C. The Department shall issue appropriately designated license plates for motor vehicles
293 held for rental as defined in § 58.1-1735.

294 D. The Department shall issue appropriately designated license plates for low-speed
295 vehicles.

296 E. No vehicles shall be operated on the highways in the Commonwealth without
297 displaying the license plates required by this chapter. The provisions of this subsection shall not
298 apply to vehicles used to collect and deliver the United States mail to the extent that their rear
299 license plates may be covered by the “CAUTION, FREQUENT STOPS, U.S. MAIL” sign when
300 the vehicle is engaged in the collection and delivery of the United States mail.

301 F. Pickup or panel trucks are exempt from the provisions of subsection B with reference
302 to displaying for-hire license plates when operated as a carrier for rent or hire. However, this
303 exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§
304 46.2-2100 *et seq.*).

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305 **§ 46.2-749.5. Special license plates celebrating Virginia’s tobacco heritage.**

306 A. On receipt of an application, the Commissioner shall issue special license plates
307 celebrating Virginia’s tobacco heritage. For each set of license plates issued under this section,
308 the Commissioner shall charge, in addition to the prescribed cost of state license plates, an
309 annual fee of ten dollars.

310 B. License plates may be issued under this section for display on vehicles registered as
311 trucks, as that term is defined in § 46.2-100, provided that no license plates are issued pursuant to
312 this section for (i) vehicles operated for hire, except TNC partner vehicles as defined in § 46.2-
313 2000; (ii) vehicles registered under the International Registration Plan, or (iii) vehicles registered
314 as tow trucks or tractor trucks as defined in § 46.2-100. No permanent license plates without
315 decals as authorized in subsection B of § 46.2-712 may be issued under this section. For each set
316 of truck license plates issued under this subsection, the Commissioner shall charge, in addition to
317 the prescribed cost of state license plates, an annual fee of \$25.

318 **§ 46.2-753. Additional license fees in certain localities.**

319 Notwithstanding any other provision of law, the governing bodies of Alexandria,
320 Arlington, Fairfax County, Fairfax City, and Falls Church are authorized to charge annual license
321 fees, in addition to those specified in § 46.2-752, on passenger cars, including passenger cars that
322 are used as TNC partner vehicles as defined in § 46.2-2000, but not on passenger cars that are
323 otherwise used for the transportation of passengers for compensation. The additional fee shall be
324 no more than five dollars. The total local license fee shall be no more than twenty-five dollars on
325 any vehicle and this license fee shall not be imposed on any motor vehicle exempted under §
326 46.2-739.

327 The governing bodies are also authorized to charge additional annual license fees on the
328 motor vehicles, trailers, and semitrailers as specified in § 46.2-697 in an amount of no more than
329 five dollars for each such vehicle. This authorization shall not increase the maximum chargeable
330 by more than five dollars or affect any existing exemption.

331 Any funds acquired in excess of those allowed by § 46.2-752, shall be allocated to the
332 Northern Virginia Transportation Commission to be a credit to that jurisdiction making the

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333 payment for its share of any operating deficit assigned to it by the Washington Metropolitan
334 Area Transit Authority.

335 **§ 46.2-755. Limitations on imposition of motor vehicle license taxes and fees.**

336 A. No county, city, or town shall impose any motor vehicle license tax or fee on any
337 motor vehicle, trailer, or semitrailer when:

338 1. A similar tax or fee is imposed by the county, city, or town wherein the vehicle is
339 normally garaged, stored or parked;

340 2. The vehicle is owned by a nonresident of such locality and is used exclusively for
341 pleasure or personal transportation or as a TNC partner vehicle as defined in § 46.2-2000 and not
342 otherwise for hire or for the conduct of any business or occupation other than that set forth in
343 subdivision 3 of this subsection;

344 3. The vehicle is (i) owned by a nonresident and (ii) used for transporting into and within
345 the locality, for sale in person or by his employees, wood, meats, poultry, fruits, flowers,
346 vegetables, milk, butter, cream, or eggs produced or grown by him, and not purchased by him for
347 sale;

348 4. The motor vehicle, trailer, or semitrailer is owned by an officer or employee of the
349 Commonwealth who is a nonresident of such county, city, or town and who uses the vehicle in
350 the performance of his duties for the Commonwealth under an agreement for such use;

351 5. The motor vehicle, trailer, or semitrailer is kept by a dealer or manufacturer for sale or
352 for sales demonstration;

353 6. The motor vehicle, trailer, or semitrailer is operated by a common carrier of persons or
354 property operating between cities and towns in the Commonwealth and not in intracity
355 transportation or between cities and towns on the one hand and points and places outside cities
356 and towns on the other and not in intracity transportation; or

357 7. The motor vehicle, trailer, or semitrailer is inoperable and unlicensed pursuant to §
358 46.2-734.

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359 B. No county, city, or town shall impose a license fee for any one motor vehicle owned
360 and used personally by any veteran who holds a current state motor vehicle registration card
361 establishing that he has received a disabled veteran’s exemption from the Department and has
362 been issued a disabled veteran’s motor vehicle license plate as prescribed in § 46.2-739.

363 C. No county, city, or town shall impose any license tax or license fee or the requirement
364 of a license tag, sticker or decal upon any daily rental vehicle, as defined in § 58.1-1735, the
365 rental of which is subject to the tax imposed by subdivision A 2 of § 58.1-1736.

366 D. In the rental agreement between a motor vehicle renting company and a renter, the
367 motor vehicle renting company may separately itemize and charge daily fees or transaction fees
368 to the renter, provided that the amounts of such fees are disclosed at the time of reservation and
369 rental as part of any estimated pricing provided to the renter. Such fees include a vehicle license
370 fee to recover the company’s incurred costs in licensing, titling, and registering its rental fleet,
371 concession recovery fees actually charged the company by an airport, or other governmentally
372 owned or operated facility, and consolidated facility charges actually charged by an airport, or
373 other governmentally owned or operated facility for improvements to or construction of facilities
374 at such facility where the motor vehicle rental company operates. The vehicle license fee shall
375 represent the company’s good faith estimate of the average per day per vehicle portion of the
376 company’s total annual vehicle licensing, titling, and registration costs.

377 No motor vehicle renting company charging a vehicle license fee, concession recovery
378 fee, or consolidated facility charge may make an advertisement in the Commonwealth that
379 includes a statement of the rental rate for a vehicle available for rent in the Commonwealth
380 unless such advertisement includes a statement that the customer will be required to pay a
381 vehicle license fee, concession recovery fee, or consolidated facility charge. The vehicle license
382 fee, concession recovery fee, or consolidated facility charge shall be shown as a separately
383 itemized charge on the rental agreement. The vehicle license fee shall be described in either the
384 terms and conditions of the rental agreement as the “estimated average per day per vehicle
385 portion of the company’s total annual vehicle licensing, titling, and registration costs” or, for
386 renters participating in an extended rental program pursuant to a master rental agreement, by
387 posting such statement on the rental company website.

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388 Any amounts collected by the motor vehicle renting company in excess of the actual
389 amount of its costs incurred relating to its vehicle license fees shall be retained by the motor
390 vehicle renting company and applied toward the recovery of its next calendar year's costs
391 relating to such fees. In such event, the good faith estimate of any vehicle license fee to be
392 charged by the company for the next calendar year shall be reduced to take into account the
393 excess amount collected from the prior year.

394 E. As used in this section, common carrier of persons or property includes any person
395 who undertakes, whether directly or by lease or any other arrangement, to transport passengers or
396 household goods for the general public by motor vehicle for compensation over the highways of
397 the Commonwealth, whether over regular or irregular routes, that has obtained the required
398 certificate from the Department of Motor Vehicles pursuant to § 46.2-2075 or 46.2-2150.

399 **§ 46.2-1400. "Ridesharing arrangement" defined.**

400 "Ridesharing arrangement" means the transportation of persons in a motor vehicle when
401 such transportation is incidental to the principal purpose of the driver, which is to reach a
402 destination and not to transport persons for profit. The term includes ridesharing arrangements
403 known as carpools, vanpools, and bus pools. The term does not include a prearranged ride as
404 defined in § 46.2-2000.

405 **§ 46.2-2000. Definitions.**

406 Whenever used in this chapter unless expressly stated otherwise:

407 "Authorized insurer" means, in the case of an interstate motor carrier whose operations
408 may or may not include intrastate activity, an insurer authorized to transact business in any one
409 state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business
410 in the Commonwealth.

411 "Broker" means any person not included in the term "motor carrier" and not a bona fide
412 employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any
413 transportation subject to this chapter, or negotiates for, or holds himself out by solicitation,

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414 advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such
415 transportation.

416 “Carrier by motor launch” means a common carrier or contract carrier, which carrier uses
417 one or more motor launches operating on the waters within the Commonwealth to transport
418 passengers.

419 “Certificate” means a certificate of public convenience and necessity or a certificate of
420 fitness.

421 “Certificate of fitness” means a certificate issued by the Department to a contract
422 passenger carrier, a sight-seeing carrier, or a nonemergency medical transportation carrier.

423 “Certificate of public convenience and necessity” means a certificate issued by the
424 Department of Motor Vehicles to certain common carriers, but nothing contained in this chapter
425 shall be construed to mean that the Department can issue any such certificate authorizing
426 intracity transportation.

427 “Common carrier” means any person who undertakes, whether directly or by a lease or
428 any other arrangement, to transport passengers for the general public by motor vehicle for
429 compensation over the highways of the Commonwealth, whether over regular or irregular routes,
430 including such motor vehicle operations of carriers by rail or water under this chapter. “Common
431 carrier” does not include nonemergency medical transportation carriers, transportation network
432 companies, or TNC partners as defined in this section.

433 ~~“Contract carrier” means any person who, under special and individual contracts or~~
434 ~~agreements, and whether directly or by a lease or any other arrangement, transports passengers~~
435 ~~for compensation.~~

436 “Contract passenger carrier” means a motor carrier that transports groups of passengers
437 under a single contract made with one person for an agreed charge for such transportation,
438 regardless of the number of passengers transported, and for which transportation no individual or
439 separate fares are solicited, charged, collected, or received by the carrier. The term does not
440 include a transportation network company or TNC partner as defined in this section.

441 “Department” means the Department of Motor Vehicles.

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442 “Employee hauler” means a motor carrier operating for compensation and exclusively
443 transporting only bona fide employees directly to and from the factories, plants, office or other
444 places of like nature where the employees are employed and accustomed to work.

445 “Excursion train” means any steam-powered train that carries passengers for which the
446 primary purpose of the operation of such train is the passengers’ experience and enjoyment of
447 this means of transportation, and does not, in the course of operation, carry (i) freight other than
448 the personal luggage of the passengers or crew or supplies and equipment necessary to serve the
449 needs of the passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers
450 who are traveling to their final destination solely for business or commercial purposes.

451 “Financial responsibility” means the ability to respond in damages for liability thereafter
452 incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the
453 amounts provided for in this chapter.

454 “Highway” means every public highway or place of whatever nature open to the use of
455 the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys
456 in towns and cities.

457 “Identification marker” means a decal or other visible identification issued or required by
458 the Department to show (i) that the operator of the vehicle has registered with the Department for
459 the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii)
460 proof of the possession of a certificate or permit issued pursuant to Chapter 20 (§ 46.2-2000 et
461 seq.) of this title, (iii) proof that the vehicle has been registered with the Department as a TNC
462 partner vehicle under subsection B of § 46.2-2099.50, (iv) proof that the vehicle has been
463 authorized by a transportation network company to be operated as a TNC partner vehicle, in
464 accordance with subsection C of § 46.2-2099.50, and/or ~~(iii)~~(v) proof of compliance with the
465 insurance requirements of this chapter.

466 “Interstate” means transportation of passengers between states.

467 “Intrastate” means transportation of passengers solely within a state.

468 “License” means a license issued by the Department to a broker.

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469 “Minibus” means any motor vehicle having a seating capacity of not less than seven nor
470 more than 31 passengers, including the driver, and used in the transportation of passengers.

471 “Motor carrier” means any person who undertakes, whether directly or by lease, to
472 transport passengers for compensation over the highways of the Commonwealth.

473 “Motor launch” means a motor vessel that meets the requirements of the U.S. Coast
474 Guard for the carriage of passengers for compensation, with a capacity of six or more
475 passengers, but not in excess of fifty passengers. Motor launch, as defined herein, shall not
476 include sight-seeing vessels, special or charter party vessels within the provisions of this chapter.
477 A carrier by motor launch shall not be regarded as a steamship company.

478 “Nonemergency medical transportation carrier” means a motor carrier that exclusively
479 provides nonemergency medical transportation and provides such transportation only (i) through
480 the Department of Medical Assistance Services; (ii) through a broker operating under a contract
481 with the Department of Medical Assistance Services; or (iii) as a Medicaid Managed Care
482 Organization contracted with the Department of Medical Assistance Services to provide such
483 transportation.

484 “Nonprofit/tax-exempt passenger carrier” means a bona fide nonprofit corporation
485 organized or existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt
486 organization as defined in §§ 501(c)(3) and 501(c)(4) of the United States Internal Revenue
487 Code, as from time to time amended, who undertakes, whether directly or by lease, to control
488 and operate minibuses exclusively in the transportation, for compensation, of members of such
489 organization if it is a membership corporation, or of elderly, disabled, or economically
490 disadvantaged members of the community if it is not a membership corporation.

491 “Operation” or “operations” includes the operation of all motor vehicles, whether loaded
492 or empty, whether for compensation or not, and whether owned by or leased to the motor carrier
493 who operates them or causes them to be operated.

494 “Operation of a TNC partner vehicle” means offering, making available, or using a TNC
495 partner vehicle to provide prearranged rides, including (i) any time a TNC partner is logged into
496 a TNC platform showing that the TNC partner is available to pick up passengers; (ii) any time a
497 passenger is in the TNC partner vehicle; (iii) any time the transportation network company’s

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498 dispatch records show that the TNC partner vehicle has been dispatched; and (iv) any time the
499 TNC partner has accepted a ride request through the TNC platform and is en route to a
500 passenger.

501 “Operator” means the employer or person actually driving a motor vehicle or
502 combination of vehicles.

503 “Permit” means a permit issued by the Department to carriers operating as employee
504 haulers or nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles
505 performing taxicab service under this chapter.

506 “Person” means any individual, firm, copartnership, corporation, company, association or
507 joint-stock association, and includes any trustee, receiver, assignee, or personal representative
508 thereof.

509 “Personal vehicle” means a motor vehicle that is not used to transport passengers for
510 compensation except as a TNC partner vehicle.

511 “Prearranged ride” means passenger transportation for compensation in a TNC partner
512 vehicle arranged through a TNC platform. The term includes the period of time that begins
513 when a TNC partner accepts a ride requested through a TNC platform, continues while the TNC
514 partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits the
515 TNC partner vehicle.

516 “Restricted common carrier” means any person who undertakes, whether directly or by a
517 lease or other arrangement, to transport passengers for compensation, whereby such
518 transportation service has been restricted. The term does not include a transportation network
519 company or TNC partner as defined in this section.

520 “Route,” when used in connection with or with respect to a certificate of public
521 convenience and necessity, means the road or highway, or segment thereof, operated over by the
522 holder of a certificate of public convenience and necessity or proposed to be operated over by an
523 applicant therefor, whether such road or highway is designated by one or more highway
524 numbers.

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525 “Services” and “transportation” include the service of, and all transportation by, all
526 vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or
527 contract, expressed or implied, together with all facilities and property operated or controlled by
528 any such carrier or carriers and used in the transportation of passengers or the performance of
529 any service in connection therewith.

530 “Sight-seeing carrier” means a restricted common carrier authorized to transport
531 passengers under the provisions of this chapter, whereby the primary purpose of the operation is
532 the passengers’ experience and enjoyment and/or the promotion of tourism.

533 “Sight-seeing carrier by boat” means a restricted common carrier, which restricted
534 common carrier uses a boat or boats operating on waters within the Commonwealth to transport
535 passengers, and whereby the primary purpose of the operation is the passengers’ experience and
536 enjoyment and/or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as
537 steamship companies.

538 “Single state insurance receipt” means any receipt issued pursuant to 49 C.F.R. Part 367
539 evidencing that the carrier has the required insurance and paid the requisite fees to the
540 Commonwealth and other qualified jurisdictions.

541 “Special or charter party carrier by boat” for purposes of this chapter shall mean a
542 restricted common carrier which transports groups of persons under a single contract made with
543 one person for an agreed charge for such movement regardless of the number of persons
544 transported. Special or charter party carriers by boat shall not be regarded as steamship
545 companies.

546 “Taxicab or other motor vehicle performing a taxicab service” means any motor vehicle
547 having a seating capacity of not more than six passengers, excluding the driver, not operating on
548 a regular route or between fixed terminals used in the transportation of passengers for hire or for
549 compensation, and not a common carrier, restricted common carrier, transportation network
550 company, TNC partner, or nonemergency medical transportation carrier as defined in this
551 chapter.

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552 “TNC insurance” means a motor vehicle liability insurance policy that specifically covers
553 liabilities arising from a TNC partner’s use of the vehicle in connection with a transportation
554 network company’s TNC platform.

555 “TNC partner” means a person authorized by a transportation network company to use a
556 TNC partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

557 “TNC partner vehicle” means a personal vehicle authorized by a transportation network
558 company and used by a TNC partner to provide prearranged rides on an intrastate basis in the
559 Commonwealth.

560 “TNC platform” means any online-enabled application or digital platform offered or
561 utilized by a transportation network company that enables prearrangement of rides with TNC
562 partners.

563 “Transportation network company” means a person who provides prearranged rides using
564 a TNC platform that connects passengers with TNC partners.

565 **§ 46.2-2001.3. Application; notice requirements.**

566 A. Applications for a license, permit, certificate, ~~or~~ identification marker, or TNC partner
567 vehicle registration, or renewal of a license, permit, certificate, ~~or~~ identification marker, or TNC
568 partner vehicle registration under this chapter shall be made to the Department and contain such
569 information and exhibits as the Department shall require. Such information shall include, in the
570 application or otherwise, the matters set forth in § 46.2-2011.24 as grounds for denying licenses,
571 permits, and certificates, and other pertinent matters requisite for the safeguarding of the public
572 interest.

573 Notwithstanding any other provision of this chapter, the Commissioner may require all
574 or certain applications for a license, permit, certificate, identification marker, or TNC partner
575 vehicle registration to be filed electronically.

576 B. An applicant for any original certificate of public convenience and necessity issued
577 under this chapter, or any request for a transfer of such certificate, unless otherwise provided,
578 shall cause a notice of such application, on the form and in the manner prescribed by the

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579 Department, on every motor carrier holding the same type of certificate issued by the
580 Department and operating or providing service within the area proposed to be served by the
581 applicant.

582 C. For any application for original certificate or license issued under this chapter, or any
583 request for a transfer of such certificate or license, the Department shall publish a notice of such
584 application on the Department's public website in the form and in the manner prescribed by the
585 Department.

586 D. An applicant for any original certificate of public convenience and necessity issued
587 under this chapter, or any request for a transfer of such certificate of public convenience and
588 necessity, shall cause a publication of a summary of the application to be made in a newspaper
589 having a general circulation in the proposed area to be served or area where the primary business
590 office is located within such time as the Department may prescribe.

591 **§ 46.2-2011.5. Filing and application fees.**

592 Unless otherwise provided, every applicant, other than a transportation network
593 company, for an original license, permit, or certificate issued under this chapter and transfer of a
594 license or certificate under the provisions of this chapter shall, upon the filing of an application,
595 deposit with the Department, as a filing fee, a sum in the amount of fifty dollars. The fee to
596 accompany an application for an original of the certificate required under § 46.2-2099.45 shall be
597 \$70,000, and the fee to accompany an application for a renewal thereof shall be \$3,000. The
598 Department shall collect a fee of three dollars for the issuance of a duplicate license, permit, or
599 certificate.

600 **§ 46.2-2011.6. Vehicle fees.**

601 Every person other than a TNC partner who operates a passenger vehicle for
602 compensation over the highways of the Commonwealth, unless such operation is exempted from
603 this chapter, shall be required to pay an annual fee of \$3 for each such vehicle so operated, unless
604 a vehicle identification marker fee has been paid to the Department as to such vehicle for the
605 current year under the provisions of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1. Such fee shall

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606 be paid through the single state registration system established pursuant to 49 U.S.C. § 14504
607 and 49 CFR Part 367 or through the unified carrier registration system established pursuant to 49
608 U.S.C. § 14504a and the federal regulations promulgated thereunder for carriers registered
609 pursuant to those provisions. No more than one vehicle fee shall be charged or paid as to any
610 vehicle in any one year under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and this chapter,
611 including payments made pursuant to the single state registration system or the unified carrier
612 registration system.

613 **§ 46.2-2011.22. Violation; criminal penalties.**

614 A. Any person knowingly and willfully violating any provision of this chapter, or any
615 rule or regulation thereunder, or any term or condition of any certificate, permit, or license, for
616 which a penalty is not otherwise herein provided, shall be guilty of a misdemeanor and, upon
617 conviction, shall be fined not more than \$2,500 for the first offense and not more than \$5,000 for
618 any subsequent offense. Each day of such violation shall constitute a separate offense.

619 B. Any person, whether carrier, broker, or any officer, employee, agent, or representative
620 thereof, or a TNC partner, who shall knowingly and willfully by any such means or otherwise
621 fraudulently seek to evade or defeat regulation as in this chapter, shall be deemed guilty of a
622 misdemeanor and, upon conviction thereof, be fined not more than \$500 for the first offense and
623 not more than \$2,000 for any subsequent offense.

624 C. Any motor carrier, broker, or excursion train operator or any officer, agent, employee,
625 or representative thereof, or a TNC partner, who willfully fails or refuses to make a report to the
626 Department as required by this chapter or to keep accounts, records, and memoranda in the form
627 and manner approved or prescribed by the Department, or knowingly and willfully falsifies,
628 destroys, mutilates, or alters any such report, account, record or memorandum, or knowingly and
629 willfully files any false report, account, record or memorandum, shall be guilty of a
630 misdemeanor and, upon conviction, be subject for each offense to a fine of not less than \$100
631 and not more than \$5,000.

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632 **§ 46.2-2011.24. Grounds for denying, suspending, or revoking licenses, permits, or**
633 **certificates.**

634 A license, permit, or certificate issued pursuant to this chapter may be denied, suspended,
635 or revoked on any one or more of the following grounds, where applicable:

636 1. Material misstatement or omission in application for license, certificate, permit,
637 identification marker, or vehicle registration;

638 2. Failure to comply subsequent to receipt of a written warning from the Department or
639 any willful failure to comply with a lawful order, any provision of this chapter or any regulation
640 promulgated by the Department under this chapter, or any term, condition, or restriction of a
641 license, permit, or certificate;

642 3. Failure to comply with zoning or other land use regulations, ordinances, or statutes;

643 4. Use of deceptive business acts or practices;

644 5. Knowingly advertising by any means any assertion, representation, or statement of fact
645 that is untrue, misleading, or deceptive relating to the conduct of the business for which a
646 license, certificate, permit, identification marker, or vehicle registration is held or sought;

647 6. Having been found, through a judicial or administrative hearing, to have committed
648 fraudulent or deceptive acts in connection with the business for which a license, permit, or
649 certificate is held or sought or any consumer-related fraud;

650 7. Having been convicted of any criminal act involving the business for which a license,
651 permit, or certificate is held or sought;

652 8. Failure to comply with § 46.2-2056 or any regulation promulgated pursuant thereto;

653 9. Improper leasing, renting, lending, or otherwise allowing the improper use of a license,
654 certificate, permit, identification marker, or vehicle registration;

655 10. Having been convicted of a felony;

656 11. Having been convicted of any misdemeanor involving lying, cheating, stealing, or
657 moral turpitude;

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658 12. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the
659 Department;

660 13. Failure to furnish the Department information, documentation, or records required or
661 requested pursuant to statute or regulation;

662 14. Knowingly and willfully filing any false report, account, record, or memorandum;

663 15. Failure to meet or maintain application certifications or requirements of public
664 convenience and necessity, character, fitness, and financial responsibility pursuant to this
665 chapter;

666 16. Willfully altering or changing the appearance or wording of any license, permit,
667 certificate, identification marker, license plate, or vehicle registration;

668 17. Failure to provide services in accordance with license, permit, or certificate terms,
669 limitations, conditions, or requirements;

670 18. Failure to maintain and keep on file with the Department motor carrier liability
671 insurance, issued by a company licensed to do business in the Commonwealth, or a bond,
672 certificate of insurance, certificate of self-insurance, or unconditional letter of credit in
673 accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth;

674 19. Failure to comply with the Workers' Compensation Act of Title 65.2;

675 20. Failure to properly register a motor vehicle under this title;

676 21. Failure to comply with any federal motor carrier statute, rule, or regulation;

677 22. Failure to comply with the requirements of the Americans with Disabilities Act or the
678 Virginians with Disabilities Act; ~~or~~

679 23. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle
680 registered to operate under such certificate or permit for a period of greater than three months; or

681 24. Failure to comply with the provisions of Title 13.1 regarding the filing and registered
682 agent requirements set forth in Title 13.1.

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683 **§ 46.2-2011.29. Surrender of identification marker, license plate, and registration**
684 **card; removal by law enforcement; operation of vehicle denied.**

685 A. It shall be unlawful for a licensee, permittee, or certificate holder, or for the registrant
686 or operator of a vehicle registered under subsection B of § 46.2-2099.50, whose license, permit,
687 or certificate, or whose vehicle's registration as a TNC partner vehicle, has been revoked,
688 suspended, or renewal thereof denied pursuant to this chapter to fail or refuse to surrender, on
689 demand, to the Department license plates, identification markers, and registration cards issued
690 under this title.

691 B. If any law enforcement officer finds that a motor carrier vehicle bearing Virginia
692 license plates or temporary transport plates is being operated in violation of subsection A of this
693 section, such law enforcement officer shall remove the license plate, identification marker, and
694 registration card and shall forward the same to the Department. If any law enforcement officer
695 finds that a TNC partner vehicle not bearing Virginia license plates is being operated in
696 violation of subsection A of this section, such law enforcement officer shall remove any
697 identification marker and registration card issued under subsection B of § 46.2-2099.50 and
698 shall forward the same to the Department.

699 C. When informed that a vehicle is being operated in violation of this section, the driver
700 shall drive the vehicle to a nearby location off the public highways and not remove it or allow it
701 to be moved until the motor carrier is in compliance with all provisions of this chapter.

702 **§ 46.2-2051. Application of article.**

703 Unless otherwise stated, this article shall apply to all motor carriers except transportation
704 network companies.

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705 Article 15. Transportation Network Companies

706 **§ 46.2-2099.45. Certificates required unless exempted.**

707 Unless otherwise exempted, no person shall engage in the business of a transportation
708 network company on any highway within the Commonwealth on an intrastate basis unless such
709 person has secured from the Department a certificate of fitness authorizing such business.

710 **§ 46.2-2099.46. Control, supervision and regulation by Department.**

711 Except as otherwise provided in this chapter, every transportation network company,
712 TNC partner, and TNC partner vehicle shall be subject to exclusive control, supervision and
713 regulation by the Department, except that enforcement of statutes and Department regulations
714 shall be not only by the Department, but also by the Department of State Police, local law
715 enforcement agencies, and law enforcement departments of airport owners and operators.
716 Nothing in this section shall be construed as authorizing the adoption of local ordinances
717 providing for local regulation of transportation network companies, TNC partners, or TNC
718 partner vehicles.

719 **§ 46.2-2099.47. Operation except in accordance with chapter prohibited.**

720 No transportation network company or TNC partner shall operate any motor vehicle for
721 the transportation of passengers for compensation on any highway in the Commonwealth on an
722 intrastate basis except in accordance with the provisions of this chapter.

723 **§ 46.2-2099.48. General operational requirements for transportation network**
724 **companies and TNC partners.**

725 A. A transportation network company and a TNC partner shall provide passenger
726 transportation on a prearranged basis only and only by means of a TNC platform that connects
727 passengers with TNC partners using a personal vehicle. No TNC partner shall transport a
728 passenger unless a transportation network company has matched the TNC partner to that

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729 passenger through the TNC platform. A TNC partner shall not solicit, accept, arrange, or
730 provide transportation in any other manner.

731 B. A transportation network company shall authorize collection of fares for transporting
732 passengers solely through the TNC platform. A TNC partner shall not accept payment of fares
733 directly from a passenger or any other person prearranging a ride, or by any means other than
734 electronically via the TNC platform.

735 C. A transportation network company shall publish the following information on its
736 public website and TNC platform:

737 1. the method used to calculate fares or the applicable rates being charged and an option
738 to receive an estimated fare;

739 2. information about its TNC partner screening criteria, including a list of the
740 disqualifying offenses set forth in subsection C of § 46.2-2099.49 as well as any other offenses
741 that the transportation network company will regard as grounds for disqualifying an individual
742 from acting as a TNC partner;

743 3. the means for a passenger or other person to report a TNC partner reasonably
744 suspected of operating a TNC partner vehicle under the influence of drugs or alcohol;

745 4. information about the company's training and testing policies for TNC partners;

746 5. information about the company's standards for TNC partner vehicles; and

747 6. a customer support telephone number and instructions regarding any alternative
748 methods for reporting a complaint.

749 D. A transportation network company shall associate a TNC partner with one or more
750 personal vehicles and shall authorize a TNC partner to transport passengers only in a vehicle that
751 the transportation network company has specifically authorized for the TNC partner. The
752 transportation network company shall arrange transportation solely for previously authorized
753 combinations of TNC partners and TNC partner vehicles. A TNC partner shall not transport
754 passengers except in a TNC partner vehicle that has been authorized by the transportation
755 network company for the TNC partner.

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756 E. A TNC partner shall carry at all times while operating a TNC partner vehicle proof of
757 coverage under each in-force TNC insurance policy and each in-force personal automobile
758 insurance policy covering the vehicle. The TNC partner shall present such proof of insurance
759 upon request to a law enforcement officer, airport owner and operator, official of the Washington
760 Metropolitan Area Transit Commission, or any party involved in an accident that occurs during
761 the operation of a TNC partner vehicle. The transportation network company shall require the
762 TNC partner’s compliance with the provisions of this subsection.

763 F. Prior to a passenger entering a TNC partner vehicle, a transportation network company
764 shall provide through the TNC platform to the person prearranging the ride the name and a
765 photograph of the TNC partner and the license plate number and issuing jurisdiction of the TNC
766 partner vehicle.

767 G. A transportation network company shall provide each of its TNC partners a credential,
768 which may be displayed as part of the TNC platform, that includes the following information:

769 1. the name or logo of the transportation network company;

770 2. the name and a photograph of the TNC partner;

771 3. the identifying number that the transportation network company has issued to the TNC
772 partner; and

773 4. the make, model and license plate number and issuing jurisdiction of each TNC partner
774 vehicle associated with the TNC partner.

775 The TNC partner shall carry the credential at all times during the operation of a TNC partner
776 vehicle, and shall present the credential upon request to law enforcement officers, airport owners
777 and operators, officials of the Washington Metropolitan Area Transit Commission, or a
778 passenger. The transportation network company shall require the TNC partner’s compliance
779 with this subsection.

780 H. A transportation network company and its TNC partner shall make the following
781 information available through the TNC platform at all times during a prearranged ride:

782 1. the name of the transportation network company;

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783 2. the name of the TNC partner and the identifying number that the transportation
784 network company has issued to the TNC partner;

785 3. the license plate number and issuing jurisdiction of the TNC partner vehicle; and

786 4. the location, date, and approximate time that each passenger was or will be picked up.

787 All information required in this subsection shall be made available immediately upon request to
788 representatives of the Department, to law enforcement officers, to officials of the Washington
789 Metropolitan Area Transit Commission, and to airport owners and operators.

790 I. Upon completion of a prearranged ride, a transportation network company shall
791 transmit to the person who prearranged the ride an electronic receipt that includes:

792 1. a map of the route taken;

793 2. the date and the times the trip began and ended;

794 3. the total fare, including the base fare and any additional charges incurred for distance
795 traveled or duration of the prearranged ride;

796 4. the TNC partner's first name and photograph; and

797 5. information identifying the TNC partner vehicle, including the vehicle's make, model,
798 model year, and license plate number and issuing jurisdiction.

799 J. Every transportation network company and TNC partner shall provide services to the
800 public without regard to the geographic location of a passenger's points of departure and
801 destination, and without discrimination on the basis of age, race, sex, disability, or any other
802 basis prohibited by law.

803 No later than July 1, 2016, a TNC platform must allow those prearranging rides to
804 indicate whether a passenger requires a wheelchair-accessible vehicle or a vehicle that is
805 otherwise accessible to individuals with disabilities.

806 A transportation network company shall not impose additional charges for providing
807 services to persons with physical or mental disabilities because of those disabilities.

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808 A TNC partner shall allow a service animal to accompany a passenger on a prearranged
809 ride. The transportation network company shall require compliance with this provision.

810 A TNC partner may refuse to transport a passenger for any reason not prohibited by law,
811 including (i) if the passenger is acting in an unlawful, disorderly, or endangering manner; (ii) if
812 the passenger is unable to care for himself or herself and is not in the charge of a responsible
813 companion; and (iii) if the TNC partner has already committed to providing a ride for another
814 passenger.

815 A TNC partner shall immediately report to the transportation network company any
816 refusal to transport a passenger after accepting a request to transport that passenger.

817 K. No transportation network company or TNC partner shall conduct any operation on
818 the property of or into any airport unless such operation is authorized by the airport owner and
819 operator and is in compliance with the rules and regulations of that airport. The Department may
820 suspend or revoke the certificate of any transportation network company that violates any rule or
821 regulation of an airport owner and operator.

822 L. A TNC partner shall access and utilize a TNC platform in a manner that is consistent
823 with Virginia traffic laws.

824 M. In accordance with § 46.2-812, no TNC partner shall operate a motor vehicle for more
825 than 13 hours in any 24-hour period.

826 **§ 46.2-2099.49. Requirements for TNC partners; mandatory background screening;**
827 **drug and alcohol policy; mandatory disclosures to TNC partners; duty of TNC partners to**
828 **provide updated information to transportation network companies.**

829 A. Before authorizing an individual to act as a TNC partner, a transportation network
830 company shall confirm that the person is at least twenty-one years old and possesses a valid
831 driver's license.

832 B. 1. Before authorizing an individual to act as a TNC partner, and every two years after
833 authorizing an individual to act as a TNC partner, a transportation network company shall obtain
834 a national criminal history record check of that person.

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835 A transportation network company shall not disqualify an individual from acting as a
836 TNC partner on the basis of any result obtained from a criminal history record check until such
837 result has been confirmed with the primary source of the information.

838 2. Before authorizing an individual to act as a TNC partner, a transportation network
839 company shall obtain and review a driving history research report on that person from the
840 individual's state of licensure. The transportation network company shall obtain and review an
841 additional report every six months after authorizing a person to act as a TNC partner, unless the
842 transportation network company participates in a driver record monitoring program approved by
843 the Department with respect to such person.

844 3. Before authorizing an individual to act as a TNC partner, and every two years after
845 authorizing a person to act as a TNC partner, a transportation network company shall verify that
846 the person is not listed in the Virginia Sex Offender and Crimes Against Minors Registry or the
847 U.S. Department of Justice's National Sex Offenders Public Website.

848 C. A transportation network company shall not authorize an individual to act as a TNC
849 partner if that individual:

850 1. is a person for whom registration with the Sex Offender and Crimes Against Minors
851 Registry is required pursuant to Chapter 9 (§ 9.1-900 *et seq.*) of Title 9.1 of the Code of Virginia,
852 or is listed on the U.S. Department of Justice's National Sex Offenders Public Website;

853 2. has ever been convicted of or has ever pleaded guilty or *nolo contendere* to a violent
854 crime as defined in subsection C of § 17.1-805, either under Virginia law or under the
855 comparable laws of any foreign country or any political subdivision thereof, or of the United
856 States or any political subdivision thereof;

857 3. within the preceding seven years has been convicted of or has pleaded guilty or *nolo*
858 *contendere* to any of the following offenses, either under Virginia law or under the comparable
859 laws of any foreign country or any political subdivision thereof, or of the United States or any
860 political subdivision thereof: (i) any felony offense other than those included in subsection C 2;
861 (ii) an offense under §§ 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or (iii) any offense
862 resulting in revocation of a driver's license pursuant to §§ 46.2-389 or 46.2-391; or

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863 4. within the preceding three years has been convicted of or has pleaded guilty or *nolo*
864 *contendere* to any of the following offenses under Virginia law or under the comparable law of
865 any foreign country or any political subdivision thereof, or of the United States or any political
866 subdivision thereof: (i) three or more moving violations; (ii) eluding a law enforcement officer,
867 as described in § 46.2-817; (iii) reckless driving, as described in Article 7 of Chapter 8 of this
868 title; (iv) operating a motor vehicle in violation of § 46.2-301; or (v) refusal to submit to a
869 chemical test to determine the alcohol or drug content of the person’s blood or breath, as
870 described in § 18.2-268.3.

871 D. A transportation network company shall employ a zero-tolerance policy with respect
872 to the use of drugs and alcohol by TNC partners, and shall include a notice concerning the
873 policy on its web site and TNC platform.

874 E. As part of its agreement with TNC partners, a transportation network company shall
875 make the following disclosures in writing to a TNC partner or prospective TNC partner:

876 1. The transportation network company shall disclose the liability insurance coverage and
877 limits of liability that the transportation network company provides while the TNC partner uses a
878 vehicle in connection with the TNC platform, and shall advise the TNC partner that the TNC
879 partner’s personal automobile insurance policy does not provide liability coverage when the
880 TNC partner uses a vehicle in connection with a transportation network company’s TNC
881 platform, unless such policy expressly provides for TNC insurance coverage.

882 2. The transportation network company shall disclose that the TNC partner’s personal
883 automobile insurance policy does not provide collision or comprehensive coverage for damage to
884 the vehicle used by the TNC partner in connection with the TNC platform, and shall advise the
885 TNC partner that the TNC partner’s personal automobile insurance policy does not provide
886 collision or comprehensive coverage for damage to the vehicle when the TNC partner uses a
887 vehicle in connection with a transportation network company’s TNC platform, unless such
888 policy expressly provides for TNC insurance coverage.

889 3. The transportation network company shall disclose the uninsured motorist and
890 underinsured motorist coverage and policy limits provided by the transportation network
891 company while the TNC partner uses a vehicle in connection with the TNC platform, and shall

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892 advise the TNC partner that the TNC partner’s personal automobile insurance policy does not
893 provide uninsured motorist and underinsured motorist coverage when the TNC partner uses a
894 vehicle in connection with a transportation network company’s TNC platform, unless such
895 policy expressly provides for TNC insurance coverage.

896 4. The transportation network company shall include the following statement in its
897 written agreement with the TNC partner: “If the vehicle that you plan to use to transport
898 passengers for our transportation network company has a lien against it, you must notify the
899 lienholder that you will be using the vehicle for transportation services that may violate the terms
900 of your contract with the lienholder.” This disclosure shall be placed prominently in the
901 prospective TNC partner’s agreement, and the prospective TNC partner shall acknowledge the
902 requirement electronically or by signature.

903 F. A TNC partner shall inform each transportation network company that has authorized
904 him or her to act as a TNC partner of any event that may disqualify him or her from continuing
905 to act as a TNC partner, including any of the following: a change in the registration status of the
906 TNC partner vehicle; a change in the status of the TNC partner’s driver’s license; a change in the
907 insurance coverage of the TNC partner vehicle; a motor vehicle moving violation; and a criminal
908 arrest, plea, or conviction.

909 **§ 46.2-2099.50. Requirements for TNC partner vehicles; registration with and**
910 **identification markers issued by Department; identification markers issued by**
911 **transportation network company.**

912 A. A TNC partner vehicle shall:

913 1. be a personal vehicle;

914 2. have a seating capacity of no more than eight persons, including the driver;

915 3. be validly titled and registered in Virginia or in another state;

916 4. not have been issued a certificate of title, either in Virginia or in any other jurisdiction,
917 branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;

918 5. have a valid Virginia safety inspection and carry proof of that inspection in the vehicle;

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919 6. be covered under a TNC insurance policy or policies meeting the requirements of
920 § 46.2-2099.51; and

921 7. be registered with the Department for use as a TNC partner vehicle and display an
922 identification marker issued by the Department as provided in subsection B.

923 No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the
924 requirements of this subsection.

925 B. 1. Upon application by the owner or lessee of a personal vehicle, the Department shall
926 register the vehicle for use as a TNC partner vehicle and shall issue to the applicant an
927 identification marker that identifies the vehicle as having been registered with the Department
928 for use as a TNC partner vehicle. The identification marker and any other proof of the vehicle's
929 registration for use as a TNC partner vehicle shall be carried in or displayed on the vehicle as
930 prescribed by the Department and shall be valid for the period of time prescribed by the
931 Department.

932 The Commissioner shall make TNC partner vehicle registration and identification
933 markers available for personal vehicles registered outside the Commonwealth on the same terms
934 that apply to personal vehicles registered in the Commonwealth.

935 The Commissioner may deny, suspend, or revoke the TNC vehicle registration and
936 identification marker for any of the following reasons: (i) the vehicle is not properly registered;
937 (ii) the vehicle does not carry insurance as required by this section; (iii) the vehicle is sold; or
938 (iv) the vehicle is used by a TNC partner in a manner not authorized by this chapter.

939 2. The annual fee for registering a TNC partner vehicle shall be \$50.

940 If after paying the annual fee for registering a TNC partner vehicle the registrant elects
941 not to use the vehicle as a TNC partner vehicle, the registrant may surrender to the Department
942 the identification marker and any other proof of the vehicle's registration for use as a TNC
943 partner vehicle and request a refund of the fee paid. The Commissioner shall refund to the
944 applicant a proration, in six-month increments, of the total cost of the registration if application
945 for the refund is made when there are six or more months remaining in the registration period.
946 No charge or deduction shall be assessed for any refund made under this subsection.

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947 C. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation
948 network company shall confirm that the vehicle meets the requirements of subsection A, and
949 shall provide each TNC partner with proof of any TNC insurance policy or policies maintained
950 by the transportation network company.

951 For each TNC partner vehicle it authorizes, a transportation network company shall issue
952 to the TNC partner associated with that vehicle an identification marker that identifies the
953 personal vehicle as having been authorized by the transportation network company to be
954 operated as a TNC partner vehicle. The identification marker shall identify the transportation
955 network company with which the vehicle is affiliated and shall be displayed in a manner that
956 complies with Virginia law. The identification marker shall be of such size, shape and color as
957 to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not
958 in motion. The identification marker may take the form of a removable device which meets the
959 identification and visibility requirements of this subsection.

960 A TNC partner shall keep the identification marker issued under this section visible at all
961 times while the vehicle is being operated as a TNC partner vehicle.

962 No person shall operate a vehicle bearing an identification marker issued under this
963 section without the authorization of the transportation network company issuing the
964 identification marker.

965 **§ 46.2-2099.51. TNC insurance.**

966 A. At all times during the operation of a TNC partner vehicle, a transportation network
967 company and TNC partner shall keep in force TNC insurance as provided in this section.

968 B. The following requirements shall apply to TNC insurance from the moment a TNC
969 partner accepts a ride request on a transportation network company's TNC platform until the
970 TNC partner completes the transaction on the TNC platform or until the ride is complete,
971 whichever is later:

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972 1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be
973 primary and the minimum amount of liability coverage for death, bodily injury, and property
974 damage shall be \$1 million.

975 2. TNC insurance shall provide uninsured motorist coverage and underinsured motorist
976 coverage. Such coverage shall apply from the moment a passenger enters a TNC partner vehicle
977 until the passenger exits the vehicle. The policy may also provide such coverage during any other
978 time period, if requested by a TNC partner with regard to insurance maintained by the TNC
979 partner. The minimum amount of uninsured motorist coverage and underinsured motorist
980 coverage for death, bodily injury, and property damage shall be \$1 million.

981 3. The requirements of this subsection may be satisfied by any of the following:

982 (i) TNC insurance maintained by a TNC partner;

983 (ii) TNC insurance maintained by a transportation network company; or

984 (iii) any combination of (i) and (ii).

985 A transportation network company may meet its obligations under this subsection through a
986 policy obtained by a TNC partner under (i) or (iii) only if the transportation network company
987 verifies that the policy is maintained by the TNC partner and is specifically written to cover the
988 TNC partner's use of a vehicle in connection with a transportation network company's TNC
989 platform.

990 4. Insurers providing insurance coverage under this subsection shall have the exclusive
991 duty to defend any liability claim, including any claim against a TNC partner, arising from an
992 accident occurring within the time periods specified in this subsection.

993 C. The following requirements shall apply to TNC insurance (i) from the moment a TNC
994 partner logs on to a transportation network company's TNC platform until the TNC partner
995 accepts a request to transport a passenger, and (ii) from the moment the TNC partner completes
996 the transaction on the TNC platform or the ride is complete, whichever is later, until the TNC
997 partner either accepts another ride request on the TNC platform or logs off the TNC platform:

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998 1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be
999 primary and shall provide liability coverage of at least \$50,000 per person and \$100,000 per
1000 incident for death and bodily injury, and at least \$30,000 for property damage.

1001 2. The requirements for the coverage required by this subsection may be satisfied by any
1002 of the following:

1003 (i) TNC insurance maintained by a TNC partner;

1004 (ii) TNC insurance maintained by a transportation network company that provides
1005 coverage in the event a TNC partner's insurance policy under (i) has ceased to exist or has been
1006 canceled, or the TNC partner does not otherwise maintain TNC insurance; or

1007 (iii) any combination of (i) and (ii).

1008 A transportation network company may meet its obligations under this subsection through a
1009 policy obtained by a TNC partner pursuant to paragraphs (i) or (iii) only if the transportation
1010 network company verifies that the policy is maintained by the TNC partner and is specifically
1011 written to cover the TNC partner's use of a vehicle in connection with a transportation network
1012 company's TNC platform.

1013 3. A transportation network company shall also maintain insurance coverage that
1014 provides excess coverage insuring the transportation network company and the TNC partner in
1015 the amount of at least \$200,000 per occurrence for any liability arising from a TNC partner using
1016 a vehicle in connection with a transportation network company's TNC platform within the time
1017 periods specified in this subsection, which liability exceeds the required coverage limits in
1018 subsection C 1.

1019 4. Insurers providing insurance coverage under this subsection shall have the exclusive
1020 duty to defend any liability claim, including any claim against a TNC partner, arising from an
1021 accident occurring within the time periods specified in this subsection.

1022 D. Coverage under a TNC insurance policy shall not be dependent on a personal
1023 automobile insurance policy first denying a claim nor shall a personal automobile insurance
1024 policy be required to first deny a claim.

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1025 E. In every instance where TNC insurance maintained by a TNC partner to fulfill the
1026 insurance obligations of this section has lapsed or ceased to exist, the transportation network
1027 company shall provide the coverage required by this section beginning with the first dollar of a
1028 claim.

1029 F. This section shall not limit the liability of a transportation network company arising
1030 out of an accident involving a TNC partner in any action for damages against a transportation
1031 network company for an amount above the required insurance coverage.

1032 G. In a claims coverage investigation, a transportation network company and its insurer
1033 shall cooperate with insurers involved in the claims coverage investigation to facilitate the
1034 exchange of information, including the dates and times of any accident involving a TNC partner
1035 and the precise times that the TNC partner logged on and off the transportation network
1036 company's TNC platform.

1037 H. Nothing in this section shall be construed to require a personal automobile insurance
1038 policy to provide primary or excess coverage during the period of time from the moment a TNC
1039 partner logs on to a transportation network company's TNC platform until the TNC partner logs
1040 off the TNC platform or the ride is complete, whichever is later.

1041 I. From the moment a TNC partner logs on to a transportation network company's TNC
1042 platform until the TNC partner logs off the TNC platform or the ride is complete, whichever is
1043 later, all of the following shall apply:

1044 1. Neither the TNC partner's nor the vehicle owner's personal automobile insurance
1045 policy shall provide any coverage to the TNC partner, vehicle owner, or any third party, unless
1046 the policy expressly provides for that coverage during the period of time to which this subsection
1047 is applicable or the policy contains an amendment or endorsement to provide that coverage.

1048 2. Neither the TNC partner's nor the vehicle owner's personal automobile insurance
1049 policy shall have the duty to defend or indemnify the TNC partner's activities in connection with
1050 the transportation network company, unless the policy expressly provides otherwise for the
1051 period of time to which this subdivision is applicable or the policy contains an amendment or
1052 endorsement to provide that coverage.

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1053 J. Notwithstanding any other law, a personal automobile insurer may, in its discretion,
1054 offer an automobile liability insurance policy, or an amendment or endorsement to an existing
1055 policy, that covers a motor vehicle with a seating capacity of eight persons or less, including the
1056 driver, while used in connection with a transportation network company's TNC platform only if
1057 the policy expressly provides for the coverage during the time period specified in subsection I, or
1058 the policy contains an amendment or an endorsement to provide that coverage.

1059 K. No contract, receipt, rule, or regulation shall exempt any transportation network
1060 company from the liability that would exist had no contract been made or entered into and no
1061 such contract, receipt, rule, or regulation for exemption from liability for injury or loss
1062 occasioned by the neglect or misconduct of such transportation network company shall be valid.
1063 The liability referred to in this subsection shall mean the liability imposed by law upon a
1064 transportation network company for any loss, damage, or injury to passengers in its custody and
1065 care as a transportation network company.

1066 L. The Department shall not issue the certificate of fitness required under § 46.2-2099.45
1067 to any transportation network company that has not certified to the Department that every TNC
1068 partner vehicle it has authorized to operate on its TNC platform is covered by an insurance
1069 policy or policies that meet the requirements of this section.

1070 M. Each transportation network company shall keep on file with the Department proof of
1071 an insurance policy or policies in accordance with this section. Such proof shall be in a form
1072 acceptable to the Commissioner. A record of the policy or policies shall remain in the files of
1073 the Department six months after the certificate is canceled for any cause.

1074 N. The Department may suspend a certificate if the certificate holder fails to comply with
1075 the requirements of this section. Any person whose certificate has been suspended pursuant to
1076 this subsection may request a hearing as provided in subsection D of § 46.2-2011.26.

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1077 **§ 46.2-2099.52. Record keeping and reporting requirements for transportation**
1078 **network companies.**

1079 A. Records maintained by a transportation network company shall be adequate to
1080 confirm compliance with subsection C of § 46.2-2099.48 and with §§ 46.2-2099.49 and 46.2-
1081 2099.50 and shall at a minimum include:

1082 1. true and accurate results of each national criminal history record check for each
1083 individual that the transportation network company authorizes to act as a TNC partner;

1084 2. true and accurate results of the driving history research report for each individual that
1085 the transportation network company authorizes to act as a TNC partner;

1086 3. driver's license records of TNC partners, including records associated with
1087 participation in a driver monitoring program;

1088 4. true and accurate results of the sex offender screening for each individual that the
1089 transportation network company authorizes to act as a TNC partner;

1090 5. proof that the transportation network company confirmed each TNC partner's age and
1091 driver's license status;

1092 6. proof that the transportation network company confirmed each TNC partner vehicle
1093 complied with all the requirements enumerated in subsection A of § 46.2-2099.50; and

1094 7. proof of compliance with the notice requirements of subsection C of § 46.2-2099.48
1095 and subsections D and E of § 46.2-2099.49.

1096 A transportation network company shall retain all records required under this subsection
1097 for a period of three years. Such records shall be retained in a manner that permits systematic
1098 retrieval and must be made available on request to the Department in a format acceptable to the
1099 Commissioner.

1100 B. A transportation network company shall maintain the following records and make
1101 them available on request to the Department, a law enforcement officer, an official of the
1102 Washington Metropolitan Area Transit Commission, or an airport owner and operator for the
1103 performance of their official duties:

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1104 1. data regarding TNC partner activity while logged into the TNC platform, including
1105 beginning and ending times and locations of each prearranged ride;

1106 2. records regarding any actions taken against a TNC partner;

1107 3. contracts or agreements between the transportation network company and its TNC
1108 partners;

1109 4. information identifying each TNC partner, including the TNC partner's name, date of
1110 birth, and driver's license number and issuing jurisdiction;

1111 5. information identifying each TNC partner vehicle the transportation network company
1112 has authorized, including the vehicle's make, model, model year, vehicle identification number,
1113 and license plate number and issuing jurisdiction; and

1114 6. summary data regarding the number of TNC partners and TNC partner vehicles.

1115 A transportation network company shall keep all records required under this subsection in
1116 a manner that permits systematic retrieval and, when requested by the Department, shall make
1117 them available in a format acceptable to the Commissioner.

1118 C. Information obtained by the Department, law enforcement officers, officials of the
1119 Washington Metropolitan Area Transit Commission, or airport owners and operators pursuant to
1120 this section shall be considered privileged information, and shall only be used by the
1121 Department, law enforcement officers, officials of the Washington Metropolitan Area Transit
1122 Commission, and airport owners and operators for the performance of their official duties. Such
1123 information shall not be subject to disclosure except on the written request of a representative of
1124 the Department, a law enforcement officer, an official of the Washington Metropolitan Area
1125 Transit Commission, or an airport owner and operator who requires such information for the
1126 performance of official duties.

1127 D. Information obtained by the Department pursuant to subsection A of this section in the
1128 course of performing periodic compliance reviews shall not be subject to disclosure through a
1129 court order. This provision shall not be construed to mean that a person is denied the right to
1130 seek such information directly from a transportation network company.

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1131 E. Except as required under this section, a transportation network company shall not
1132 disclose any information concerning a user of its TNC platform that is included in the definition
1133 of “personal information” in § 2.2-3801 unless:

1134 1. the transportation network company obtains the user’s consent to disclose the personal
1135 information;

1136 2. the disclosure is necessary to comply with a legal obligation; or

1137 3. the disclosure is necessary to protect or defend the terms and conditions for use of the
1138 service or to investigate violations of the terms and conditions.

1139 This limitation regarding disclosure does not apply to the disclosure of aggregated user
1140 data or to information about the user that is not personal information within the meaning of §
1141 2.2-3801.

1142 **2. That the Department of Motor Vehicles shall periodically consult with local government**
1143 **officials to determine whether transportation network companies have had an impact on**
1144 **the availability of wheelchair accessible transportation services. If evidence suggests such**
1145 **an impact the Department shall work collaboratively with appropriate stakeholders to**
1146 **develop recommendations to be submitted to the Chairman of the House Transportation**
1147 **Committee and the Chairman of the Senate Transportation Committee.**

1148 **3. That one year following the effective date of this act the Department of Motor Vehicles**
1149 **shall undertake a review of the fees set forth in § 46.2-2011.5 as amended by this act and in**
1150 **§ 46.2-2099.50 as added by this act, to determine whether those fees adequately cover the**
1151 **Department’s costs of administering the additional responsibilities imposed on the**
1152 **Department under this act. The Department shall report the results of this review to the**
1153 **Chairman of the House Transportation Committee and the Chairman of the Senate**
1154 **Transportation Committee no later than December 1, 2016.**

Appendix B. Letters Charging DMV with Leading the Study

SENATE OF VIRGINIA



R. CREIGH DEEDS
25TH SENATORIAL DISTRICT
ALL OF ALLEGHANY, BATH, HIGHLAND, NELSON,
AND ROCKBRIDGE COUNTIES; ALL OF THE CITIES OF
BUENA VISTA, CHARLOTTESVILLE, COVINGTON, AND
LEXINGTON; AND PART OF ALBEMARLE COUNTY
POST OFFICE BOX 5462
CHARLOTTESVILLE, VIRGINIA 22905

COMMITTEE ASSIGNMENTS:
TRANSPORTATION, CHAIR
FINANCE
GENERAL LAWS AND TECHNOLOGY
PRIVILEGES AND ELECTIONS
RULES

March 6, 2014

Mr. Richard D. Holcomb, Commissioner
Virginia Department of Motor Vehicles
P.O. Box 27412
Richmond, VA 23269

Dear Commissioner Holcomb:

As you know, the Commonwealth has seen a recent increase in the number of transportation technology companies offering service to our citizens. These companies have begun offering new models of service, including ride-sharing arranged through smartphone apps, primarily in the northern Virginia markets. This region of the Commonwealth is densely populated and offers a customer base that is accustomed to the use of for-hire vehicles, is open to the use of innovative technology solutions in their choice of transportation, and is keenly aware of new modes of transportation that may have the potential to reduce lengthy commutes. The varied options being offered by these companies, while innovative, were not envisioned when current transportation laws were written.

The Commonwealth is receptive to new forms and modes of transportation but also recognizes the need to ensure that all companies and individuals wishing to transport people for hire are providing a safe and reliable service. Virginia law provides for the regulation of commercial passenger travel, but does not specifically address all the new types of services offered by transportation technology companies. It is clear that the Commonwealth has a responsibility to ensure that these companies fit within the framework established in Virginia's transportation laws. To that end, I respectfully request that the Department of Motor Vehicles (DMV) conduct a study of these new technology-based business models designed to arrange or provide transportation services.

Mr. Richard D. Holcomb, Commissioner

March 6, 2014

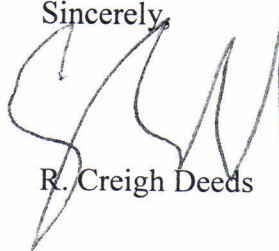
Page Two

In undertaking this study, I request that DMV obtain input from all identified interested parties, including representatives from all segments of the passenger transportation industry, including but not limited to taxi, limousine, charter transportation, and transportation technology companies. The study should involve the insurance industry, the State Corporation Commission's Bureau of Insurance, transportation safety groups, state and local law enforcement, and other agencies and stakeholders you deem appropriate.

I request a thorough examination of the emerging transportation technology models currently in use in the Commonwealth or potentially expanding into Virginia. The review should determine whether current law is sufficient to regulate properly such services or whether the law needs to be updated to address these new transportation models.

Please report back to the Senate Committee on Transportation in December, 2014 with the results of the study. The final report should include recommendations regarding any further actions that should be taken and proposed legislation that may be necessary in order to implement the recommendations. I have the utmost confidence that, as DMV Commissioner, you will make every possible effort to ensure that all companies involved in the transportation of passengers on a for-hire basis operating in Virginia do so in compliance with the provisions of the Code of Virginia. The Commonwealth should take the steps necessary to help Virginia attract new businesses while ensuring that all companies follow the letter and spirit of the law.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Creigh Deeds', written over a printed name.

R. Creigh Deeds



COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND

THOMAS DAVIS RUST
HERNDON TOWN HALL
730 ELDON STREET
HERNDON, VIRGINIA 20170

EIGHTY-SIXTH DISTRICT

January 24, 2014

COMMITTEE ASSIGNMENTS:
TRANSPORTATION (CHAIRMAN)
EDUCATION
COMMERCE AND LABOR
SCIENCE AND TECHNOLOGY

Mr. Richard D. Holcomb
Commissioner
Virginia Department of Motor Vehicles
P.O. Box 27412
2300 West Broad Street
Richmond, VA 23269

Dear Commissioner Holcomb:

As you know, the Commonwealth has recently seen an increase in the number of transportation technology companies offering service to our citizens. These companies have begun offering new models of service, including ride-sharing arranged through smartphone apps, with most focusing on northern Virginia markets. This region of the Commonwealth is densely populated and offers a customer base that is accustomed to the use of for-hire vehicles, is open to the use of innovative technology solutions in their choice of transportation, and is keenly aware of new modes of transportation that may have the potential to reduce lengthy commutes. The range of options being offered by these companies, while innovative, were not envisioned when current transportation laws were written.

The Commonwealth is receptive to new forms and modes of transportation, but also recognizes the need to ensure that all companies and individuals wishing to transport people for hire are providing a safe and reliable service. Virginia law provides for the regulation of commercial passenger travel, but does not specifically address all the new types of services offered by transportation technology companies. It is clear that the Commonwealth has a responsibility to ensure that these companies fit within the framework established in Virginia's transportation laws. To that end, I respectfully request that the Department of Motor Vehicles conduct a study of these new technology-based business models designed to arrange or provide transportation services.

In undertaking this study, I request that the Department of Motor Vehicles obtain input from all identified interested parties, including representatives from all segments of the passenger transportation industry such as but not limited to representatives of the taxi, limousine, and charter transportation industries, as well as representatives from the transportation technology companies. The study should also involve representatives from the insurance industry, the State Corporation Commission's Bureau of Insurance, representatives from transportation safety groups, representatives from state and local law enforcement, and other agencies and stakeholders you deem appropriate.

I request that the study closely examine the transportation technology models currently in use in the Commonwealth or potentially expanding into Virginia and determine whether current law is sufficient to properly regulate such services or whether the law needs to be amended to address these new transportation models.

I request that you report back to the House Committee on Transportation in December, 2014 with the results of the study. As part of the report, please provide recommendations regarding any further actions that should be taken. Also, please include any proposed legislation that may be necessary in order to implement the recommendations. I have the utmost confidence that, as DMV Commissioner, you will make every possible effort to ensure that all companies involved in the transportation of passengers on a for-hire basis operating in Virginia while the study is being undertaken do so in compliance with the existing provisions of the Code of Virginia. The Commonwealth should take the steps necessary to help Virginia attract new businesses while ensuring that all companies follow the letter and spirit of the law.

Sincerely,

A handwritten signature in black ink that reads "THOMAS DAVIS RUST". The signature is written in a cursive style with all caps. The "R" at the end is particularly large and loops back.

Thomas Davis Rust

cc: Vice Chairman Villanueva

Appendix C. Legislation from the 2014 Session of the General Assembly

14103583D

SENATE BILL NO. 531

Offered January 8, 2014

Prefiled January 8, 2014

A BILL to amend and reenact § 46.2-2099.1 of the Code of Virginia, relating to contract passenger carriers.

Patron—Watkins

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-2099.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-2099.1. Operational requirements; penalty.

Contract passenger carriers shall provide service on a prearranged basis only for a minimum of one hour per vehicle trip under a single contract made with one person for an agreed charge for such movement regardless of the number of passengers transported. Contract passenger carriers shall, prior to and at all times when providing compensated service, carry in each motor vehicle a trip sheet, contract order, or wireless text dispatching device identifying the names of the passengers who have arranged for use of the motor vehicle, the date and approximate time of pickup, and the origin and destination. Such trip sheet, contract order, or wireless text dispatching device shall be made available immediately upon request to authorized representatives of the Department, law-enforcement agencies, and airport authorities. Trip sheets, contract orders, or documentation produced by wireless text dispatching devices shall be retained and available for inspection at the carrier's place of business for a period of at least three years. Trip sheets, contract orders, or documentation may be retained (i) in the form of paper records; (ii) by microfilm, microfiche, similar microphotographic process; or (iii) by electronic means. The fact that a contract passenger carrier stations a motor vehicle at an airport, in front of or across the street from a hotel or motel, or within 100 feet of a recognized taxicab stand shall constitute prima facie evidence that the contract passenger carrier is operating in violation of this section, unless the carrier has (i) a completed trip sheet, contract order, or wireless text dispatching device displaying the information required by this section in the vehicle or (ii) a written agreement with an airport authority or hotel or motel owner providing office space devoted to the carrier's business in the airport, hotel, or motel. Any violation of this section shall be punishable as a Class 3 misdemeanor.

INTRODUCED

SB531

14102096D

HOUSE BILL NO. 908

Offered January 8, 2014

Prefiled January 8, 2014

A *BILL to amend and reenact § 46.2-2099.1 of the Code of Virginia, relating to contract passenger carriers.*

Patron—Villanueva

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-2099.1 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-2099.1. Operational requirements; penalty.

Contract passenger carriers shall provide service on a prearranged basis only for a ~~minimum of one-hour per vehicle trip~~ under a single contract made with one person for an agreed charge for such movement regardless of the number of passengers transported. Contract passenger carriers shall, prior to and at all times when providing compensated service, carry in each motor vehicle a trip sheet, contract order, or wireless text dispatching device identifying the names of the passengers who have arranged for use of the motor vehicle, the date and approximate time of pickup, and the origin ~~and destination~~. Such trip sheet, contract order, or wireless text dispatching device shall be made available immediately upon request to authorized representatives of the Department, law-enforcement agencies, and airport authorities. Trip sheets, contract orders, or documentation produced by wireless text dispatching devices shall be retained and available for inspection at the carrier's place of business for a period of at least three years. Trip sheets, contract orders, or documentation may be retained (i) in the form of paper records; (ii) by microfilm, microfiche, similar microphotographic process; or (iii) by electronic means. The fact that a contract passenger carrier stations a motor vehicle at an airport, in front of or across the street from a hotel or motel, or within 100 feet of a recognized taxicab stand shall constitute prima facie evidence that the contract passenger carrier is operating in violation of this section, unless the carrier has (i) a completed trip sheet, contract order, or wireless text dispatching device displaying the information required by this section in the vehicle or (ii) a written agreement with an airport authority or hotel or motel owner providing office space devoted to the carrier's business in the airport, hotel, or motel. Any violation of this section shall be punishable as a Class 3 misdemeanor.

INTRODUCED

HB908

Appendix D. Study Participants

DMV Study Team

Janet Smoot
Project Manager

David Dunston

Rena Hussey

Judy Petersen

Patrick Harrison

Barbara Klotz

Robert White

Joe Hill

Andrew Owens

Craig Whitham

Thomas Penny

Other Participants

John Swanson
Office of Governor Terence R. McAuliffe

Nicholas Donohue
Office of the Secretary of Transportation

Joe Alberti
*Capital Region Airport
Commission*

Angela Bezik
Williams Mullen

Robert Catron
Alcalde & Fay

Chris Arabia
*Department of Rail and Public
Transportation*

B. R. Blevins III
Virginia Association of Counties

Annabel Chang
Lyft

John Ayers
Marks & Harrison

Robert Bradshaw
*Independent Insurance Agents of
Virginia*

Rachelle Chong
Sidecar

John Bailey
State Corporation Commission

Aaron Brand
Arent Fox LLP

Michael Cooper
*Metropolitan Washington
Airport Authority*

Mary Bannister
State Corporation Commission

Lawrence Brenner
*Washington Metropolitan Area
Transit Commission*

Angie de la Barrera
Arlington County

Laura Bateman
City of Hampton

Randall Burdette
Department of Aviation

Thomas Depasquale
Curb

Donald Beatty
State Corporation Commission

Craig Burns
Department of Taxation

Maria Diaz
Access Independence, Inc.

Robert Becker
Nationwide Insurance

Lynwood Butner
Butner Consulting

Julianna Dime
Williams Mullen

Troy Bell
*Capital Region Airport
Commission*

James Campbell
Virginia Association of Counties

Noelle Dominguez
Fairfax County

Terry Bellamy
*Washington Metropolitan Area
Transit Commission*

Patricia Carroll
Arlington County

Doug Douglas
*Virginia Motorcoach
Association*

Bernard Caton
City of Alexandria

Charles Duvall
Lindl Corporation

Hazem El Bagdadi <i>Dulles Airport Taxi</i>	John Jones <i>Virginia Sheriffs' Association</i>	Lieutenant Ronald Maxey <i>Virginia State Police</i>
Craig Feister <i>Federal Motor Carrier Safety Administration</i>	Skip Jones <i>FloranceGordonBrown</i>	Margaret McKeough <i>Metropolitan Washington Airport Authority</i>
Jeff Fisher <i>Dulles Airport Taxi</i>	Anne Leigh Kerr <i>Troutman Sanders Strategies</i>	Karen Michalski <i>Virginia Association of Centers for Independent Living</i>
Eric Fiske <i>Office of the Attorney General</i>	Spencer Kimble <i>Alexandria Yellow Cab</i>	Jennifer Mitchell <i>Department of Rail and Public Transportation</i>
Colonel W. Steven Flaherty <i>Virginia State Police</i>	Dwight Kines <i>Veolia Transportation</i>	William Morrow <i>Washington Metropolitan Area Transit Commission</i>
Gus Fuldner <i>Uber</i>	Charlie King <i>Red Top Cab Company</i>	Ross Muggler <i>Commissioner of Revenue, City of Hampton</i>
Dennis Gallagher <i>Virginia Taxicab Association</i>	Justin Kintz <i>Uber</i>	Edward Mullen <i>ReedSmith LLP</i>
Captain Frank Glick <i>Virginia State Police</i>	Naomi Klaus <i>Metropolitan Washington Airport Authority</i>	Rebecca Nichols <i>State Corporation Commission</i>
Vicki Harris <i>State Farm Insurance Company</i>	Kevin Koziol <i>disAbility Resource Center of the Rappahannock, Inc.</i>	Mitchell Nuckles <i>Commissioner of Revenue, City of Lynchburg</i>
Kelly Hickok <i>Resources for Independent Living, Inc.</i>	J. Christopher LaGow <i>Law Offices of J. Christopher LaGow, Virginia</i>	Joseph Okpaku <i>Lyft</i>
Paul Hicks <i>Fairfax County</i>	Joseph Lala <i>Georgetown Insurance</i>	Dennis Paddeu <i>Rappahannock Area Agency on Aging</i>
William Hodges <i>City of Virginia Beach</i>	Donna Leaman <i>United Services Automobile Association</i>	Jeffrey Palmore <i>ReedSmith LLP</i>
Chief Stephen Holl <i>Metropolitan Washington Airport Authority</i>	A. T. Tom Leary III <i>Henrico County Police Division</i>	Steven Pearson <i>Law Office of Steven W. Pearson PC</i>
Maureen Howell <i>Virginia Association of Centers for Independent Living</i>	Joe Lerch <i>Virginia Municipal League</i>	Tripp Perrin <i>Lindl Corporation</i>
Joseph Hudgins <i>Independent Insurance Agents of Virginia</i>	Jon Liss <i>Virginia Taxi Drivers United</i>	Lieutenant Archie Pollard <i>Fairfax County Police Department</i>
C. C. Hundley <i>Henrico County Police Division</i>	George Lyle <i>State Corporation Commission</i>	John Potter <i>Metropolitan Washington Airport Authority</i>
Katie Johnson <i>State Corporation Commission</i>	S John Massoud <i>Dulles Airport Taxi, Arlington Blue Top Cabs</i>	
Scott Johnson <i>Lindl Corporation</i>	Farouz Massoud <i>Dulles Airport Taxi</i>	

Thomas Rakowski
*Arlington County Police
Department*

Doris Ray
*ENDependence Center of
Northern Virginia*

Jack Rolfe
*Georgetown Insurance
Service, Inc.*

Richard L. Savage
*Eckert Seamans Cherin &
Mellott, LLC*

Dana Schrad
*Virginia Association of
Chiefs of Police*

Curtis Scott
Uber

JoAnne Scott
State Corporation Commission

Ellen Skogsberg
*Loudoun County Disability
Services Board*

Glenn Stafford
Love Limousine

Beth Stevens
Sidecar

Stephen Story
James River Transportation

Kyle Summers
Alexandria Yellow Cab

Judy Swystun
Black & White Cars, Inc.

Sam Tatevosyan
Holland & Knight

Jonathan Trainum
Napoleon Taxi

Richard Van Damme
Richmond International Airport

Paul Walsh
*Superior Executive
Transportation*

Zuhairah Washington
Uber

Robert Werth
Diamond Transportation

Janet Westbrook
Office of the Attorney General

MPO Dwayne Whitehead
*Virginia Beach
Police Department*

Lieutenant Commander Jimmie
Wideman
City of Hampton Police Division

Larry Williams
L W Transportation

Melinda Willis
State Corporation Commission

Jerri Wilson
City of Newport News

Michael Woods
Troutman Sanders Strategies

Steve Yaffee
*Fairfax Area Disability
Services Board*

Lesla Yeatts
City of Hampton

Appendix E. Stakeholder Comments on the Draft Report and Legislation

Smoot, Janet (DMV)

From: Steve Yaffe [sryaffe@msn.com]
Sent: Tuesday, November 04, 2014 10:59 AM
To: Smoot, Janet (DMV)
Subject: Re: TNC Study - Report and Legislation

Thank you for sharing this very thorough proposal. I just have three suggestions for improvements in order of importance.

1. re: section 46.22099.51 TNC Insurance, Paragraphs B, C, H & I (all have the same language): “from the moment the TNC partner completes the transaction on the TNC platform or the ride is complete, whichever is later”. This language doesn’t require that the passenger be deposited in a safe manner. I propose: “from the moment the TNC partner completes the transaction on the TNC platform after the passenger is safely on a sidewalk, pathway or yard, should a sidewalk not exist at the destination”.
2. re: section 46.2-2099.52 Record Keeping and Reporting Requirements: this section needs to include comments received by the TNC from the passenger regarding performance of each trip. DMV needs the ability to review comments on the trip in question as well as comments previously received on a TNC partner to ensure that the TNC is overseeing partner performance with due diligence and investigate complaints.
3. re: section 46.2-2099.48 General Reporting Requirements, Paragraph C-6: “a customer support number and instructions regarding any alternative methods for reporting a complaint”. This is less oversight than required by many localities overseeing taxi services. For example, the Fairfax County Transportation webpage has a link to report taxi comments. I suggest this section be revised to require inclusion of a web-form link to DMV for Virginia consumers to report major concerns. Otherwise, how would DMV know to look into a TNC partner’s performance before an accident occurs?

Sent from Windows Mail

From: [Smoot, Janet \(DMV\)](#)
Sent: Monday, November 3, 2014 1:07 PM
To: [Steve Yaffe](#)

From: Smoot, Janet (DMV)
Sent: Monday, November 03, 2014 3:59 PM
To: 'mhollowell@endependence.org'; 'kkoziol@cildrc.org'; 'dpaddeu@raaa16.org'; 'sryaffee@msn.com'; 'doristr@ecnv.org'; 'mdiaz@accessindependence.org'; 'kmichalski@brilc.org'; 'ellen.skogsberg@gmail.com'; 'hickokk@ril-va.org'
Subject: FW: TNC Study - Report and Legislation

Please see email below. Study report and legislation is enclosed.

From: Smoot, Janet (DMV)
Sent: Monday, November 03, 2014 1:49 PM
To: 'cduvall@lindlcorp.com'; 'vbwa@aol.com'; 'spencer@alexandriayellowcab.com'; 'cking@redtopcab.com'; 'kyle@alexandriayellowcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'rmw5264@aol.com'; 'sjohnmassoud@aol.com'; 'dwight.kines@veoliatransdev.com'; 'hjones@fgb.com'; 'larry@lw-transportation.com';

'sjohnson@hdjn.com'; 'jlbutner@verizon.net'; 'jdime@williamsmullen.com'; 'emullen@reedsmith.com'; 'rachel@side.cr'; 'sam.tatevosyan@hklaw.com'; 'amims@lyft.com.'; 'john.potter@mwa.com'; 'michael.cooper@mwa.com'; 'stephen.holl@mwa.com'; 'naomi.klaus@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'margaret.mckeough@mwa.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@onetransportationsolution.com'; 'paul@getsetgo.us'; 'dan@agofflino.com'; 'wmorrow@wmatc.gov'; 'terry.bellamy@dc.gov'; 'lbrenner@psc.state.md.us'; 'ellen.vancko@maryland.gov'; 'craig.feister@dot.gov'; Glick, Frank (VSP); 'jjones@virginia sheriffs.org'; 'dana@vachiefs.org'; Maxey, Ronald (VSP); 'dwhitehe@vbgov.com'; 'lea@co.henrico.va.us'; 'hun05@co.henrico.va.us'; 'whodges@vbgov.com'; 'Rebecca.Nichols@scc.virginia.gov'; 'melinda.willis@scc.virginia.gov'; 'chris@lagowlobby.com'; 'vicki.harris.qr6v@statefarm.com'; 'rsavage@eckertseamans.com'; 'Anne.Kerr@troutmansanders.com'; 'bobiiav@icloud.com'; 'donna.leaman@usaa.com'; 'george.lyle@scc.virginia.gov'; 'mary.bannister@scc.virginia.gov'; 'john.bailey@scc.virginia.gov'; 'BECKERR3@Nationwide.com'; 'donald.beatty@scc.virginia.gov'; 'joanne.scott@scc.virginia.gov'; 'jlalla@georgetownins.com'; 'katie.johnson@scc.virginia.gov'; 'jack@georgetownins.com'; 'jhudgins@iiv.com'; 'jlerch@vml.org'; 'jcampbell@vaco.org'; 'bblevins@vaco.org'; 'laura@batemanconsulting.net'; 'pcarroll@arlingtonva.us'; 'adelabarrera@arlingtonva.us'; 'noelle.dominguez@fairfaxcounty.gov'; 'jgwilson@nngov.com'; 'catron@alcalde-fay.com'; 'lyeatts@hampton.gov'; 'lea@co.henrico.va.us'; 'hun05@co.henrico.va.us'; 'bernard.caton@alexandriava.gov'; LYNCHBURG LA-SECONDARY (DMV); 'trakow@arlingtonva.us'; 'archie.pollard@fairfaxcounty.gov'; 'paul.hicks@fairfaxcounty.gov'; 'rvandammejr@flyrichmond.com'; 'jwideman@hampton.gov'; 'jliss@virginianewmajority.org'; 'Steve@swpearson.com'; 'thomas.a.depasquale@gmail.com'; Donohue, Nick (GOV); 'efiske@oag.state.va.us'; 'jwestbrook@oag.state.va.us'; Burdette, Randall P. (DOAV); Mitchell, Jennifer (DRPT); Burns, Craig (TAX); Arabia, Christopher (DRPT); Swanson, John (GOV)
Cc: Holcomb, Richard (DMV); Dunston, David (DMV); Goheen, Pam (DMV); Harrison, Patrick (DMV); Hill, Joseph (DMV); Hussey, Rena (DMV); Klotz, Barbara (DMV); Owens, Andrew (DMV); Penny, Thomas (DMV); Petersen, Judy (DMV); White, Robert (DMV); Whitham, Craig (DMV)
Subject: TNC Study - Report and Legislation

Dear Stakeholders,

Enclosed is the TNC study report and legislation that was drafted as a result of all of our months of meetings and everyone's hard work. Thank you for the time you spent in these meetings and for all of your feedback, both during the meetings and in written format as follow-up. This study would not have been possible without all of our interested stakeholders and their valuable input.

After reading the report and legislation you can send to me any comments you or your organization have in regards to the study and these documents. As with all of our legislative studies, you may also submit your comments, or the position of your company/organization, in the form of a letter which will be placed in the appendices of the report.

We have a tight turnaround and will need to receive your comments by noon on Wednesday, November 12th. We will not be able to accept them after this date.

If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com

[Confidentiality Statement](#)

From: Chris Lagow [chris@lagowlobby.com]
Sent: Tuesday, November 04, 2014 5:15 PM
To: Smoot, Janet (DMV)
Cc: Hussey, Rena (DMV)
Subject: FW: DMV Amendments
Attachments: Amendment 1.doc; Amendment 2.doc

Importance: High

Here are two small amendments to the TNC draft legislation for your consideration. The first one gets to the root of the problem on insurance. You will recall that the livery exclusion in the driver's personal policy applies because he is transporting someone "for hire", i.e., he's being paid to provide the service, as opposed to a true ridesharing arrangement. It is the commercial activity that triggers the exclusion.

The second amendment is merely to make the provision consistent with the California Act, which I believe you intended.

All in all, DMV did itself proud with the draft. I know the BOI is going to have some suggestions, to make the draft more consistent with existing VA insurance law, especially as it relates to Uninsured Motorists coverage. Their expertise on such matters is impressive!

Best regards, Chris

From: Kelly Stauffer
Sent: Tuesday, November 04, 2014 4:22 PM
To: Chris Lagow
Subject: DMV Amendments

Kelly Stauffer

Legislative Assistant
Law Offices of J. Christopher LaGow
707 E. Main Street, Suite 1630
Richmond, VA 23219
(804) 225-8570
Kelly@LaGowLobby.com

HOUSE OF DELEGATES
AMENDMENT FORM

NUMBER: _____

Amendment Number 1

COMMITTEE: _____

or

FLOOR AMENDMENT OFFERED BY _____

Title Amendment

(circle)

introduced

Page 21 engrossed lines 745, after prearranged rides

substitute

strike

insert

for compensation

Date: 11/4/14

Date: _____

Agreed to: _____
Committee Clerk

Agreed to: _____
Clerk

Rejected: _____
Clerk

HOUSE OF DELEGATES
AMENDMENT FORM

NUMBER: _____

Amendment Number 2

COMMITTEE: _____

or

FLOOR AMENDMENT OFFERED BY _____

Title Amendment

(circle)

introduced

Page 30 engrossed lines 1050, after company shall disclose
substitute

strike

insert

in writing

Date: 11/4/14

Date: _____

Agreed to: _____
Committee Clerk

Agreed to: _____
Clerk

Rejected: _____
Clerk

From: Chris Lagow [chris@lagowlobby.com]
Sent: Friday, November 07, 2014 10:43 AM
To: Smoot, Janet (DMV); Wells, Matt (DMV)
Cc: Micaela Isler (micaela.isler@pciaa.net)
Subject: 11/3/14 Draft TNC legislation amendments

Importance: High

Three additional amendments have been sent to me for inclusion in the 11/3/14 draft.

In the new section 46.2-2099.51 (G), at the end of line 1185, strike the period and insert:

“and shall provide such information within 5 business days of a written request made by an insurer involved in the claims coverage investigation.”

The duty to cooperate must include a reasonable time limit imposed on the TNC. Any delay in bringing closure to the investigation will be to the detriment of the injured parties.

In the new section 46.2-2099.51 (I)(1), it is strongly recommended that the following phrase be inserted: on line 1194 after the words “vehicle owner,” add the words “the transportation network company”,...

This just makes it clear that the personal policy on the TNC vehicle provides no coverage to the transportation network company in the event of a claim arising during the time period to which the subsection is applicable.

In the new section 46.2-2099.51 (I)(2), the same string of entities needs to be inserted as in (1). On line 1199, after the words “defend or indemnify”, insert the following : “the TNC partner, vehicle owner, the transportation network company, or any third party arising from”...

The duty to defend or indemnify applies to people or entities, as opposed to activities the way it is currently worded. I consider this to have been an oversight in the drafting, but it needs to be amended for the sentence to make sense.

Thank you for your consideration. Please call me if you have any questions.

Chris

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION



8701 GEORGIA AVENUE, SUITE 808
SILVER SPRING, MD 20910-3700
TELEPHONE: (301) 588-5260
FAX: (301) 588-5262
WWW.WMATC.GOV

November 10, 2014

Ms. Janet Smoot
Governmental Affairs
Virginia Department of Motor Vehicles
P.O. Box 27412
Richmond, Virginia 23269

Re: Proposed TNC Legislation

Dear Ms. Smoot:

The staff of the Washington Metropolitan Area Transit Commission, (Commission or WMATC), offers the following comments on the proposed legislation regarding regulation of Transportation Network Companies (TNCs) and TNC drivers (or partners) and vehicles.

Our comments primarily concern the information and records that TNCs and TNC partners must make available to law enforcement officers and airport authorities (and officials). WMATC staff recommends that the proposed legislation expressly require disclosure of such information and records to WMATC officials, as well. Two additional comments are briefly presented at the conclusion of this letter.

I. WMATC's Interest in the Proposed Legislation

WMATC licenses and regulates private sector motor carriers transporting passengers for hire between points in the Washington Metropolitan Area Transit District (Metropolitan District) pursuant to the Washington Metropolitan Area Transit Regulation Compact (Compact).¹ The Commonwealth of Virginia is one of the Compact signatories.²

Under Article I of the Compact, the Metropolitan District includes: "the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties." As it relates to the subject legislation, WMATC's jurisdiction is constrained by Article XI, Section 3(g), of the Compact to for-hire passenger transportation between points in said Virginia jurisdictions, on the one hand, and points in the non-Virginia jurisdictions, on the other.

¹ Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), *amended by* Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

² See 2014 Va. Acts c. 805 (codified at VA. CODE § 33.2-3000 (2014)).

Under WMATC precedent, passenger transportation pursuant to contract is considered transportation for hire. *In re Authority to Perform Contract Operations*, No. 234, WMATC Order No. 1361 (Oct. 16, 1974). Passenger transportation performed under expectation of payment in exchange for providing such service also is considered transportation for hire. *Air Couriers Int'l Ground Transp. Servs., Inc., t/a Passenger Express, v. Madison Limo. Serv., Inc.*, No. FC-90-02, WMATC Order No. 3810 (Aug. 30, 1991).

With respect to airport ground transportation specifically, “Congress, in creating the WMATC and in specifically extending the WMATC's transportation authority to include Dulles Airport, intended that the WMATC regulate the transportation of passengers from the airport.” *Executive Limousine Service, Inc. v. Goldschmidt*, 628 F.2d 115, 121 (D.C. Cir. 1980).

WMATC cannot easily enforce the regulatory mandate laid down by Congress, the Commonwealth, and the other Compact signatories, without full access to basic information on carriers that operate or may be operating in the Metropolitan District, including information on TNCs and TNC partners authorized by the Commonwealth to conduct operations to and from the Virginia airports and other Virginia jurisdictions covered by the Compact.

II. Sections of the Proposed Legislation at Issue

WMATC staff has identified five subsections pertaining to disclosure of information and records to law enforcement officers and airport authorities (and officials). Those subsections are as follows:

Subsections E, G, & H of Section 46.2-2099.48.
Subsections B & C of Section 46.2-2099.52.

Although the term “law enforcement officers” could be construed to include officials of interstate compact entities - like WMATC and the Metropolitan Washington Airports Authority, the operator of Reagan National and Dulles International Airports - mentioning airport authorities and not WMATC opens the door to a contrary interpretation and frustration of WMATC's access to basic information on a large number of carriers operating in the Metropolitan District.

WMATC staff recommends either amending the foregoing subsections to expressly require disclosure of TNC and TNC partner information and records to WMATC or inserting in Section 46.2-2000 a definition of law enforcement officials that expressly encompasses WMATC.

III. Conclusion

To ensure that WMATC has access to the information it needs in carrying out its statutory mandate, staff recommends amending the proposed legislation to expressly require disclosure of TNC and TNC partner information and records to WMATC officials.

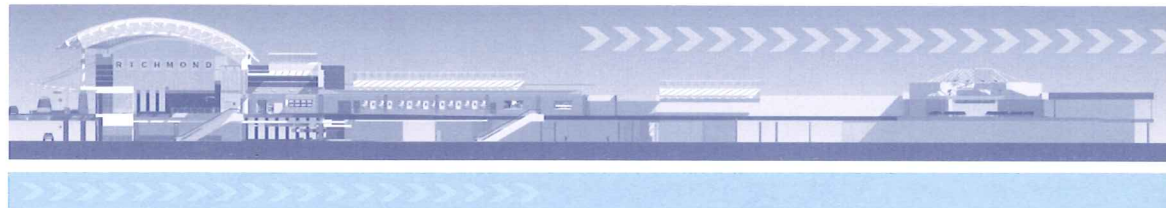
Ms. Janet Smoot
November 10, 2014
Page 3

WMATC also recommends that the Virginia legislature consider: (A) whether a “person” conducting background checks under § 46.2-2099.49.B.1 should be accredited; and (B) whether notification to vehicle lessors mirroring notification to vehicle lienholders should be required under § 46.2-2099.49.E.3.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.
Executive Director



Capital Region Airport Commission | 1 Richard E. Byrd Terminal Drive | Richmond International Airport, Virginia 23250-2400
phone: 804.226.3000 | fax: 804.652.2610 | flyrichmond.com | Now you're going places.

November 11, 2014

Ms. Janet Smoot
Governmental Affairs
Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond, VA 23269

Reference: Comments on the DMV's TNC Study Report and Draft Legislation

Ms. Smoot:

On behalf of the Capital Region Airport Commission and Richmond International Airport (RIC), thank you for inviting our contributions to the Transportation Network Company (TNC) Study Report and the Draft Legislation as circulated on November 3rd.

We commend the Virginia Department of Motor Vehicles (DMV) for conducting an open and thoughtful examination of the issues involved with the arrival of TNCs in Virginia and for developing a recommended regulatory framework to support consumer protection and public safety.

Having reviewed the report and the draft legislation, our comments are limited to three:

1. While airports are recognized by specific inclusion throughout both documents, we would further suggest that the study report include justification for airport-specific language. This could be accomplished by adding - perhaps in Section Two during the discussion of participants – the following paragraph:

Airports have unique challenges and enforcement obligations that warrant protection under these provisions. For example, federal agencies such as the Department of Homeland Security and its agency, the Transportation Security Administration (TSA), impose numerous security requirements on Airports, including curbside security and traffic management protocols, which must be actively managed and satisfied to avoid penalties. Additionally, Airports are obligated, under federal grant assurances, to be self-sustaining through a schedule of charges [49 U.S.C. 47107(a)(13)] and raise revenue from both aeronautical and non-aeronautical users of Airport facilities.

2. In the draft legislation, given that Virginia airports are organized in a variety of manners including authorities, commissions, and departments of local jurisdictions, we would like to propose a language change as follows:

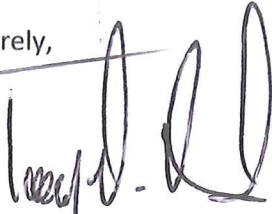
***Lines 980-981:** "No transportation network company or TNC partner shall conduct any operation on the property of or into any **public use** airport unless such operation is authorized by the **public use** airport **and is in compliance with the rules and regulations of that airport.**"*

3. For similar reasons, we suggest language modification in another draft legislation section:

***Line 886:** "[TNCs] shall be subject to exclusive control, supervision and regulation by the Department, except that enforcement of statutes and Department regulations shall be not only by the Department, but also by the Department of State Police, ~~and~~ local law-enforcement agencies, **and public use airports-authorities.**"*

The Commission and Richmond International Airport appreciate the opportunity to include these comments as a matter of record.

Sincerely,



Troy M. Bell
Director- Marketing & Air Service Development

cc: Margaret McKeough, Chief Operating Officer, Metropolitan Washington Airports Authority
Wayne E. Shank, A.A.E., Executive Director, Norfolk Airport Authority
Jon E. Mathiasen, A.A.E., President and CEO, Capital Region Airport Commission

Arlington County Feedback

November 12, 2014

Thank you for the opportunity to comment on the Transportation Network Companies Study Report and Legislation draft. The County recognizes the great effort by DMV staff to incorporate previous stakeholder feedback in this latest draft. Please find Arlington County's questions and comments.

- 5.1 Definitions – “TNC partner” and “TNC partner vehicle,” and “motor carrier”: In pages 12 and 45, these terms are defined in part as being transportation “on an **intrastate basis** in the Commonwealth.” If a trip is interstate (non-intrastate), is it exempt from these regulations, or, is a non-intrastate trip illegal? Does it take into account a trip that may originate in Arlington but ends in Maryland or the District of Columbia (and reverse)?
- Wheelchair requests: Arlington would like to request language similar to Seattle in section 4.3.4, in page 34, where: “TNCs must allow passengers to indicate whether they require a wheelchair-accessible vehicle and connect passengers to those services via a web link, application, or phone number.”
- Impact on Localities: Arlington would like to provide feedback to DMV after a period of between 12 and 24 months to assess the impact of TNCs on our local resources and determine if additional funds are needed.
- DMV data sharing: the County would like to request a process for localities to access aggregate data in order to make policy decisions.
- Obtaining records: In section 5.9, in pages 55 and 56, with reference to VA Code § 46.2-2099.52, it appears as though TNCs will only be required to provide law enforcement with the information listed in §46.2-2099.52(B), and not that listed in §46.2-2099(A). Further, that the information from §46.2-2099(A) cannot be obtained even by court order. Subsection “D” does allow anyone, including law enforcement, only the ability to **request** this information from a TNC, giving the TNC full discretion to deny said request. What is the purpose of not allowing law enforcement the same access to the information in subsection “A” as it does in subsection “B”? Suggesting clearer language in this section that gives law enforcement the same access to the information in subsection “A” as it does to the information in subsection “B”.

From: Chris Lagow [chris@lagowlobby.com]
Sent: Wednesday, November 12, 2014 11:14 AM
To: Smoot, Janet (DMV); Wells, Matt (DMV)
Cc: Micaela Isler (micaela.isler@pciaa.net)
Subject: RE: TNC Study - Report and Legislation

An additional amendment is needed. On line 1132, after the word "shall", insert: " be primary and..."

This will make it clear that just like in the liability insurance section in 46.2-2099.51 (B) (1), the obligation is on the TNC to provide primary coverage for UM and UIM .

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Monday, November 03, 2014 1:49 PM
To: cduvall@lindlcorp.com; vbwa@aol.com; spencer@alexandriayellowcab.com; cking@redtopcab.com; kyle@alexandriayellowcab.com; judyswystun@hotmail.com; tperrin@lindlcorp.com; rmw5264@aol.com; sjohnmassoud@aol.com; dwight.kines@veoliatransdev.com; hjones@fgb.com; larry@lw-transportation.com; sjohnson@hdjn.com; jilbutner@verizon.net; jdime@williamsmullen.com; emullen@reedsmith.com; rachelle@side.cr; sam.tatevosyan@hklaw.com; amims@lyft.com; john.potter@mwaa.com; michael.cooper@mwaa.com; stephen.holl@mwaa.com; naomi.klaus@mwaa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; margaret.mckeough@mwaa.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@onetransportationsolution.com; paul@getsetgo.us; dan@agofflimo.com; wmorrow@wmatc.gov; terry.bellamy@dc.gov; lbrenner@psc.state.md.us; ellen.vancko@maryland.gov; craig.feister@dot.gov; Glick, Frank (VSP); jjones@virginiasheriffs.org; dana@vachiefs.org; Maxey, Ronald (VSP); dwhitehe@vbgov.com; lea@co.henrico.va.us; hun05@co.henrico.va.us; whodges@vbgov.com; Rebecca.Nichols@scc.virginia.gov; melinda.willis@scc.virginia.gov; Chris Lagow; vicki.harris.qr6v@statefarm.com; rsavage@eckertseamans.com; Anne.Kerr@troutmansanders.com; bobiav@icloud.com; donna.leaman@usaa.com; george.lyle@scc.virginia.gov; mary.bannister@scc.virginia.gov; john.bailey@scc.virginia.gov; BECKER3@Nationwide.com; donald.beatty@scc.virginia.gov; joanne.scott@scc.virginia.gov; jlalla@georgetownins.com; katie.johnson@scc.virginia.gov; jack@georgetownins.com; jhudson@iiav.com; jlerch@vml.org; jcampbell@vaco.org; bblevins@vaco.org; laura@batemanconsulting.net; Patricia Carroll; adelabarrera@arlingtonva.us; noelle.dominguez@fairfaxcounty.gov; jgwilson@nngov.com; catron@alcalde-fay.com; lyeatts@hampton.gov; lea@co.henrico.va.us; hun05@co.henrico.va.us; bernard.caton@alexandriava.gov; LYNCHBURG LA-SECONDARY (DMV); trakow@arlingtonva.us; archie.pollard@fairfaxcounty.gov; paul.hicks@fairfaxcounty.gov; rvandammejr@flyrichmond.com; jwideman@hampton.gov; jliss@virginianewmajority.org; Steve@swpearson.com; thomas.a.depasquale@gmail.com; Donohue, Nick (GOV); efiske@oag.state.va.us; jwestbrook@oag.state.va.us; Burdette, Randall P. (DOAV); Mitchell, Jennifer (DRPT); Burns, Craig (TAX); Arabia, Christopher (DRPT); Swanson, John (GOV)
Cc: Holcomb, Richard (DMV); Dunston, David (DMV); Goheen, Pam (DMV); Harrison, Patrick (DMV); Hill, Joseph (DMV); Hussey, Rena (DMV); Klotz, Barbara (DMV); Owens, Andrew (DMV); Penny, Thomas (DMV); Petersen, Judy (DMV); White, Robert (DMV); Whitham, Craig (DMV)
Subject: TNC Study - Report and Legislation

Dear Stakeholders,

Enclosed is the TNC study report and legislation that was drafted as a result of all of our months of meetings and everyone's hard work. Thank you for the time you spent in these meetings and for all of your feedback, both during the meetings and in written format as follow-up. This study would not have been possible without all of our interested stakeholders and their valuable input.

After reading the report and legislation you can send to me any comments you or your organization have in regards to the study and these documents. As with all of our legislative studies, you may also submit your comments, or the position of your company/organization, in the form of a letter which will be placed in the appendices of the report.

We have a tight turnaround and will need to receive your comments by noon on Wednesday, November 12th. We will not be able to accept them after this date.

If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
[Confidentiality Statement](#)

From: Chris Lagow [chris@lagowlobby.com]
Sent: Wednesday, November 12, 2014 11:26 AM
To: Smoot, Janet (DMV); Wells, Matt (DMV)
Cc: Micaela Isler (micaela.isler@pciaa.net)
Subject: FW: TNC Study - Report and Legislation
Attachments: Draft Legislation - 11-03-2014.pdf; Study Report - 11-03-14.pdf

Importance: High

Additional Comments:

In the app on period, I do not see where there is any requirement that UM/UIM coverage be provided to the TNC partner. Under title 38.2, an admitted carrier must provide UM/UIM coverage in an amount at least equal to the liability coverage, which the named insured can reject and opt for a lesser amount of the UM/UIM coverage. Remember that the personal carrier of the owner/operator/TNC partner provides no liability coverage in the TNC activity time frames. Also, as of now at least, the TNC's are getting their coverage through a surplus lines carrier, which is not regulated under the Insurance Code and consequently is not similarly required to offer UM/UIM limits equal to the liability limits. In the future, admitted market carriers might provide commercial or personal lines auto liability policies to the TNC's, but that is not available to the best of my knowledge at present. If this statute does not affirmatively require the TNC to provide UM/UIM coverage in the app on time frame, it would be naïve to believe that it will be offered voluntarily by the TNC's.

You have a similar problem with Comp /Collision coverage. If the partner has a single car accident, runs into another vehicle or hits a lamp pole, this coverage is there to repair the vehicle and protects any lienholder that has a security interest in the vehicle. As a condition of the auto loan, this insurance must be maintained in favor of the lienholder. If the borrower drives for the TNC and thereby loses his coverage, the lender will force place coverage to protect themselves, at great expense to the TNC partner. Due to the livery exclusion, this coverage will not come from the personal policy of the partner or owner of the vehicle being used for TNC activity.

Unless you mandate in the proposed statute that these coverages be provided in all relevant time frames, you are going to create ambiguity and a gap in coverage where none is intended, to the detriment of the lender in one instance and to the TNC partner in another. Chris

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Monday, November 03, 2014 1:49 PM
To: cduvall@lindlcorp.com; ybwa@aol.com; spencer@alexandriayellowcab.com; cking@redtopcab.com; kyle@alexandriayellowcab.com; judywystun@hotmail.com; tperrin@lindlcorp.com; rmw5264@aol.com; sjohnmassoud@aol.com; dwight.kines@veoliatransdev.com; hjones@fgb.com; larry@lw-transportation.com; sjohnson@hdjn.com; jlbutter@verizon.net; jdime@williamsmullen.com; emullen@reedsmith.com; rachelle@side.cr; sam.tatevosyan@hklaw.com; amims@lyft.com; john.potter@mwa.com; michael.cooper@mwa.com; stephen.holl@mwa.com; naomi.klaus@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; margaret.mckeough@mwa.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@onetransportationsolution.com; paul@getsetgo.us; dan@agofflimo.com; wmorrow@wmatc.gov; terry.bellamy@dc.gov; lbrenner@psc.state.md.us; ellen.vancko@maryland.gov; craig.feister@dot.gov; Glick, Frank (VSP); jjones@virginia sheriffs.org; dana@vachiefs.org; Maxey, Ronald (VSP); dwhitehe@vbgov.com; lea@co.henrico.va.us; hun05@co.henrico.va.us; whodges@vbgov.com; Rebecca.Nichols@scc.virginia.gov; melinda.willis@scc.virginia.gov; Chris Lagow; vicki.harris.qr6v@statefarm.com; rsavage@eckertseamans.com; Anne.Kerr@troutmansanders.com; bobiav@icloud.com; donna.leaman@usaa.com; george.lyle@scc.virginia.gov; mary.bannister@scc.virginia.gov; john.bailey@scc.virginia.gov; BECKERR3@Nationwide.com; donald.beatty@scc.virginia.gov; joanne.scott@scc.virginia.gov; jlalla@georgetownins.com; katie.johnson@scc.virginia.gov; jack@georgetownins.com; jhudgins@iiav.com; jlerch@vml.org; jcampbell@vaco.org; bblevins@vaco.org;

laura@batemanconsulting.net; Patricia Carroll; adelabarrera@arlingtonva.us; noelle.dominguez@fairfaxcounty.gov; jgwilson@nngov.com; catron@alcalde-fay.com; lyeatts@hampton.gov; lea@co.henrico.va.us; hun05@co.henrico.va.us; bernard.caton@alexandriava.gov; LYNCHBURG LA-SECONDARY (DMV); trakow@arlingtonva.us; archie.pollard@fairfaxcounty.gov; paul.hicks@fairfaxcounty.gov; rvandammejr@flyrichmond.com; jwideman@hampton.gov; jliss@virginianewmajority.org; Steve@swpearson.com; thomas.a.depasquale@gmail.com; Donohue, Nick (GOV); efiske@oag.state.va.us; jwestbrook@oag.state.va.us; Burdette, Randall P. (DOAV); Mitchell, Jennifer (DRPT); Burns, Craig (TAX); Arabia, Christopher (DRPT); Swanson, John (GOV)
Cc: Holcomb, Richard (DMV); Dunston, David (DMV); Goheen, Pam (DMV); Harrison, Patrick (DMV); Hill, Joseph (DMV); Hussey, Rena (DMV); Klotz, Barbara (DMV); Owens, Andrew (DMV); Penny, Thomas (DMV); Petersen, Judy (DMV); White, Robert (DMV); Whitham, Craig (DMV)
Subject: TNC Study - Report and Legislation

Dear Stakeholders,

Enclosed is the TNC study report and legislation that was drafted as a result of all of our months of meetings and everyone's hard work. Thank you for the time you spent in these meetings and for all of your feedback, both during the meetings and in written format as follow-up. This study would not have been possible without all of our interested stakeholders and their valuable input.

After reading the report and legislation you can send to me any comments you or your organization have in regards to the study and these documents. As with all of our legislative studies, you may also submit your comments, or the position of your company/organization, in the form of a letter which will be placed in the appendices of the report.

We have a tight turnaround and will need to receive your comments by noon on Wednesday, November 12th. We will not be able to accept them after this date.

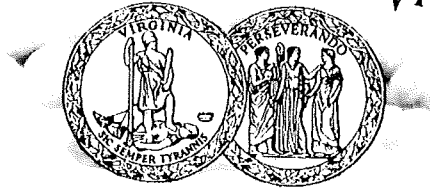
If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
[Confidentiality Statement](#)

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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



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November 12, 2014

VIA EMAIL

Ms. Janet Smoot
Director of Legislative Studies
Department of Motor Vehicles
2300 West Broad Street, Room 510
Richmond, Virginia 23269
janet.smoot@dmv.virginia.gov

Dear Ms. Smoot:

Thank you for the opportunity to provide comments on DMV's draft legislative proposal dated November 3, 2014, relating to transportation network companies. Our comments, which are limited to technical comments, are as follows:

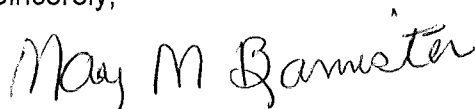
- On line 736 in the definition of TNC insurance, we would suggest that the words "motor vehicle" be inserted before the words "liability insurance policy" in order to make it clear that the policy covering liabilities arising from a TNC partner's use of a vehicle in connection with a transportation network company's TNC platform is a motor vehicle liability insurance policy rather than any other type of liability policy such as a general liability insurance policy.
- On line 1053, we would suggest inserting the word "liability" before the word "coverage" in order to differentiate this disclosure notice from the disclosure notice contained in the next subsection pertaining to comprehensive and collision coverage.
- On lines 1058 through 1060, we would suggest that the language beginning after the word "vehicle" be modified to read as follows: "...when the TNC partner uses the vehicle in connection with a transportation network company's TNC platform, unless such policy expressly provides for TNC insurance coverage." This change would make the disclosure language in this subsection consistent with the disclosure language found on lines 1054 and 1055.
- On lines 1132 through 1134, we would suggest that the two sentences be deleted so that the provision reads as follows: "2. TNC insurance shall also provide for uninsured motorist coverage and underinsured motorist coverage. The minimum amount of uninsured motorist coverage and underinsured motorist coverage for death, bodily injury, and property damage shall be \$1 million." This will make the provision in subparagraph 2 consistent with the language in subparagraph 1, which both fall under subsection B which states that the requirements apply to TNC insurance "from the moment a TNC partner accepts a ride request on a transportation network company's TNC platform until the TNC partner completes the transaction on the TNC platform or until the ride is complete, whichever is later." If DMV wishes to include a provision under subsection B that makes it clear that TNC insurance may also provide coverage during any other time period if requested by a TNC

partner with regard to insurance maintained by the TNC partner, we would suggest that such a provision be included as a separate subparagraph so that such a provision would be applicable to both liability coverage as well as uninsured and underinsured motorist coverage.

- On lines 1153 through 1155, unlike subsection B, there is no requirement in subsection C that the TNC insurer provide uninsured motorist coverage and underinsured motorist coverage when the driver is logged onto the TNC network but has not accepted a request to transport a passenger. Furthermore, there is no requirement in the proposed legislation that a notice be provided to the TNC Partner by the TNC insurer that the TNC insurance policy does not provide UM/UIM coverage during this period.
- On lines 1189 and 1191, the draft legislation uses the language "or the passenger exits the vehicle" rather than the language found on lines 1128 and 1151 which states "or when the ride is complete." To avoid confusion, we suggest that the language be consistent and that the phrase "when the ride is complete" may be more definitive than the phrase "or when the passenger exits the vehicle."
- On lines 1197 and 1202, we would suggest that the language be amended to say "for which a separately stated premium *may be* charged" rather than "for which a separately stated premium is charged" in order to be consistent with the language found on line 1209. This makes it clear that charging a separate premium for the endorsement is permissible.
- Please note that there is no requirement in the TNC insurance policy for physical damage coverage on the driver's vehicle. Lienholders require such coverage in motor vehicle loans. While the TNC partner may have this coverage in his personal automobile policy, such coverage would become unavailable during the time the TNC partner is logged onto the TNC network due to the livery exclusion. A lack of such coverage in the TNC policy could cause lienholders to force place coverage, which is very expensive.

Please let us know if you have any questions regarding these comments. Thank you.

Sincerely,



Mary M. Bannister
Deputy Commissioner
Property and Casualty Division
(804) 371-9826



548 MARKET ST. #68514
SAN FRANCISCO, CA
94104

November 12, 2014

Janet Smoot
Project Manager
2300 West Broad Street
Richmond, Virginia 23269

Dear Ms. Smoot:

Thank you for the opportunity to provide comments on the TNC study report and draft legislation (Article 15). I appreciate the Virginia DMV's leadership on this issue and respectfully submit the following feedback on behalf of Lyft and thousands of Lyft users in Virginia.

Insurance

Section 46.2-2099.51(C)(1) requires that a TNC provide primary insurance coverage when a TNC partner is logged into the digital application but is not matched with a passenger. This level of coverage is inappropriate given that there is nothing inherently commercial about having the Lyft application open on a personal phone. The app provides drivers with access to information but there is no obligation to act on it. Unlike taxis, who must drive to find fares, the flexible nature of the Lyft platform allows casual drivers to blend personal activities with Lyft engagements. A Lyft driver may choose to monitor the mobile app while in their home, seated in a restaurant or while walking across town.

By requiring TNCs to provide primary coverage when the app is on but no commercial activity is taking place, Virginia will discourage the insurance industry from developing new products for this platform, which will limit consumer choice. It will also create a moral hazard as consumers turn away from sufficient personal coverage and come to rely on TNCs for insurance needs. Finally, requiring Lyft to provide primary insurance coverage during this time period could raise insurance costs by up to 500% and discourage new entrants into the Virginia market because only the most well-funded companies can shoulder this extensive cost.

We are equally concerned about Section 46.2-2099.51(C)(2), which requires TNCs to provide \$200,000 in excess coverage in addition to the primary insurance coverage when a TNC partner is logged into the digital application but is not matched with a passenger. In practice, this requirement triples the amount of coverage a TNC must carry when a driver is not even ridesharing. This provision will further discourage new insurance products from coming to the marketplace because the TNC is ultimately responsible for all insurance costs.



548 MARKET ST. #68514
SAN FRANCISCO, CA
94104

Fingerprinting

Section § 46.2-2099.49(B)(1) requires TNC partners applicants to submit to a criminal history check through fingerprinting if the identify is not verified in person. However, Lyft has a criminal background check process that is superior to fingerprinting, while state fingerprinting records are often inaccurate. For example, 16 states reported a backlog of unprocessed or partially processed fingerprint cards in a recent DOT study¹ and recent audit in Pennsylvania showed that several counties failed to obtain fingerprints for 40% of arrested suspects.²

In contrast, SterlingBackcheck, Lyft's background check provider that is used by more than 25% of Fortune 100 companies and 20,000 organizations worldwide, performs a progressive series of checks. If an applicant fails any one of these checks, they are rejected and no further tests are run. These checks include a social security number trace to obtain aliases, address history, etc., a Department of Justice Sex Offender Database search, an enhanced nationwide search of over 1,300 different databases in all 50 states, including arrest and conviction records, department of correct "most wanted" lists, county and circuit court records and county sex offender registries, and a federal criminal record check. This process for screening the criminal history of TNC partner applicants is more efficient and thorough than fingerprinting, and it should be the only process required to screen TNC partners.

Vehicle Registration and Identification Markers

We are concerned about Section § 46.2-2099.50 (B)(1), which requires each TNC partner to register his/her vehicle. This public vehicle registry contains proprietary information about drivers participating on the Lyft platform that could be utilized by Lyft's competitors. We would prefer for any registry to be managed by a private, third-party partner that is paid for by the TNC.

Lyft appreciates DMV's recognition that any identification marker should be removable to reflect the dual use of a TNC vehicle for ridesharing and personal use. Rideshare vehicles are not commercial vehicles. They are private vehicles that spend a fraction of time providing ridesharing services. Permanent markers can cause confusion for law enforcement at places like the airport, where a security officer might see the identifying marker and cite the driver for stopping in a non-commercial area, even though the driver is now operating his vehicle for private use. Instead of a state-issued identification marker, we suggest allowing the TNC to

¹ US Department of Justice, Bureau of Justice Statistics. "Survey of State Criminal History Information Systems, 2012"

² Benzing, J. "Pennsylvania police fail to fingerprint thousands of suspected criminals." PublicSource.org, Jun 29, 2014



548 MARKET ST. #68514
SAN FRANCISCO, CA
94104

issue their own removable placard to identify a TNC vehicle when it is being operated for ridesharing purposes.

Administrative Fees

In addition to the \$50/vehicle registration requirement, the Virginia DMV report states that Virginia will also collect a \$70,000 application fee from every TNC. This substantial cost requirement was not fully discussed during months of discussions with TNC stakeholders, and we respectfully request more information about how the administrative needs were calculated to develop this figure and how these fees compare to those required of new entrants in the traditional for-hire industry.

Reporting Requirements

While we appreciate the provisions included in the draft legislation to clarify that requested information is intended for official use by government officials, Lyft is still concerned that any information provided to state officials could be accessed by the public. Because of the competitive nature of ridesharing platforms, we are very uncomfortable with provisions that require TNCs to turn over information about TNC partners or driving patterns in the state. We suggest explicating limiting disclosure of this information to response to a court order or investigation of a TNC user complaint.

Thank you for the opportunity to provide this feedback. We look forward to working with Virginia DMV and other stakeholders to advance a regulatory framework for TNCs in Virginia.

Sincerely,

A handwritten signature in black ink that reads "April L. Mims".

April Mims
Manager, Public Policy



November 12, 2014

Ms. Janet Smoot
Virginia Department of Motor Vehicles
P.O. Box 27412
Richmond, VA 23269

Re: Transportation Network Company – Draft Legislation

Dear Ms. Smoot:

Thank you very much for your transmission to representatives of the Metropolitan Washington Airports Authority (Airports Authority) the Transportation Network Company (TNC) study report and draft legislation developed to address new commercial ground transportation services offered by TNCs. As you know, the Airports Authority has followed with great interest the Virginia Department of Motor Vehicles (DMV) study of services offered by TNCs and on September 8 and 19, 2014, the Airports Authority submitted comments on the DMV's "Transportation Network Company Study – Revised Framework" (Revised Framework), in anticipation of the development of draft legislation to be recommended for consideration by the Virginia General Assembly during its 2015 legislative session. In addition, on September 12, on behalf of the Airports Authority, I attended the meeting of TNC stakeholders that the Department hosted in Richmond. The Airports Authority appreciates the opportunity to have commented on the Revised Framework and to have participated in several earlier stakeholder meetings, and also for the opportunity to clarify some aspects of the draft legislation with representatives of the DMV's legal staff.

In our letter comments dated September 19, we suggested, among other things, that legislative language be developed to underscore the unique issues presented at airports. More specifically, we suggested the addition of language in the TNC Framework "to recognize the unique issues that Transportation Network Companies present for airports and for the management of airport ground transportation systems, and of the need for airports to be able to address these issues outside of this framework." We also offered legislative language which we are very pleased to see that you incorporated in Section 46.2-2099.48.K. We note, however, that you revised the specific language that we recommended, which read:

“No TNC shall conduct any operations on the property of an airport, or enter the property of an airport for the purpose of conducting any operations thereon, unless the TNC has been authorized to conduct such operations by the airport operator.”

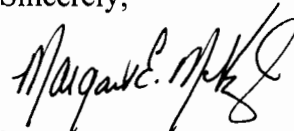
We believe that the words “airport authority” which you have substituted for “airport operator” may not cover all airports in the state, since there are differing governance structures for the various airport operators in the Commonwealth of Virginia. Thus, we would recommend that the term “airport operator” be substituted for “airport authority” in that provision. We further recommend the addition of the following sentence at the end of that Section in order to encourage compliance with requirements imposed on TNC’s and their partners by airport operators: **The Department may suspend or revoke the license of any TNC that violates any rules or regulations of an airport operators.**

We further recommend the addition of the boldface language within Section 46.2-2099.46 of the draft legislation, in order to recognize the ability of airport operators to enforce the statutes and Department Regulations imposed on TNC companies and partners under these new statutory provisions. The current provision states as follows, and the language we propose has been inserted in boldface type:

“Except as otherwise provided in this chapter, every Transportation Network Company, TNC partner, and TNC partner vehicle shall be subject to exclusive control, supervision and regulation by the Department, except that enforcement of statutes and Department Regulations shall be not only by the Department, but also by the Department of State Police, local law-enforcement agencies, **and law-enforcement departments of airport operators.** Nothing in this section shall be construed as authorizing the adoption of local ordinances providing for local regulation of transportation network companies, TNC partners, or TNC partner vehicles.”

If you have any questions regarding the above, please feel free to call me at (703) 417-8610. And, again, let me convey the Airports Authority’s appreciation for the opportunity to have participated in the department’s study of TNCs and to express our appreciation to you and the team in addressing the unique issues these businesses present for airports and airport ground transportation operations.

Sincerely,



Margaret E. McKeough
Executive Vice President
and Chief Operating Officer

From: Smoot, Janet (DMV)
Sent: Wednesday, November 12, 2014 12:11 PM
To: Dunston, David (DMV); Goheen, Pam (DMV); Harrison, Patrick (DMV); Hill, Joseph (DMV); Hussey, Rena (DMV); Klotz, Barbara (DMV); Owens, Andrew (DMV); Penny, Thomas (DMV); Petersen, Judy (DMV); White, Robert (DMV); Whitham, Craig (DMV)
Subject: FW: TNC study - report and legislation
Attachments: Draft Legislation - 11-03-2014.pdf; Napoleon Taxi- RVA Taxi Industry; Response to proposed TNC Draft Legislation.pdf

From: Jonathan Trainum [<mailto:jstrainum@napoleontaxi.com>]
Sent: Wednesday, November 12, 2014 12:09 PM
To: Smoot, Janet (DMV)
Subject: Re: TNC study - report and legislation

Ms. Smoot,

Thank you for the opportunity to comment on the draft recommendations from DMV. We commend you for looking to transportation industry leaders to lend guidance during this process.

We understand that you are on a tight schedule, thus we have formatted our suggestions so that they can easily be referenced to the original document. Attached you will find an Adobe document with a line reference to each concern or recommendation that our organization had. If any of the contents within are unclear, or if you would like more details on any of our concerns, please contact me by email or by calling my cell, 804-402-2520 I look forward to being included in all future correspondences as well.

Have a wonderful afternoon!

On Mon, Nov 3, 2014 at 3:30 PM, Smoot, Janet (DMV) <janet.smoot@dmv.virginia.gov> wrote:
Although not participating in our TNC study to date, each of you requested a copy of our study report and legislation. This went out to stakeholders this afternoon. Please feel free to comment. We are on a tight timeframe and have requested any stakeholder comment by noon on November 12th. Our report is due to the Chairs of the Transportation Committees by December 1st.

Thank you for your interest in this study. Feel free to contact me if you have any questions.

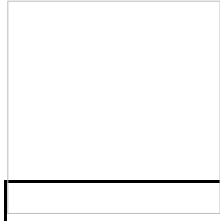
Janet Smoot

Virginia DMV | Governmental Affairs | [\(804\) 367-2479](tel:8043672479) | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
[Confidentiality Statement](#)

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Warm Regards,

Jonathan S. Trainum ; President



**611 Wickham St
Richmond, VA 23222
(C) 804.402.2520
(P) 804.354.8294
(F) 804.359.8294**

Referencing the Study Report:

- Where was the information gathered that led to the assumption that “5” TNC’s and 5900 vehicles would be operating in the 1st year? From whom was the data collected and how were the assumptions made? Currently, there are only two (2) TNC’s that are showing interest in Virginia operation (Lyft and Uber). In order to project coverage of the Commonwealth’s additional financial burden, completely unrealistic assumptions were made, without justification.
- Initial costs are over \$600,000. Recurring costs are \$310,000 per year, with only \$3,000 being contributed by each TNC, \$50 per vehicle. According to initial (highly presumptive) assumptions, DMV’s financial burden will be covered by registering TNC’s. What about the residual economic effect?
- TNC fees will not cover residual salaries for the additional three (3) DMV employees.
- ***Our proposed Solution: Allow extension of the TNC “TOA” until a time where existing providers are able to operate the same “desired” service, or until TNCs are willing to comply with existing Common Carrier regulations. There is no need to incur the cost of hastily proposing, debating and enacting new (permanent) legislation; simply because a new transportation provider is not willing to comply with existing/ applicable Virginia Laws. This will also give providers and infrastructures (that have historically complied with the Commonwealth) an opportunity to “catch up” and offer the same services.***

Lines 490- 492

- For customer safety and transparency of the TNC provider’s activities to the general public/ law enforcement etc., TNC partners should not be exempt from obtaining specially designated plates. **(Taxicabs are required to obtain such plates, as shown on line 492)**

Line 523- 528

- Annual license fees are only allowed in 5 counties; clearly excluding any offset ability for a locality that loses local revenue due to TNCs’ existence. How will localities within Virginia recoup lost tax revenue or pay for the added burden of enforcement (that is being dictated by DMV)?

Line 538- 546

- Forbids localities from imposing additional fees on these providers to offset locality-incurred expenses. This is doing a disservice to the communities across the state.

Line 622- 627

- TNC’s are (by current definition) a Common Carrier in Virginia. They refuse to submit to legislation that already defines the method in which they operate. What will incentivize them to comply with this new, costly legislation that effectively classifies them the same as “Non-Emergency Medical Transportation Carriers”?

Line 651- 658

- Who issues ID markers? There seems to be confusion within the proposed legislation as to whether “DMV” or the “TNC” itself will be issuing the “Identification Markers”.

Line 699-700

- Is this suggesting there be two classes of personal vehicles? By definition TNC partner vehicles are in a class of their own and should not be categorized with ‘personal vehicles’.

Line 704

- For consumer protection, this should read “safely exits the TNC partner vehicle”.

Line 738

- TNC partner should be required to use “TNC partner vehicles” (which should not be referred to as “Personal Vehicles” when in use).

Line 859

- Who will be tasked with retrieval when a TNC Provider does not surrender property/tags/ id. Are local police departments’ resources going to be tapped for regulation/ enforcement? Localities are not receiving (or allowed to collect) any revenue from TNCs.

Line 883

- What justification is there for excluding localities (across the Commonwealth) from imposing additional regulations according to community need?

Line 901

- We would like to object to the use of the term “fare”, as it is meant to describe a “for-hire” activity.

Line 906

- Would like it to read “Equation used to calculate fares”. “Method” is a very broad term.

Line 929

- Why is the actual TNC not required to keep proof of insurance for TNC partners on file (and provide to law enforcement when requested)?

Line 933

- Describes a streamlined “Taxicab Permit” process. The statement “may be displayed” infers that the code is suggesting, not mandating the display of credentials.

Line 941

- Should be clearly displayed (in plain view of passengers) during operation; ***As required by Taxi drivers.***

Line 964

- What methods would be used to report non-compliance? And to whom?

Line 967

- Wheelchair accessibility requirements can (and should) be enacted by 07/2015.

Line 974

- Who will enforce and receive community/ clients complaints regarding non-compliance? Validation and enforcement procedures should be outlined, to show the comprehensive cost of this legislation to VA tax payers.

Line 999

- What credentials does a person need to have? What qualifies them to be selected to perform a background check?

Line 1003

- There need to be concrete deadlines for confirming information. TNC should incur the burden of verifying information, PRIOR to allowing the TNC provider to continue operating.
- Regardless of what criminal check says, (if the TNC fails to follow up with the primary source of information) the potentially dangerous provider is mandated the ability to remain in service.

Line 1012

- Check records annually to screen for sex offender status rather than every 2 years. There should be criminal penalties for providers who fail to report a conviction within 15 days of case disposition.

Line 1066

- When DMV receives \$50 registration fee for partner vehicle, it should be required for DMV to notify the lien holder at that time.

Line 1075

- I would like to request taxi regulations to reflect the same level of restriction.

Line 1122

- There should be strict criminal penalties for counterfeiting (or using counterfeit) id markers.

Line 1222

- Definition of what proof is acceptable to commissioner should be made.

Line 1224

- The ability to "Revoke" should be added to that section.

Line 1264

- Will this information be protected under FOIA?

Line 1296

- Extensive research should be done before enacting new legislation! Permanent changes for temporary problems WILL clog existing legislation to the point of absurdity.

U B E R

November 12, 2014

Ms. Janet Smoot
Legal and Government Affairs
Commonwealth of Virginia
Department of Motor Vehicles
2300 West Broad Street
P.O. Box 27415
Richmond, VA 23269

Dear Ms. Smoot:

I am writing on behalf of Uber Technologies, Inc. (“Uber”) and Rasier LLC (“Rasier”) (collectively, “the companies”) to comment on the Department of Motor Vehicles’ (the “Department”) report and proposed legislation on transportation network companies (“TNCs”) in Virginia.¹ As an initial matter, we thank the Department and its staff for its hard work on this report and proposed legislation. We also thank the other stakeholders who participated in the Department’s study for the generally positive and constructive tone throughout the stakeholder process.

While the companies agree with many aspects of the Department’s proposed legislation, we are concerned that certain proposals would impose burdensome requirements on TNCs and TNC partners² with little or no concomitant public safety benefit. These requirements could have a real impact on Virginians, limiting their access to the affordable, reliable, and safe transportation that TNC partners provide and to the great job opportunities available through TNC services.

This letter provides the companies’ comments on the most problematic aspects of the Department’s proposed legislation and our proposals for how these shortcomings might be addressed.³ As further described below, many of our comments and suggestions are based on laws that other jurisdictions have enacted in recent months as well as the Department’s August 6,

¹ Rasier is a subsidiary of Uber. Rasier is the entity that is currently operating as a TNC in the Commonwealth under the temporary operating authority that the Department issued Rasier on August 6, 2014. Uber is a technology company that does not provide transportation services.

² Consistent with the Department’s draft legislation, we will refer to TNC drivers as “TNC partners” in this letter.

³ We have not addressed every issue in the Department’s report and proposed legislation. We have attempted to be succinct and focused in our comments and the omission of a specific issue does not necessarily indicate that we agree with the Department’s approach to that issue.

2014 temporary operating authority that currently governs TNC services in the Commonwealth.⁴ In addition, we expect to have more technical edits and refinements to offer as the legislative process moves forward.

I. Licensing of TNCs

Under the Department's proposal, TNCs would have to complete a fitness examination, which would include a criminal background check and driver record check of company principals, and a review of the company's records with the Better Business Bureau, the Consumer Protection section of the Office of the Attorney General, and DMV Motor Carriers Services.⁵

While we are amenable to the general concept of a TNC licensure process, the Department's proposal is problematic in several ways. First, there does not appear to be any compelling policy reason why TNC company principals—individuals who will likely never operate a for-hire vehicle in the Commonwealth—must undergo a background check and driver record check or why this information should factor into a TNC's ability to operate in the Commonwealth.⁶ We urge that this unnecessary requirement be removed.

Second, we are concerned with the Department's proposal to include in its fitness evaluation potentially unverified complaints lodged with third parties. For example, the Department proposes to evaluate complaints lodged with the Better Business Bureau even though this non-governmental entity does not always conduct an independent investigation into the veracity of a customer's complaint. We urge that the Department's proposal to include unverified complaints in the TNC fitness criteria be rejected.

II. Screening of Drivers

The Department proposes that, before allowing an individual to act as a TNC partner, a TNC must review the individual's criminal history and driving record and screen any prospective TNC partner who has committed certain crimes or driving offenses.⁷ We agree that the Commonwealth should require TNCs to screen TNC partners. Indeed, Rasier already employs a driver screening process that far exceeds the screening requirements for other for-hire drivers in the Commonwealth, including "contract passenger carriers" (black car and limo drivers) *who go through no state-required background check whatsoever*. The companies, however, have a number of concerns about the details of the Department's background check requirement, the "barrier offenses" section of the legislation, and driving record check requirements.

⁴ A copy of the Department's temporary operating authority is attached hereto as Attachment A.

⁵ Department of Motor Vehicles, *Transportation Network Companies in Virginia* (hereinafter "Department Report") at 45-46.

⁶ To the extent such individuals were to undertake TNC activities, they would not be allowed to accept ride requests from a TNC platform unless they complete the robust vetting process that would be required under the Department's proposed legislation.

⁷ Department Report at 46-48.

a. Background Check Process

The Department's proposed legislation would require a TNC to review a TNC driver's criminal history under the following terms:

- In cases where the TNC meets the individual in person and verifies the individual's identity, the TNC may select a vendor to perform the criminal history record check.
- In cases where the TNC does not meet the individual in person, the TNC must use a LiveScan fingerprint-based criminal history record check performed by a law enforcement agency.⁸

The Department proposes this dual approach based on law enforcement's recommendation that a prospective TNC driver should have to obtain a LiveScan fingerprint-based criminal history background check if a TNC does not meet the prospective driver in person "as a means of verifying identity and ensuring that criminal history records were matched to the correct individual."⁹

We appreciate and share law enforcement's concerns with identity fraud and Raiser works proactively every day to reduce and eliminate the risk of such fraud. Requiring a LiveScan fingerprint-based background check when a TNC does not meet a prospective TNC partner, however, is not a better or fail-safe way of eliminating this risk. A determined individual always could find ways to manipulate or circumvent an in-person fingerprint-check system. For instance, because the results of the LiveScan process are sent directly to an applicant, such applicant could conceivably alter such documents to remove any negative information before sharing them with Raiser. Moreover, the Department's proposal could actually undermine public safety as the LiveScan fingerprint check process is, in many ways, inferior to the background checks conducted by reliable third party companies. LiveScan's database depends on the frequent and manual submission of information by hundreds, if not thousands, of state and county courthouses across the country, which means that the database will undoubtedly contain errors and omissions. In contrast, Raiser's background check company, Hirease, does not depend on the discretionary decisions of courthouses to contribute to a database, but instead visits actual locations where records are maintained, including (when necessary) *the courthouse in any county where the applicant has resided in the past seven years*. Further, LiveScan's reliance on the input of local courthouses means that the database is subject to many different rules on fingerprinting. As a result, LiveScan cannot reliably capture information on pending criminal charges or certain crimes when finger-printing is not required in the local jurisdiction, e.g. DUI misdemeanors.

Although the LiveScan check is less thorough and accurate, it often takes *at least several weeks longer than Hirease's background check*. This means Virginians who wish to work as TNC drivers, and who otherwise would pass the Hirease background check, will be forced to wait several additional weeks to begin earning income. This unnecessary lag time will also

⁸ Proposed § 46.2-2099.49(B).

⁹ Department Report at 46.

decrease the number of TNC partners on the road, which would result in less affordable and reliable service for Virginians. For these reasons, *almost no other jurisdiction in the country requires TNC partners to submit to a LiveScan fingerprint-based background check.*

We urge the General Assembly to reject the Department's proposed approach to background checks. Rather than imposing a burdensome and unnecessary in-person fingerprint requirement on certain classes of Virginia drivers, we recommend that the reliability of TNC driver background checks be ensured by requiring TNCs to use background check companies accredited by the National Association of Professional Background Screeners, the nation's leading accreditation service. For many of the same policy reasons described above, the Council of the District of Columbia recently opted to incorporate a similar requirement into its recently-passed TNC bill rather than a LiveScan background check requirement (as one councilmember had proposed).¹⁰ It is particularly noteworthy that the D.C. Council decided against a LiveScan background check even though the District of Columbia, unlike Virginia, requires all other for-hire drivers to undergo a LiveScan fingerprint check.

b. Barrier Offenses Section

The Department's draft bill requires TNCs to disqualify prospective TNC partners if they have committed certain barrier crimes.¹¹ It is Rasier's practice to disqualify prospective partners who have committed serious crimes, and we strongly support codifying stringent screening requirements, including codifying barrier offenses that will disqualify a prospective driver.

But we believe the Department's proposal goes too far in one regard. Specifically, under the Department's proposed legislation, a TNC must disqualify a prospective driver if the driver has *ever been* convicted of certain offenses, such as fraud or a felony in which a motor vehicle was used.¹² There are few occupations for which a criminal conviction will forever bar an individual who has paid their debt to society from working in the field. And it is not at all apparent why TNC partner should be one of those occupations. Notably, it does not appear that a criminal conviction will forever prohibit an individual from working as a taxi driver in most of the localities where TNCs currently operate. Nor will it prohibit an individual from working as a contract passenger carrier in Virginia. Indeed, as noted above, *contract passenger carriers are not required to undergo a background check or screening process at all before they can begin operating in the Commonwealth.*

¹⁰ Vehicle-for-hire Innovation Act, Bill 20-0753 § 26 (approved October 28, 2014), attached hereto as Attachment B. The Council approved the Act by a vote of 12-1. The bill is currently awaiting Mayor Gray's signature.

¹¹ Proposed § 46.22099.49(C).

¹² *Id.*

The Department's proposal is also inconsistent with the laws of most of the other jurisdictions that have addressed this issue.¹³ Indeed, it is inconsistent with the Department's temporary operating authority that currently governs TNC services in the Commonwealth.¹⁴ We recommend revising the legislation to align Virginia's regulatory framework with these jurisdictions and the Department's temporary operating authority and impose a seven-year look-back period on all barrier offenses listed in the Department's proposed legislation.

c. Driver History Record Checks

The Department's proposed legislation would require TNCs to conduct a driver history research report before authorizing a TNC partner and every six months thereafter.¹⁵ The Department's proposal for bi-annual driver history record checks is excessive and inconsistent with Virginia's requirements for all other for-hire drivers.¹⁶ For example, Arlington County conducts a review of a taxi operator's driver record each time the driver seeks to renew his or her license, which occurs on either an annual or biennial basis.¹⁷ And it does not appear that the Commonwealth ever checks a contract passenger carrier's driving record. We urge that the legislation be modified to provide for an annual review instead of a bi-annual review. This modification would better align this requirement with comparable requirements for other for-hire drivers and better balance safety with reasonable regulatory requirements.

III. Requirements for Vehicles

a. Registration and Decal Requirements

The Department's proposed legislation would require TNC partners to register their vehicles with the Department before the partner can begin using the vehicle for TNC purposes.¹⁸ Although the Department's draft legislation does not clearly delineate the registration process, it appears the Department is contemplating a process whereby it will issue a unique TNC decal to a potential TNC partner vehicle when the owner or lessee registers the vehicle with the Department, which any TNC partner using the vehicle to provide TNC services must carry in the vehicle when providing such services.¹⁹ According to the Department, the registration and decal requirements "provide a way for law enforcement to verify that a vehicle has been authorized to operate as a TNC partner vehicle, and for DMV to collect and disclose information for local

¹³ See Department Report at 21 (discussing the California Public Utilities Commission's regulations); *id.* at 38 (discussing Chicago's ordinance); see also District of Columbia Vehicle-for-hire Innovation Act, Bill 20-0753 § 26(c).

¹⁴ Department's Temporary Operating Authority §2(e).

¹⁵ Proposed § 46.2-2099.49(B)(2).

¹⁶ See *id.*

¹⁷ See Arlington Cnty. Code § 25.1-9.

¹⁸ Proposed § 46.2-2099.50(A)(6).

¹⁹ Proposed § 46.2-2099.50(B)(1).

governments and insurance companies, consistent with the provisions of § 46.2-208 of the *Code of Virginia*.²⁰

We believe the Department's proposed registration/decal requirements are unnecessary because the legislation contains other mechanisms that address the Department's primary policy objective for its registration/decal proposal—enabling law enforcement officers to easily identify a TNC partner when they stop a vehicle. Specifically, the Department's proposed legislation requires TNC partners to display a TNC-issued identification marker identifying their associated TNC when they are engaged in TNC services.²¹ This identification marker—which must be readily visible from a distance of 50 feet—will clearly identify the vehicle as one operated on a TNC platform and, therefore, as one that the relevant TNC has verified meets statutory requirements.

In addition, the Department's proposed legislation requires TNCs to provide drivers with a credential that must be displayed as part of the TNC platform and must include identifying information about the partner, TNC, and the partner's vehicle.²² The Department's proposal further requires a TNC partner to make this credential available to law enforcement upon request.²³ These two requirements will enable law enforcement to easily identify a TNC partner, thereby accounting for the Department's stated policy rationale for the decal requirement.²⁴

The Department's registration/decal proposal would thus impose an unnecessary regulatory step for TNC partners where none is needed, adding to the cost of doing business in the Commonwealth and deterring qualified individuals from working as TNC partners. This is especially problematic in the context of TNCs because many TNC partners work part-time and are thus even more likely to be deterred by unnecessary and burdensome regulatory hurdles. Additionally, the vehicle registration requirement is unduly burdensome to TNCs because it could result in the Department obtaining an inventory of vehicles that associate with a TNC. This list is highly-sensitive, proprietary business information that TNCs should not be required to

²⁰ Department Report at 48.

²¹ Proposed § 46.2-2099.50(C).

²² Proposed § 46.2-2099.48(G).

²³ *Id.*

²⁴ The Department's proposed company-issued identification marker requirement and credential requirement also address the Department's other policy objective, providing an "indicator for the consumer that a vehicle is a legitimate TNC partner vehicle." Department Report at 48. As for the Department's statement that it must "collect and disclose information for local governments and insurance companies, consistent with the provisions of § 46.2-208 of the *Code of Virginia*" (Report at 48), the Department does not explain what information it must share with local governments or insurance companies or why local governments and insurance companies cannot obtain this information directly from TNCs or TNC partners. It is therefore not possible to comment on this purported justification for the Department's registration requirement.

turn over to the government, especially when the Department can accomplish its policy objective through far less burdensome means. We urge that this proposal be rejected.²⁵

b. Vehicle Safety Inspections

The Department's proposed legislation would require all TNC vehicles operating in the Commonwealth to have a valid Virginia safety inspection.²⁶ We urge that the legislation be modified to incorporate language from the Department's August 2014 temporary operating authority that allows TNC partners to obtain safety inspections in neighboring jurisdictions.

There are a number of Maryland and Washington, D.C.-based TNC partners who perform trips in the Commonwealth, and those partners typically obtain safety inspections in their own jurisdictions. The Department's temporary operating authority accounts for this issue by allowing a TNC partner to operate in Virginia if their vehicle has a valid safety inspection or has been inspected by "an inspection station in another jurisdiction that meets the standards of inspection stations approved by the Virginia State Police."²⁷ This approach ensures that TNC vehicles operating in Virginia are safe while also making it easier for TNC partners to operate in Northern Virginia. We also recommend this approach because neighboring jurisdictions could view the Department's proposal as a protectionist measure and respond in kind by enacting their own protectionist measures, which would ultimately harm Virginia-based TNC partners.

IV. Insurance Requirements

The Department's August 2014 temporary operating authority requires TNCs to maintain insurance policies that provide at least \$1,000,000 of coverage whenever a TNC partner utilizes a TNC's platform during the course of an accepted TNC trip. Rasier proactively provided this level of coverage as soon as it started operating in the Commonwealth even though it far exceeds the Department's insurance coverage requirements for any other for-hire carrier in the

²⁵ Citing concerns about unnecessary bureaucracy, the Council of the District of Columbia recently rejected the District Taxicab Commission's recommendation that the District require TNC drivers to obtain a government-issued decal during its consideration of legislation authorizing TNC services in the District. *See* Vehicle-for-hire Innovation Act. Instead, the Council required TNCs to register their trade dress with the District of Columbia Taxicab Commission, so that enforcement officers would know which trade dress was registered with each TNC.

²⁶ Proposed § 46.2-2099.50(A)(4); *see also* Department Report at 48.

²⁷ *See* August 6, 2014 Temporary Operating Authority § 2(m).

Commonwealth.²⁸

Despite Rasier's efforts to voluntarily provide automobile liability insurance coverage that is patently better than the coverage required of its competitors, the Department has proposed insurance requirements that go well beyond what is required by an overwhelming majority of the states and municipalities that have addressed this issue. In fact, the proposed legislation goes beyond what the Department deemed appropriate when it issued its temporary operating authority a mere three months ago.

The Department's primary rationale for proposing more onerous requirements is that California's legislature recently imposed similar requirements.²⁹ The Department's proposal ignores the more balanced approach that Colorado enacted months before California and failed to even consider that the Council of the District of Columbia (which shares a border with Virginia) recently approved a bill that follows the Colorado approach. The California legislature's decision to enact onerous insurance requirements on TNCs does not provide a compelling reason for the Commonwealth to follow suit especially when a majority of other jurisdictions and municipalities—including Colorado, the District of Columbia, Chicago, Minneapolis, Cincinnati, Houston, Austin, Baton Rouge, Tulsa, and Columbus—have moved in the opposite direction by enacting insurance schemes more in line with the balanced, pro-innovation laws Virginians typically favor.

²⁸ The following chart lists the insurance requirements of major localities in the Commonwealth:

Virginia Municipal Tax Bodily Injury Insurance Requirements		
Municipality	Coverage Required	Municipal Code Section
Chesapeake	\$125,000 CSL	Section 82-29
Charlottesville	\$125,000 CSL	Chapter 32
Harrisonburg	\$125,000 CSL	Section 14-1-4
Lynchburg	\$125,000 CSL	Section 37-68
Newport News	\$125,000 CSL	Section 41-43
Portsmouth	\$125,000 CSL	Section 37-28
Suffolk	\$50,000/\$100,000	Section 94-68
Virginia Beach	\$100,000/\$300,000	Section 36-69
Hampton	\$100,000/\$300,000	Section 38-18
Norfolk	\$125,000/\$300,000	Section 34.1-8
Alexandria	\$425,000 CSL	Section 9-12-16

²⁹ See Department Report at 49.

We urge Virginia policymakers to recognize that many of the Department's proposed insurance requirements would drive up the costs of TNC services for Virginians, in turn making Virginia a less competitive market for innovative, job-creating services. Instead of following California, which regularly ranks amongst the least business friendly markets in the United States, Virginia should seek a more balanced approach consistent with its tradition of promoting a healthy regulatory environment for innovative businesses. The following proposals are the most problematic and we strongly urge that they be rejected.

a. \$200,000 Excess Coverage Requirement

The Department's proposed legislation would require TNCs or TNC partners to maintain primary liability coverage of at least \$1 million whenever a TNC partner is engaged in a ride (the period when a driver accepts a trip request until he or she drops off the passenger).³⁰ At all other times when a TNC partner is logged into a TNC's app, the partner or the TNC must maintain primary liability coverage of at least \$50,000 per person for bodily injury, \$100,000 per incident for bodily injury, and \$30,000 for property damage.³¹ In addition to the \$50,000/\$100,000/\$30,000 requirement that apply during this "app on phase," the Department's proposal would require TNCs to maintain excess liability coverage of at least \$200,000.³²

The Department's proposed excess coverage requirement is bad policy for several reasons. First, during the app on phase (the period when excess coverage is required), TNC partners are not engaged in commercial activity, as they have not committed to transport any passenger nor are they entitled to any compensation at this phase. The commercial activity begins when a partner accepts a trip request (at which point a TNC's \$1 million insurance policy is in place). Just as the Commonwealth does not mandate that a pizza shop maintain excess liability coverage for a pizza delivery person when the delivery person is not on the job, the Commonwealth should not mandate that TNCs maintain expensive and unnecessary commercial coverage when TNC partners are not engaged in commercial activities.

Second, because excess liability coverage is nonstandard coverage and thus difficult to obtain, this requirement would make it difficult for start-up TNCs to enter Virginia's TNC market. This, in turn, would place Virginia at a competitive disadvantage in this dynamic field, especially since Virginia's neighboring jurisdiction, Washington, D.C., has not imposed this burdensome regulatory requirement on TNCs.

Third, the Department's proposed coverage requirement for TNCs during the app on phase—\$50,000 per person for bodily injury, \$100,000 per incident for bodily injury, and \$30,000 for property damage—already far exceeds the coverage requirements for any other passenger automobile in Virginia, which are \$25,000 per person for bodily injury, \$50,000 per

³⁰ Proposed § 46.2-2099.51(B); *see also* Department Report at 49.

³¹ Proposed § 46.2-2099.51(C)(1).

³² Proposed § 46.2-2099.51(C)(2).

incident for bodily injury, and \$20,000 for property damage.³³ There appears to be no basis for imposing these higher primarily liability coverage requirements on TNC partners *when TNC partners are not carrying passengers in their vehicles*. Given that TNC partners' baseline coverage will already double the amount of coverage that other comparably-situated Virginia drivers must carry, TNC partners should not be required to carry *an additional \$200,000* of coverage.

The Department's report articulates two justifications for its excess liability proposal, neither of which outweighs the substantial harm this requirement would cause. First, the Department points out that California imposed this requirement on TNCs.³⁴ Again, the California legislature's decision to impose a costly and unnecessary regulatory requirement on TNCs is not a compelling reason for the Commonwealth to follow suit. Second, the Department cites a 2012 United States Department of Transportation ("USDOT") study that purportedly "provided preliminary support for increasing minimum insurance requirements from their current levels."³⁵ But the USDOT study primarily assessed the insurance levels for large commercial trucks and busses, not passenger carriers (USDOT's regulatory term for for-hire vehicles).³⁶ Further, the study actually undermines the Department's rationale for its excess liability proposal as it found that the average crash claim for passenger carriers was only \$13,306.³⁷ Because this amount is well within the coverage requirements that would be required under the Department's proposed legislation (\$50,000/\$100,000/\$30,000), there is no need for Virginia to require TNCs to obtain unnecessary excess liability policies of at least \$200,000.

b. Uninsured/Underinsured Coverage Requirements

The Department's proposal would require TNCs or TNC partners to carry uninsured/underinsured motorist coverage of at least \$1 million when a TNC partner is engaged in a trip.³⁸ This proposed amount far exceeds the uninsured/underinsured coverage requirements for all motor vehicles insured in Virginia, including traditional for-hire carriers (\$25,000 per person/\$50,000 for all persons for accident/\$20,000 for property damage).³⁹ TNC partners and

³³ See Va. Code § 46.2-472.

³⁴ Department Report at 49.

³⁵ Department Report at 50 (citing USDOT, Federal Motor Carrier Safety Administration, *Financial Responsibility Requirements for Commercial Motor Vehicles*, FMCSA-RRA-12-045 (2012)).

³⁶ See USDOT Study at xi ("Recently, there has been interest in determining whether the current mandated levels continue to accomplish these goals and whether victims of *truck- and bus-related* crashes are adequately compensated (emphasis added)).

³⁷ *Id.* at 81.

³⁸ Proposed § 46.2-2099.51(B)(2).

³⁹ See Va. Code § 38.2-2206 (setting forth uninsured/underinsured coverage requirements for all drivers). There are no separate minimum uninsured/underinsured coverage requirements for for-hire motor carriers. Va. Code § 46.2-2053.

traditional for-hire carriers undertake the same basic activity, transporting passengers in a motor vehicle. Accordingly, the risk presented by these individuals is similar, and there is no sound policy reason to burden TNC partners with insurance obligations that far exceed the obligations imposed upon traditional carriers. Indeed, if anything, the risks associated with TNC activities are less because many TNC partners undertake TNC activities on a part-time basis and are therefore on the road less than their full-time commercial counterparts.

We urge that the legislation be modified to align the uninsured/underinsured coverage requirements with the existing coverage requirements for all other for-hire drivers in the Commonwealth. This could be accomplished with a simple cross-reference to Virginia's existing uninsured/underinsured statutory requirements.⁴⁰

c. Statutory Reformation of TNC Partners' Insurance Contracts and Disclaimer Requirements

Under Virginia law, all individuals who operate automobiles must carry a personal automobile insurance policy. These policies may or may not cover TNC activities. Like any other insurance coverage question, the driver's coverage in this circumstance will depend on the specific terms and exclusions of the policy and, if a dispute arises between an insurer and a driver over the scope of coverage, the parties can resolve the dispute through negotiation, arbitration, or judicial review. And like any other insurance coverage issue, insurance companies can clearly define each party's duties and obligations as it relates to coverage for TNC activities by drafting policies that clearly include or exclude this type of activity.

The Department is proposing that the Commonwealth insert itself into private contractual relationships between insurers and Virginia residents by codifying the following language:

Neither the TNC partner's nor the vehicle owner's personal automobile insurance policy shall provide any coverage to the TNC partner, vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this subsection is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.⁴¹

This proposed language would statutorily reform any insurance contract for personal automobile insurance between an insurer and an insured in which an insurer is impliedly obligated under a policy's broad coverage section to cover a TNC partner when the partner is logged into a TNC platform (but not on a "prearranged trip"). In effect, it would retroactively limit certain TNC partners' coverage under their personal automobile insurance contracts.

⁴⁰ Alternatively, uninsured/underinsured requirements could remain unaddressed in this legislation as TNC partners would be subject to the existing statutory uninsured/underinsured requirements that apply to all drivers.

⁴¹ Proposed § 46.2-2099.51(I)(1).

The Department's proposal is inconsistent with long-standing contract interpretation principles which counsel that ambiguities in contracts must be construed against insurers and in favor of insureds, and should be rejected for that reason alone. Moreover, the Department's proposal would insert the Commonwealth into private contractual issues that are best left to individual citizens and private businesses to resolve. For example, if an insurer wishes to amend a policy that is silent on TNC coverage to make clear that the policy will not cover this activity, the insurer can, of course, renegotiate its contract with an insured. There is no sound policy reason for the Commonwealth to interfere with these sorts of private financial relationships.

The Department is also proposing to require TNCs to advise TNC partners in writing that "the TNC partner's personal automobile insurance policy *does not* provide coverage when the TNC partner uses a vehicle in connection with a transportation network company's TNC platform, unless such policy expressly provides for TNC insurance coverage."⁴² If the Department's proposal to statutorily reform personal auto insurance contracts is rejected, this proposed disclaimer language must also be rejected because it may not be accurate in every instance that a personal policy does not cover TNC activities (again, this would depend on the specific terms of the policy).⁴³

d. Duty to Defend Requirement

The Department's proposed legislation would impose upon TNCs' insurers the "exclusive duty to defend any liability claim, including any claim against a TNC partner" arising from an accident that occurs when a TNC driver is logged into the app.⁴⁴ This proposal is unnecessary because: (1) any policy that provides the required coverage under the proposed legislation would already contain a duty to defend; and (2) existing Virginia law requires a coverage determination to be made promptly,⁴⁵ and accidents involving multiple policies are common and regularly resolved in accordance with existing Virginia law.

This proposal is also problematic because it would have the effect of removing the duty to defend from liability insurance policies that provide coverage beyond the amounts required under the proposed legislation. Moreover, during the app on period, a TNC partner is not exclusively tied to one TNC; instead, TNC partners are independent contractors who can drive when they want and use whatever TNC platform, or combination of platforms, they wish to use. For example, a TNC partner could have the Lyft and Sidecar apps open and two policies could have an obligation to provide a defense as a result. Imposing a statutory requirement that one policy is exclusive would be confusing, impractical, and potentially limit the availability of defenses for TNC partners.

⁴² Proposed § 46.2-2099.49(E)(1) (emphasis added).

⁴³ We could be amenable to a provision requiring TNCs to advise TNC partners that their personal policies *may not* provide coverage and that they should consult their personal insurers with any questions about the scope of their coverage.

⁴⁴ Proposed § 46.2-2099.51(C)(3).

⁴⁵ See Va. Code § 38.2-510(5) (requiring insurer to "affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed").

For these reasons, the Department's proposed duty to defend requirement should be rejected.

V. Operational Requirements and Restrictions for TNCs

The Department's proposed legislation contains a series of anti-discrimination protections for individuals who use TNC services. While we generally agree with these proposals, we suggest that one aspect of the Department's proposed legislation in this area be clarified. Specifically, section 46.2-2099.48(J) of the Department's proposed legislation provides:

No transportation network company or TNC platform shall authorize a TNC partner to refuse a passenger unless (i) the passenger is acting in an unlawful, disorderly, or endangering manner; (ii) the passenger is unable to care for himself or herself and is not in the charge of a responsible companion; or (iii) the TNC partner has already committed to providing a ride for another passenger.

If enacted as proposed, this language could be interpreted to require a TNC partner to accept a passenger's trip request in all instances except for the narrow carve-outs in this proposed section. This would be inconsistent with current industry practice in which TNC partners typically have the option to decline a trip request as long as they are not denying the request for a discriminatory reason. For example, a TNC partner may decide that he or she does not wish to accept a trip request from a particular passenger because the passenger's account indicates they acted in a disorderly manner during past trips. Or a TNC partner may decide that the passenger's pick-up location is too far away and he or she would prefer to wait for a trip request from a passenger at a closer location. The Department's proposal would preclude TNC partners from making these types of benign decisions, effectively restricting these independent business owners from running their businesses as they wish.

A number of other jurisdictions have included language similar to section 46.2-2099.48(J) in their TNC laws.⁴⁶ These jurisdictions have done so to clarify that *it is not discrimination* for a TNC partner to refuse a passenger for the reasons listed in section 46.2-2099.48(J). The Department's draft bill inverts this language, making a ride refusal an act of discrimination unless the partner refused the ride for one of the reasons listed in section 46.2-2099.48(J).

We urge that the legislation be revised as follows:

A TNC partner may refuse a passenger for a non-discriminatory reason, including: (i) the passenger is acting in an unlawful, disorderly, or endangering manner; (ii) the passenger is unable to care for himself or herself and is not in the charge of a responsible companion; or (iii) the TNC partner has already committed to providing a ride for another passenger.

⁴⁶ See District of Columbia Vehicle-for-hire Innovation Act § 25(10)(B); Colo. Rev. Stat. § 40-10.1-605(6)(a).

VI. TNC Record Keeping and Reporting Requirements

Under the Department's proposed legislation, TNCs would be required to maintain certain records about TNC partners, such as background checks and driver's license information, for three years.⁴⁷ And under the proposed legislation, these records "must be made available on request to the Department."⁴⁸

The Department's proposal would give the Department broad authority to audit TNCs under any circumstances and in any manner the Department desires. Granting the Department such broad, undefined audit authority could leave TNCs vulnerable to unreasonable and onerous record requests with virtually no recourse. It could also require TNCs to produce very sensitive commercial information with no guarantee that the confidentiality of such information will be safeguarded. We urge policymakers to craft a more refined and balanced auditing mechanism that serves the Department's justified interest in ensuring that TNCs are collecting records as required under the law without unduly burdening and/or jeopardizing TNCs' business operations.

Specifically, we recommend that the legislation be revised to adopt the auditing protocol in the Department's August 2014 temporary operating authority (or a similar protocol).⁴⁹ Under the temporary operating authority, TNCs must provide to the Department, on request, up to one thousand unique identification numbers, each of which has been assigned to an individual Virginia TNC partner. The Department may at any time send to a TNC a list of up to ten driver identification numbers and request copies of records held by the TNC for those ten TNC partners. Within one business day of receiving a request seeking records, the TNC must provide to the Department records such as a TNC's background check and driver's license information. This auditing mechanism ensures the Department can obtain the records it needs to verify a TNCs' compliance with record-keeping obligations while, at the same time, ensuring that TNCs will not be subject to unreasonable and overbroad audits. We understand that the Department has raised concerns that the sample size of the audit protocol in the temporary operating authority is too small. We urge that the legislation be revised to address this concern by incorporating an appropriate sample size rather than granting the Department virtually unchecked power to audit TNCs.

In addition to these record-keeping and audit requirements, the Department's proposed legislation would require TNCs to maintain specific information about TNC partners and passengers' trips, including the "beginning and ending times and locations of each prearranged trip."⁵⁰ TNCs would be required to make this data available "on request to the Department, a law enforcement officer, or an airport official for the performance of their official duties."⁵¹

⁴⁷ Proposed § 46.2-2099.52; *see also* Department Report at 55.

⁴⁸ Proposed § 46.2-2099.52(A).

⁴⁹ *See* Department's August 6, 2014 Temporary Operating Authority.

⁵⁰ Proposed § 46.2-2099.52(B).

⁵¹ *Id.* In addition to proposing record-keeping obligations in section 46.2-2099.52 that would require TNCs to potentially transmit sensitive data to the Department, section 46.2-2099.48(H)-(I) would require TNC to transmit similar highly-specific trip data, such as passenger's pick-up

It is the companies' practice to work with law enforcement officials during any criminal investigation. However, we have substantial concerns about the Department's proposal that TNCs turn over to the government specific information and data about their passengers' and TNC partners' whereabouts whenever the government wants this information. If this proposal is adopted by the General Assembly, the companies could be placed in the untenable position of: (a) being compelled to violate the trust and individual privacy expectations of its passengers and TNC partners by turning over to the government sensitive and private information without any articulated justification for the government to obtain this information; or (b) violating the law. We recommend that the legislation balance law enforcement's needs with Virginians' privacy expectations by incorporating the clarification that a subpoena is required as part of such requests—a standard requirement that is typically in place when law enforcement or administrative agencies need to obtain records from private companies.

VII. Miscellaneous

We also believe the following additional issues should be addressed:

- Regulation of "TNC Platforms": Various sections of the Department's proposed legislation would regulate "TNC platforms." For instance, section 46.2-2099.48(D) provides: "The transportation network company's TNC platform shall arrange transportation solely for previously authorized combinations of TNC partners and TNC partner vehicles." We urge policymakers not to adopt this approach, which could have the (perhaps unintended) consequence of severely limiting TNCs' and other app-based companies' flexibility to structure their business operations as they wish. For instance, the Department's proposed language could be interpreted in a way that prevents a licensed for-hire driver from utilizing a "TNC platform" to provide service in the Commonwealth even though the companies have allowed for-hire drivers and TNC partners to access the same platform in Virginia over the past year. There does not appear to be any reason to arbitrarily limit the economic opportunities of for-hire drivers in this way or to limit Virginians' transportation options. We urge that the legislation be modified to follow the approach of other jurisdictions that have enacted TNC laws and structure the Commonwealth's laws to regulate TNCs rather than the technology platforms utilized by these companies.
- Broker Regulation: The Commonwealth appears to be one of the few jurisdictions in the nation that regulates for-hire transportation "brokers," entities that "arrange" transportation between passengers and for-hire drivers.⁵² Earlier iterations of the Department's proposed legislation indicated that the Department was considering proposing that the General Assembly eliminate regulatory requirements on brokers.

location, to the Department or law enforcement whenever the Department or law enforcement seeks this information. We strongly oppose this proposal for the same reasons we oppose the Department's proposed section 46.2-2099.52, and urge that it be rejected.

⁵² See Va. Code § 46.2-2099.17-.19.

However, the Department’s final proposal does not address this issue. We urge the General Assembly to adopt the Department’s now-abandoned proposal to eliminate the Department’s broker requirements. Virginia law comprehensively regulates all carriers and operators who actually perform trips arranged through brokers. Thus, the Commonwealth’s broker requirements—which contain few substantive requirements but impose burdensome recordkeeping and reporting requirements—amount to little more than unnecessary and duplicative administrative red tape and should be eliminated.⁵³

- Airport Authority: The Department’s proposed legislation includes the following language: “No transportation network company or TNC partner shall conduct any operation on the property of or into any airport unless such operation is authorized by the airport authority.”⁵⁴ It is our understanding that the intent of this provision is to reaffirm current law, which allows airport authorities to regulate for-hire drivers on airport property. The legislative intent of this provision would be better effectuated by a savings clause or a rule of construction, such as “Nothing in this Article shall be construed to limit the authority of airport authorities to regulate any for-hire carrier, including TNC partners, on airport authority property.”
- TNC Definition: The Department’s proposed legislation defines TNC as “a person who provides prearranged rides using a TNC platform that connects passengers with TNC partners.”⁵⁵ This definition misconstrues the nature of a TNC which typically does not provide rides, but instead connects independent drivers with passengers seeking rides. We urge adoption of the following definition, which tracks the definition in the Council of the District of Columbia’s recently-passed legislation: TNC is “an organization, including a corporation, partnership, or sole proprietorship, operating in the Commonwealth that uses a digital platform to connect passengers to a network of TNC partners who provide transportation services.”⁵⁶
- Receipt Requirements for Passengers: The Department’s proposed legislation requires TNCs to transmit to passengers an electronic receipt containing certain information.⁵⁷ We urge that the legislation be revised to reject the Department’s proposal that, as part of the receipt, TNCs must transmit the “identifying number that the transportation network company has assigned to the TNC partner.”⁵⁸ It is unclear why the Department would propose that TNCs submit this information, which TNCs use for their own internal purposes, especially when the receipt will provide other, more useful identifying

⁵³ As set forth in numerous prior communications between the companies and the Commonwealth, it is our position that neither Uber nor any of its affiliates meet the definition of “broker” set forth in Va. Code § 46.2-2000.

⁵⁴ Proposed § 46.2-2099.48(K).

⁵⁵ Proposed § 46.2-2000.

⁵⁶ District of Columbia Vehicle-for-hire Innovation Act, § 4(20).

⁵⁷ Proposed § 46.2-2099.48(I).

⁵⁸ *Id.*

information, including the partner's first name and a photograph.⁵⁹ In addition, the Department proposes that TNCs be required to transmit the vehicle's model year to passengers.⁶⁰ There does not appear to be any compelling policy reason to impose this requirement (which is inconsistent with current industry practice), and we urge that it be rejected.

- Allergy Exception for Service Animal Requirement: The Department's draft legislation requires TNC partners to accept service animals.⁶¹ We urge the policymakers to incorporate an exception whereby a TNC partner with a documented allergy to animals can decline to accept a passenger with a service animal.⁶²
- Disclosure Requirements for Lien Holders: The Department's proposed legislation requires that TNCs' written agreements with TNC partners contain the following language: "If the vehicle that you plan to use to transport passengers for our transportation network company has a lien against it, you must notify the lienholder that you will be using the vehicle for transportation services that may violate the terms of your contract with the lienholder."⁶³ We are concerned that this disclosure language is overbroad and potentially misleading because it insinuates that a TNC partner's provision of TNC services will violate a TNC partner's contract with a lienholder. We suggest that this required disclaimer language be modified as follows: "If the vehicle that you plan to use to transport passengers for our transportation network company has a lien against it, you should check the terms of your contract with the lienholder to ensure that such use is consistent with those terms."
- "Personal Information" Disclosure Protections: The Department's proposed legislation prohibits a TNC from disclosing "personal information" about TNC platform users (to anyone) unless: (1) the TNC obtains the user's consent to disclose the personal information; (2) the disclosure is necessary to comply with a legal obligation; or (3) the disclosure is necessary to protect or defend the terms and conditions for use of the service or to investigate violations of the terms and conditions.⁶⁴ We urge policymakers to improve upon this section by incorporating the following clause: "In addition to the foregoing, a TNC shall be permitted to share a passenger's name and/or telephone number with the TNC partner providing the TNC Services to such passenger in order to facilitate correct identification of the passenger by the TNC partner, or to facilitate communication between the passenger and the TNC partner."

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Proposed § 46.2-2099.48(J).

⁶² The Council of the District of Columbia incorporated this exception into its recently-passed bill. *See* Vehicle-for-hire Innovation Act § 25(10A).

⁶³ Proposed § 46.2-2099.49(E)(3).

⁶⁴ Proposed § 46.2-2099.52(E).

Thank you for your consideration of these comments. We look forward to continuing to work with the Department and the General Assembly in the coming months as the General Assembly considers the future of for-hire transportation in the Commonwealth.

Respectfully submitted,

/s/

Zuhairah Washington
General Manager
Uber DC

ATTACHMENT A

Rasier, LLC
Operating Guidelines for Temporary Authority to Operate
Pursuant to Va. Code § 46.2-2011.1

The Department of Motor Vehicles hereby grants temporary authority pursuant to Va. Code § 46.2-2011.1 to Rasier LLC ("Rasier"), a subsidiary of Uber Technologies, Inc. ("Uber"), to operate as a Transportation Network Company or TNC. Such temporary authority authorizes Rasier to contract with third parties ("TNC Partners") who use their private vehicles to transport passengers for a fee or donation and to connect TNC Partners with prospective passengers via Uber's digital platform.

The temporary authority is effective August 6, 2014, and shall remain in effect until February 2, 2015. The following operational guidelines provide a framework to ensure public safety and transparency. Rasier shall abide by the guidelines at all times the temporary authority is in effect.

1. Definitions:
 - a. "TNC Partner" shall mean an individual who uses a personal vehicle to provide transportation services in the Commonwealth of Virginia requested through a TNC Platform.
 - b. "TNC Partner Vehicle" shall mean a personal vehicle that is used by a TNC Partner to provide transportation services requested through a TNC Platform.
 - c. "TNC Platform" shall mean any digital platform offered by a TNC, currently or in the future.
 - d. A "Transportation Network Company" or "TNC" shall mean a company that contracts with individuals who provide transportation services using their personal vehicles and that licenses or utilizes software for the purposes of enabling TNC Partners to connect with prospective passengers.
 - e. "DMV" or "the Department" shall mean the Department of Motor Vehicles of the Commonwealth of Virginia.
2. The following operating requirements shall be applicable to Rasier:
 - a. Rasier shall maintain a registered agent in the Commonwealth of Virginia.
 - b. Rasier may allow TNC Partners to offer service for compensation, no-charge, or suggested compensation.
 - c. The software application used by Rasier to connect TNC Partners and passengers shall permit passengers to view on their smart phone, tablet, or other mobile device before the passenger enters the TNC Partner's vehicle a photograph of the TNC Partner and the TNC Partner Vehicle's license plate number.
 - d. Rasier shall implement a zero tolerance policy on the use of drugs or alcohol applicable to any TNC Partner, and Rasier or an affiliate shall provide notice of the zero tolerance policy on its website as well as the procedures to report a complaint about a driver

with whom the passenger was matched and for whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride. Upon receipt of a passenger complaint that a TNC Partner was under the influence of drugs or alcohol during the course of a ride, Rasier will immediately deactivate the TNC Partner's access to its TNC Platforms pending an investigation of the allegations. The TNC Partner's deactivation of access to the TNC Platforms shall last for the duration of the investigation.

e. Prior to permitting an individual to act as a TNC Partner, Rasier shall obtain and review a criminal history research report for such person using the Multi-State/Juris Criminal Records Locator or other similar commercial nationwide database with validation (primary source search). Rasier shall disqualify any applicant whose criminal history record check reveals that they have been convicted of or pleaded guilty to any of the following felony offenses, within the last seven years:

- i. An offense involving fraud, as described in Chapter 6 of Title 18.2 or Chapter 5, Article 4 of Title 18.2 of the Code of Virginia;
- ii. A sexual offense under Chapter 4, Article 7 of Title 18.2, § 18.2-346, or § 18.2-370 of the Code of Virginia;
- iii. An act of violence under § 19.2-297.1 of the Code of Virginia;
- iv. Commission of any crime punishable as a felony in Virginia in the commission of which a motor vehicle is used; or
- v. Conspiracy or attempt to commit any of the crimes listed in paragraphs (i)-(iv) above.

f. Prior to permitting an individual to act as a TNC Partner, Rasier shall obtain and review Virginia's Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offenders Public Website. Rasier shall disqualify a driver during any period in which he or she is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 of the Code of Virginia or on the U.S. Department of Justice's National Sex Offenders Public Website.

g. Prior to permitting an individual to act as a TNC Partner, Rasier shall obtain and review a driving history research report from the Commonwealth of Virginia or the state of licensure for such individual. Rasier shall disqualify any applicant whose driving record check reveals that, within the three-year period prior to such check, they have been convicted of or pleaded guilty to more than three moving violations or any of the following offenses:

- i. A violation of any provision of §§ 18.2-51.4, 18.2-266, or 18.2-266.1 of the Code of Virginia;
- ii. Refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath in accordance with §§ 18.2-268.1 through 18.2-268.12 of the Code of Virginia;

- iii. Failure of the driver whose vehicle is involved in an accident to stop and disclose his identity at the scene of the accident; or
 - iv. Escaping or eluding a law-enforcement officer under § 46.2-817 of the Code of Virginia.
 - v. A violation resulting in revocation pursuant to Va. Code § 46.2-391.
- h. Rasier shall disqualify a driver if the criminal background check or driving history report conducted pursuant to paragraphs 2(e) and 2(g) above shows that the individual violated laws comparable to the offenses listed in paragraphs 2(e) and 2(g) above in any other jurisdiction within the United States.
- i. Prior to permitting an individual to act as a TNC Partner, Rasier shall determine that each TNC Partner possesses a valid driver's license, social security number, and proof of vehicle registration; maintains current automobile liability insurance that meets the minimum standards set forth in the jurisdiction where the vehicle is registered; and is at least twenty-one (21) years of age.
- j. Rasier shall maintain on each TNC Partner's behalf, or verify that each TNC Partner maintains, a liability insurance policy or policies that:
- i. Provides primary coverage of at least \$1,000,000 per accident for accidents involving a TNC Partner from the time the TNC Partner accepts a trip request until the passenger exits the TNC Partner's vehicle;
 - ii. Provides uninsured/underinsured motorist coverage of at least \$100,000 per person and at least \$300,000 per accident for bodily injury resulting from accidents involving a TNC Partner from the time the TNC Partner accepts a trip request until the passenger exits the TNC Partner's vehicle; and
 - iii. During the time that a TNC Partner is logged onto a TNC Platform, but the TNC Partner is not providing services, provides contingent liability coverage of at least \$50,000 per person and at least \$100,000 per accident, and at least \$25,000 for property damage per accident, in the event that a TNC Partner's personal insurance policy denies coverage under the terms of the TNC Partner's personal insurance.
 - iv. Includes a clause that binds the insurance company to the provisions of paragraph 2(j) until such time as the insurer provides the Department with notice of cancellation or modification of the policy, which notice shall be provided not later than 30 days prior to the effective date of cancellation or modification.
- k. The policyholder or the insurer shall provide DMV with a copy of the policy or policies maintained pursuant to paragraph 2(j).

l. Rasier shall ensure that TNC Partners only use vehicles with a maximum seating capacity of seven persons, excluding the driver.

m. Rasier shall ensure all TNC Partner Vehicles have been inspected for safety before being used to provide service and thereafter on an annual basis. The annual safety inspection shall be performed by inspection stations approved by the Virginia State Police or an inspection station in another jurisdiction that meets the standards of inspection stations approved by Virginia State Police.

n. Rasier shall maintain accurate and up to date copies of the following documents and information for all TNC Partners who operate in the Commonwealth:

- i. The background check required under paragraph 2(e);
- ii. The sex offender registry check required under paragraph 2(f);
- iii. The driving record check required under paragraph 2(g);
- iv. Proof that each TNC Partner maintains a personal automobile liability insurance policy;
- v. Each TNC Partner's driver's license;
- vi. Each TNC Partner's social security number;
- vii. Each TNC Partner Vehicle's registration card; and
- viii. Proof of inspections required under paragraph 2(m).

o. Rasier shall advise TNC Partners to consult with appropriate professionals and authorities regarding the possible financial and contractual consequences of operating as a TNC Partner, including consequences for personal income tax and tangible personal property tax liabilities, personal insurance coverage of the TNC Partner Vehicle, and financing agreements with TNC Partner Vehicle lienholders.

3. The following operating requirements shall be applicable to Rasier's TNC Partners:

a. TNC Partners shall accept only rides booked through a TNC Platform and shall not solicit or accept street-hails.

b. Each TNC Partner shall carry at all times in the TNC Partner Vehicle proof of both the TNC Partner's personal insurance and excess liability insurance.

c. TNC Partners shall immediately inform TNC of:

- i. Any change in the TNC Partner's driver's license status, motor vehicle registration, motor vehicle insurance; and

- ii. Any arrest or charge for a crime or driving offense described in paragraphs 4(f) and 4(h) or any arrest or charge that would require the TNC Partner to register on the lists described in paragraph 4(g).
- d. TNC Partners shall access and operate smartphones, tablets, and other mobile devices in a manner consistent with Virginia law and highway safety.
- e. While engaged in providing transportation services, each TNC Partner Vehicle shall display a marking, in a form approved by the Department and visible from outside the vehicle, identifying it as a vehicle operated under a TNC Platform.

4. If any person files a complaint with the Department against Rasier, one of Rasier's TNC Partners, or the operator of a vehicle providing services under Rasier's TNC Platform, Rasier shall provide, when requested by the Department, such records as are reasonably necessary to investigate and resolve that specific complaint; provided, that if a third party submits a request to the Department for records that the Department obtains from Rasier, (i) the Department, in its discretion, shall assert applicable exclusions to the request set forth in the Virginia Freedom of Information Act (Va. Code § 2.2-3700 *et seq.*) and Va. Code § 46.2-208, in an effort to protect confidential personal, business, and proprietary information, and (ii) the Department shall, before the Department's deadline to respond to the third party's request, notify Rasier that it has received a request and inform Rasier of whether it will release the document. The Department, in the investigation of a specific third-party complaint, shall not seek a list or inventory of drivers or vehicles that are associated with Rasier. Nothing in this paragraph 4 waives Rasier's right to object to the scope of documents requested by the Department and to protect its rights accordingly.

5. To ensure public safety, the Department shall conduct periodic audits of Rasier. Rasier shall provide to the Department, on request, up to one thousand (1,000) unique identification numbers, each of which has been assigned to an individual Virginia TNC Partner. The Department may at any time send to Rasier a list of up to ten (10) driver identification numbers and request copies of records held by Rasier for those ten (10) TNC Partners. Within one business day of receiving a request seeking records, Rasier shall provide to the Department, in an electronic format acceptable to the Department, the records described in paragraph 2(n) for each of the TNC Partners associated with the driver identification numbers that the Department has identified; provided, that Rasier may redact any records it produces to the Department to protect the privacy and identifying information of the TNC Partner, including the TNC Partner's name, social security number (other than the last four digits), and address. If a third party submits a request to the Department for records that the Department obtains from Rasier pursuant to this paragraph 5, (i) the Department, in its discretion, shall assert applicable exclusions to the request set forth in the Virginia Freedom of Information Act (Va. Code § 2.2-3700 *et seq.*) and Va. Code § 46.2-208, in an effort to protect confidential personal, business, and proprietary information, and (ii) the Department shall, before the Department's deadline to respond to the third party's request, notify Rasier that it has received a request and inform Rasier of whether it will release the document.

ATTACHMENT B

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Taxicab Commission Establishment Act of 1985 to define a private vehicle-for-hire company and operator, to clarify the authority of vehicle inspection officers to make stops, to clarify the complaint authority of the District of Columbia Taxicab Commission, to create registration provisions for operators, to require background checks for operators, to prohibit street hails by operators, to require a private vehicle-for-hire company to conduct background checks, inspect vehicles, establish zero tolerance policies against discrimination and drug and alcohol use by operators, to require transmission of 1% of all gross receipts to the Office of the Chief Financial Officer, to require insurance for operators, to create provisions for charging for services, to provide for enforcement against private vehicles-for-hire, to deregulate fares for taxicabs arranged through digital dispatch, to clarify data and surcharge transmission requirements, and to require that a notice be posted in all taxicabs regarding acceptance of credit cards; to amend section 47-2829 of the District of Columbia Official Code to exempt private vehicles-for-hire from the license requirement and to clarify eligibility for a for-hire license; and to amend Title 18 of the District of Columbia Municipal Regulations to reduce the inspection requirement for taxicabs from semiannually to annually.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Vehicle-for-Hire Innovation Amendment Act of 2014”.

Sec. 2. The District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*), is amended as follows:

(a) Section 4 (D.C. Official Code § 50-303) is amended as follows:

(1) New paragraphs (8A) and (8B) are added to read as follows:

“(8A) “Digital dispatch” means the hardware and software applications and networks, including mobile phone applications, which passengers and operators use to provide public and private vehicle-for-hire service.

“(8B) “Dispatch” means the traditional methods of pre-arranging vehicle-for-hire service, including through telephone or radio.”

(2) New paragraphs (16A), (16B), and (16C) are added to read as follows:

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“(16A) “Private vehicle-for-hire” means a class of transportation service by which a network of private vehicle-for-hire operators in the District provides transportation to passengers to whom the private vehicle-for-hire operators are connected by digital dispatch.

“(16B) “Private vehicle-for-hire company” means an organization, including a corporation, partnership, or sole proprietorship, operating in the District that uses digital dispatch to connect passengers to a network of private vehicle-for-hire operators.

“(16C) “Private vehicle-for-hire operator” means an individual who operates a personal motor vehicle to provide private vehicle-for-hire service in contract with a private vehicle-for-hire company.”.

(3) Paragraph (17) is amended to read as follows:

“(17) “Public vehicle-for-hire” means a class of transportation service by motor vehicle for hire in the District, including a taxicab, limousine, or sedan-class vehicle, that provides for-hire service exclusively using drivers and vehicles licensed pursuant to this act and D.C. Official Code § 47-2829.”.

(4) Paragraphs (18) and (19) are repealed.

(5) Paragraph (21) is amended to read as follows:

“(21) “Taxicab” means a class of public vehicle-for-hire that may be hired by dispatch, digital dispatch, or hailed on the street, and for which the fare charged is calculated by a Commission-approved meter with uniform rates determined by the Commission; provided, that a taxicab hired by a passenger through digital dispatch may use rates set by the company that operates the digital dispatch pursuant to the requirements of this act.

(6) Paragraph (28) is amended by striking the phrase “taxicab service” and inserting the phrase “taxicab street-hail service” in its place.

(7) Paragraph (29) is amended by striking the phrase “and the fare” and inserting the phrase “and, when hailed on the street, the fare” in its place.

(8) New paragraphs (30A) and (30B) are added to read as follows:

“(30A) “Vehicle-for-hire industry” means all public and private vehicles-for-hire, including companies, associations, owners, operators, or any person who, by virtue of employment or office, is directly involved in providing public or private vehicle-for-hire services within the District.

“(30B) “Vehicle inspection officer” means a District employee trained in the laws, rules, and regulations governing public and private vehicle-for-hire service to ensure the proper provision of service and to support safety through street enforcement efforts, including traffic stops of public and private vehicles-for-hire, pursuant to protocol prescribed under this act and by regulation.”.

(b) Section 8(c) (D.C. Official Code § 50-307(c)) is amended as follows:

(1) Paragraph (4)(B) is amended by striking the phrase “public vehicle inspection officers” and inserting the phrase “vehicle inspection officers” in its place.

(2) Paragraph (11) is amended as follows:

(A) Strike the phrase “public vehicle inspection officers” and insert the phrase “vehicle inspection officers” in its place.

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(B) Strike the phrase “public vehicles-for-hire” and inserting the phrase “public and private vehicles-for-hire” in its place.

(3) Paragraph (14) is amended by striking the phrase “against taxicab operators, companies, associations, fleets, and taxi dispatch services” and inserting the phrase “against the vehicle-for-hire industry, including taxicab operators, companies, associations, fleets, and taxi dispatch services,” in its place.

(c) Section 8b (D.C. Official Code § 50-307.02) is amended to read as follows:

“Sec. 8b. Reciprocal agreements.

“The Mayor shall work with surrounding jurisdictions to update reciprocal agreements and shall submit a report to the Council on or before June 30, 2015, on his or her progress.”.

(d) Section 10b(a) (D.C. Official Code § 50-309.02(a)) is amended as follows:

(1) Strike the word “against” and insert the phrase “against public and private vehicles-for-hire, including” in its place.

(2) Strike the phrase “public vehicle inspection officers” and insert the phrase “vehicle inspection officers” in its place.

(e) Section 12 (D.C. Official Code § 50-311) is amended as follows:

(1) Subsection (b) is amended by striking the phrase “taxicab industry” and inserting the phrase “vehicle-for-hire industry” in its place.

(2) Subsection (b-1) is repealed.

(f) Section 13 (D.C. Official Code § 50-312) is amended as follows:

(1) Subsection (e) is amended as follows:

(A) Paragraph (5) is amended as follows:

(i) Strike the phrase “owners and operators of taxicabs, taxicab companies, associations, fleets, and dispatch services” and insert the phrase “owners and operators of public and private vehicles-for-hire, including taxicabs, taxicab companies, associations, fleets, and dispatch services,” in its place.

(ii) Strike the phrase “taxicab industry” and insert the phrase “vehicle for-hire industry” in its place.

(B) Paragraph (11) is amended by striking the phrase “public vehicle inspection officers” and inserting the phrase “vehicle inspection officers” in its place.

(2) Subsection (f) is amended as follows:

(A) Strike the phrase “public vehicles-for-hire” wherever it appears and insert the phrase “public and private vehicles-for-hire” in its place.

(B) Strike the phrase “public vehicle inspection officers” wherever it appears and insert the phrase “vehicle inspection officers” in its place.

(g) Section 20a (D.C. Official Code § 50-320) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (4) is amended by striking the word “and” at the end.

(B) Paragraph (5) is amended by striking the period and inserting the phrase “; and” in its place.

(C) A new paragraph (6) is added to read as follows:

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“(6) All funds collected pursuant to section 20l(b)(11).”.

(2) Subsection (b)(1)(A) is amended by striking the word “public vehicles-for-hire” and inserting the phrase “vehicle-for-hire” in its place.

(h) New sections 20f-1 and 20f-2 are added to read as follows:

“Sec. 20f-1. Accessibility of digital dispatch for individuals with disabilities.

“(a) By January 1, 2016, a company that provides digital dispatch shall:

“(1) Ensure that the company’s websites and mobile applications are accessible to the blind and visually impaired and the deaf and hard of hearing; and

“(2) Provide a report to the Council’s Committee on Transportation and the Environment, or its successor committee with oversight of for-hire vehicles, on how the company intends to increase access to wheelchair-accessible public or private vehicle-for-hire service to individuals with disabilities.

“(b) A company that provides digital dispatch shall not:

“(1) Impose additional or special charges on an individual with a disability for providing services to accommodate the individual; or

“(2) Require an individual with a disability to be accompanied by an attendant.

“(c) If an operator accepts a ride request through digital dispatch from a passenger with a disability who uses a mobility device, upon picking up the passenger, the operator shall stow the passenger’s mobility equipment in the vehicle if the vehicle is capable of stowing the equipment. If a passenger or operator determines that the vehicle is not capable of stowing the equipment, the company that provides digital dispatch shall not charge a trip cancellation fee or, if such fee is charged, shall provide the passenger with a refund in a timely manner.

“Sec. 20f-2. Training of employees and operators.

“(a)(1) A company that uses digital dispatch shall train associated operators in how to properly and safely handle mobility devices and equipment and to treat an individual with disabilities in a respectful and courteous manner.

“(2) Completion of a public vehicle-for-hire driver’s training course approved by the Commission shall satisfy the operator training requirement of this subsection.”.

(i) Section 20g (D.C. Official Code § 50-326) is amended by adding a new subsection (c) to read as follows:

“(c)(1) The Commission shall create a notice to be posted in a conspicuous location in all taxicabs in clear view of passengers. The notice shall be at least 5 inches by 7 inches in size, and shall include the following:

“(A) A statement that a taxicab must accept credit cards through the approved taximeter system;

“(B) A statement that a taxicab shall not operate without a functioning taximeter system;

“(C) A statement that failure to accept a credit card is a violation of the law and is punishable by fine; and

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“(D) The information required for passengers to submit an alleged violation, including a telephone number and website address to the agency responsible for handling the complaint.

“(2) To obtain a copy of the notice required to be posted under this subsection, the owner or operator of a taxicab required to post the notice shall:

“(A) Print the notice from the Commission website; or

“(B) Request that the notice be mailed and submit payment to the Commission for the cost of printing and first-class postage.

“(3) The Commission shall post a notice on its website indicating that compliance with this subsection is mandatory as well as the penalties for failure to comply.

“(4) A violation of this subsection shall be punishable by a civil fine or other penalty provided by regulation.”.

(j) Section 20j (D.C. Official Code § 50-329) is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

“(a-1) The Commission shall not require a company that provides digital dispatch to sedan-class vehicles to produce to the Commission a list or inventory of vehicles or operators affiliated with the service.”.

(2) Subsection (b) is amended by striking the phrase “a digital dispatch service” and inserting the phrase “digital dispatch” in its place.

(3) A new subsection (b-1) is added to read as follows:

“(b-1) A vehicle shall be permitted to operate as a sedan-class vehicle if:

“(1) It has a manufacturer’s rated seating capacity of fewer than 10 persons;

“(2) It is not a salvaged vehicle or a vehicle rented from an entity whose predominant business is that of renting motor vehicles on a time basis; and

“(3) It is no more than 10 model years of age at entry into service and no more than 12 model years of age while in service.”.

(k) New sections 20j-1, 20j-2, 20j-3, 20j-4, 20j-5, 20j-6, and 20j-7 are added to read as follows:

“Sec. 20j-1. General requirements for private vehicles-for-hire.

“A private vehicle-for-hire company shall:

“(1) Create an application process for a person to apply to register as a private vehicle-for-hire operator;

“(2) Maintain an up-to-date registry of the operators and vehicles associated with the private vehicle-for-hire company;

“(3) Provide the following information on its website:

“(A) The private vehicle-for-hire company’s customer service telephone number or electronic mail address;

“(B) The private vehicle-for-hire company’s zero tolerance policy established pursuant to paragraphs (9) and (10) of this section;

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“(C) The procedure for reporting a complaint about an operator who a passenger reasonably suspects violated the zero tolerance policy under paragraphs (9) and (10) of this section; and

“(D) A telephone number or electronic mail address for the Commission;

“(4) Verify that an initial safety inspection of a motor vehicle used as a private vehicle-for-hire was conducted within 90 days of beginning service and that the vehicle passed the inspection and was determined safe by a licensed mechanic in the District pursuant to D.C. Official Code § 47-2851.03(a)(9) or an inspection station authorized by the State of Maryland or the Commonwealth of Virginia to perform vehicle safety inspections; provided, that an initial safety inspection need not be conducted if the motor vehicle used for service is compliant with an annual state-required safety inspection. A safety inspection conducted pursuant to this paragraph shall check the following motor vehicle equipment to ensure that such equipment is safe and in proper operating condition:

“(A) Brakes and parking brake;

“(B) All exterior lights, including headlights, parking lights, brake lights, and license plate illumination lights;

“(C) Turn signal devices;

“(D) Steering and suspension;

“(E) Tires, wheels, and rims;

“(F) Mirrors;

“(G) Horn;

“(H) Windshield and other glass, including wipers and windshield defroster;

“(I) Exhaust system;

“(J) Hood and area under the hood, including engine fluid levels and belts;

“(K) Interior of vehicle, including driver’s seat, seat belts, and air bags;

“(L) Doors;

“(M) Fuel system; and

“(N) Floor pan.

“(5) Verify the safety inspection status of a vehicle as described in paragraph (4) of this section on an annual basis after the initial verification is conducted;

“(6) Perform the background checks required by section 20j-2(b) on each applicant before private vehicle-for-hire service is provided and update those checks every 3 years thereafter;

“(7) Establish a trade dress as required by section 20j-4;

“(8) Transmit the required amount pursuant to section 20l(b)(11);

“(9)(A) Establish a policy of zero tolerance for the use of alcohol or illegal drugs or being impaired by the use of alcohol or drugs while a private vehicle-for-hire operator is logged into a private vehicle-for-hire company’s digital dispatch;

“(B) Immediately suspend, for the duration of the investigation conducted pursuant to subparagraph (C) of this paragraph, a private vehicle-for-hire operator upon

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receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by subparagraph (A) of this paragraph; and

“(C) Conduct an investigation when a passenger alleges that a private vehicle-for-hire operator violated the zero tolerance policy established by paragraph (A) of this subparagraph;

“(10)(A) Establish a policy of zero tolerance for discrimination or discriminatory conduct on the basis of a protected characteristic under section 231 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.31), while a private vehicle-for-hire operator is logged into a private vehicle-for-hire company’s digital dispatch. Discriminatory conduct may include:

“(i) Refusal of service on the basis of a protected characteristic, including refusal of service to an individual with a service animal unless the operator has a documented serious medical allergy to animals on file with the private vehicle-for-hire company;

“(ii) Using derogatory or harassing language on the basis of a protected characteristic;

“(iii) Refusal of service based on the pickup or drop-off location of the passenger; or

“(iv) Rating a passenger on the basis of a protected characteristic;

“(B) It shall not constitute discrimination under this paragraph for a private vehicle-for-hire operator to refuse to provide service to an individual with disabilities due to violent, seriously disruptive, or illegal conduct by the individual. A private vehicle-for-hire operator shall not, however, refuse to provide service to an individual with a disability solely because the individual’s disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience the operator or another person;

“(C) Immediately suspend, for the duration of the investigation conducted pursuant to subparagraph (D) of this paragraph, a private vehicle-for-hire operator upon receiving a written complaint from a passenger submitted through regular mail or electronic means containing a reasonable allegation that the operator violated the zero tolerance policy established by subparagraph (A) of this paragraph; and

“(D) Conduct an investigation when a passenger makes a reasonable allegation that an operator violated the zero tolerance policy established by subparagraph (A) of this paragraph;

“(11) Maintain records relevant to the requirements of this section for the purposes of enforcement; and

“(12) Submit to the Commission for the purposes of registration:

“(A) Proof that the private vehicle-for-hire company is licensed to do business in the District;

“(B) Proof that the private vehicle-for-hire company maintains a registered agent in the District;

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“(C) Proof that the private vehicle-for-hire company maintains a website that includes the information required by paragraph (3) of this section;

“(D) Proof that the private vehicle-for-hire company has established a trade dress required by section 20j-4, including an illustration or photograph of the trade dress;

“(E) A written description of how the private vehicle-for-hire company’s digital dispatch operates;

“(F) Proof that the private vehicle-for-hire company has secured the insurance policies required by section 20j-3; and

“(G) The certification required by section 20j-7; provided, that the Commission shall not impose a registration, licensure, certification, or other similar requirement for a private vehicle-for-hire company to operate in the District that exceeds the requirements set forth in this act.

“Sec. 20j-2. Registration of private vehicle-for-hire operators.

“(a) To become a private vehicle-for-hire operator, an individual shall submit an application to register with a private vehicle-for-hire company.

“(b) Before approving a registration application submitted under subsection (a) of this section, a private vehicle-for-hire company shall have a third party that is accredited by the National Association of Professional Background Screeners or a successor accreditation entity conduct the following examinations:

“(1) A local and national criminal background check;

“(2) The national sex offender database background check; and

“(3) A full driving record check.

“(c) A private vehicle-for-hire company shall reject an application submitted under subsection (a) of this section and shall permanently disqualify an applicant who:

“(1) As shown in the local or national criminal background check conducted in accordance with subsection (b)(1) of this section, has been convicted within the past 7 years of:

“(A) An offense defined as a crime of violence under D.C. Official Code § 23-1331(4);

“(B) An offense under Title II of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3002 *et seq.*);

“(C) An offense under section 3 of the District of Columbia Protection Against Minors Act of 1982, effective March 9, 1983 (D.C. Law 4-173; D.C. Official Code § 22-3102);

“(D) Burglary, robbery, or an attempt to commit robbery under An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1323; D.C. Official Code §§ 22-801, 22-2801 and 22-2802);

“(E) Theft in the first degree under section 112 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3212);

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“(F) Felony fraud or identity theft under sections 121 or 127b of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code §§ 22-3221, 22-3227.02); or

“(G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparagraphs (A), (B), (C), (D), (E), and (F) of this paragraph if committed in the District;

“(2) Is a match in the national sex offender registry database;

“(3) As shown in the national background check or driving record check conducted in accordance with subsections (b)(1) and (b)(3) of this section, has been convicted within the past 7 years of:

“(A) Aggravated reckless driving under section 9(b-1) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-2201.04(b-1));

“(B) Fleeing from a law enforcement officer in a motor vehicle under section 10b of the District of Columbia Traffic Act, 1925, effective March 16, 2005 (D.C. Law 15-239; D.C. Official Code § 50-2201.05b);

“(C) Leaving after colliding under section 10c of the District of Columbia Traffic Act, 1925, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code § 50-2201.05c);

“(D) Negligent homicide under section 802(a) of An Act To amend an Act of Congress entitled “An Act to establish a Code of Law for the District of Columbia”, approved March 3, 1901, as amended, by adding three new sections to be numbered 802(a), 802(b), and 802(c), respectively, approved June 17, 1935 (49 Stat. 385; D.C. Official Code § 50-2203.01);

“(E) Driving under the influence of alcohol or a drug, driving a commercial vehicle under the influence of alcohol or a drug, or operating a vehicle while impaired under sections 3b, 3c, or 3e of the Anti-Drunk Driving Act of 1982, effective April 27, 2013 (D.C. Law 19-266; D.C. Official Code §§ 50-2206.11, 50-2206.12, and 50-2206.14);

“(F) Unauthorized use of a motor vehicle under section 115 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Official Code § 22-3215); and

“(G) An offense under any state or federal law or under the law of any other jurisdiction in the United States involving conduct that would constitute an offense described in subparagraphs (A), (B), (C), (D), (E), and (F) of this paragraph if committed in the District; or

“(4) Has been convicted within the past 3 years of driving with a suspended or revoked license under section 13(e) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1123; D.C. Official Code § 50-1403.01(e)), according to the driving record check conducted in accordance with subsection (b)(3) of this section.

“(d) A motor vehicle used as a private vehicle-for-hire shall:

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“(1) Have a manufacturer’s rated seating capacity of 8 persons or fewer, including the private vehicle-for-hire operator;

“(2) Have at least 4 doors and meet applicable federal motor vehicle safety standards for vehicles of its size, type, and proposed use; and

“(3) Be no more than 10 model years of age at entry into service and no more than 12 model years of age while in service.

“(e) A person registered with a private vehicle-for-hire company as a private vehicle-for-hire operator under this section shall be deemed by the District to hold the necessary authorization to operate in the District as may be required by another jurisdiction or interstate authority.

“Sec. 20j-3. Insurance requirements for private vehicles-for-hire.

“(a) A private vehicle-for-hire company or operator shall maintain a primary automobile liability insurance policy that provides coverage of at least \$1 million per occurrence for accidents involving a private vehicle-for-hire operator at all times when the operator is engaged in a prearranged ride.

“(b) A private vehicle-for-hire operator or a private vehicle-for-hire company on the operator’s behalf shall maintain a primary automobile liability insurance policy that, for the time period when a private vehicle-for-hire operator is logged onto a private vehicle-for-hire company’s digital dispatch showing that the operator is available to pick up passengers but is not engaged in a prearranged ride:

“(1) Recognizes that the operator is a private vehicle-for-hire operator and covers the operator’s provision of private vehicle-for-hire service while the operator is logged into the private vehicle-for-hire company’s digital dispatch showing that the operator is available to pick up passengers;

“(2) Provides minimum coverage of at least \$50,000 per person per accident, with up to \$100,000 available to all persons per accident, and \$25,000 for property damage per accident; and

“(3) Either:

“(A) Offers full-time coverage similar to the coverage required by section 15 of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-314);

“(B) Contains an insurance rider to, or endorsement of, the operator’s personal automobile liability insurance policy required by section 7 of the Compulsory/No Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2406); or

“(C) Offers a liability insurance policy purchased by the private vehicle-for-hire company that provides primary coverage for the time period in which an operator is logged into the private vehicle-for-hire company’s digital dispatch showing that the operator is available to pick up passengers.

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“(c) If a private vehicle-for-hire company purchases an insurance policy under this section, it shall provide proof to the Commission that the private vehicle-for-hire company has secured the policy.

“(d) A private vehicle-for-hire company shall not allow a private vehicle-for-hire operator who has purchased his or her own policy to fulfill the requirements of this section to accept a trip request through the digital dispatch service used by the private vehicle-for-company until the private vehicle-for-hire company verifies that the operator maintains insurance as required under this section. If the insurance maintained by a private vehicle-for-hire operator to fulfill the insurance requirements of this section has lapsed or ceased to exist, the private vehicle-for-hire company shall provide the coverage required by this section beginning with the first dollar of a claim.

“(e) Nothing in this section shall require an operator to obtain a personal automobile insurance policy that provides coverage for the time period in which an operator is logged into a private vehicle-for-hire company’s digital dispatch.

“(f) If more than one insurance policy purchased by a private vehicle-for-hire company provides valid and collectable coverage for a loss arising out of an occurrence involving a motor vehicle operated by a private vehicle-for-hire operator, the responsibility for the claim shall be divided on an equal basis among all of the applicable policies; provided, that a claim may be divided in a different manner by written agreement of all of the insurers of the applicable policies and the policy owners.

“(g) In a claims coverage investigation, a private vehicle-for-hire company shall cooperate with any insurer that insures the private vehicle-for-hire operator’s motor vehicle, including providing relevant dates and times during which an accident occurred that involved the operator to determine whether the operator was logged into a private vehicle-for-hire company’s digital dispatch showing that the operator is available to pick up passengers.

“(h) The insurance requirements set forth in this section shall be disclosed on a private vehicle-for-hire company’s website, and the company’s terms of service shall not contradict or be used to evade the insurance requirements of this section.

“(i) Within 90 days of the effective date of the Vehicle-for-Hire Innovation Amendment Act of 2014, passed on 2nd reading on October 28, 2014 (Enrolled version of Bill 20-753)(“2014 Act”), a private vehicle-for-hire company that purchases insurance on an operator’s behalf under this section shall disclose in writing to the operator, as part of its agreement with the operator:

“(1) The insurance coverage and limits of liability that the private vehicle-for-hire company provides while the operator is logged into the company’s digital dispatch showing that the operator is available to pick up passengers; and

“(2) That the operator’s personal automobile insurance policy may not provide coverage, including collision physical damage coverage, comprehensive physical damage coverage, uninsured and underinsured motorist coverage, or medical payments coverage because the operator uses a vehicle in connection with a private vehicle-for-hire company.

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“(j) An insurance policy required by this section may be obtained from an insurance company authorized to do business in the District or with a surplus lines insurance company with an AM Best rating of at least A-.

“(k) A private vehicle-for-hire company or operator shall have 120 days from the effective date of the 2014 Act to procure primary insurance coverage that complies with the requirements of subsection (b) of this section; provided, that until such time, a company shall maintain a contingent liability policy meeting at least the minimum limits of subsection (b) of this section that will cover a claim in the event that the operator’s personal insurance policy denies a claim.

“(l) Within one year of the effective date of the 2014 Act, the Mayor shall assess whether the insurance requirements of this section are appropriate to the risk of private vehicle-for-hire services and shall report its findings to the Council.

“(m) For the purposes of this section, the term “pre-arranged ride” shall mean a period of time that begins when a private vehicle-for-hire operator accepts a requested ride through digital dispatch, continues while the operator transports the passenger in the operator’s vehicle, and ends when the passenger departs from the vehicle.

“Sec. 20j-4. Trade dress requirements for private vehicles-for-hire.

“A private vehicle-for-hire shall display a consistent and distinctive trade dress consisting of a logo, insignia, or emblem at all times while the operator is logged into the private vehicle-for-hire company’s digital dispatch. The trade dress shall be:

“(1) Sufficiently large and color contrasted so as to be readable during daylight hours at a distance of at least 50 feet; and

“(2) Reflective, illuminated, or otherwise patently visible in darkness.

“Sec. 20j-5. Requirements for private vehicle-for-hire operators.

“(a) A private vehicle-for-hire operator shall:

“(1) Accept only rides booked through a private vehicle-for-hire company’s digital dispatch and shall not solicit or accept street hails;

“(2) Use the trade dress required by section 20j-4 at any time that the operator is logged into a private vehicle-for-hire company’s digital dispatch;

“(3) Possess a valid driver’s license issued by the District of Columbia, the State of Maryland, or the Commonwealth of Virginia;

“(4) Possess proof of personal motor vehicle insurance for the motor vehicle used as a private vehicle-for-hire; and

“(5) Be at least 21 years of age.

“(b) If an accident occurs involving a motor vehicle that is logged into the private vehicle-for-hire’s digital dispatch, the private vehicle-for-hire operator or company shall provide law enforcement officials and insurance representatives with proof of the insurance required by section 20j-3.”

“Sec. 20j-6. Charges for private vehicle-for-hire service.

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“A private vehicle-for-hire company may offer service at no charge, suggest a donation, or charge a fare; provided, that if a fare is charged the company shall comply with the fare transparency provisions pursuant to section 20l(b)(2).

“Sec. 20j-7. Certification, enforcement, and regulation of private vehicles-for-hire.

“(a) Every 24 months, a private vehicle-for-hire company shall certify on a form provided by the Commission that the private vehicle-for-hire company has complied with the requirements of this act.

“(b) The Commission is authorized to inspect and copy the relevant safety and consumer protection-related records of a private vehicle-for-hire company to ensure compliance with this act when it has a reasonable basis to suspect non-compliance; provided, that any records disclosed to the Commission under this act shall not be subject to disclosure to a third party by the Commission, including through a request submitted pursuant to the District of Columbia Freedom of Information Act of 1976, effective March 25, 1976 (D.C. Law 1-96; D.C. Official Code § 2-501 *et seq.*).

“(c) If the Mayor determines that a private vehicle-for-hire company knowingly certified an intentionally false or misleading statement on a form required by this act, the Mayor may impose a civil fine as determined by rulemaking. A civil fine prescribed by this section shall be applicable only after the private vehicle-for-hire company is afforded an opportunity for a hearing. These penalties shall be in addition to any other penalties available by law.

“(d) Failure by a private vehicle-for-hire company or operator to adhere to the requirements of this act may result in sanction by the Commission, including fines and other penalties, pursuant to the Commission’s authority in section 8(c)(7).

“(e) Notwithstanding any other provision of law, the Commission shall not require a private vehicle-for-hire company to provide the Commission with a list or inventory of private vehicle-for-hire operators or vehicles associated with a private vehicle-for-hire company.”.

(l) Section 20k (D.C. Official Code § 50-329.01) is amended to read as follows:

“Sec. 20k. Vehicle inspection officers.

“(a) Vehicle inspection officers shall undergo training on the rules and regulations governing private and public vehicles-for-hire and undergo yearly performance evaluations. Vehicle inspection officers shall be prohibited from making traffic stops of on-duty private or public vehicles-for-hire in the act of transporting a fare, unless there is reasonable suspicion of a violation, and shall act in accordance with all rules governing their duties, as established through rulemaking.

“(b) Upon reasonable suspicion of an illegal street hail, a public or private vehicle-for-hire operator shall provide a law enforcement official or vehicle inspection officer with access to a device containing an electronic record of trips sufficient to establish that the ride in question was prearranged through digital dispatch. Failure to have or provide access to a device containing such a record shall constitute a civil infraction punishable by fine or other penalty as established by the Mayor; provided, that an operator shall not be required to relinquish custody of a device containing evidence of a trip arranged through digital dispatch.”.

(m) Section 20l (D.C. Official Code § 50-329.02) is amended as follows:

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(1) Subsection (b) is amended as follows:

(A) The lead-in language is amended to read as follows:

“(b) A company that provides digital dispatch shall be exempt from regulation by the Commission, other than the rules issued pursuant to this subsection and subsection (c-1) of this section. The Commission may establish rules only to the extent necessary to ensure compliance with the following service requirements; provided that, the rules shall protect the personal privacy rights of customers and operators, and shall not result in the disclosure of confidential business information:”

(B) Paragraph (1) is amended as follows:

(i) Strike the phrase “the digital dispatch service” and insert the phrase “a company that uses digital dispatch” in its place.

(ii) Strike the word “system” and insert the phrase “system or through a time and distance charge set by the company” in its place.

(C) A new paragraph (1A) is added to read as follows:

“(1A) If a company that uses digital dispatch connects a customer to a private or public vehicle-for-hire other than a taxicab, the company shall calculate the fare in compliance with the method required for that class of service;”

(D) Paragraph (2) is amended to read as follows:

“(2) If a company that uses digital dispatch charges a fare other than the metered taxicab rate, before booking a vehicle the company shall disclose to the customer the fare calculation method, the applicable rates being charged, and the option for an estimated fare. The company shall review any customer complaint about fares that exceed estimated fares by 20% or \$25, whichever is less;”

(E) Paragraph (3) is amended by striking the phrase “using a digital dispatch service” and inserting the phrase “affiliated with a company using digital dispatch” in its place.

(F) Paragraph (4) is amended by striking the phrase “The digital dispatch service and the operators” and inserting the phrase “A company that uses digital dispatch and the public vehicle-for-hire operators” in its place.

(G) Paragraph (6) is amended by striking the phrase “The digital dispatch service” and inserting the phrase “A company that uses digital dispatch” in its place.

(H) Paragraph (7) is amended by striking the phrase “The digital dispatch service” and inserting the phrase “A company that uses digital dispatch” in its place.

(I) Paragraph (8) is amended as follows:

(i) Strike the word “public” wherever it appears and insert the phrase “private or public” in its place

(ii) Strike the phrase “The digital dispatch service” and insert the phrase “A company that uses digital dispatch” in its place.

(iii) Strike the phrase “a digital dispatch service” and insert the phrase “a company that uses digital dispatch” in its place

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(iv) Strike the phrase “the digital dispatch service includes” and insert the phrase “the company that uses digital dispatch includes” in its place.

(v) Strike the phrase “the digital dispatch service provides” and insert the phrase “the company that uses digital dispatch provides” in its place.

(J) Paragraph (9) is amended to read as follows:

“(9) A company that uses digital dispatch shall provide service throughout the entire District;”.

(K) Paragraph (10) is amended to read as follows:

“(10) A company that uses digital dispatch for public vehicles-for-hire service shall register with the Commission by submitting proof to the Commission that it is licensed to do business in the District, maintains a registered agent in the District, and maintains a website containing information on its method of fare calculation, the rates and fees charged, and a customer service telephone number or email address. A company that uses digital dispatch for private vehicles-for-hire shall comply with the registration requirements of section 20j-1(12);”.

(L) New paragraphs (11), (12), (13), (14), and (15) are added to read as follows:

“(11) Every 3 months, a company that uses digital dispatch for private or public vehicles-for-hire other than taxicabs shall transmit to the Office of the Chief Financial Officer 1% of all gross receipts for trips that physically originate in the District. The money collected shall be deposited in the Public Vehicles-for-Hire Consumer Service Fund established by section 20a. The company shall certify that the amount transmitted is consistent with the amount collected for such trips arranged through digital dispatch. The Office of the Chief Financial Officer may inspect records of the company to ensure compliance with the requirements of this paragraph; provided, that any records disclosed to the Office of the Chief Financial Officer shall not be subject to disclosure to a third party, including through a request submitted pursuant to the District of Columbia Freedom of Information Act of 1976, effective March 25, 1976 (D.C. Law 1-96; D.C. Official Code § 2-501 *et seq.*);

“(12) A company that uses digital dispatch for taxicabs or an approved payment service provider pursuant to the Commission’s regulations shall transmit the per trip passenger surcharge to the Office of the Chief Financial Officer to be deposited in the Public Vehicles-for-Hire Consumer Service Fund established by section 20a in a manner prescribed by the Commission pursuant to its authority in section 20a(g). The Office of the Chief Financial Officer may inspect records of the company to ensure compliance with the requirements of this paragraph; provided, that any records disclosed to the Office of the Chief Financial Officer shall not be subject to disclosure to a third party, including through a request submitted pursuant to the District of Columbia Freedom of Information Act of 1976, effective March 25, 1976 (D.C. Law 1-96; D.C. Official Code § 2-501 *et seq.*);

“(13) During a state of emergency as declared by the Mayor, a company that provides digital dispatch that engages in surge pricing shall limit the multiplier by which its base fare is multiplied to the next highest multiple below the 3 highest multiples set on different days

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in the 60 days preceding the declaration of a state of emergency for the same type of service in the Washington Metropolitan Area;

“(14) A private or public vehicle-for-hire operator may affiliate with more than one company for the purpose of using digital dispatch unless otherwise provided for by an agreement between the company and the operator; and

“(15) A trip manifest maintained in an electronic format by a private or public vehicle-for-hire operator who connects with a passenger through a digital dispatch service may include the phrase “as directed” or a similar phrase in lieu of including a passenger’s trip destination; provided, that the destination is included upon completion of the trip.”.

(2) A new subsection (c-1) is added to read as follows:

“(c-1) The Commission shall not require a company that provides or uses digital dispatch for private or public vehicles-for-hire to collect or transmit data or information about a customer or a customer’s trip; provided, that anonymous trip data collected by a taxicab meter system shall be collected and transmitted to the Commission for all trips.”.

(3) Subsection (d) is repealed.

(n) Section 20m (D.C. Official Code § 50-329.03) is amended as follows:

(1) Paragraph (3) is amended by striking the word “taxicab” and inserting the phrase “private or public vehicle-for-hire” in its place.

(2) Paragraph (4) is amended by striking the word “taxicab” and inserting the phrase “private or public vehicle-for-hire” in its place.

(3) Paragraph (6) is amended by striking the word “taxicab” and inserting the phrase “private or public vehicle-for-hire” in its place.

(o) Section 20o (D.C. Official Code § 50-329.05) is amended as follows:

(1) The heading is amended to read as follows:

“Sec. 20o. Fleeing from a vehicle inspection officer in a public or private vehicle-for-hire.”.

(2) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase “public vehicle-for-hire” wherever it appears and insert the phrase “public or private vehicle-for-hire” in its place.

(ii) Strike the phrase “public vehicle inspection officer” wherever it appears and insert the phrase “vehicle inspection officer” in its place.

(B) Paragraph (2) is amended by striking the phrase “public vehicle-for-hire” wherever it appears and inserting the phrase “public or private vehicle-for-hire” in its place.

(3) Subsection (b) is amended as follows:

(A) The lead-in text is amended by striking the phrase “public vehicle-for-hire” and inserting the phrase “public or private vehicle-for-hire” in its place.

(B) Paragraph (2) is amended by striking the phrase “public vehicle inspection officer” wherever it appears and inserting the phrase “vehicle inspection officer” in its place.

(C) Paragraph (3) is amended as follows:

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(i) Strike the phrase “public vehicle-for-hire” and insert the phrase “public or private vehicle-for-hire” in its place.

(ii) Strike the phrase “public vehicle inspection officer” and insert the phrase “vehicle inspection officer” in its place.

(4) Subsection (c) is amended by striking the phrase “public vehicle-for-hire” wherever it appears and insert the phrase “public or private vehicle-for-hire” in its place.

Sec. 3. Section 105(a) of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2023; D.C. Official Code § 50-381(a)), is amended by striking the phrase “system.” and inserting the phrase “system; provided that a company that uses digital dispatch for taxicabs may charge fares pursuant to section 201(b)(1) of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-329.02(b)(1)).”.

Sec. 4. Section 47-2829 of the District of Columbia Official Code is amended by adding new subsections (k) and (l) to read as follows:

“(k) A person who resides in the District of Columbia, the State of Maryland, or the Commonwealth of Virginia shall be eligible to apply for an operator and vehicle license to operate a public vehicle-for-hire.

“(l) This section shall not apply to a private vehicle-for-hire operator affiliated with a private vehicle-for-hire company pursuant to the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 *et seq.*)”.

Sec. 5. Subsection 601.4(e) of Title 18 of the District of Columbia Municipal Regulations (18 DCMR § 601.4(e)) is amended by striking the phrase “semi-annually” and inserting the word “annually” in its place.

Sec. 6. Title 31 of the District of Columbia Municipal Regulations is amended as follows:

(a) Section 1001.9 (31 DCMR § 1001.9) is amended by striking the phrase “Metropolitan Area” wherever it appears and inserting the phrase “District of Columbia, the State of Maryland, or the Commonwealth of Virginia” in its place.

(b) Section 1209.4 (31 DCMR § 1209.4) is amended by striking the phrase “Washington Metropolitan Area” wherever it appears and inserting the phrase “District of Columbia, the State of Maryland, or the Commonwealth of Virginia” in its place.

Sec. 7. Applicability.

Section 1, section 2, section 3, and section 4 of this act shall apply as of the effective of date of this act. Section 5 shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

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Sec. 8. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 9. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

From: Joe Lerch [jlerch@vml.org]
Sent: Wednesday, November 12, 2014 2:48 PM
To: Smoot, Janet (DMV)
Subject: RE: TNC Study - Report and Legislation

Hi Janet – Thanks for granting me extra time. First, I assume you already have VML’s legislative position regarding TNCs? If not, I’ll send forthwith (I recall sending earlier but am not sure). Second, great report. It is thorough, to the point and well written. Here are my only comments:

- On page 6 you reference the proposed legislation prohibiting street hails. I’ve heard allegations that TNC drivers are currently employing this practice in VA Beach bars late at night (in essence going into a bar to offer rides). How will DMV investigate and enforce, especially given that such rides are likely to be undocumented?
- On page 44 I’m not sure I understand highlighted portion of this sentence:

In particular, there was a consensus, or at least a concession, that TNCs should not be forced into the same regulatory mold as taxicabs, **and a recognition that local deregulation of taxis would be a thankless task**, even if such deregulation would level the playing field between taxis and TNCs.

How about this?

There was a consensus, or at least a concession, that TNCs should not be forced into the same regulatory mold as taxicabs. Therefore it was decided that local deregulation of taxis would not be pursued as part of the legislation.

I didn’t have enough time to fully vet the draft legislation but I think it is on the right track. Once I’ve had time to examine I’ll get back to you.

Joe Lerch
Director of Environmental Policy
Virginia Municipal League
13 E Franklin Street
Richmond, VA 23219

804-523-8530 - office
804-640-5615 - mobile

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Wednesday, November 12, 2014 12:38 PM
To: Joe Lerch
Subject: RE: TNC Study - Report and Legislation

Joe,
Please get it in today as soon as you can. We are on a tight timeframe and want to include everyone’s feedback.
Thanks.

Janet

From: Joe Lerch [<mailto:jlerch@vml.org>]
Sent: Wednesday, November 12, 2014 12:34 PM
To: Smoot, Janet (DMV)
Subject: RE: TNC Study - Report and Legislation

Hi Janet – I've been slammed lately and am just getting around to reviewing this afternoon. Any chance you can extend me till 5 today?

Joe Lerch
Director of Environmental Policy
Virginia Municipal League
13 E Franklin Street
Richmond, VA 23219

804-523-8530 - office
804-640-5615 - mobile

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Monday, November 03, 2014 1:49 PM
To: cduvall@lindlcorp.com; vbwa@aol.com; spencer@alexandriayellowcab.com; cking@redtopcab.com; kyle@alexandriayellowcab.com; [judyswystun@hotmail.com](mailto:judywystun@hotmail.com); tperrin@lindlcorp.com; rmw5264@aol.com; sjohnmassoud@aol.com; dwight.kines@veoliatransdev.com; hjones@fgb.com; larry@lw-transportation.com; sjohnson@hdjn.com; jlbutner@verizon.net; jdime@williamsmullen.com; emullen@reedsmith.com; rachelle@side.cr; sam.tatevosyan@hklaw.com; amims@lyft.com; john.potter@mwa.com; michael.cooper@mwa.com; stephen.holl@mwa.com; naomi.klaus@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; margaret.mckeough@mwa.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@onetransportationsolution.com; paul@getsetgo.us; dan@agofflimo.com; wmorrow@wmatc.gov; terry.bellamy@dc.gov; lbrenner@psc.state.md.us; ellen.vancko@maryland.gov; craig.feister@dot.gov; Glick, Frank (VSP); jjones@virginia sheriffs.org; dana@vachiefs.org; Maxey, Ronald (VSP); dwhitehe@vbgov.com; lea@co.henrico.va.us; hun05@co.henrico.va.us; whodges@vbgov.com; Rebecca.Nichols@scc.virginia.gov; melinda.willis@scc.virginia.gov; chris@lagowlobby.com; vicki.harris.qr6v@statefarm.com; rsavage@eckertseamans.com; Anne.Kerr@troutmansanders.com; bobiiav@icloud.com; donna.leaman@usaa.com; george.lyle@scc.virginia.gov; mary.bannister@scc.virginia.gov; john.bailey@scc.virginia.gov; BECKERR3@Nationwide.com; donald.beatty@scc.virginia.gov; joanne.scott@scc.virginia.gov; jlalla@georgetownins.com; katie.johnson@scc.virginia.gov; jack@georgetownins.com; jhudgins@iiav.com; Joe Lerch; jcampbell@vaco.org; bblevins@vaco.org; laura@batemanconsulting.net; Patricia Carroll; adelabarrera@arlingtonva.us; noelle.dominguez@fairfaxcounty.gov; jgwilson@nngov.com; catron@alcaldefay.com; lyeatts@hampton.gov; lea@co.henrico.va.us; hun05@co.henrico.va.us; bernard.caton@alexandriava.gov; LYNCHBURG LA-SECONDARY (DMV); trakow@arlingtonva.us; archie.pollard@fairfaxcounty.gov; paul.hicks@fairfaxcounty.gov; rvandammejr@flyrichmond.com; jwideman@hampton.gov; jliss@virginianewmajority.org; Steve@swpearson.com; thomas.a.depasquale@gmail.com; Donohue, Nick (GOV); efiske@oag.state.va.us; jwestbrook@oag.state.va.us; Burdette, Randall P. (DOAV); Mitchell, Jennifer (DRPT); Burns, Craig (TAX); Arabia, Christopher (DRPT); Swanson, John (GOV)
Cc: Holcomb, Richard (DMV); Dunston, David (DMV); Goheen, Pam (DMV); Harrison, Patrick (DMV); Hill, Joseph (DMV); Hussey, Rena (DMV); Klotz, Barbara (DMV); Owens, Andrew (DMV); Penny, Thomas (DMV); Petersen, Judy (DMV); White, Robert (DMV); Whitham, Craig (DMV)
Subject: TNC Study - Report and Legislation

Dear Stakeholders,

Enclosed is the TNC study report and legislation that was drafted as a result of all of our months of meetings and everyone's hard work. Thank you for the time you spent in these meetings and for all of your feedback, both during the meetings and in written format as follow-up. This study would not have been possible without all of our interested stakeholders and their valuable input.

After reading the report and legislation you can send to me any comments you or your organization have in regards to the study and these documents. As with all of our legislative studies, you may also submit your comments, or the position of your company/organization, in the form of a letter which will be placed in the appendices of the report.

We have a tight turnaround and will need to receive your comments by noon on Wednesday, November 12th. We will not be able to accept them after this date.

If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
[Confidentiality Statement](#)



W. Scott Johnson
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November 12, 2014

Ms. Rena Hussey
Assistant Commissioner
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Virginia Department of Motor Vehicles
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via email: rena.hussey@dmv.virginia.gov

Ms. Janet Smoot
Legal and Government Relations
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via email: janet.smoot@dmv.virginia.gov

Re: **TNC Draft Proposal**

Dear Rena and Janet:

The Virginia Taxicab Association (VTA) would like to thank you and the DMV staff for all of the time and effort the agency has put into the TNC study over the past several months. With a wide array of stakeholders – many with often divergent interest and agendas – the process you all have run has been both fair and transparent. Our membership has always welcomed competition and worked to find an equitable solution to the Uber/Lyft entry into the Virginia market.

That said, we also believe there is very little difference in what these companies do and what many of our members have been doing for years – dispatching drivers to pick up passengers through technology. Transparency in business operations, in conjunction with passenger safety, is paramount for TNCs and our

Ms. Rena Hussey
Ms. Janet Smoot
November 12, 2014
Page 2

members alike. Passengers expect safe modes of transportation and as DMV works to protect the public, this should be the key driver for sound policy making. The draft bill circulated on November 3rd goes a long way towards achieving those objectives, but we do have some suggestions and questions to consider before moving forward with final legislation. We organized the suggestion into three key categories: 1) those that are substantive policy issues; 2) those that are technical issues; 3) and questions for DMV to respond to.

VTA – Substantive Policy Issues

- The major concern of policy makers resides in section 46.2-2099.51. TNC Insurance. The draft allows “app-on” coverage, which creates a large coverage gap whenever a TNC driver is operating off-app, which has been routinely documented around the country and in the Commonwealth. This reality cannot be ignored. The impact on passengers who are victims of street hails, drivers operating with the app off or the app crashing as was reported two weeks ago is the same: NO INSURANCE COVERAGE APPLIES. In these situations neither the TNC’s insurance nor the driver’s personal policy will provide coverage to the passenger.
- Our members understand the argument that the driver maybe violating his agreement with the TNC if engaged in any of the above practices. Hence the TNCs do not want to be responsible or be the insurer of last resort via primary or

umbrella coverage. However, it is important to note that it is the TNCs that are enabling these drivers to become “for-hire” drivers and serve the public. With that responsibility comes an obligation to protect the public. At a minimum, the insurance coverage required when the app is on but the driver is not on a prearranged trip **should be in effect at all times.**

- The TNC definition proposed by DMV only refers to a company that “provides” rides using a TNC platform. The definition needs to be more encompassing and not allow any TNC to shield itself from liability through subsidiaries or contractual agreements. A more accurate definition reads: “Transportation network company” means a person who sells, provides, furnishes, contracts or arranges for prearranged rides using a TNC platform that connects passengers with TNC partners.
- 46.2-2099.48.J beginning at line 964 – No TNC should permit its TNC operators to rate riders as to their desirability as customers so as to discourage other operators from accepting those riders’ future trips. This has discriminatory potential which cannot be objectively monitored by the TNCs alone.
- 46.2-2099.49.B at line 998 – Since Live Scan is widely available through DMV, all criminal history records should be obtained by fingerprints through the CCRE. If third-party background checks are to be permitted, with physical verification of applicant identity, there needs to be criteria for the third parties and their agents performing these checks.

VTA – Technical Issues

- 46.2-2011.2.A-C. Violations; criminal penalties; beginning at line 790 as worded is unclear. While “any person” in paragraph A is all encompassing, is it the intention of DMV in the draft legislation “carrier” (Paragraph B) or “motor carrier” (Paragraph C) in 46.2-2011.22 would encompass TNCs so that they are subject to the penalties outlined therein? Clearly, they should apply and we ask for language to make this clear.
- 46.2-2011.22. Violations; criminal penalties; the draft legislation should be amended on line 807 to add Virginia Code 46.2-2011.23 Violations; civil penalties; and amend 46.2-2011.23 to include “injunctive relief” as another remedy for violations.
- 46.2-2099.48.C.6. General operational requirements; should be amended at line 916 to require a customer complaint and emergency line 24/7 in each jurisdiction in which a TNC operates and further require that such line be staffed at all times that prearranged rides are being provided.
- 46.2-2099.48.J.ii. General operational requirements; should be amended at line 976 to reword the clause “the passenger is unable to care for himself or herself and is not in the charge of a responsible companion.” Retention of this clause in its current form could violate the ADA. The passenger should be able to decide whether they need or want a companion.

- 46.2-2099.49.B.1 Requirements for TNC Partners; needs amendment on line 1003. TNC operators with adverse criminal history records should be disqualified until such information is confirmed to be incorrect and the information is corrected. Deference should be given to public safety over applicant convenience.
- 46.2-2099.49.D. Requirements for TNC Partners; should be amended at line 1045 to require pre-employment, random, post-accident and probable cause testing policies. A zero-tolerance policy without the additional policies is meaningless. In addition, if a TNC is given notice or becomes aware of a complaint or possible policy violation, the TNC should be required to immediately turn off the TNC application and immediately suspend the TNC Partner.
- 46.2-2099.49.F. Requirements for TNC Partners; should be amended at line 1071 to add "motor vehicle accidents" to the list of reportable events.
- 46.2-2099.50.A, 2. Requirements for TNC Partner Vehicles; should be amended on line 1076 after the word "in" delete the word "another" and insert the word "contiguous".
- 46.2-2099.50.B.1 Requirements for TNC Partner Vehicles should be reworded on line 1090 to read "the identification marker shall be displayed on the Partner Vehicle and any other proof of the TNC Partner Vehicle's registration shall be carried in the TNC Partner Vehicle as prescribed by the Department and shall be valid for a period of time prescribed by the Department.

- 46.2-2099.50.B.1 Requirements for TNC Partner Vehicles; requires certainty at line 1095. The Commissioner “shall,” not “may,” deny, suspend or revoke under the prescribed circumstances.
- 46.2-2099.50.C Requirements for TNC Partner Vehicles; requires clarity at line 1119. The TNC identification marker issued by the TNC should be kept visible at all times from the exterior of the vehicle.

VTA – Questions for DMV to Answer

- 46.2.2000 “Personal vehicle” at line 699 – Should this read “a motor vehicle owned or leased by a TNC partner (operator/driver)”? DMV might consider the fact that without this clarification that TNC partners could engage in vehicle swapping and possibly the creation of yet another insurance gap in coverage.
- 46.2-2000 “TNC Partner” at line 738 – We have a continuing objection to the use of the term “partner” in the definitions and throughout the proposed legislation. These are “operators” (see definition at line 692) or drivers and should be referred to as such. Does DMV object to making such a change in definition and if so please explain.
- 46.2-2000 “TNC Rider” at line 744- Has DMV considered if there is a need to define a TNC rider and if not, is there any objection to including such a definition?

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- 46.2-2099.50.A.5 Requirements for TNC partner vehicles; at line 1080– How does DMV contemplate tying the TNC insurance policy or policies to the vehicle to verify coverage for registration purposes?
- 46.2-2099.50 5 Requirements for TNC partner vehicles; at line 1080- How does DMV foresee verifying insurance when registering a TNC vehicle? How will this be done electronically?
- 46.2-2011.29.B at line 867 – If non-Virginia licensed vehicles are to be allowed to operate in the Commonwealth as TNC vehicles, why should they be afforded special treatment when operated illegally? Is there some reason why Virginia law enforcement can't confiscate non-Virginia license plates?

Please let us know if you have any questions, and we hope your team finds this constructive and helpful for moving forward. And, again congratulations on a very thorough and inclusive process on an issue that continues to evolve across the country and is important to so many Virginians.

Very truly yours,


W. Scott Johnson

WSJ/jpr
DM #671250

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cc: Mr. Chuck Duvall
Mr. Tripp Perrin
Mr. Denny Gallagher
Mr. Charlie King
Ms. Judy Swystun



To: Janet Smoot, Virginia Division of Motor Vehicles
From: Jon Liss, Virginia Taxicab Drivers United
Date: November 12, 2014
Re: *Comments on proposed legislation / Transportation Network Companies in Virginia*

Virginia Taxicab Drivers United believes there are two key public purposes served by TNCs and taxicabs:

- 1) Provide safe, reliable and convenient transportation for consumers.
- 2) Support the creation or maintenance of full-time living wage jobs or small businesses.

The DMV reported that it met with over 150 stakeholders as it developed its recommendations. However, none of Virginia's cabdrivers or TNC drivers were consulted until three days before the draft report's release. In other words the owner-operators of Virginia's up to 5400 (DMV estimate) cabs and up to 5,900 TNC Partner-drivers (DMV 2015 projection) were all but excluded from the preparation of these recommendations. No consideration was given as to the proposed legislation's impact on the working conditions, working hours, or income generated by independent contractors who drive for TNCs or taxi companies. No consideration was given to the economic rights of owner-operators who spend \$20,000 to \$60,000 to outfit a taxi or a TNC vehicle. Collectively owner-operators have invested \$250 million or more placing a car or cab in service. The taxi industry currently provides steady full-time, living wage work to at least 5,000 drivers. The regulatory framework set by the DMV will largely determine which industry model, companies and drivers will prosper or fail. The rules and regulations that are adopted will establish the working and living conditions of drivers who work for TNCs or taxi companies. Furthermore these recommendations will largely determine the price that consumers pay and the quality and safety of service that consumers receive for passenger transportation companies.

The pickup and delivery of passengers in both the taxi industry and with TNCs is carried out primarily by drivers who own and outfit their vehicle. For instance, the individual driver buys the car (and some companies require certain makes and models – such as hybrid vehicles), insures it, pays licensing and registration fees, pays for maintenance and gas. Thus, cabdrivers and TNC drivers alike have considerable interest in preserving their ability to continue to work in the field/profession they have duly invested in. At the least, drivers merit due process protections against arbitrary, capricious or unwarranted termination of suspension as well as protections against discriminatory treatment.

To best achieve basic rights for independent contractors working as taxi drivers or TNC partners VTDU has drawn from Virginia's own franchise statutes as cabdrivers and TNC drivers share many similarities with franchisees. For instance, while most cabdrivers and TNC drivers own the car they drive as a cab or TNC partner; they must affiliate with a company in order to provide passenger service. This makes them very similar to franchisees that must also make a significant financial investment in order to launch a business under someone else's brand. Also similar to franchisees, drivers must also pay a fee as determined by the company in order to operate under the company's brand. Additionally, just as in the case of franchisees, drivers do not draft the contracts or agreements under which they must operate. To the contrary, it is the cab company or TNC who draft those agreements and they can be so one-sided as to make it difficult for drivers to provide the quality service they are capable of and which the public deserves.

Recommendations

- **Amend Virginia Code section 46.2-2000: Definitions, as follows:**

"Lessor" as it applies in this chapter, means a person holding the primary license, permit, or certificate issued by the Department or pursuant to local ordinance or regulation, authorizing the operation of a taxicab company or TNC in the Commonwealth and who also enters into contracts or agreements by which

1. A lessee is granted the right to engage in the business of offering or providing taxicab or prearranged rides pursuant to a marketing plan or a service model prescribed in substantial part by a lessor;
2. The operation of the lessee's taxicab or TNC partner vehicle pursuant to such plan or service model is substantially associated with the lessor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designated by the lessor; and
3. The lessee is required to pay, directly or indirectly, a fee to the lessor for such operation and use of the lessor's trademark, service mark, trade name, logotype, advertising or other commercial symbol.

"Lessor standards" means the requirement that all persons operating as lessors provide their lessees with written contracts or agreements which incorporate dispute resolution provisions and which at a minimum, include binding arbitration pursuant to commonly acceptable standards in the taxicab or TNC industry or the applicable Commercial Arbitration Rules of the American Arbitration Association.

- **Amend Virginia Code section 46.2-2001: Regulation by Department; reports;**

prevention of discrimination; regulation of leasing of motor vehicles, of follows:

It is hereby declared to be the policy of the Commonwealth to correct as rapidly as practicable such inequalities as may exist in the taxicab and TNC service system so as to establish a more even balance of power between persons who operate as lessors as is defined in this chapter, and lessees who enter into contracts or agreements with the lessor to provide service under the person's ; trademark, service mark, trade name, logotype, advertising or other commercial symbol; and to require persons who provide taxicab or TNC service and also operate as lessors to deal fairly with their lessees with reference to all aspects of the lessor-lessee relationship.

The Department shall supervise, regulate and control all motor carriers, carriers by rail, and brokers not exempted under this chapter doing business in the Commonwealth, and all matters relating to the performance of their public duties and their charges therefor as provided by this chapter, and shall correct abuses therein by such carriers; and to that end the Department may prescribe reasonable rules, regulations, forms and reports for such carriers and brokers in furtherance of the administration and operation of this chapter; and the Department shall have the right at all times to require from such motor carriers, carriers by rail, and brokers special reports and statements, under oath, concerning their business.

The Department shall make and enforce such requirements, rules and regulations as may be necessary to prevent unjust or unreasonable discriminations by any carrier or broker in favor of, or against, any person, locality, community or connecting carrier in the matter of service, schedule, efficiency of transportation or otherwise, in connection with the public duties of such carrier or broker. The Department shall administer and enforce all provisions of this chapter, and may prescribe reasonable rules, regulations and procedure looking to that end.

The Department may prescribe and enforce such reasonable requirements, rules and regulations in the matter of leasing of motor vehicles as are necessary to prevent evasion of the Department's regulatory powers.

The Department shall work in conjunction with the Department of State Police and local law-enforcement officials to promote uniform enforcement of the laws pertaining to motor carriers and the rules, regulations, forms, and reports prescribed under the provisions of this chapter."

- **Amend Virginia Code section 46.2-2062: Regulation of taxicab service by localities; rates and charges, as follows:**

"A. The governing body of any county, city or town in the Commonwealth may by ordinance regulate the rates or charges of any motor vehicles used for the transportation of passengers for a consideration on any highway, street, road, lane or

alley in such county, city or town, and may prescribe such reasonable regulations as to filing of schedules of rates, charges and the general operation of such vehicles; provided that, notwithstanding anything contained in this chapter to the contrary, such ordinances and regulations shall provide for dispute resolution, which incorporates at a minimum binding arbitration, pursuant to the lessor standards applicable to this Chapter but shall not prescribe the wages or compensation to be paid to any driver or lessor of any such motor vehicle by the owner or lessee thereof.”

- **Amend Virginia Code section 46.2-2065: Local regulations of qualifications of operators; dispute resolution; stands, as follows:**

“The governing body of any county, city, or town may prescribe such reasonable regulations as to the character and qualifications of operators of any such vehicle as they deem proper and shall require dispute resolution, which incorporates at a minimum binding arbitration, pursuant to the lessor standards applicable to this Chapter and may provide for the designation and allocation, by the sheriff or chief of police, of stands for such vehicles and the persons who may use the same.”

- **Amend (proposed) Virginia Code section 46.2-2099.49:**
 - **Add a point number 4 below current line 1067:**

4. The Transportation Network Company shall, in its contracts and agreements with TNC Partners, provide for dispute resolution which incorporates at a minimum, binding arbitration pursuant to the lessor standards applicable to this Chapter.

###

Smoot, Janet (DMV)

From: sjohnmassoud@aol.com
Sent: Thursday, November 20, 2014 12:55 PM
To: Smoot, Janet (DMV); hazem@dullesairporttaxi.com
Subject: Re: TNC Study - Updat on study report

Dear Ms. Smoot:

First off, everyone at Dulles Airport Taxi and Arlington Blue Top Cabs wants to thank you and the rest of DMV staff for all the hard work you have done, in trying to find a compromise which is acceptable to all sides. I have read and reread every piece of your legislation and have been quite impressed with the good work you and DMV staff have done in trying to protect the customer from those who would operate a TNC vehicle outside of the law.

After having read your email from earlier today - Arlington Blue Top and Dulles Airport Taxi have a couple of specific concerns which we need to be put into the record.

1) Regarding background checks - while we are understanding of the law and that background checks may not be allowed to go to any private entity - this should not prevent a TNC from doing a background check that includes a "fingerprint background check" as well. As many of our ex drivers have 2 or sometimes 3 social security numbers (and thus 2 or 3 driver's licenses), just the regular background check should not suffice. The fingerprint check is quite important. Any TNC driver can easily obtain an FBI fingerprint background check, and send it to the TNC management. This was done in Arlington for many years and worked quite successfully.

2) Regarding "Barrier offenses" - Section 2 should at the very least include any conviction for fraud or extortion. We would suggest however that you follow the Arlington County Taxicab Ordinance here (Section 25.1--9(f)(2)ii, and iii of the County code) which reads:

Conviction, plea of guilty, or plea of nolo contendere to the violation of any law involving: the commission of any felony, any sex offense, solicitation of prostitution, alcohol, marijuana, any drugs classified as a controlled substance under federal or state laws, gambling, larceny, theft, assault, battery, burglary, disorderly conduct, drunk in public or related charge, impaired driving, driving while intoxicated or under the influence, reckless driving, or other crime of moral turpitude.

Applicant is on parole or probation for any criminal or traffic offense.

Thanks again

Sincerely,

S John Massoud
Vice-President
Dulles Airport Taxi
Arlington Blue Top Cabs

-----Original Message-----

From: Smoot, Janet (DMV) (DMV) <janet.smoot@dmv.virginia.gov>
To: cduvall <cduvall@lindlcorp.com>; vbwa <vbwa@aol.com>; spencer <spencer@alexandriayellowcab.com>; cking <cking@redtopcab.com>; kyle <kyle@alexandriayellowcab.com>; judyswystun <judyswystun@hotmail.com>; tperrin <tperrin@lindlcorp.com>; rmw5264 <rmw5264@aol.com>; sjohnmassoud <sjohnmassoud@aol.com>; dwight.kines <dwight.kines@veoliatransdev.com>; hjones <hjones@fgb.com>; larry <larry@lw-transportation.com>; sjohnson <sjohnson@hdjn.com>; jlbutner <jlbutner@verizon.net>; joseph <joseph@lyft.com>; jdime <jdime@williamsmullen.com>; abezik <abezik@williamsmullen.com>; achang <achang@lyft.com>; beth <beth@side.cr>; kintz <kintz@uber.com>; emullen <emullen@reedsmith.com>; jpalmore <jpalmore@reedsmith.com>; brand.aaron <brand.aaron@arentfox.com>; zuhairah <zuhairah@uber.com>; gus <gus@uber.com>; rachel <rachel@side.cr>; sam.tatevosyan <sam.tatevosyan@hklaw.com>; curtis.scott <curtis.scott@uber.com>; amims <amims@lyft.com>; john.potter <john.potter@mwa.com>; michael.cooper <michael.cooper@mwa.com>; stephen.holl <stephen.holl@mwa.com>;

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Cc: Wells, Matt (DMV) (DMV) <Matt.Wells@dmv.virginia.gov>; Dunston, David (DMV) (DMV) <david.dunston@dmv.virginia.gov>; Goheen, Pam (DMV) (DMV) <pam.goheen@dmv.virginia.gov>; Harrison, Patrick (DMV) (DMV) <patrick.harrison@dmv.virginia.gov>; Hill, Joseph (DMV) (DMV) <joseph.hill@dmv.virginia.gov>; Hussey, Rena (DMV) (DMV) <rena.hussey@dmv.virginia.gov>; Klotz, Barbara (DMV) (DMV) <barbara.klotz@dmv.virginia.gov>; Owens, Andrew (DMV) (DMV) <andrew.owens@dmv.virginia.gov>; Penny, Thomas (DMV) (DMV) <thomas.penny@dmv.virginia.gov>; Petersen, Judy (DMV) (DMV) <judy.petersen@dmv.virginia.gov>; White, Robert (DMV) (DMV) <robert.white@dmv.virginia.gov>; Whitham, Craig (DMV) (DMV) <Craig.Whitham@dmv.virginia.gov>
Sent: Thu, Nov 20, 2014 11:31 am
Subject: TNC Study - Updat on study report

Dear Stakeholders,

Thanks to all of you for the valuable comments and suggestions offered in response to the draft report and legislation sent on November 3rd. The DMV Study Team is in the process of reviewing these submissions and finalizing our recommendations. Although we have not completed our work, based on your feedback, we have decided upon changes regarding background screening. While we are incorporating a number of your suggestions regarding technical and stylistic concerns as well, due to the substantive nature of these changes to background screening, we wanted to bring them to your attention and provide you the opportunity to offer comments for inclusion in the appendices of the final report.

Background Checks

The draft you received on November 3rd recommended a two-tiered background check system, whereby a vendor could be utilized to perform the criminal history record check unless the TNC did not meet the prospective TNC partner in person. In those cases a fingerprint-based criminal history record check performed by a law enforcement agency was required, the results of which would be reviewed by the TNC.

After further research and discussion with the Virginia State Police, it was determined that federal law prohibits the results of a Central Criminal Records Exchange (CCRE) background check from being released to a private organization such as a Transportation Network Company. In this instance, the results of a CCRE report could only be released to a governmental entity. Based on this information, we have decided to eliminate the two-tier background check system and will instead require TNC's to obtain and review a national criminal history record check before authorizing an individual to act as a TNC partner. Barrier offenses will continue to be set-out, but all checks can be obtained through a third party vendor.

Barrier Offenses

Based on feedback received from stakeholders in regards to the barrier offenses, as well as further internal review, we have amended the barrier offense requirement as follows:

C. A transportation network company shall not authorize an individual to act as a TNC partner if that individual:

1. is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 of the Code of Virginia, or is listed on the U.S. Department of Justice's National Sex Offenders Public Website;
2. has ever been convicted of or has ever pleaded guilty or *nolo contendere* to a violent crime as defined in subsection C of § 17.1-805, either under Virginia law or under the comparable laws of any foreign country or any political subdivision thereof, or of the United States or any political subdivision thereof;
3. within the preceding seven years has been convicted of or has pleaded guilty or *nolo contendere* to any of the following offenses, either under Virginia law or under the comparable laws of any foreign country or any political subdivision thereof, or of the United States or any political subdivision thereof: (i) any felony offense other than those included in subsection C 2; (ii) an offense under §§ 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or (iii) any offense resulting in revocation of a driver's license pursuant to §§ 46.2-389 or 46.2-391; or
4. within the preceding three years has been convicted of or has pleaded guilty or *nolo contendere* to any of the following offenses under Virginia law or under the comparable law of any foreign country or any political subdivision thereof, or of the United States or any political subdivision thereof: (i) three or more moving violations; (ii) eluding a law enforcement officer, as described in § 46.2-817; (iii) reckless driving, as described in Article 7 of Chapter 8 of this title; (iv) operating a motor vehicle in violation of the terms of a restricted license issued under § 46.2-301 or § 46.2-395; or (v) refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath, as described in § 18.2-268.3.

Please review this information and provide any comments by **close of business Monday, November 24**. You may modify and resubmit your original comments, or have your review of these changes included as an additional comment. Additionally, please notify me if you do not want your comments (whether they are in email, letter or attachment form) to be included in the appendices of the final report. All comments sent to me, that are not requested to be left out, will be included in the appendices of the report.

Once again, thank you for your participation. We look forward to receiving your comments.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com

[Confidentiality Statement](#)

From: Angie de la Barrera [Adelabarrera@arlingtonva.us]
Sent: Monday, November 24, 2014 3:37 PM
To: Smoot, Janet (DMV); Whitham, Craig (DMV)
Cc: Patricia Carroll; Thomas Rakowski; Shannon Flanagan-Watson
Subject: RE: TNC Study - Updat on study report

Yes, that is correct.

From: Smoot, Janet (DMV) [mailto:janet.smoot@dmv.virginia.gov]
Sent: Monday, November 24, 2014 3:33 PM
To: Angie de la Barrera; Whitham, Craig (DMV)
Cc: Patricia Carroll; Thomas Rakowski; Shannon Flanagan-Watson
Subject: RE: TNC Study - Updat on study report

Are you saying that the ones you note have been removed should not have been removed?

From: Angie de la Barrera [mailto:Adelabarrera@arlingtonva.us]
Sent: Monday, November 24, 2014 3:30 PM
To: Smoot, Janet (DMV); Whitham, Craig (DMV)
Cc: Patricia Carroll; Thomas Rakowski; Shannon Flanagan-Watson
Subject: RE: TNC Study - Updat on study report

Janet – thanks again for the opportunity to comment. This is Arlington County’s feedback.

We noticed that in this new version, a few things in the barrier offenses section have been removed such as:

- A crime involving fraud (page 29 of the draft legislation)
- Failure to stop and disclose identity at the scene of an accident in accordance with 46.2-894 (page 30 of the draft legislation)

Also, we are requesting to include the following as barrier offenses:

- Indecent Exposure
- Contributing to the Delinquency of a Minor

Although, these are misdemeanors, they are serious offenses in this context that do not meet the felony threshold.

Thanks,
Angie
Arlington County
703.228.3141

From: Smoot, Janet (DMV) [mailto:janet.smoot@dmv.virginia.gov]
Sent: Thursday, November 20, 2014 11:31 AM
To: cduvall@lindlcorp.com; vbwa@aol.com; spencer@alexandriayellowcab.com; cking@redtopcab.com; kyle@alexandriayellowcab.com; [judyswystun@hotmail.com](mailto:judywystun@hotmail.com); tperrin@lindlcorp.com; rmw5264@aol.com; sjohnmassoud@aol.com; dwight.kines@veoliatransdev.com; hjones@fgb.com; larry@lw-transportation.com; sjohnson@hdjn.com; jilbutner@verizon.net; joseph@lyft.com; jdime@williamsmullen.com; abezik@williamsmullen.com; achang@lyft.com; beth@side.cr; kintz@uber.com; emullen@reedsmith.com; jpalmore@reedsmith.com; brand.aaron@arentfox.com; zuhairah@uber.com; gus@uber.com; rachelle@side.cr;

sam.tatevosyan@hklaw.com; curtis.scott@uber.com; amims@lyft.com; john.potter@mwa.com; michael.cooper@mwa.com; stephen.holl@mwa.com; naomi.klaus@mwa.com; tbell@flyrichmond.com; jalberty@flyrichmond.com; margaret.mckeough@mwa.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@onetransportationsolution.com; paul@getsetgo.us; dan@agofflimo.com; wmorrow@wmatc.gov; terry.bellamy@dc.gov; lbrenner@psc.state.md.us; ellen.vancko@maryland.gov; craig.feister@dot.gov; Flaherty, W. Steven (VSP); Glick, Frank (VSP); jjones@virginia sheriffs.org; dana@vachiefs.org; Maxey, Ronald (VSP); dwhitehe@vbgov.com; lea@co.henrico.va.us; hun05@co.henrico.va.us; whodges@vbgov.com; Rebecca.Nichols@scc.virginia.gov; melinda.willis@scc.virginia.gov; chris@lagowlobby.com; vicki.harris.qr6v@statefarm.com; rsavage@eckertseamans.com; Anne.Kerr@troutmansanders.com; bobiiav@icloud.com; donna.leaman@usaa.com; george.lyle@scc.virginia.gov; mary.bannister@scc.virginia.gov; john.bailey@scc.virginia.gov; BECKERR3@Nationwide.com; donald.beatty@scc.virginia.gov; joanne.scott@acc.virginia.gov; jlalla@georgetownins.com; katie.johnson@scc.virginia.gov; jack@georgetownins.com; jhudgins@iiav.com; jlurch@vml.org; jcampbell@vaco.org; bblevins@vaco.org; laura@batemanconsulting.net; Patricia Carroll; Angie de la Barrera; noelle.dominguez@fairfaxcounty.gov; jgwilson@nngov.com; catron@alcalde-fay.com; lyeatts@hampton.gov; lea@co.henrico.va.us; hun05@co.henrico.va.us; bernard.caton@alexandriava.gov; LYNCHBURG LA-SECONDARY (DMV); Thomas Rakowski; archie.pollard@fairfaxcounty.gov; paul.hicks@fairfaxcounty.gov; rvandammejr@flyrichmond.com; jwideman@hampton.gov; mark.dreyfuss@loudon.gov; jliss@virginianewmajority.org; Steve@swpearson.com; thomas.a.depasquale@gmail.com; Donohue, Nick (GOV); efiske@oag.state.va.us; jwestbrook@oag.state.va.us; Burdette, Randall P. (DOAV); Mitchell, Jennifer (DRPT); Burns, Craig (TAX); Arabia, Christopher (DRPT); Swanson, John (GOV)

Cc: Wells, Matt (DMV); Dunston, David (DMV); Goheen, Pam (DMV); Harrison, Patrick (DMV); Hill, Joseph (DMV); Hussey, Rena (DMV); Klotz, Barbara (DMV); Owens, Andrew (DMV); Penny, Thomas (DMV); Petersen, Judy (DMV); White, Robert (DMV); Whitham, Craig (DMV)

Subject: TNC Study - Updat on study report

Dear Stakeholders,

Thanks to all of you for the valuable comments and suggestions offered in response to the draft report and legislation sent on November 3rd. The DMV Study Team is in the process of reviewing these submissions and finalizing our recommendations. Although we have not completed our work, based on your feedback, we have decided upon changes regarding background screening. While we are incorporating a number of your suggestions regarding technical and stylistic concerns as well, due to the substantive nature of these changes to background screening, we wanted to bring them to your attention and provide you the opportunity to offer comments for inclusion in the appendices of the final report.

Background Checks

The draft you received on November 3rd recommended a two-tiered background check system, whereby a vendor could be utilized to perform the criminal history record check unless the TNC did not meet the prospective TNC partner in person. In those cases a fingerprint-based criminal history record check performed by a law enforcement agency was required, the results of which would be reviewed by the TNC.

After further research and discussion with the Virginia State Police, it was determined that federal law prohibits the results of a Central Criminal Records Exchange (CCRE) background check from being released to a private organization such as a Transportation Network Company. In this instance, the results of a CCRE report could only be released to a governmental entity. Based on this information, we have decided to eliminate the two-tier background check system and will instead require TNC's to obtain and review a national criminal history record check before authorizing an individual to act as a TNC partner. Barrier offenses will continue to be set-out, but all

checks can be obtained through a third party vendor.

Barrier Offenses

Based on feedback received from stakeholders in regards to the barrier offenses, as well as further internal review, we have amended the barrier offense requirement as follows:

C. A transportation network company shall not authorize an individual to act as a TNC partner if that individual:

is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 of the Code of Virginia, or is listed on the U.S. Department of Justice's National Sex Offenders Public Website;

has ever been convicted of or has ever pleaded guilty or *nolo contendere* to a violent crime as defined in subsection C of § 17.1-805, either under Virginia law or under the comparable laws of any foreign country or any political subdivision thereof, or of the United States or any political subdivision thereof;

within the preceding seven years has been convicted of or has pleaded guilty or *nolo contendere* to any of the following offenses, either under Virginia law or under the comparable laws of any foreign country or any political subdivision thereof, or of the United States or any political subdivision thereof: (i) any felony offense other than those included in subsection C 2; (ii) an offense under §§ 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or (iii) any offense resulting in revocation of a driver's license pursuant to §§ 46.2-389 or 46.2-391; or

within the preceding three years has been convicted of or has pleaded guilty or *nolo contendere* to any of the following offenses under Virginia law or under the comparable law of any foreign country or any political subdivision thereof, or of the United States or any political subdivision thereof: (i) three or more moving violations; (ii) eluding a law enforcement officer, as described in § 46.2-817; (iii) reckless driving, as described in Article 7 of Chapter 8 of this title; (iv) operating a motor vehicle in violation of the terms of a restricted license issued under § 46.2-301 or § 46.2-395; or (v) refusal to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath, as described in § 18.2-268.3.

Please review this information and provide any comments by **close of business Monday, November 24**. You may modify and resubmit your original comments, or have your review of these changes included as an additional comment. Additionally, please notify me if you do not want your comments (whether they are in email, letter or attachment form) to be included in the appendices of the final report. All comments sent to me, that are not requested to be left out, will be included in the appendices of the report.

Once again, thank you for your participation. We look forward to receiving your comments.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com

[Confidentiality Statement](#)

Sidecar

November 24, 2014

Via Email

Janet Smoot
Governmental Affairs
Virginia DMV

Re: Draft Virginia TNC Legislation and Study Report

Dear Ms. Smoot:

Thank you so much for the open and transparent process the Commonwealth of Virginia DMV has undertaken in its study of Transportation Network Companies (TNCs) as it prepares a proposed statewide law to govern such services.

As one of the three leading TNCs in the nation, Sidecar is grateful for your careful attention to this innovative new transportation service, and the role it will play in providing safe and efficient transportation services to the people of Virginia. Sidecar was proud to be one of the first California TNC licensed in the nation, to obtain the first permits at the San Francisco Airport, and in the City of Seattle and City of Chicago.

As you know, TNC services are popular with consumers with smart phones because of the safety of cashless transactions, the convenience of ordering a ride from your smart phone and see the driver's car approaching on a map, and our mutual rating system to build a community of trust. Sidecar requires destination to be put into the app, and so the fares are set forth up front. We do not have any surge pricing to surprise our users at the end of a ride.

Sidecar was proud to be one of the first California TNC licensed in the nation, to obtain the first permits at the San Francisco Airport and in the City of Seattle. We are about to obtain our City of Chicago permit next. We have been actively participating in the Virginia DMV process in order to consider operations in the Commonwealth, particularly because of our current operations in the District of Columbia.

We have the following comments regarding Article 15, TNC legislative language draft:

1. 46.2-2011.5 Filing and application fees: The proposed initial TNC registration fee of \$70,000, with renewal at \$3,000 is astronomical compared to other jurisdictions. As

examples, the filing fee for the California TNC registration is \$1,000. The Chicago TNP registration fee is \$10,000. In Seattle there was no initial license fee, but \$.10 per TNC ride not to exceed \$525,000 across the entire TNC industry in a year. *This proposed Virginia registration fee means Sidecar likely will not enter the Virginia market.* Sidecar is a small start-up with just over 50 employees. If this unusually high registration fee remains, Virginia will have a duopoly of TNCs (Uber and Lyft, the two largest competitors) because you have placed a barrier of entry for smaller TNCs like Sidecar and other TNCs.

2. 46.2-2099.48 (G): Regarding the driver credential, we prefer it be part of our mobile app's electronic waybill and not a separate physical ID which is expensive to produce and get to our TNC partners.

3. 46.2-2099.48(I): Regarding the electronic receipt, we currently do not put on the electronic receipt our internal Sidecar driver ID, as that number is confidential and proprietary to our system. We also do not put on the electronic receipt the license plate number, as we think that is more information that is necessary for the rider to know. Thus, we request the driver ID number and license plate number be removed from this requirement.

4. 46.2-2099.48 (J): We object to being required to have the TNC partner report to the TNC any refusal to transport a passenger. What is the purpose of the reporting? Sidecar has antidiscrimination policies and zero tolerance rules for all users. Any complaint by a rider of a discriminatory or zero tolerance complaint to our support line results in the driver being immediately suspended until an investigation is undertaken. This resolves these types of issues. We question how the TNC partner reporting requirement is enforceable by the TNC.

5. 46.2-2099.49:

As to the revised background check language dated November 24, 2014, sent to us from Janet Smoot, we suggest a definition of "national criminal history record check" to clarify that this does not require submission of fingerprints to the FBI to perform the background check of our TNC partner driver applicants by our third party background check vendor. The reason we are asking is that usually a federally-conducted background check by the FBI requires fingerprinting of the applicant and we want clarity that the amended recommendation does not require a fingerprinting requirement.

Sidecar objects to the fingerprinting requirement as this is a major barrier to TNC partner recruitment. Sidecar conducts phone interviews with potential TNC partners but we do not perform in-person interviews. Fingerprint submission increases costs dramatically and is an inefficient and onerous process, particularly on smaller TNC companies like Sidecar. Further, this is not the accepted "national standard" when it comes to "employment background checks" in general. When fingerprint searches are conducted through the FBI for typical employment purposes, they do not often identify the offense but indicate there may be an issue of relevance in a given jurisdiction which still leaves the TNC vendor to source the county criminal record check at an additional expense.

Many of our drivers are part time drivers who drive while commuting or drive to make a little extra income. A fingerprinting requirement will discourage potential part time drivers from participating with us, in addition to increase our costs of the background check.

What Sidecar's vendor, RedRidge Verification Services, suggests is a background screening process that follows a sound investigative methodology, that identifies an applicant's past address history (called an SS# Trace or a Social Security Number Verification) and then uses that address history to search the relevant, primary source jurisdictions for prohibited criminal offense. This would include running County Criminal Record Searches in any jurisdiction where an applicant has lived, worked or gone to school in the prior seven years. Our vendor also recommend the inclusion of a National Criminal History Database check with an included search of the Federal Dru Sjodin National Sex Offender Public Website (NSOPW) and any state specific sex offender registries (SOR) which may be available to the public. Also a search of an applicant's official driver record through a commercially available search of the Commonwealth of VA's Motor Vehicle Record (MVR) database would also be recommended (or other applicable state if the TNC driver is a student, or serving in the military and maintains legal residence in another state).

6. 46.2-2099.51: The TNC insurance requirements essentially look like California's TNC law. Sidecar did agree to it in California but continues to believe the UI/UIM coverage at \$1 million for Periods 2-3 and \$200,000 for excess coverage during Period 1 (ride match to ride end) is excessive for the risks presented. Excessive insurance coverage is burdensome for all players.

7. 46.2-2099.52: We find the record keeping requirements as to the criminal background checks and driving record checks to be unduly burdensome. Our third party criminal background check company retains most of the results of our criminal check in its files, while we keep indications of the results in our files. For example, we do not wish to keep the TNC partner's Social Security Number in our system to avoid security breaches.

We appreciate being given the ability to comment on the proposed legislation. We hope our comments will be considered.

Sincerely yours,



Rachelle Chong
Interim General Counsel
Sidecar

U B E R

November 24, 2014

Ms. Janet Smoot
Legal and Government Affairs
Commonwealth of Virginia
Department of Motor Vehicles
2300 West Broad Street
P.O. Box 27415
Richmond, VA 23269

Dear Ms. Smoot:

I am writing to supplement my November 12, 2014 letter regarding the Department of Motor Vehicles' (the "Department") report and proposed legislation on transportation network companies ("TNCs") in Virginia.

In my November 12th letter, I explained that Uber Technologies, Inc. ("Uber") and Rasier LLC ("Rasier") were opposed to the Department's proposed background check process for TNC partners. The Department's proposed legislation would have required TNCs to review prospective TNC partners' criminal history under the following terms:

- In cases where the TNC meets the individual in person and verifies the individual's identity, the TNC may select a vendor to perform the criminal history record check.
- In cases where the TNC does not meet the individual in person, the TNC must use a LiveScan fingerprint-based criminal history record check performed by a law enforcement agency.

On November 20, 2014, the Department announced that it had decided to modify its proposed two-tier background check process. Consistent with Uber and Rasier's comments, the Department is now proposing that TNCs can select a vendor to perform the criminal history record check regardless of whether the TNC has met the prospective partner in person. Uber and Raiser agree with the Department's decision and appreciate the Department's willingness to revisit this issue.

Respectfully submitted,

/s/

Zuhairah Washington
General Manager
Uber DC

Virginia Limousine Association Comment to DMV report on TNC activity

The VLA has high praise for the Commissioner and staff at DMV who were tasked with studying and recommending to the 2015 legislature a course for TNC companies. DMV met over the past year with a wide range of stakeholders and enabled in depth discussion of the issues. Unfortunately, as written the legislative proposal misses the mark of a level playing field within for hire passenger transportation on two fronts.

1. Personal Property Tax on Vehicles

We recommend the same property tax protocol for Contact Passenger Carriers that the TNC operators receive as the only appropriate choice to ensure a fair and vibrant marketplace

Background: Most TNC trips are done with private vehicles. Compensated operators in a TNC are registered as private vehicles and receive 80% property tax relief. Taxing TNC operators as commercial vehicles would likely eliminate any incentive for TNC drivers to offer their services to the public and since the legislation exempts private vehicles used as CPC from this taxation, commercial tax rates on CPC must be eliminated to standardize the TNCs and the CPCs.

2. License Fee

We recommend a grandfather exemption for currently certified Contact Passenger Carriers.

Background: As noted in HB908 and SB531, this legislation is a change to Contract Passenger Carrier licensing. This started out and remains a Contract Passenger Carrier licensing issue. Any division into separate categories must grandfather existing certificate holders. Failure to insure current certificate holders have access to new technology will result in the eventual closure of over 400 Virginia based business in favor of two California based businesses.

Technology is rapidly evolving with the Contract Passenger Carrier industry. App-based dispatch and billing which meets all of the standards outlined in the legislation is currently available to licensed operators. This system of orders and fulfillment will be the new normal in the industry. It is imperative that the current Virginia-based businesses not be frozen out of this future via the \$70,000 initial application fee. The TNC TOA is not a new category but is a carving out of a portion of the CPC authority. In order to ensure integrity is when a component of a license is further separated out, the current holders of that license are awarded ability to continue in their current authority. So electronic dispatch and the contract passenger carrying of passengers, is what the TNCs are. Everyone agrees they are not taxis. If they're not taxis and they are driving passengers and they're not doing just medical work, then the only thing they can be is CPC. So by giving a separate set of benefits to a component or subset of the CPC world, the only fair and legislatively accurate thing to do is to grandfather the existing providers so that there is no additional benefit to this new subset. And specifically, CPC who wish to operate as TNCs would also be operating under the current Temporary Operating Authority permit and *this should be institutionalized when it renews during the session* – that any benefit that applies to these companies also apply to the overarching license upon which they work, which is the CPC. And any benefits in the form of different taxation, the ability to ride source drivers who are independent contractors who use their own vehicles... all of those things need

to also be true for the overarching license, the CPC. And of course, the CPC could not be reasonably asked to pay additional fees for what is actually a subset of their current licensing. *So the \$70,000 entry and \$3000 renewals should not apply to anyone who is already currently licensed as a CPC and maintains that license.*

TNCs with special benefits and regulation are actually just a subset – it's not like they invented something new in transportation, only a new method of dispatch. VLA previously initiated legislation causing the insertion of "wireless (electronic) dispatch" into 46.2-2099.1 in 2006. (Chapter 3.1.3 (page 14) of the DMV Study Report unfortunately does not accurately include "wireless (electronic) dispatch device" requirement in lieu of a contract or trip sheet.)

CPC is the current license upon which they are working. They haven't met all the rules and because of new technology, DMV is clearly carving out a portion of the CPC license to accommodate this new technology. It cannot be limited to a just a few companies or just major national corporations that can afford the \$70,000 entry. The currently licensed CPCs have to be grandfathered in both in the interest of legislative integrity and in the interest of a fair and vibrant marketplace.

Why have TNC's caused such uproar worldwide?

Insurance requirements

VLA advocates a 24/7 commercial insurance policy with Form E submitted to DMV regulators just as any other commercial carrier is required to do.

Background: Insurance requirements are very clearly spelled out in 46.2-2053 and apply to all carriers in the Chapter except TNC companies. The insurance requirement says nothing about if there is a person in the car or if the car is on the way to pick someone up – it says carriers must carry insurance. It is 24/7. And commercial liability insurance for legitimate carriers is a LARGE expense usually in excess of 10% of revenue. The Draft contains a number of provisions allowing for the personal car owner to provide insurance or the TNC to provide insurance and depending on whether the car is en route to a pickup or has a passenger on board, the determination of the amount of coverage changes. Additionally, TNC insurance is not primary 24/7 coverage, but rather a surplus line specifically written to indemnify the TNC. The TNC driver in an accident must rely on personal coverage (excluded) should his car be damaged in an accident, and any injured party cannot go to the insurance company, but rather to the TNC.

As shown by the tragic death in San Francisco, Uber denies liability due to them being a "technology company".

<http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=ValidateCaseNumber&ARGUMENTS=-ACGC14536979>

Please refer to May 1, 2014 response to complaint for the Uber denial.

The insurance provided by these companies is nothing more than a shell game and places the Public Safety at risk.

The VLA has followed with interest the law breaking of the Uber, Lyft & Sidecar (TNC companies) over the past three years. Uber lobbyists promised at last year's legislative session that their product

would be utilizing only licensed for hire carriers (Uber Black) and would not consist of the UberX (private car – private insurance option on the app). So it was no surprise to see their flip flop when Uber announced its UberX was coming to the Tidewater region and we applauded Commissioner Holcomb for upholding Virginia law with his cease and desist order. It was very disturbing to later see the reversal of that order as the TNC companies slipped in at the last minute on June 30 and paid fines and applied for a Temporary Operating Authority TOA. At no time in previous history, has a TOA been issued that was for a “made up on the fly” operating authority. Rather TOA was used for an operating authority that was already in place to issue to a company showing a need.

VLA position is that TNCs are transportation companies. The Study report references California, Seattle, Colorado and Chicago initiatives. VLA would refer to other areas such as New York City and New Jersey. In NYC, they are required to have a base and dispatch license and the vehicles registered under those bases. NYC is THE LARGEST taxi and limo market in the country. The TNC double speak did not work there and they learned to play by the rules that are in effect. Yet another recent example of the audacity and double speak of Uber is the recent rollout of UberX in Philadelphia.

“On the same day Uber was launching its UberX ride-share service in Philadelphia, the company was telling the state Public Utility Commission it had no intention of doing so.

How does Uber square its actions with its words?

By avoiding the question” Read more at:

http://www.philly.com/philly/business/transportation/20141109_Uber_told_the_state_it_wouldn_t_operate_then_did.html#qiE6K03Q5cBxMhrj.99

The State of Pennsylvania is serious with their fines and is not letting this juggernaut roll over them. City of Houston is another example of a regulatory agency that cannot be bought and who has listened to stakeholders.

TNC companies advertise for transportation services. Riders sign up and provide payment information to the TNC. The TNC determines (via app) which car is most convenient to the pickup location and dispatches it. TNC vetted driver provides service. TNC collects payment and then pays the driver after keeping a commission. From start to finish, they handle the transportation and yet, in their double speak, refer to themselves as technology companies and not transportation companies that need any sort of licensing.

The main difference between TNC and licensed companies is their method of dispatching via a phone app. They are transportation providers and as such are subject to the same rules and regulations of any other for hire entity.

Counter to TNC comment, Virginia laws are very well written and not at all antiquated. There are sections for Common Carriers (scheduled), Irregular route common carriers (non scheduled), Contract Passenger Carriers CPC (sedan, limo and bus pre-arranged, single contract), Sightseeing Carriers, Taxi, and non-emergency Medical transport. Surely, with all those options, we can find a place for the TNC within the current Code. Writing a new set of rules for these lawbreakers creates an un-level playing field and severely undermines the Industry (both taxi and CPC).

Additional Recommendations:

Background checks

VLA supports a fingerprint based FBI background check requirement for all owners and drivers.

Independent contractors

VLA supports a mandate requiring TNCs to notify drivers of their Independent Contractor status and to additionally notify them of the fact that 1099s are issued and taxes may be due.

Title Notations

We recommend that auto title notations for Contract Passenger Carrier should be treated the same as TNC partner title notations.

Commercial titles may sometimes be branded as commercial or livery vehicles, CPC's and TNC partner vehicles should be treated equally.

FURTHER STUDY AIDS:

For further information regarding TNC activity please go to www.whosdrivingyou.org and see the video on the home page.

Before adopting a California model, you are urged to see what's happening right now in California. The link below is a review of the rules after the first year.

<http://www.californiaadmin.com/cpuc.shtml>

CPUC En Banc: Rules and Regulations for Transportation Network Companies

There is 6 hours of video (2 three hour segments) of stakeholder comments from Nov 4 2014 – this is the most current info on the state of TNC in the place where it all started. Comments from municipalities, airport, taxi, limo, disability, TNC and the public as well as a study by a UC Berkeley professor.

<http://www.cpuc.ca.gov/PUC/Enforcement/TNC/>