

FIRST REGULAR SESSION

SENATE BILL NO. 185

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ONDER.

Pre-filed December 5, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0475S.011

AN ACT

To amend chapter 387, RSMo, by adding thereto eighteen 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. Chapter 387, RSMo, is amended by adding thereto eighteen
2 new sections, to be known as sections 387.400, 387.402, 387.404, 387.406,
3 387.408, 387.410, 387.412, 387.414, 387.416, 387.418, 387.420, 387.422, 387.424,
4 387.426, 387.428, 387.430, 387.432, and 387.434, to read as follows:

**387.400. As used in sections 387.400 to 387.434 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 387.434 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 387.434; 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.

387.408. 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. All TNC drivers shall be independent contractors and
2 not employees of the TNC if all of the following conditions are met:

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

12 (b) U.S. Department of Justice National Sex Offender public
13 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, a crime involving property damage,
25 theft, an act of violence, or an act of terror;

26 (c) Is a match in the U.S. Department of Justice National Sex
27 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. TNC shall not allow a TNC driver to accept trip requests
2 through the TNC's digital network unless any motor vehicle or vehicles
3 that a TNC driver will use to provide prearranged rides meets the
4 inspection requirements of section 307.350.

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

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 387.434**
3 **and any rules promulgated by the department consistent with sections**
4 **387.400 to 387.434. 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 licenses 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 387.434 shall be void and shall have no force or**
12 **effect.**

13 **2. Nothing in this section shall apply to an earnings tax.**

14 **3. The department of revenue may promulgate all necessary rules**
15 **and regulations for the administration of sections 387.400 to**
16 **387.434. Any rule or portion of a rule, as that term is defined in section**
17 **536.010 that is created under the authority delegated in sections 387.400**
18 **to 387.434 shall become effective only if it complies with and is subject**
19 **to all of the provisions of chapter 536, and, if applicable, section**
20 **536.028. Sections 387.400 to 387.434 and chapter 536 are nonseverable**
21 **and if any of the powers vested with the general assembly pursuant to**
22 **chapter 536, to review, to delay the effective date, or to disapprove and**
23 **annul a rule are subsequently held unconstitutional, then the grant of**
24 **rulemaking authority and any rule proposed or adopted after August**
25 **28, 2017, shall be invalid and void.**

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

**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.**

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