

## REGULATE TRANSPORTATION NETWORK COMPANIES

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**House Bill 5951 (Substitute H-3)**

**Sponsor: Rep. Tim Kelly**

**Committee: Energy and Technology**

**Complete to 12-9-14**

### A SUMMARY OF HOUSE BILL 5951 AS REPORTED BY COMMITTEE 12-8-14

House Bill 5951 would create a new act to regulate transportation network companies and transportation network company drivers providing transportation in the driver's personal vehicle. (*Uber* and *Lyft* are examples of transportation network companies.)

The Department of State would be required to issue a permit to allow a transportation network company (TNC) to operate in Michigan if the TNC meets all the requirements of the new act and pays a fee as determined by the department. The department could impose a fine or revoke a permit, after providing notice and the opportunity for a hearing, if a TNC fails to comply with the requirements of the new act. Local governments could issue civil infractions to TNC drivers for certain violations of the act.

#### **Definitions**

Transportation network company (TNC) would be defined as a person operating in this state that uses a digital network to connect riders to TNC drivers for the purpose of providing transportation. A TNC would not include a taxi service, transportation service arranged through a transportation broker, a ridesharing arrangement, or a transportation service using fixed routes at regular intervals.

Transportation network company driver would mean an individual who uses a personal vehicle to provide transportation services for riders that are matched to that individual through a TNC's digital network, regardless of whether the individual is employed by a TNC.

Prearranged ride would be defined as the period of time that begins when a transportation network company driver accepts a requested ride through a digital network, continues while the transportation network company driver transports the rider in a personal vehicle, and ends when the rider departs from the personal vehicle.

Personal vehicle would mean a motor vehicle that has been approved to be used by a TNC driver to perform rides arranged through a TNC digital platform and that meets the requirements of the bill. A TNC shall not be considered to own, control, operate, or manage a personal vehicle operated by a TNC driver providing transportation services to passengers matched through the TNC digital network.

"Ridesharing arrangement" would mean an arrangement for the transportation of not more than eight passengers, not including the driver, by motor vehicle that satisfies one of the following:

- The arrangement is for a purpose incidental to another purpose of the driver, and the driver does not charge or receive a fee, other than money paid to reimburse the driver or owner of the vehicle for operating expenses on a not-for-profit basis. (Presumably, for expenses like fuel or wear and tear of the vehicle.)
- The passengers and the driver are traveling between their homes and places of employment, or places convenient to their homes and places of employment, and the driver does not charge or receive a fee, other than money paid to reimburse the driver or owner of the vehicle for operating expenses on a not-for-profit basis.

"Taxi" or "taxicab" is defined to mean an on-demand motor vehicle that satisfies all of the following:

- May be hailed or prearranged by a passenger.
- Has a seating capacity of one to eight passengers, including the driver.
- Is used in the transportation of passengers for hire and charges a rate based on a meter installed in the vehicle or a flat fare.
- Is identified with the words "taxi" or "cab" on the vehicle and is equipped with a permanently affixed rooftop sign displaying the words "taxi" or "cab", the company name, or the company phone number.

### **Operating requirements**

To operate in Michigan, a TNC must submit annually to the Department of State (Secretary of State, SOS) an application attesting to all of the following:

- Required proof of insurance. (More detail provided below)
- That documentation of the insurance coverage will be provided to the SOS by the TNC or the driver.
- That each TNC driver is at least 21 years of age and has a valid Michigan operator's license, and, if that driver has a vehicle with a capacity of 9-15 passengers, a chauffeur's license and a commercial vehicle registration plate for that vehicle.
- That the TNC has conducted a local, state, and national background check (which would include a fingerprint search) on each of its drivers, including a search of the national sex offender database, and that none of its drivers have been convicted within seven years of driving under the influence of drugs or alcohol, making a terrorist threat or a false report of terrorism, or a violation of chapters in the Michigan Penal Code pertaining to any of the following:
  - Assaults
  - Embezzlement
  - Fraud
  - Larceny
  - Malicious and willful mischief and destruction
  - Motor vehicles
  - Criminal sexual conduct (rape)

- That each TNC driver has submitted a driving history report to the TNC before providing transportation services showing that the TNC driver does not have more than three moving violations or a major violation in the three-year period before the date of the driving history report. "Major violation" means, but is not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license.
- That each TNC driver's vehicle has undergone a safety inspection conducted annually by a Michigan-licensed mechanic prior to providing transportation services. Each TNC driver would be required to provide to the TNC documentation of the inspection showing that all of the following vehicle components were inspected:
  - Foot brakes and parking brakes
  - Steering mechanism
  - Windshield, rear window, and other glass
  - Windshield wipers
  - Headlights and taillights
  - Brake lights
  - Front seat adjustment mechanism
  - Doors
  - Turn signal lights
  - Horn
  - Speedometer
  - Bumpers
  - Muffler and exhaust system
  - Tires, including tread depth
  - Interior and exterior mirrors
  - Safety belts
  - Defrosting system

### **Insurance**

In the annual application described above, a TNC would have to attest that it maintains a primary insurance policy covering each TNC driver for incidents involving that driver at all times during a prearranged ride and that all the following types of coverage:

- Bodily injury and property damage liability insurance with a minimum combined single limit of \$1 million for all persons injured or property damage.
- Personal injury protection insurance and property protection insurance in the amounts and types of coverage required by Chapter 31 of the Insurance Code, which contains the no-fault automobile insurance law.)

A TNC also would be required to attest that it provides at least the amounts and types of coverage required by Chapter 31 of the Insurance Code during the time that a TNC driver is logged into the TNC's digital network and available to receive requests for transportation but is not providing a prearranged ride. This requirement could be satisfied through a combination of insurance policies maintained by a TNC or a TNC driver.

Further, both of the following apply to the insurance policies described above:

- The insurance policy may be placed with an insurer licensed under Chapter 4 of the Insurance Code or a surplus lines insurer eligible under Chapter 19.
- The insurance policy satisfies the financial responsibility requirement described in Chapter V of the Michigan Vehicle Code

If a TNC driver cancels the required insurance coverage for any reason, the SOS must notify the TNC to remove the driver from its roster.

### **Other requirements of TNCs**

In addition to the above, TNCs would be required to do the following:

- Provide a customer support telephone number and email address on its digital network or website for rider inquiries.
- Provide all of the following to passengers:
  - The TNC driver's first name.
  - The make, model, and color of the TNC driver's vehicle.
  - The method by which the TNC calculates fares or the applicable rate being charged.
  - The option to receive an estimated fare.
- Provide a receipt through electronic mail or text message to a passenger upon completion of a prearranged ride.
- Disclose in writing as part of its agreement with affiliated drivers all of the following:
  - The insurance coverage and limits of liability that the TNC provides while the driver uses a vehicle in connection with the TNC's online-enabled application or platform.
  - That, depending on the terms of the policy, the driver's automobile or vehicle insurance policy may not provide coverage while the driver uses a vehicle in connection with a TNC's digital network.
  - That TNC drivers must consult their own insurance companies or insurance agents for information about coverage provided by their personal insurance policies.
- Maintain a roster of drivers, categorized by geographic location, and make the roster available in electronic format upon request to the department.

### **Prohibited actions**

- TNCs would be prohibited from disclosing a passenger's personally identifiable information to a third party unless one or more of the following apply:
  - The passenger consents.
  - Disclosure is required by a legal obligation.
  - Disclosure is required to process an insurance claim.
  - Disclosure is required to protect or defend the terms of the use of the service or to investigate violations of those terms.

A TNC could share a passenger's name or telephone number to the TNC driver providing a prearranged ride to that passenger to help the driver identify the

passenger or to facilitate communication between the passenger and the TNC driver.

- A TNC or TNC driver could not solicit passengers or service through a street hail or pick up, or discharge a passenger at a designated taxicab stand, no-stopping-or-standing zone, or other restricted area.

A TNC driver could refuse to transport a passenger if that person is acting in an unlawful, disorderly, or endangering manner.

### **Requirements of Drivers**

A TNC driver must permit a service animal to accompany a passenger on a prearranged ride. The driver must also take the most direct route to the passenger's destination unless otherwise authorized by the passenger.

If a personal vehicle is involved in an accident while being used to provide TNC services, the driver would be required to do all of the following:

- Provide proof of insurance information to the other party involved in the accident.
- Notify the transportation network company of the accident.
- Notify his or her insurance company of the accident.

### **Signage**

Personal vehicles, while engaged in a prearranged ride, would be required to display at all times a consistent and distinctive signage or emblem that has been approved by the SOS, and that meets the following requirements:

- Is sufficiently large and color-contrasted to be readable from a distance of at least 50 feet during daylight hours.
- Is reflective.
- Can sufficiently identify the TNC with which the vehicle is affiliated.

### **Local government regulation**

A local unit of government would be prohibited from enacting or enforcing an ordinance regulating a transportation network company. However, a local government could issue a civil infraction to a TNC driver for a violation of provisions pertaining to signage, prohibitions on picking up/dropping off passengers at restricted areas such as taxi stands or picking up street hails, refusing to allow a service animal in the vehicle, or not following the procedures established in the bill if an accident occurred.

### ***Anticipated Substitute Provisions***

A substitute bill that would revise some of the provisions in the H-3 is anticipated. Substantive amendments expected in that version include the following:

- Requiring a TNC to maintain residual third-party liability insurance with a minimum combined single limit of \$1 million for all persons injured or property damage.
- Requiring a TNC to attest in the application process that it reviewed a driving history report for each driver as specified in the bill.

- Requiring a TNC driver, upon the request of a law enforcement officer, to display an electronic verification of affiliation with a TNC or a ride in progress showing that the ride is a prearranged ride through a TNC's digital network. The driver would not have to relinquish an electronic device that the information is contained on.
- Requiring a TNC driver (as opposed to the SOS) to notify the TNC regarding changes or cancellations to the driver's vehicle insurance coverage.

**FISCAL IMPACT:**

The bill would impose an increased fiscal burden on the Department of State by an indeterminate amount. However, the department expects the increased costs to be covered by establishing an application fee on the transportation network companies, in an amount yet to be determined. The overall effect should result in no increased additional cost to the department.

**POSITIONS:**

A representative of LYFT testified in support of the bill. (11-13-14 & 12-2-14)

A representative of UBER Technologies testified in support of the bill. (11-13-14 & 12-2-14)

The Office of Secretary of State indicated a neutral position. (11-13-14 & 12-2-14)

The Michigan Insurance Coalition indicated a neutral position. (12-4-14)

The following entities testified or indicated opposition to the bill:

Insurance Institute of Michigan (12-4-14)

ALLSTAR Transportation (11-13-14 & 2-2-14)

Checker Cab Company (11-12-14, 12-2-14 & 12-4-14)

Michigan Municipal League (11-13-14)

Detroit Regional Chamber (12-2-14)

Metro Cars (12-2-14)

Select Ride (12-2-14 & 12-4-14))

Michigan Townships Association (12-2-14)

Tecumseh Trolley & Limousine (12-2-14)

Property Casualty Insurers Association (12-2-14)

Allstate Insurance Company, but could support with modifications (12-2-14)

Michigan Association for Justice (12-2-14)

Coalition Protecting Auto NoFault (12-2-14)

PCI, unless amended (12-4-14)

The Michigan Association of Insurance Agents, opposes as written (12-4-14)

Legislative Analyst: Susan Stutzky

Fiscal Analyst: Perry Zielak

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.