

HOUSE BILL No. 4637

May 26, 2015, Introduced by Rep. Kelly and referred to the Committee on Commerce and Trade.

A bill to regulate transportation network companies in this state; to provide for the powers and duties of certain state officers and entities; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "transportation network company act".

3 Sec. 3. As used in this act:

4 (a) "Department" means the state transportation department.

5 (b) "Digital network" means an online-enabled application,
6 software, website, or system offered or utilized by a
7 transportation network company that enables the prearrangement of
8 rides with transportation network company drivers.

1 (c) "Personal vehicle" means a motor vehicle that is used by a
2 transportation network company driver that satisfies both of the
3 following:

4 (i) The vehicle is owned, leased, or otherwise authorized for
5 use by the transportation network company driver.

6 (ii) The vehicle is not a taxicab, limousine, or commercial
7 vehicle.

8 (d) "Prearranged ride" means the provision of transportation
9 by a transportation network company driver to a transportation
10 network company rider, beginning when a transportation network
11 company driver accepts a ride requested by a transportation network
12 company rider through a digital network controlled by a
13 transportation network company, continuing while the transportation
14 network company driver transports the requesting transportation
15 network company rider, and ending when the last requesting
16 transportation network company rider departs from the personal
17 vehicle. Prearranged ride does not include transportation provided
18 using a taxicab, limousine, or other commercial vehicle.

19 (e) "Transportation network company" means a person operating
20 in this state that uses a digital network to connect transportation
21 network company riders to transportation network company drivers
22 who provide prearranged rides. Transportation network company does
23 not include a taxi service, transportation service arranged through
24 a transportation broker, ridesharing arrangement, or transportation
25 service using fixed routes at regular intervals.

26 (f) "Transportation network company driver" means an
27 individual who satisfies all of the following:

1 (i) Receives connections to potential passengers and related
2 services from a transportation network company in exchange for
3 payment of a fee to the transportation network company.

4 (ii) Uses a personal vehicle to offer or provide prearranged
5 rides to transportation network company riders upon connection
6 through a digital network controlled by a transportation network
7 company in return for compensation or payment of a fee.

8 (g) "Transportation network company rider" means an individual
9 who uses a transportation network company's digital network to
10 connect with a transportation network company driver who provides a
11 prearranged ride to the transportation network company rider in the
12 transportation network company driver's personal vehicle between
13 points chosen by the transportation network company rider.

14 Sec. 5. (1) Neither a transportation network company nor a
15 transportation network company driver shall be considered a common
16 carrier, motor carrier, or contract carrier, or to provide taxicab
17 or commercial vehicle service.

18 (2) A transportation network company driver is not required to
19 register his or her personal vehicle as a commercial or for-hire
20 vehicle.

21 (3) As used in this section, "motor carrier" means that term
22 as defined in section 1 of the motor carrier act, 1933 PA 254, MCL
23 475.1.

24 Sec. 7. (1) A transportation network company shall not operate
25 in this state without first having obtained a permit from the
26 department under this act.

27 (2) The department shall issue a permit to an applicant that

1 meets the requirements of this act and pays a permit fee of
2 \$5,000.00 to the department annually.

3 (3) The department, or a third party agreed upon by the
4 department and a transportation network company, may audit the
5 records of that transportation network company, including a random
6 sample of the transportation network company's records related to
7 drivers, in accordance with all of the following:

8 (a) The department may conduct the audit described in this
9 subsection no more than 2 times per year.

10 (b) The audit shall take place at a third-party location
11 agreed upon by the department and the transportation network
12 company.

13 (c) Notwithstanding subdivision (a), the department may within
14 a reasonable time frame investigate a complaint related to public
15 safety or a violation of this act, if the department has received
16 details of the nature of the complaint before the investigation
17 takes place.

18 Sec. 9. A transportation network company operating under a
19 permit issued under this act shall maintain an agent authorized to
20 receive service of process in this state.

21 Sec. 11. On behalf of a transportation network company driver,
22 a transportation network company may charge and collect a fare for
23 services provided to a transportation network company rider, if all
24 of the following are satisfied:

25 (a) The transportation network company discloses the fare
26 calculation method on its website or within the software
27 application service.

1 (b) The transportation network company provides the
2 transportation network company rider with the applicable rate being
3 charged and the option to receive an estimated fare before the
4 transportation network company rider enters the transportation
5 network company driver's personal vehicle.

6 Sec. 13. A transportation network company's software
7 application or website shall display a picture of the
8 transportation network company driver and the registration plate
9 number of the personal vehicle to be used for the prearranged ride
10 before the transportation network company rider enters the
11 transportation network company driver's personal vehicle.

12 Sec. 15. Within a reasonable period of time after a
13 prearranged ride is completed, a transportation network company
14 shall transmit an electronic receipt to the transportation network
15 company rider listing all of the following information:

16 (a) The origin and destination of the trip.

17 (b) The total time and distance of the trip.

18 (c) An itemization of the total fare paid, if any.

19 Sec. 17. (1) Beginning on the effective date of this act, a
20 transportation network company driver, or a transportation network
21 company on a transportation network company driver's behalf, shall
22 maintain primary automobile insurance that recognizes that the
23 transportation network company driver uses the vehicle as a
24 transportation network company driver or otherwise uses a vehicle
25 to transport passengers for compensation and covers the
26 transportation network company driver while he or she is logged on
27 to the transportation network company's digital network and while

1 he or she is engaged in a prearranged ride.

2 (2) During the time that a transportation network company
3 driver is logged on to the transportation network company's digital
4 network and is available to receive transportation requests but is
5 not engaged in a prearranged ride, all of the following types of
6 automobile insurance are required:

7 (a) Residual third party automobile liability insurance as
8 required under chapter 31 of the insurance code of 1956, 1956 PA
9 218, MCL 500.3101 to 500.3179, in the amount of at least \$50,000.00
10 per person for death or bodily injury, \$100,000.00 per incident for
11 death or bodily injury, and \$25,000.00 for property damage.

12 (b) Personal protection insurance and property protection
13 insurance in the amounts and of the types of coverage required by
14 chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101
15 to 500.3179.

16 (3) During the time that a transportation network company
17 driver is engaged in a prearranged ride, all of the following types
18 of automobile insurance are required:

19 (a) Residual third party automobile liability insurance with a
20 minimum combined single limit of \$1,000,000.00 for all bodily
21 injury or property damage.

22 (b) Personal protection insurance and property protection
23 insurance in the amounts and of the types of coverage required by
24 chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101
25 to 500.3179.

26 (4) The requirements of subsections (2) and (3) may be
27 satisfied by automobile insurance maintained by a transportation

1 network company driver or a transportation network company, or a
2 combination of both.

3 (5) If the insurance required by subsection (2) or (3) lapses
4 or does not provide the required coverage, insurance maintained by
5 a transportation network company shall provide the coverage
6 required by this section, beginning with the first \$1.00 of a
7 claim, and the transportation network company shall defend the
8 claim.

9 (6) Coverage provided under an automobile insurance policy
10 maintained by a transportation network company shall not be
11 dependent upon a personal automobile insurer denying the claim
12 first and shall not require a personal automobile insurer to deny
13 the claim first.

14 (7) All of the following apply to the automobile insurance
15 described in subsections (2) and (3):

16 (a) It may be placed with an insurer licensed under chapter 4
17 of the insurance code of 1956, 1956 PA 218, MCL 500.402 to 500.480,
18 or, if the insurance is maintained by a transportation network
19 company, a surplus lines insurer eligible under chapter 19 of the
20 insurance code of 1956, 1956 PA 218, MCL 500.1901 to 500.1955.

21 (b) The insurance policy satisfies the financial
22 responsibility requirements described in chapter V of the Michigan
23 vehicle code, 1949 PA 300, MCL 257.501 to 257.532.

24 (8) A transportation network company driver shall carry proof
25 of the insurance required under subsections (2) and (3) with him or
26 her at all times during his or her use of a vehicle in connection
27 with a transportation network company's digital network. The

1 transportation network company driver may provide proof of
2 insurance by a paper or electronic copy of the certificate of
3 insurance. If an accident occurs during the time that a
4 transportation network company driver is using a vehicle in
5 connection with a transportation network company's digital network,
6 he or she shall provide all of the following information upon
7 request to directly interested parties, automobile insurers, and
8 investigating law enforcement officers as required under section
9 328 of the Michigan vehicle code, 1949 PA 300, MCL 257.328:

10 (a) Insurance coverage information.

11 (b) Whether he or she was logged on to the transportation
12 network company's digital network or on a prearranged ride at the
13 time of the accident.

14 (9) If a transportation network company's insurer makes a
15 payment for a claim covered under comprehensive coverage or
16 collision coverage, the transportation network company's insurer
17 shall issue the payment directly to the business repairing the
18 vehicle or jointly to the owner of the vehicle and the primary
19 lienholder on the vehicle.

20 (10) A transportation network company shall disclose all of
21 the following information in writing to a transportation network
22 company driver before that transportation network company driver
23 may accept a request for a prearranged ride on that transportation
24 network company's digital network:

25 (a) The insurance coverage, including the types of coverage
26 and limits for each type of coverage, that the transportation
27 network company provides while the transportation network company

1 driver uses a personal vehicle in connection with the
2 transportation network company's digital network.

3 (b) That, depending on the terms of the policy, the
4 transportation network company driver's personal automobile
5 insurance policy might not provide coverage while the
6 transportation network company driver is logged on to the
7 transportation network company's digital network and available to
8 receive transportation requests or is engaged in a prearranged
9 ride.

10 Sec. 19. (1) A transportation network company driver shall be
11 considered an independent contractor, and not an employee of a
12 transportation network company, if all of the following conditions
13 are met:

14 (a) The transportation network company does not prescribe the
15 specific hours during which the transportation network company
16 driver is required to be logged in to the transportation network
17 company's digital network.

18 (b) The transportation network company does not impose any
19 restrictions on the transportation network company driver's ability
20 to use other transportation network companies' digital networks.

21 (c) The transportation network company does not assign a
22 transportation network company driver a particular territory within
23 this state in which he or she may provide prearranged rides.

24 (d) The transportation network company does not restrict a
25 transportation network company driver from engaging in any other
26 occupation or business.

27 (e) The transportation network company and the transportation

1 network company driver agree in writing that the transportation
2 network company driver is an independent contractor.

3 (2) A transportation network company shall not be deemed to
4 control, direct, or manage a personal vehicle or a transportation
5 network company driver who connects to its digital network, unless
6 the parties have agreed otherwise in a written contract.

7 Sec. 21. (1) A transportation network company shall develop
8 and implement a zero-tolerance policy regarding a transportation
9 network company driver's activities while accessing the
10 transportation network company's digital network. The zero-
11 tolerance policy required under this subsection shall address the
12 use of drugs or alcohol while a transportation network company
13 driver is providing a prearranged ride or is logged in to the
14 transportation network company's digital network.

15 (2) A transportation network company shall provide notice of
16 the zero-tolerance policy required under subsection (1) on its
17 website, and shall also provide on its website a procedure for a
18 transportation network company rider to report a complaint about a
19 transportation network company driver with whom the transportation
20 network company rider was matched and who the transportation
21 network company rider reasonably suspects was under the influence
22 of drugs or alcohol during a prearranged ride.

23 (3) Upon receipt of a complaint described in subsection (2), a
24 transportation network company shall immediately suspend the
25 transportation network company driver's access to the
26 transportation network company's digital network, and shall
27 investigate the incident. The transportation network company

1 driver's suspension shall last for the duration of the
2 investigation.

3 (4) A transportation network company shall maintain records of
4 a transportation network company rider complaint for at least 2
5 years after the date the complaint was received by the
6 transportation network company.

7 Sec. 23. (1) Before an individual may accept prearranged ride
8 requests as a transportation network company driver using a
9 transportation network company's digital network, he or she shall
10 submit an application to the transportation network company. The
11 application required under this subsection shall include, but is
12 not limited to, the applicant's name, address, age, operator's
13 license number, driving history, motor vehicle registration
14 information, and automobile liability insurance information. A
15 transportation network company receiving an application under this
16 subsection shall do both of the following before allowing the
17 applicant to accept prearranged ride requests as a transportation
18 network company driver using the transportation network company's
19 digital network:

20 (a) Conduct, or use a third party to conduct, a local and
21 national criminal background check of the applicant. The background
22 checks required under this subdivision shall include a search of
23 all of the following:

24 (i) A multistate or multi-jurisdiction criminal records
25 locator or similar commercial nationwide database with validation.

26 (ii) The national sex offender registry database.

27 (b) Obtain and review a driving history research report for

1 the applicant.

2 (2) A transportation network company shall not allow an
3 individual to accept prearranged ride requests as a transportation
4 network company driver using its digital network if any of the
5 following apply:

6 (a) The individual has had more than 3 moving violations or 1
7 major violation in the 3-year period before the date of the
8 application. As used in this subdivision, "major violation"
9 includes, but is not limited to, attempting to evade the police,
10 reckless driving, or driving on a suspended or revoked license.

11 (b) The individual was convicted within 7 years before the
12 date of the application of any of the following:

13 (i) Driving under the influence of drugs or alcohol.

14 (ii) Fraud.

15 (iii) A sexual offense.

16 (iv) Use of a motor vehicle to commit a felony.

17 (v) A crime involving property damage.

18 (vi) Theft.

19 (vii) An act of violence.

20 (viii) An act of terror.

21 (c) The individual is listed on the national sex offender
22 registry database.

23 (d) The individual does not possess a valid operator's license
24 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
25 257.923.

26 (e) The individual does not possess proof of registration
27 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to

1 257.923, for each personal vehicle that he or she intends to use to
2 provide prearranged rides.

3 (f) The individual does not possess proof of automobile
4 liability insurance for each personal vehicle that he or she
5 intends to use to provide prearranged rides.

6 (g) The individual is under 19 years of age.

7 Sec. 25. A transportation network company shall not allow a
8 transportation network company driver to accept trip requests
9 through that transportation network company's digital platform
10 unless the transportation network company driver's vehicle has
11 undergone a safety inspection conducted annually by a mechanic
12 licensed by this state before being used to provide transportation
13 services. Each transportation network company driver shall provide
14 to the transportation network company documentation of the
15 inspection required by this section showing that all of the
16 following vehicle components were inspected:

17 (a) Foot brakes.

18 (b) Parking brakes.

19 (c) Steering mechanism.

20 (d) Windshield.

21 (e) Rear window and other glass.

22 (f) Windshield wipers.

23 (g) Headlights.

24 (h) Taillights.

25 (i) Brake lights.

26 (j) Front seat adjustment mechanism.

27 (k) Doors.

- 1 (l) Turn signal lights.
- 2 (m) Horn.
- 3 (n) Speedometer.
- 4 (o) Bumpers.
- 5 (p) Muffler and exhaust system.
- 6 (q) Tires, including tread depth.
- 7 (r) Interior and exterior mirrors.
- 8 (s) Safety belts.
- 9 (t) Defrosting system.

10 Sec. 27. A transportation network company driver shall not
11 solicit or accept a street hail.

12 Sec. 29. (1) A transportation network company driver shall not
13 solicit or accept cash payments from transportation network company
14 riders for prearranged rides.

15 (2) A payment for a prearranged ride shall only be made
16 electronically using a transportation network company's digital
17 network or software application.

18 (3) A transportation network company shall adopt a policy
19 prohibiting a transportation network company driver from soliciting
20 or accepting cash payments from transportation network company
21 riders, and shall notify transportation network company drivers
22 using its digital platform of the policy required by this
23 subsection.

24 Sec. 31. (1) A transportation network company shall adopt a
25 policy of nondiscrimination with respect to transportation network
26 company riders and potential transportation network company riders
27 and shall notify transportation network company drivers of the

1 policy adopted under this subsection.

2 (2) A transportation network company driver shall comply with
3 all applicable laws regarding nondiscrimination against a
4 transportation network company rider or potential transportation
5 network company rider.

6 (3) A transportation network company driver shall comply with
7 all applicable laws regarding accommodation of service animals.

8 (4) A transportation network company shall not impose an
9 additional charge for providing services to a transportation
10 network company rider with a physical disability because of his or
11 her disability.

12 Sec. 33. A personal vehicle shall display a consistent and
13 distinctive signage or emblem, which may be removable, that is
14 approved by the department at all times while the transportation
15 network company driver is engaged in a prearranged ride. The
16 signage or emblem shall satisfy all of the following:

17 (a) The signage or emblem shall be sufficiently large and
18 color-contrasted to be readable during daylight hours from a
19 distance of at least 50 feet.

20 (b) The signage or emblem shall be reflective.

21 (c) The signage or emblem shall sufficiently identify the
22 transportation network company with which the vehicle is
23 affiliated.

24 Sec. 35. A transportation network company shall comply with
25 the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to
26 445.922.

27 Sec. 37. A transportation network company shall maintain all

1 of the following records:

2 (a) Individual trip records of transportation network company
3 riders. An individual trip record shall be maintained for a period
4 of at least 1 year after the date the trip was provided.

5 (b) Individual records of transportation network company
6 drivers. An individual transportation network company driver record
7 shall be maintained for a period of at least 1 year after the
8 transportation network company driver ceases to provide prearranged
9 rides using the transportation network company's digital network.

10 Sec. 39. Notwithstanding any other provision of law,
11 transportation network companies and transportation network company
12 drivers operating in this state are governed exclusively by this
13 act and rules promulgated by the department to administer this act
14 under the administrative procedures act of 1969, 1969 PA 306, MCL
15 24.201 to 24.328. A local unit of government shall not impose a tax
16 upon or require a license for a transportation network company, a
17 transportation network company driver, or a personal vehicle, if
18 the tax or license is related to the provision of prearranged
19 rides. Except as otherwise provided in this section, a local unit
20 of government shall not enact or enforce an ordinance regulating a
21 transportation network company. A local unit of government may
22 issue a civil infraction to a transportation network company driver
23 for a violation of section 17(8), 27, 31, or 33.

24 Enacting section 1. This act takes effect 90 days after the
25 date it is enacted into law.

26 Enacting section 2. This act does not take effect unless
27 Senate Bill No.____ or House Bill No.____ (request no. 02044'15) of

1 the 98th Legislature is enacted into law.