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**VERSIONS OF THIS BILL**

[2/4/2015](file:///p:\pprever\2015-16\409_20150204.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA TRANSPORTATION COMPANIES ACT” BY ADDING ARTICLE 19 TO CHAPTER 23, TITLE 58 SO AS TO PROVIDE A CITATION; TO DEFINE NECESSARY TERMS; TO PROVIDE EXCLUSIONS; TO EXCLUDE TRANSPORTATION NETWORK COMPANIES AND TRANSPORTATION NETWORK COMPANY DRIVERS FROM REGULATION AS MOTOR VEHICLE CARRIERS BY THE PUBLIC SERVICE COMMISSION OR THE OFFICE OF REGULATORY STAFF, TO SPECIFY THE SCOPE AND NATURE OF THEIR SERVICES, AND TO PROVIDE THAT TRANSPORTATION NETWORK COMPANIES ARE NOT CONSIDERED OWNERS, OPERATORS, OR MANAGERS OF VEHICLES USED BY THEIR DRIVERS; TO PROVIDE A PERSON SHALL NOT OPERATE A TRANSPORTATION NETWORK COMPANY WITHOUT FIRST HAVING OBTAINED A PERMIT FROM THE OFFICE OF REGULATORY STAFF, TO PROVIDE THAT THE OFFICE SHALL ISSUE SUCH PERMITS IN CERTAIN CIRCUMSTANCES, AND TO PROVIDE THAT TRANSPORTATION NETWORK COMPANIES OPERATING ON THE EFFECTIVE DATE OF THIS ACT MAY CONTINUE TO OPERATE FOR SIXTY DAYS WHILE OBTAINING A PERMIT; TO PROVIDE REQUIREMENTS OF TRANSPORTATION NETWORK COMPANIES TO OBTAIN A PERMIT; TO PROVIDE THAT TRANSPORTATION NETWORK COMPANIES MAY DETERMINE AND CHARGE A FARE FOR ITS SERVICES BUT MUST DISCLOSE ITS FARE CALCULATION METHOD AND PROVIDE FARE ESTIMATES IN A CERTAIN MANNER; TO PROVIDE TRANSPORTATION NETWORK COMPANIES SHALL DISPLAY PICTURES OF ITS DRIVERS AND VEHICLE LICENSE PLATES TO PROSPECTIVE PASSENGERS IN A CERTAIN MANNER; TO PROVIDE THAT TRANSPORTATION NETWORK COMPANIES SHALL TIMELY TRANSMIT ELECTRONIC RECEIPTS INCLUDING SPECIFIC INFORMATION TO PASSENGERS; TO PROVIDE CERTAIN INSURANCE REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANIES AND TRANSPORTATION NETWORK COMPANY DRIVERS AND ON INSURERS OF TRANSPORTATION NETWORK COMPANIES AND TRANSPORTATION NETWORK COMPANY DRIVERS; TO PROVIDE TRANSPORTATION NETWORK COMPANIES SHALL ADOPT AND IMPLEMENT CERTAIN ZERO TOLERANCE POLICIES CONCERNING ALCOHOL AND DRUG USE BY TRANSPORTATION NETWORK COMPANY DRIVERS; TO PROVIDE REQUIREMENTS THAT TRANSPORTATION NETWORK COMPANIES MUST MEET BEFORE PERMITTING AN INDIVIDUAL TO OPERATE AS A TRANSPORTATION NETWORK COMPANY DRIVER, AND TO SPECIFY BASES FOR DENYING A PERMIT; TO PROVIDE THAT TRANSPORTATION NETWORK COMPANY DRIVERS MAY ONLY ACCEPT RIDES BOOKED THROUGH THE TRANSPORTATION NETWORK COMPANY AND MAY NOT SOLICIT OR ACCEPT STREET HAILS; TO PROVIDE TRANSPORTATION NETWORK COMPANIES SHALL ADOPT AND IMPLEMENT CERTAIN POLICIES PROHIBITING DISCRIMINATION AND SHALL COMPLY WITH ALL APPLICABLE NONDISCRIMINATION LAWS, AND TO IMPOSE CERTAIN REQUIREMENTS WITH RESPECT TO THE TREATMENT OF PASSENGERS REQUESTING OR NEEDING WHEELCHAIR ACCESSIBLE VEHICLES; TO IMPOSE CERTAIN RECORDKEEPING AND PASSENGER INFORMATION PRIVACY REQUIREMENTS ON TRANSPORTATION NETWORK COMPANIES; AND TO PROVIDE FOR THE EXCLUSIVE GOVERNANCE OF TRANSPORTATION NETWORK COMPANIES AND TRANSPORTATION NETWORK COMPANY DRIVERS BY THIS ACT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 23, Title 58 of the 1976 Code is amended by adding:

“Article 19

South Carolina Transportation Network Companies

Section 58‑23‑1910. This article may be cited as the “South Carolina Transportation Network Companies Act”.

Section 58‑23‑1920. The General Assembly finds:

(1) transportation network companies provide innovative and valuable services and are vital to the state’s economy;

(2) transportation network companies expand transportation options for the people of South Carolina, better satisfy consumer demand, increase efficiency, and provide an economic benefit to the State and its residents;

(3) the services of transportation network companies are available in many locations in the United States and business representatives and tourists visiting South Carolina desire to have these innovative services available to them as they travel in our State;

(4) that current laws initially enacted in 1925 do not contemplate transportation network companies and their services, and therefore need to be modernized to reflect the tremendous advances in technology and the current means of delivering passenger transportation services to our citizens and visitors;

(5) South Carolina supports innovation and new businesses and believes that new ways of delivering valuable passenger transportation services should be encouraged and enabled, not restricted and discouraged by regulatory roadblocks;

(6) safe, reliable, and cost‑effective transportation options should be provided and ensured for the citizens of South Carolina;

(7) transportation network companies should be uniformly regulated, certificated, and licensed across the State of South Carolina; and

(8) adequate protections should exist to ensure rider and driver privacy, as well as to protect transportation network company information that is confidential, proprietary, and in the nature of a trade secret.

Section 58‑23‑1930. For purposes of this article, the term:

(1) ‘Transportation network company passenger’ means any individual who connects with a transportation network company driver though a transportation network company’s digital platform.

(2) ‘Transportation network company’ or ‘TNC’ means every person, entity, or corporation that uses a digital platform, network, or software application service to connect transportation network company passengers to transportation network company services provided by transportation network company drivers.

(3) ‘Transportation network company driver’ means an individual who operates a motor vehicle that is:

(a) owned, leased, or otherwise authorized for use by the individual;

(b) not used to provide taxi, charter bus, charter limousine, or for‑hire services pursuant to a Class C certificate issued by the South Carolina Public Service Commission or pursuant to a license issued by the governing body of a county or city; and

(c) used to provide transportation network company services to transportation network company passengers.

(4) ‘Transportation network company service’ means the transportation of a transportation network company passenger between points chosen by the transportation network company passenger and prearranged with a transportation network company driver through the use of a transportation network company digital platform, network, or software application; however, it does not mean taxi, charter bus, charter limousine, for‑hire, or street hail services provided pursuant to a Class C certificate issued by the South Carolina Public Service Commission or pursuant to a license issued by the governing body of a county or city. TNC services begin when a TNC driver accepts a request for transportation received through the TNC’s digital network or software application service, continue while the TNC driver transports the passenger in the TNC driver’s vehicle, and end when the passenger exits the TNC driver’s vehicle.

Section 58‑23‑1940. Articles 1 to 17 of this Chapter do not apply to:

(1) transportation network companies;

(2) transportation network company drivers; or

(3) transportation network company services.

Section 58‑23‑1950. (A) Transportation network companies and transportation network company drivers are not motor vehicle carriers as defined in this chapter, and shall not be considered to provide taxi, charter bus, charter limousine, or for‑hire services.

(B) A transportation network company is not deemed to own, control, operate or manage the vehicles used by transportation network company drivers.

(C) Transportation network companies and transportation network company drivers shall not be required to obtain a certificate from the South Carolina Public Service Commission or the Office of Regulatory Staff pursuant to Article 3 of this chapter.

Section 58‑23‑1960. (A) A person or entity shall not operate a transportation network company in South Carolina without first having obtained a permit from the Office of Regulatory Staff pursuant to this article; however, any person or entity operating a transportation network company in South Carolina as of the effective date of this article may continue to operate for a period of sixty days following the effective date of this article so as to permit it to obtain a permit from the Office of Regulatory Staff pursuant to this section.

(B) The Office of Regulatory Staff shall issue a permit to each transportation network company that meets the requirements for a transportation network company set forth in this article.

Section 58‑23‑1970. In order to receive a permit pursuant to this article, a transportation network company must maintain an agent for service of process in the State of South Carolina.

Section 58‑23‑1980. A transportation network company may determine and charge a fare for the transportation network company services provided to transportation network company passengers; provided that, if a fare is charged, the transportation network company shall disclose to transportation network company passengers the fare calculation method on its website or through its digital platform, network, or software application service. The transportation network company also shall provide transportation network company passengers with the applicable rates being charged and the option to receive an estimated fare before the transportation network company passenger enters the transportation network company driver’s vehicle.

Section 58‑23‑1990. The transportation network company’s website or digital platform, network, or software application service shall display a picture of the transportation network company driver, and the license plate number of the motor vehicle utilized for providing the transportation network company service before the transportation network company passenger enters the transportation network company driver’s vehicle.

Section 58‑23‑2000. Within a reasonable period of time following the completion of a trip, the transportation network company shall transmit an electronic receipt to the transportation network company passenger that lists:

(1) the origin and destination of the trip;

(2) the total time and distance of the trip; and

(3) an itemization of the total fare paid, if any.

Section 58‑23‑2010. (A) On or before ninety days after the effective date of this article and thereafter, TNCs and TNC drivers shall comply with the automobile liability insurance requirements of this section.

(B) The following automobile liability insurance requirements shall apply 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 TNC Services:

(1) automobile liability insurance that meets at least the minimum coverage requirements set forth in Section 38‑77‑140; and

(2) automobile liability insurance in the amounts required in item (1) shall be maintained by a TNC and provide coverage in the event a participating TNC driver’s own automobile liability policy excludes coverage according to its policy terms or does not provide coverage of at least the limits required in item (1).

(C) The following automobile liability insurance requirements shall apply while a TNC driver is providing TNC services:

(1) provides primary automobile liability insurance that recognizes the TNC driver’s provision of TNC services;

(2) provides automobile liability insurance of at least $1,000,000 for death, personal injury, and property damage;

(3) provides uninsured motorist coverage as required by Section 38‑77‑150;

(4) the coverage requirements of this subsection may be satisfied by any of the following:

(a) automobile liability insurance maintained by the TNC driver; or

(b) automobile liability insurance maintained by the TNC; or

(c) any combination of subsections (A) and (B).

(D) In every instance when insurance maintained by a TNC driver to fulfill the insurance requirements of this section has lapsed, failed to provide the required coverage, denied a claim for the required coverage or otherwise ceased to exist, insurance maintained by a TNC shall provide the coverage required by this section beginning with the first dollar of a claim.

(E) Insurance required by this section may be placed with an insurer authorized to do business in the State or with a surplus lines insurer eligible pursuant to Section 38‑45‑90.

(F) Insurance required by this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle pursuant to Section 38‑45‑90.

Section 58‑23‑2020. (A) The TNC shall disclose in writing to TNC drivers the following before they are allowed to accept a request for TNC services on the TNC’s digital network:

(1) the insurance coverage and limits of liability that the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC’s digital network; and

(2) that the TNC driver’s own insurance policy may not provide coverage while the TNC driver uses a vehicle in connection with a TNC’s digital network depending on its terms.

(B) Insurers that write automobile liability insurance in South Carolina may:

(1) exclude any and all coverage and the duty to defend afforded under the owner’s insurance policy for any loss or injury that occurs while an insured vehicle provides or is available to provide TNC services, provided such exclusion is expressly set forth in the policy and approved for sale in South Carolina. This right to exclude coverage and the duty to indemnify and defend may apply to any coverage included in an automobile liability insurance policy including, but not limited to:

(a) liability coverage for bodily injury and property damage;

(b) uninsured and underinsured motorist coverage;

(c) medical payments coverage;

(d) comprehensive physical damage coverage; and

(e) collision physical damage coverage.

(2) notify an insured after a loss, and within the time required by Section 38‑59‑20, that the insurer has no duty to defend or indemnify any person or organization for liability for a loss that is properly excluded pursuant to the terms of the applicable primary or excess insurance policy.

(C) Insurers that write automobile liability insurance in South Carolina must disclose on its application for insurance, in a prominent place, whether or not the insurance policy provides coverage while an insured vehicle provides or is available to provide TNC services. If an automobile liability insurance policy contains an exclusion for TNC services, the insurer or its agent must disclose in writing the exact language of such exclusion to the applicant during the application process.

(D) In a claims coverage investigation, TNCs and any insurer providing coverage shall cooperate to facilitate the exchange of information, including the precise times that a TNC driver logged on and off of the TNC’s digital network in the twenty‑four hour period immediately preceding the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any insurance policy each party issued or maintained.

Section 58‑23‑2030. (A) Transportation network companies shall implement a zero tolerance policy on the use of drugs or alcohol any time a transportation network company driver is:

(1) providing transportation network company services; or

(2) logged into the transportation network company’s digital platform, network, or software application service but is not providing transportation network company services.

(B) Transportation network companies shall publish on their website and provide notice to their transportation network company drivers of:

(1) the zero tolerance policy required in subsection (A); and

(2) procedures to report a complaint about a transportation network company driver with whom a transportation network company passenger was matched and whom the transportation network company passenger reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(C) Upon receipt of a complaint from a transportation network company passenger alleging that a transportation network company driver has violated the zero tolerance policy, the transportation network company shall immediately suspend such transportation network company driver’s access to the transportation network company’s digital platform, network, or software application service, and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(D) The transportation network company shall maintain records relevant to the enforcement of the requirements of this section for a period of at least two years from the date that a transportation network company passenger complaint is received by the transportation network company.

Section 58‑23‑2040. (A) Prior to permitting an individual to operate as a transportation network company driver on its digital platform, network, or software application service, the transportation network company shall:

(1) require the individual to submit an application to the transportation network company, which includes information regarding his or her address, age, driver’s license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the transportation network company;

(2) conduct, or have a third party conduct, a local and national criminal background check for each applicant that must include:

(a) a multi‑state and multi‑jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search); and

(b) National Sex Offender Registry database search;

(3) obtain and review a driving history research report for such individual.

(B) The transportation network company shall not permit an individual to act as a transportation network company driver on its digital platform, network, or software application service who:

(1) has had more than three moving violations in the prior three‑year period, or one major violation in the prior three‑year period including, but not limited to, failure to stop for a blue light, leaving the scene of an accident, reckless driving, or driving on a suspended or revoked license;

(2) has been convicted, within the past ten years, of driving under the influence of drugs or alcohol, driving with an unlawful alcohol concentration, fraud, use of a motor vehicle to commit a felony, a felony crime involving property damage, theft, and crimes defined as violent pursuant to Section 16-1-60;

(3) has been convicted of acts of terror, felony driving under the influence, criminal sexual conduct offenses, and leaving the scene of an accident with bodily injury;

(4) is a match in the National Sex Offender Registry database;

(5) does not possess a valid driver’s license;

(6) does not possess proof of registration for the motor vehicle the individual proposes to use to provide transportation network company services;

(7) does not possess proof of automobile liability insurance for the motor vehicle the individual proposes to use to provide transportation network company services; or

(8) is not at least nineteen years of age.

Section 58‑23‑2050. A transportation network company driver shall exclusively accept rides booked through the transportation network company’s digital platform, network, or software application service, and shall not solicit or accept street hails.

Section 58‑23‑2060. (A) The transportation network company shall adopt and implement a policy prohibiting solicitation or acceptance of cash payments from transportation network company passengers and notify transportation network company drivers of such policy.

(B) Transportation network company drivers shall not solicit or accept cash payments from transportation network company passengers. Any payment for transportation network company services shall be made only electronically using the transportation network company’s digital platform, network, or software application service.

Section 58‑23‑2070.(A) A transportation network company shall adopt and implement a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, or gender identity with respect to transportation network company passengers and potential transportation network company passengers and notify transportation network company drivers of such policy.

(B) Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against transportation network company passengers or potential transportation network company passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, or gender identity.

(C) Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.

(D) A transportation network company shall not impose additional charges on transportation network company passengers for providing services to persons with physical disabilities because of those disabilities.

(E) A transportation network company shall provide transportation network company passengers an opportunity to indicate whether they require a wheelchair‑accessible vehicle. If a transportation network company cannot arrange wheelchair‑accessible transportation network company service in any instance, it shall direct the transportation network company passenger to an alternate provider of wheelchair‑accessible service, if available.

Section 58‑23‑2080. (A) A transportation network company shall maintain:

(1) individual trip records for at least one year from the date each trip was provided; and

(2) transportation network company driver records at least until the one year anniversary of the date on which a transportation network company driver’s activation on the transportation network company digital platform or network has ended.

(B) Records maintained by a transportation network company pursuant to this section shall be considered confidential and proprietary. Such records shall further be considered a trade secret as defined by Section 39‑8‑20(5) and shall be afforded the protections of Section 39‑8‑60 of the South Carolina Trade Secrets Act.

(C) Any records maintained by a transportation network company pursuant to this section that are obtained by a public body as defined by Section 30‑4‑20(a) or other governmental entity, or any records that incorporate information from records maintained pursuant to this section, shall not be subject to disclosure under the Freedom of Information Act as provided for in Chapter 4, Title 30 or any other law.

Section 58‑23‑2090. (A) A transportation network company shall not disclose a transportation network company passenger’s personally identifiable information to a third party unless:

(1) the transportation network company passenger consents;

(2) disclosure is required by a legal obligation; or

(3) disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms.

(B) A transportation network company shall be permitted to share a transportation network company passenger’s name and telephone number with the transportation network company driver providing transportation network company services to such transportation network company passenger in order to facilitate the correct identification of the transportation network company passenger by the transportation network company driver, or to facilitate communication between the transportation network company passenger and the transportation network company driver.

Section 58‑23‑2100. Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this article and any regulations promulgated by the Office of Regulatory Staff consistent with this article. No municipality may subject a TNC to the municipality or other local entity’s rate, entry, operational or other requirements. However, nothing in this Article shall exempt transportation network companies and transportation network company drivers from compliance with any federal laws that may apply to their operations.”

SECTION 2. This act takes effect upon approval by the Governor.

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