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Indicates New Matter

AMENDED

March 25, 2015

**H. 3525**

Introduced by Reps. Sandifer, Forrester and Hayes

S. Printed 3/25/15--H.

Read the first time February 4, 2015.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 16 TO CHAPTER 23, TITLE 58 SO AS TO PROVIDE FOR THE REGULATION OF TRANSPORTATION NETWORK COMPANIES; TO AMEND SECTION 58‑4‑60, RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE OFFICE OF REGULATORY STAFF, SO AS TO PROVIDE FOR THE EXPENSES OF THE TRANSPORTATION DEPARTMENT BORNE BY ASSESSMENTS TO TRANSPORTATION NETWORK COMPANIES IN ADDITION TO EXISTING SOURCES; AND TO AMEND SECTION 58‑23‑50, RELATING TO EXEMPTIONS FROM REGULATION OF MOTOR VEHICLE CARRIERS BY THE PUBLIC SERVICE COMMISSION, SO AS TO EXEMPT TRANSPORTATION NETWORK COMPANIES.

Amend Title To Conform

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 16

Transportation Network Company Act

Section 58‑23‑1610. For purposes of this article:

(1) ‘Transportation Network Company’ or ‘TNC’ means a person, corporation, partnership, sole proprietorship, or other entity operating in this State that uses a digital network, platform, or internet‑enable application to connect a passenger to a transportation network driver for the purpose of providing transportation for compensation using a vehicle outside the limits of a municipality. A transportation network company does not include transportation services provided pursuant to Articles 1 through 15 of Chapter 23, Title 58. A TNC shall not include an individual, corporation, partnership, sole proprietorship, or other entity arranging non‑emergency medical transportation for individuals qualifying for Medicaid under P.L.1968, c.413 (C.30:4D‑1 et seq.) or Medicare under the federal Social Security Act, Pub.L.89‑97 (42 U.S.C. s.1395 et seq.) pursuant to a contract with the State or a managed care organization.

(2) ‘Transportation Network Company Driver’ or ‘TNC Driver’ means a person who uses a vehicle to provide transportation service for passengers matched through a transportation network company’s digital network.

(3) ‘Transportation Network Company Insurance’ or ‘TNC Insurance’ means an insurance policy that specifically covers a driver’s use of a vehicle in connection with a transportation network company’s digital network, platform, or internet‑enable application.

(4) ‘Transportation Network Company Passenger’ or ‘TNC Passenger’ means a person for whom transportation is provided through a transportation network company’s digital network. This includes a person for whom arrangements for transportation services using the transportation network company’s digital network was arranged by someone other than the passenger.

(5) ‘Transportation Network Company Service’ or ‘TNC Service’ means a period of time when a transportation network company driver accepts a request arranged through the transportation network company’s digital network and proceeds to the passenger location, continues while the transportation network company driver transports the passenger in the transportation network company vehicle, and ends when the passenger exits the transportation network company vehicle.

(6) ‘Transportation Network Company Vehicle’ or ‘TNC Vehicle’ means a vehicle that is used by a Transportation Company Network Driver that has met the requirements of this act and has been approved by the Transportation Network Company to provide transportation service arranged through a transportation network company digital platform.

Section 58‑23‑1620. Before a person, corporation, partnership, sole proprietorship, or other entity that uses a digital network, platform or internet‑enable application to provide transportation for compensation using a personal vehicle commences to advertise or operate in South Carolina as a TNC, that entity shall comply with the requirements set forth within this article and hold a valid TNC certificate issued by the Office of Regulatory Staff.

(A) That entity shall submit an application to the Office of Regulatory Staff and provide information that the Office of Regulatory Staff requires.

(B) In performing its responsibilities under this article, the Office of Regulatory Staff must balance the interest of the State in promoting innovative, safe, and cost‑effective transportation services with an appropriate level of safety protections for TNC passengers and the general public.

(C) An application must be accompanied by information required by the Office of Regulatory Staff, which may condition its approval on terms that it determines to be just and reasonable to advance the goals of this article.

(D) Upon review of the application and a finding that the applicant is fit, willing, and able to conduct business pursuant to the provisions of this article, the Office of Regulatory Staff shall approve the application and issue the entity a TNC certificate.

(E) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Public Service Commission within thirty days of the decision.

Section 58‑23‑1630. (A) Before commencing operations under a TNC certificate and within ninety days of the issuance of the certificate, the TNC shall file with the Office of Regulatory Staff evidence of primary automobile liability insurance coverage for bodily injury, death, and property damage that meets or exceeds the minimum limits identified in subsection F.

(B) The insurance coverage must be issued by an insurance company authorized to do business in this State or an eligible surplus lines carrier that can meet the financial obligations of this article and is eligible under Section 38‑45‑90.

(C) The primary automobile liability insurance must cover the TNC driver, TNC passengers, and the general public during the times the TNC driver is engaged in TNC service, and during the times the TNC driver is logged on to the TNC digital network.

(D) Filing evidence of bodily injury, death, and property damage must be made on a certificate of liability insurance which lists the Office of Regulatory Staff as the certificate holder.

(E) The certificate of insurance must specify that upon cancellation or nonrenewal the insurance carrier must send written notice of the cancellation or nonrenewal to the Office of Regulatory Staff. The notice must be mailed at least thirty days before the effective date of the cancellation or nonrenewal.

(F) Minimum limits of liability for bodily injury, death, and property damage includes:

(1) primary automobile liability coverage of one million dollars for each incident at all times when the TNC driver is providing TNC services;

(2) uninsured/underinsured motorist coverage of one million dollars for each incident at all times when the TNC driver is providing TNC services; and

(3) primary automobile liability coverage of one hundred and fifty thousand dollars for each person, three hundred thousand dollars for each incident, and one hundred and fifty thousand dollars for property damage for each incident during the time when the TNC driver is logged into the digital network but is not providing TNC services; and

(4) collision physical damage coverage and comprehensive physical damage coverage if the participating driver carries these coverages on his personal automobile policy unless that insurer is providing TNC company insurance to the driver.

(G) The insurance coverage may be satisfied by any of the following:

(1) TNC insurance maintained by a TNC driver;

(2) TNC insurance maintained by a TNC; or

(3) Any combination of subparagraphs (1) and (2).

(H) The TNC may meet the insurance coverage obligations through insurance obtained by a TNC driver pursuant to subparagraphs (1) and (3) if the TNC verifies the insurance maintained by the TNC driver is specifically written to cover the TNC driver’s use of a vehicle in connection with a TNC service. The TNC is required to submit an affidavit to the Office of Regulatory Staff to demonstrate the verification has been completed. The Office of Regulatory Staff shall accept the affidavit by the TNC as evidence of compliance.

(I) The TNC shall maintain documentation of a TNC driver’s insurance verification for a period of three years.

(J) The TNC driver insurance verification records must be provided to the Office of Regulatory Staff by the TNC upon request.

(K) During the period of time from the moment a TNC driver logs on to the TNC’s digital network until the TNC driver logs off the digital network or until the TNC passenger exits the vehicle, whichever is later, all of the following shall apply:

(1) The TNC driver’s or the vehicle owner’s personal automobile insurance policy shall not provide any coverage to the TNC driver, vehicle owner, or any third party, unless, notwithstanding the provisions of sub‑subitem (5.5)(d)(i) and subitem (10.5)(a) of Section 38‑77‑30, 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.

(2) The TNC driver’s or the vehicle owner’s personal automobile insurance policy shall not have the duty to defend or indemnify for the driver’s activities in connection with the TNC, unless, notwithstanding the provisions of sub‑subitem (5.5)(d)(i) and subitem (10.5)(a) of Section 38‑77‑30, the policy expressly provides otherwise for 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.

(L) The TNC driver must maintain personal automobile liability insurance that meets the minimum coverage requirements in Section 38‑77‑140 at all times for periods when the driver is not logged into the digital platform or transporting TNC passengers. Nothing in this section shall be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a TNC driver logs on to the TNC’s digital network until the TNC driver logs off the TNC digital network or the TNC passenger exits the vehicle, whichever is later.

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

(N) The insurer providing the TNC insurance coverage pursuant to subsections (A) through (M) has the duty to defend and indemnify the insured.

(O) Coverage under a TNC insurance policy may not be dependent on a personal automobile insurance policy first denying a claim nor may a personal automobile insurance policy be required to first deny a claim.

(P) In a claims coverage investigation, a TNC or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred, that involved a TNC driver and the precise times that the TNC driver logged on and off the TNC’s digital network.

(Q) In the event of an accident, a TNC driver shall provide insurance coverage information to any other party involved in the accident, and to a police officer, upon request.

Section 58‑23‑1640. (A) The TNC shall conduct or have a certified mechanic licensed in South Carolina conduct a safety inspection of a TNC vehicle within thirty days of the vehicle first providing TNC service

(B) Before a vehicle approved to operate by the TNC may provide TNC services, it must:

(1) only be used as a personal vehicle or to provide transportation network services for a TNC;

(2) have at least four doors and meets applicable Federal Motor Vehicle Safety Standards for vehicles of its size, type, and proposed use;

(3) be a sedan or light‑duty vehicle, including a minivan, sport utility vehicle, pickup truck, hatchback, or convertible;

(4) have a manufacturer’s rated seating capacity of no more than eight passengers, including the driver;

(5) be not more than ten model years of age from the current model year at the time of the vehicle inspection or subsequent annual inspections;

(6) have a clean and sanitary interior and exterior;

(7) have an interior free of rips and tears; and

(8) have all safety belts be operable.

(C) The TNC shall not permit a TNC driver to provide TNC services if the TNC vehicle does not meet the vehicle standards and pass a certified mechanics inspection as identified in this article.

(D) The TNC shall conduct periodic inspections of the TNC vehicle at intervals of at least one each year.

(E) The TNC shall maintain documentation of a TNC vehicle inspection for a period of three years.

(F) The vehicle inspection shall include an inspection of:

(1) foot brakes;

(2) emergency brakes;

(3) steering mechanism;

(4) windshield;

(5) rear window and other glass;

(6) windshield wipers;

(7) headlights;

(8) tail lights;

(9) turn indicator lights;

(10) stop lights;

(11) front seat adjustment mechanism;

(12) door capability to open, close, lock, and unlock;

(13) horn;

(14) speedometer;

(15) bumpers;

(16) muffler and exhaust system;

(17) tire condition including tread depth;

(18) interior and exterior rearview mirrors; and

(19) safety belts.

(G) A TNC vehicle must display a consistent and distinctive signage or emblem, which must be known as a trade dress, at all times when the TNC driver is active on the TNC digital platform or providing TNC service. The trade dress used by the TNC must be approved by the Office of Regulatory Staff before its use and:

(1) must be readable during daylight hours at a distance of fifty feet;

(2) must be reflective, illuminated, or otherwise patently visible so as to be seen in darkness;

(3) must be displayed on the vehicle windshield; and

(4) may be magnetic or removable in nature.

(H) The Office of Regulatory Staff may conduct inspections of TNC vehicles.

(I) The vehicle inspection records must be provided to the Office of Regulatory Staff by the TNC upon request.

Section 58‑23‑1650. (A) The TNC shall obtain certain background and qualification information from a TNC driver before the TNC driver is approved by the TNC to provide TNC service.

(B) The TNC driver qualification information shall include:

(1) a valid driver’s license issued by the South Carolina Department of Motor Vehicles or the current state of residence for the driver;

(2) verification that the driver is twenty‑one years of age or older;

(3) a certified copy of the driver’s ten year driving record issued by the South Carolina Department of Motor Vehicles and a record from the department of motor vehicles of the state where the driver has been domiciled for that period;

(4) a criminal history background check from the state where the driver currently lives;

(5) proof of vehicle registration in name of the TNC driver; and

(6) proof of automobile liability insurance in the name of the TNC driver which meets the requirements of Section 38‑77‑140.

(C) The TNC shall verify the TNC driver meets all of the driver qualification requirements in this section at intervals of at least one each year.

(D) The TNC shall maintain documentation of initial and annual verification of TNC driver qualifications for a period of three years.

(E) The Office of Regulatory Staff may conduct inspections of TNC driver qualification records.

(F) The TNC shall not permit a TNC driver to provide TNC services who:

(1) does not meet the TNC driver qualifications listed in Section 58‑23‑1650(B) and (C);

(2) is registered or required to be registered as a sex offender with the South Carolina Law Enforcement Division or the National Sex Offender Registry;

(3) 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 as defined as violent pursuant to Section 16‑1‑60; or

(4) is under the influence of drugs or alcohol.

(G) Before a TNC driver is allowed to provide a TNC service, the TNC must disclose to the TNC driver that the:

(1) automobile liability insurance that the TNC provides while the TNC driver is engaged in TNC service or logged into the TNC digital network;

(2) TNC driver’s automobile liability insurance may not provide coverage while the TNC driver is engaged in TNC service or logged into the TNC digital network;

(3) provision of TNC services may violate the terms of a contract or financing agreement with a lienholder; and

(4) provision of TNC services may have possible financial consequences related to personal income tax and personal property tax liabilities.

Section 58‑23‑1660. (A) A TNC operating in this State shall comply in South Carolina in compliance with the following standards:

(1) A TNC driver shall not provide TNC services or otherwise operate as a passenger vehicle for hire unless a TNC has matched the TNC driver to the TNC passenger through the digital network. A TNC driver shall not solicit or accept passenger rides on‑demand or through a ‘street hail.’ All payment for TNC services must be made through the digital network and the TNC driver shall not accept cash payments.

(2) A TNC shall make available to prospective TNC passengers and TNC drivers the method by which the TNC calculates fares or the applicable rates being charged and an option to receive an estimated fare. If the rates vary from those identified in the application to the Office of Regulatory Staff, the TNC must require the TNC passenger to positively acknowledge the change and agree to the rate.

(3) A TNC shall provide the TNC passenger with an electronic receipt upon completion of the TNC service. The receipt must document the:

(a) point of origin;

(b) point of destination;

(c) total duration and distance;

(d) total fare/rate paid, including base fare and additional charges incurred for distance or duration; and

(e) TNC driver’s first name and phone number.

(4) A TNC driver shall display an identification badge including his photograph, first name, personal vehicle make and model, and personal vehicle license plate number. This information may be displayed to the TNC passenger through the TNC digital network.

(5) A TNC driver shall at all times carry in the TNC vehicle proof of the automobile liability insurance required of this article.

(6) A TNC shall maintain a customer support telephone number displayed on its digital network, website, or both, for TNC passenger inquiries or complaints and shall respond promptly to all TNC passenger inquiries or complaints.

(7) A TNC shall not discriminate against TNC passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.

(8) A TNC shall provide TNC services in compliance with all applicable laws for providing services to persons with physical and mental disabilities. Service animals and mobility equipment must be permitted to accompany a TNC passenger.

(9) A TNC shall provide a TNC passenger with an opportunity to indicate via the digital network if the TNC passenger requires a wheelchair‑accessible vehicle. If the TNC cannot accommodate the request for a wheelchair‑accessible vehicle, the TNC shall direct the TNC passenger to an alternate transportation provider.

(10) A TNC driver shall take the most direct route to the destination unless the TNC passenger has consented to an alternate route.

(11) A TNC driver may refuse to transport a TNC passenger if the TNC passenger is acting in an unlawful, disorderly or endangering manner.

Section 58‑23‑1670. (A) A TNC shall maintain a record of all TNC services provided in South Carolina for a period of three years from the date of the TNC service. The records shall include:

(1) the time at which a TNC driver logs into the digital network;

(2) the time and place of commencement of TNC service;

(3) the number of TNC passengers transported;

(4) the name and place of delivery of the TNC passengers;

(5) the amount of fare charged to the TNC passengers;

(6) the name and contact information of the TNC passengers; and

(7) any inquiry or complaint of the TNC passenger, the date of the inquiry or complaint, and the resolution of the inquiry or complaint.

(B) A TNC shall maintain documentation of each TNC vehicle inspection for a period of three years.

(C) The TNC shall maintain documentation of initial and annual verification of TNC driver qualifications for a period of three years.

(D) The TNC shall provide, upon the request of the Office of Regulatory Staff, any factual information regarding TNC drivers, TNC passengers and TNC services so as to investigate complaints arising under this article. This information must be provided to the Office of Regulatory Staff within a reasonable time period.

(E) A TNC shall not disclose a TNC driver or passenger’s personally identifiable information to a third party unless the:

(1) TNC driver or TNC passenger consents;

(2) disclosure is required by legal obligation; or

(3) disclosure is required to investigate violations of the TNC driver or TNC passenger terms of use.

Section 58‑23‑1680. (A) A certified South Carolina law enforcement officer is authorized to enforce the requirements of this article.

(B) A officer, agent, or employee of a TNC or TNC driver that fails to comply with any requirement contained in this article is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars for a first offense, not less than five hundred dollars for a second offense, and for a third and subsequent offenses not less than one thousand dollars or imprisoned for a term not to exceed thirty days. Seventy‑five percent of the fines collected under this section must be remitted to the Office of Regulatory Staff to be used for enforcement operations. Magistrates have jurisdiction over contested violations of this section and are prohibited from suspending or reducing the penalties.

(C) The Office of Regulatory Staff may revoke a TNC certificate if the TNC has made misrepresentation of a material fact in obtaining the TNC certificate or, in the opinion of the Office of Regulatory Staff, has failed to comply with the requirements in this article.

(D) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Public Service Commission of South Carolina within thirty days of the decision.

(E) As concerns potential violations of this article, TNC’s and their officers, agents, employees, or customers is subject to the investigatory powers provided in Sections 58‑4‑50 and 58‑4‑55 to the Office of Regulatory Staff.

(F) The Office of Regulatory Staff is authorized to require regular updating of information required from a TNC under this article.

Section 58‑23‑1690. (A) The Office of Regulatory Staff may assess each TNC an annual fee in an amount necessary to permit the Office of Regulatory Staff to carry out the requirements of this article.

(B) The annual assessment of fees will be pursuant to Section 58‑4‑60(B).”

SECTION 2. Section 58‑4‑60(B) of the 1976 Code is amended to read:

“(B)(1) The expenses of the Transportation Department of the Office of Regulatory Staff, with the exception of the expenses incurred in its railway jurisdiction, must be borne by the revenues from license fees derived pursuant to Sections 58‑23‑530 through 58‑23‑630, assessments to the Transportation Network Companies pursuant to Section 58‑23‑1690, and assessments to the carriers of household goods and hazardous waste for disposal carriers. The expenses of the railway section of the Office of Regulatory Staff must be borne by the railroad companies subject to the commission’s jurisdiction according to their gross income from operations in this State.

(2) All other expenses of the Office of Regulatory Staff must be borne by the public utilities subject to the jurisdiction of the commission. On or before the first day of July in each year, the Department of Revenue must assess each public utility, railway company, household goods carrier, and hazardous waste for disposal carrier its proportion of the expenses in proportion to its gross income from operation in this State in the year ending on the thirtieth day of June preceding that on which the assessment is made which is due and payable on or before July fifteenth. The assessments must be charged against the companies by the Department of Revenue and collected by the department in the manner provided by law for the collection of taxes from the companies including the enforcement and collection provisions of Article 1, Chapter 54 ~~of~~, Title 12 and paid, less the Department of Revenue actual incremental increase in the cost of administration into the state treasury as other taxes collected by the Department of Revenue for the State.”

SECTION 3. Section 58‑23‑50 of the 1976 Code is amended by adding a subsection at the end to read:

“(C) Articles 1 to 11 of this chapter also do not apply to Transportation Network Companies and Transportation Network Company Drivers.”

SECTION 4. This act takes effect upon approval by the Governor.

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