

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 185
99TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, Infrastructure and Public Safety, February 16, 2017, with recommendation that the Senate Committee Substitute do pass.

0475S.05C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 67.1819, RSMo, and to enact in lieu thereof twenty-five new sections relating to transportation network companies, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 67.1819, RSMo, is repealed and twenty-five new
2 sections enacted in lieu thereof, to be known as sections 67.1819, 387.400,
3 387.402, 387.404, 387.406, 387.407, 387.408, 387.410, 387.412, 387.414, 387.416,
4 387.418, 387.420, 387.422, 387.424, 387.425, 387.426, 387.428, 387.430, 387.432,
5 387.433, 387.434, 387.436, 387.438, and 387.440, to read as follows:

67.1819. [1. The commission with the passage of a taxicab code shall
2 request a Missouri criminal record review for a prospective or current driver from
3 the central repository by furnishing information on forms and in the manner
4 approved by the highway patrol.

5 2. The prospective or current driver shall submit two sets of fingerprints
6 to the Missouri state highway patrol, Missouri criminal records repository, for the
7 purpose of checking the person's criminal history. The first set of fingerprints
8 shall be used to search the Missouri criminal records repository and the second
9 set shall be submitted to the Federal Bureau of Investigation to be used for
10 searching the federal criminal history files.

11 3. The prospective or current driver shall pay the appropriate fee to the
12 state central repository payable to the criminal record system fund and pay the
13 appropriate fee determined by the Federal Bureau of Investigation for the federal
14 criminal history record when applying for or renewing a license.

15 4. Any criminal history information received by the commission pursuant

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 to the provisions of this section shall be used solely for the internal purposes of
17 the commission in determining the suitability of the prospective or current
18 driver. The dissemination of criminal history information from the Federal
19 Bureau of Investigation beyond the authorized or related governmental entity is
20 prohibited. All criminal record check information shall be confidential and any
21 person who discloses the information beyond the scope allowed is guilty of a class
22 A misdemeanor] **Notwithstanding any other provision of law, the**
23 **commission shall establish in the taxicab code promulgated pursuant**
24 **to section 67.1812 a criminal background check policy that applies to**
25 **each prospective and current driver.**

387.400. As used in sections 387.400 to 387.440 the following
2 terms mean:

3 (1) "Department", the Missouri department of revenue;

4 (2) "Digital network", any online-enabled technology application,
5 website, or system offered or utilized by a transportation network
6 company that enables the prearrangement of rides with transportation
7 network company drivers;

8 (3) "Prearranged ride", the provision of transportation by a TNC
9 driver to a rider, beginning when a TNC driver accepts a ride
10 requested by a rider through a digital network controlled by a
11 transportation network company, continuing while the TNC driver
12 transports a requesting rider, and ending when the last requesting
13 rider departs from the TNC vehicle. A prearranged ride shall not
14 include:

15 (a) Transportation provided using a taxi, limousine, or other for-
16 hire vehicle under chapter 390; or

17 (b) A shared expense carpool or vanpool arrangement or service;

18 (4) "Transportation network company" or "TNC", a corporation,
19 partnership, sole proprietorship, or other entity that is licensed
20 pursuant to sections 387.400 to 387.440 and operating in the state of
21 Missouri, that uses a digital network to connect TNC riders to TNC
22 drivers who provide prearranged rides. A TNC shall not be deemed to
23 own, control, direct, operate, or manage the TNC vehicles or TNC
24 drivers that connect to its digital network, except where agreed to by
25 written contract;

26 (5) "Transportation network company (TNC) driver" or "driver",
27 an individual who:

28 (a) Receives connections to potential riders from a
29 transportation network company in exchange for payment of a fee to
30 the transportation network company; and

31 (b) Uses a TNC vehicle to offer or provide a prearranged ride to
32 riders upon connection through a digital network controlled by a
33 transportation network company in return for compensation;

34 (6) "Transportation network company (TNC) rider" or "rider", an
35 individual or persons who use a TNC's digital network to connect with
36 a TNC driver who provides prearranged rides to the rider in the TNC
37 driver's TNC vehicle between points chosen by the rider;

38 (7) "Transportation network company (TNC) vehicle" or "TNC
39 vehicle", a vehicle that is used by a transportation network company
40 driver and is:

41 (a) Owned, leased, or otherwise authorized for use by the TNC
42 driver; and

43 (b) Not a taxicab, limousine, or for-hire vehicle under chapter
44 390.

387.402. Notwithstanding any other provision of law, TNCs and
2 TNC drivers shall not be considered common carriers, contract
3 carriers, or motor carriers, as defined in section 390.020, a taxicab, as
4 defined in section 390.020, a taxicab service or association, or a for-hire
5 vehicle service. A TNC driver shall not be required to register the
6 vehicle such driver uses to provide prearranged rides as a commercial
7 or for-hire vehicle.

387.404. 1. Beginning on August 28, 2017, a person shall not
2 operate a TNC in the state of Missouri without first having obtained a
3 permit from the department.

4 2. The department shall issue a permit to each applicant who:

5 (1) Meets the requirements for a TNC set forth in sections 387.400
6 to 387.440; and

7 (2) Pays an annual permit fee of five thousand dollars to the
8 department. This annual fee shall cover all transportation network
9 company drivers affiliated with the transportation network company,
10 and no per driver or per vehicle fee shall be assessed.

387.406. A TNC shall maintain an agent for service of process in
2 the state of Missouri.

387.407. TNCs and TNC drivers shall comply with the provisions

2 of sections 379.1700 to 379.1708.

387.408. On behalf of a TNC driver, a TNC may charge a fare for
2 the services provided to riders; provided that, if a fare is collected from
3 a rider, the TNC shall disclose to the rider the fare, or fare structure
4 on its website or on its digital network. If the fare is based on actual
5 time and distance traveled, the TNC on its website shall also provide
6 riders with the applicable time and distance rates being charged and
7 the option to receive an estimated fare before the rider enters the TNC
8 vehicle.

387.410. The TNC's digital network shall display a picture of the
2 TNC driver and the license plate number of the motor vehicle utilized
3 for providing the prearranged ride before the rider enters the TNC
4 driver's vehicle.

387.412. Within a reasonable period of time following the
2 completion of a trip, a TNC shall transmit an electronic receipt to the
3 TNC rider on behalf of the TNC driver that lists:

- 4 (1) The origin and destination of the trip;
- 5 (2) The total time and distance of the trip, if the fare is based on
6 actual time and distance traveled; and
- 7 (3) The total fare paid, if any.

387.414. Except as provided in section 387.433, all TNC drivers
2 shall be independent contractors and not employees of the TNC if all
3 of the following conditions are met:

- 4 (1) The TNC does not prescribe specific hours during which a
5 TNC driver must be logged into the TNC's digital network;
- 6 (2) The TNC imposes no restrictions on the TNC driver's ability
7 to utilize digital networks from other TNCs;
- 8 (3) The TNC does not restrict a TNC driver from engaging in any
9 other occupation or business; and
- 10 (4) The TNC and TNC driver agree in writing that the driver is
11 an independent contractor with respect to the TNC.

387.416. Except when agreed to by written contract, a
2 transportation network company driver is not an agent of a
3 transportation network company.

387.418. 1. A transportation network company shall implement
2 a zero tolerance intoxicating substance policy for transportation
3 network company drivers that disallows any amount of intoxication of

4 the transportation network company driver while providing
5 transportation network services. The TNC shall provide notice of the
6 zero tolerance policy on its website, as well as procedures to report a
7 complaint about a driver with whom a rider was matched and whom
8 the rider reasonably suspects was under the influence of drugs or
9 alcohol during the course of the trip.

10 2. Upon receipt of such rider complaint alleging a violation of
11 the zero tolerance policy, the TNC shall suspend such TNC driver's
12 ability to accept trip requests through the TNC's digital network as
13 soon as possible, and shall conduct an investigation into the reported
14 incident. The suspension shall last the duration of the investigation.

15 3. The TNC shall maintain records relevant to the enforcement
16 of this requirement for a period of at least two years from the date that
17 a rider complaint is received by the TNC.

387.420. 1. Before allowing an individual to accept trip requests
2 through a TNC's digital network, the TNC shall:

3 (1) Require the individual to register with the TNC by submitting
4 information regarding his or her address, age, driver's license, motor
5 vehicle registration, automobile liability insurance, and other
6 information required by the TNC;

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

9 (a) Multi-state/multi-jurisdiction criminal records locator or
10 other similar commercial nationwide database with validation, also
11 known as a primary source search; and

12 (b) United States Department of Justice National Sex Offender
13 public website; and

14 (c) Obtain and review, or have a third party obtain and review,
15 a driving history research report for such individual.

16 2. The TNC shall not permit an individual to act as a TNC driver
17 on its digital network who:

18 (a) Has had more than three moving violations in the prior three-
19 year period, or one major violation in the prior three-year period,
20 including, but not limited to, attempting to evade a law enforcement
21 officer, reckless driving, or driving on a suspended or revoked license;

22 (b) Has been convicted, within the past seven years, of driving
23 under the influence of drugs or alcohol, fraud, a sexual offense, use of

24 a motor vehicle to commit a felony, an offense involving property
25 damage, theft, an act of violence, or an act of terror;

26 (c) Is a match in the United States Department of Justice
27 National Sex Offender public website;

28 (d) Does not possess a valid driver's license;

29 (e) Does not possess proof of registration for the motor vehicle
30 or vehicles used to provide prearranged rides;

31 (f) Does not possess proof of automobile liability insurance for
32 the motor vehicle or vehicles used to provide prearranged rides; or

33 (g) Is not at least nineteen years of age.

34 3. A TNC driver who is qualified to accept trip requests through
35 a TNC's digital network pursuant to this section shall not be required
36 to obtain any other state or local license or permit to provide
37 prearranged rides.

387.422. A TNC shall not allow a TNC driver to accept trip
2 requests through the TNC's digital network unless any motor vehicle
3 or vehicles that a TNC driver will use to provide prearranged rides
4 meets the inspection requirements of section 307.350.

387.424. A TNC driver shall not solicit or accept street hails.

387.425. All TNCs shall adopt a privacy policy to protect the
2 personal identifying information of TNC riders. The privacy policy
3 shall:

4 (1) Include provisions regarding the disclosure of personal
5 identifying information learned through a complaint or during the
6 course of an investigation;

7 (2) Be consistent with all applicable state and federal laws; and

8 (3) Be submitted to the department as part of the application for
9 a permit.

387.426. 1. A TNC shall adopt a policy of nondiscrimination with
2 respect to riders and potential riders and notify TNC drivers of such
3 policy.

4 2. TNC drivers shall comply with all applicable laws regarding
5 nondiscrimination against riders or potential riders.

6 3. TNC drivers shall comply with all applicable laws relating to
7 accommodation of service animals.

8 4. A TNC shall not impose additional charges for providing
9 services to persons with physical disabilities because of those

10 disabilities.

387.428. A TNC shall maintain the following customer records:

2 (1) Individual trip records of riders for at least one year from the
3 date each trip was provided; and

4 (2) Individual records of TNC drivers at least until the one year
5 anniversary of the date on which a TNC driver's relationship with the
6 TNC has ended.

387.430. 1. Notwithstanding any other provision of law, TNCs
2 and TNC drivers are governed exclusively by sections 387.400 to 387.440
3 and any rules promulgated by the department consistent with sections
4 387.400 to 387.440. No municipality or other local or state entity may
5 impose a tax on, or require a license for, a TNC, a TNC driver, or a
6 vehicle used by a TNC driver where such tax or license relates to
7 providing prearranged rides, or subject a TNC to the municipality or
8 other local or state entity's rate, entry, operational, or other
9 requirements. Upon the enactment of this section, any municipality or
10 other local entity's ordinance or policy that is inconsistent with
11 sections 387.400 to 387.440 shall be void and shall have no force or
12 effect.

13 2. Nothing in this section shall prohibit an income tax imposed
14 by the state or an earnings tax.

15 3. The department of revenue may promulgate all necessary rules
16 and regulations for the administration of sections 387.400 to
17 387.440. Any rule or portion of a rule, as that term is defined in section
18 536.010 that is created under the authority delegated in sections 387.400
19 to 387.440 shall become effective only if it complies with and is subject
20 to all of the provisions of chapter 536, and, if applicable, section
21 536.028. Sections 387.400 to 387.440 and chapter 536 are nonseverable
22 and if any of the powers vested with the general assembly pursuant to
23 chapter 536, to review, to delay the effective date, or to disapprove and
24 annul a rule are subsequently held unconstitutional, then the grant of
25 rulemaking authority and any rule proposed or adopted after August
26 28, 2017, shall be invalid and void.

27 4. (1) Nothing in this section shall be construed as prohibiting
28 an owner or operator of an airport from:

29 (a) Imposing a reasonable pickup fee for the use of the airport's
30 facilities, provided that the pickup fee is not assessed on a per driver

31 or per vehicle basis and is consistent with other pickup fees charged
32 at that airport by such owner or operator; or

33 (b) Designating locations for staging, pickup, or other similar
34 operations at the airport;

35 (2) An owner or operator of an airport shall not impose on TNCs
36 any regulations or requirements in addition to or in conflict with those
37 contained in sections 387.400 to 387.440, including but not limited to the
38 background check requirements described in subdivision (2) of
39 subsection 1 of section 387.420.

387.432. Except as described in section 387.433, transportation
2 network companies shall not be considered employers of transportation
3 network company drivers for purposes of chapters 285, 287, 288, and
4 290, except when agreed to by written contract. If the parties agree to
5 the applicability of one or more of such chapters in a written contract,
6 the transportation network company shall notify the appropriate
7 agency of the election to cover the driver. If the parties subsequently
8 change this election, the transportation network company shall notify
9 the appropriate agency of the change.

387.433. The provisions of sections 387.414 and 387.432 shall not
2 apply to entities described in section 501(c)(3) of the Internal Revenue
3 Code, state or local government entities, or federally recognized Indian
4 tribes.

387.434. Notwithstanding any other provision of law, sections
2 67.1800 to 67.1822 shall not apply to transportation network companies,
3 transportation network drivers, or transportation network services.

387.436. 1. Upon receipt of information that a TNC driver has
2 been convicted of driving under the influence of drugs or alcohol,
3 fraud, a sexual offense, use of a motor vehicle to commit a felony, an
4 offense involving property damage, theft, an act of violence, or an act
5 of terror, a TNC shall immediately revoke such driver's ability to accept
6 trip requests through the TNC's digital platform, and as soon as
7 practicable, notify the department of the TNC driver's name, license
8 number, and license plate number.

9 2. Upon receipt of information that a TNC driver has been
10 involved in a traffic accident or incident that results in serious bodily
11 injury or a fatality, a TNC shall notify the department of the driver's
12 name, license number, and license plate number.

13 **3. The department shall develop and implement a process to**
14 **provide any information received under subsections 1 and 2 of this**
15 **section to all other TNCs licensed in this state.**

16 **4. Notwithstanding any other provision of law, any information**
17 **provided to the department under this section shall be exempt from**
18 **disclosure under chapter 610.**

387.438. 1. Notwithstanding any other provision of law, the
2 **department shall not require an individual who uses a motor vehicle**
3 **with a gross vehicle weight that is less than or equal to twelve**
4 **thousand pounds for the purpose of providing transportation services**
5 **as a TNC driver or taxicab driver, or for the purpose of providing food**
6 **delivery services, as defined in subsection 2 of this section, to obtain**
7 **any license other than a class F license, as described in Missouri code**
8 **of state regulations section 10-24.200(6).**

9 **2. As used in this section, "food delivery services" shall mean the**
10 **delivery of prepared food, as defined in section 192.081, by an**
11 **individual who contracts with or is employed by a restaurant, including**
12 **a fast food restaurant, delicatessen, or other facility that is engaged in**
13 **the selling of food for consumption off the premises of the facility.**

14 **3. The department shall promulgate or amend any regulations of**
15 **the department necessary to implement this section as soon as**
16 **practicable after the effective date of this section.**

387.440. 1. For the sole purpose of verifying that a TNC is in
2 **compliance with the requirements of sections 387.400 to 387.440, and no**
3 **more than twice per calendar year, any home rule city with more than**
4 **four hundred thousand inhabitants and located in more than one**
5 **county, and the regional taxicab commission established pursuant to**
6 **section 67.1804, shall have the right to inspect a sample of up to ten**
7 **records that the TNC is required to maintain. The sample shall be**
8 **chosen from an anonymous list provided by the TNC to an**
9 **appropriately designated municipal official or to the executive director**
10 **of the regional taxicab commission, as applicable, and in a manner**
11 **agreeable to both parties. After selecting the sample of ten unique**
12 **records from the anonymous list, the TNC shall provide sufficient**
13 **identifying account details so that the municipal official or executive**
14 **director can conduct an audit to determine the TNC's compliance with**
15 **existing regulations. The audit shall take place at a mutually agreed**

16 location in Missouri.

17 2. Any home rule city with more than four hundred thousand
18 inhabitants and located in more than one county, and the regional
19 taxicab commission, may charge each TNC up to five thousand dollars
20 per year to cover the costs incurred for the review of the records. The
21 amount collected shall not exceed the costs of compliance.

22 3. In response to a specific complaint alleging criminal
23 allegations against any TNC driver or TNC, any home rule city with
24 more than four hundred thousand inhabitants and located in more than
25 one county, and the regional taxicab commission, is authorized to
26 inspect records held by the TNC that are necessary to investigate and
27 resolve the specific complaint. The TNC and the investigative agency
28 shall endeavor to have the inspection take place at a mutually agreed
29 location in Missouri. Any records furnished may exclude information
30 that would identify specific drivers or riders, unless the identity of a
31 driver or rider is relevant to the complaint.

32 4. Any records inspected under this section are designated
33 confidential, are not subject to disclosure to a third party without prior
34 written consent of the TNC, and are exempt from disclosure under
35 chapter 610. Nothing in this section shall be construed as limiting the
36 applicability of any other exemptions under chapter 610.

37 5. Any home rule city with more than four hundred thousand
38 inhabitants and located in more than one county, and the regional
39 taxicab commission, may fine a TNC up to five hundred dollars per
40 violation discovered during this audit for failure to comply with the
41 applicable provisions of sections 387.400 to 387.440. Each TNC shall
42 remit payment of any fine to the department, which shall also have
43 jurisdiction over appeals of such fines. Nothing in this provision shall
44 limit the rights of TNCs to seek redress in a court of law.

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