

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 130

99TH GENERAL ASSEMBLY

0590H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 387, RSMo, by adding thereto twenty-two 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 twenty-two new sections, to be known as sections 387.700, 387.702, 387.704, 387.706, 387.707, 387.708, 387.710, 387.712, 387.714, 387.716, 387.718, 387.720, 387.722, 387.724, 387.725, 387.726, 387.728, 387.730, 387.732, 387.734, 387.735, and 387.736, to read as follows:

387.700. As used in sections 387.700 to 387.735 the following terms mean:

- (1) "Department", the Missouri department of revenue;**
- (2) "Digital network", any online-enabled technology application, website, or system offered or utilized by a transportation network company (TNC) that enables the prearrangement of rides with TNC drivers;**
- (3) "Prearranged ride", the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports a requesting rider, and ending when the last requesting rider departs from the TNC vehicle. A prearranged ride shall not include:
 - (a) Transportation provided using a taxi, limousine, or other for-hire vehicle under chapter 390; or**
 - (b) A shared expense carpool or vanpool arrangement or service;**
 - (4) "Transportation network company" or "TNC", a corporation, partnership, sole proprietorship, or other entity that is licensed under sections 387.700 to 387.735 and****

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 operating in the state of Missouri, that uses a digital network to connect TNC riders to
17 TNC drivers who provide prearranged rides. A TNC shall not be deemed to own, control,
18 direct, operate, or manage the TNC vehicles or TNC drivers that connect to its digital
19 network, except where agreed to by written contract;

20 (5) "Transportation network company (TNC) driver" or "driver", an individual
21 who:

22 (a) Receives connections to potential riders from a TNC in exchange for payment
23 of a fee to the TNC; and

24 (b) Uses a TNC vehicle to offer or provide a prearranged Ride to riders upon
25 connection through a digital network controlled by a TNC in return for compensation;

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

30 (7) "Transportation network company (TNC) vehicle" or "TNC vehicle", a vehicle
31 that is used by a TNC driver and is:

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

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

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

387.704. 1. Beginning April 28, 2018, a person shall not operate a TNC in the state
2 of Missouri without first having obtained a permit from the department.

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

4 (a) Meets the requirements for a TNC set forth in sections 387.700 to 387.735; and

5 (b) Pays an annual permit fee of five thousand dollars to the department. This
6 annual fee shall cover all TNC drivers affiliated with the TNC, and no per driver or per
7 vehicle fee shall be assessed.

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

387.707. TNCs and TNC drivers shall comply with the provisions of sections
2 379.1700 to 379.1708.

387.708. On behalf of a TNC driver, a TNC may charge a fare for the services
2 provided to riders; provided that, if a fare is collected from a rider, the TNC shall disclose

3 to the rider the fare, or fare structure on its website or on its digital network. If the fare
4 is based on actual time and distance traveled, the TNC on its website shall also provide
5 riders with the applicable time and distance rates being charged and the option to receive
6 an estimated fare before the rider enters the TNC vehicle.

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

387.712. Within a reasonable period of time following the completion of a trip, a
2 TNC shall transmit an electronic receipt to the TNC rider on behalf of the TNC driver that
3 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 actual time and
6 distance traveled; and
- 7 (3) The total fare paid, if any.

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

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

9 2. The TNC and TNC driver may agree in writing that the driver is an employee
10 and not an independent contractor with respect to the TNC.

387.716. Except when agreed to by written contract, a TNC driver is not an agent
2 of a TNC.

387.718. 1. A TNC shall implement a zero tolerance intoxicating substance policy
2 for TNC drivers that disallows any amount of intoxication of the TNC driver while
3 providing transportation network services. The TNC shall provide notice of the zero
4 tolerance policy on its website, as well as procedures to report a complaint about a driver
5 with whom a rider was matched and whom the rider reasonably suspects was under the
6 influence of drugs or alcohol during the course of the trip.

7 2. Upon receipt of such rider complaint alleging a violation of the zero tolerance
8 policy, the TNC shall suspend such TNC driver's ability to accept trip requests through the
9 TNC's Digital Network as soon as possible, and shall conduct an investigation into the
10 reported incident. The suspension shall last the duration of the investigation.

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

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

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

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

8 **(a) A Multi-state or multi-jurisdiction criminal records locator or other similar**
9 **commercial nationwide database with a primary source search capability; and**

10 **(b) A check of the U.S. Department of Justice National Sex Offender public**
11 **website; and**

12 **(3) Obtain and review, or have a third party obtain and review, a driving history**
13 **research report for such individual.**

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

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

20 **(2) Has been convicted, within the past seven years, of driving under the influence**
21 **of drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a felony, an**
22 **offense involving property damage, theft, an act of violence, or an act of terror;**

23 **(3) Is a match in the U.S. Department of Justice National Sex Offender public**
24 **website;**

25 **(4) Does not possess a valid driver's license;**

26 **(5) Does not possess proof of registration for the motor vehicle or vehicles used to**
27 **provide prearranged rides;**

28 **(6) Does not possess proof of automobile liability insurance for the motor vehicle**
29 **or vehicles used to provide prearranged rides; or**

30 **(7) Is not at least nineteen years of age.**

31 **3. A TNC driver who is qualified to accept trip requests through a TNC's digital**
32 **network under this section shall not be required to obtain any other state or local license**
33 **or permit to provide prearranged rides.**

34 **4. Notwithstanding any other provision of law, a TNC driver or a person on the**
35 **TNC's digital network shall not be required to obtain a Class E Missouri driver's license.**

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

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

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

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

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

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

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

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

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

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

387.728. A TNC shall maintain the following customer records:

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

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

387.730. 1. Notwithstanding any other provision of law, TNCs and TNC drivers
2 **are governed exclusively by sections 387.700 to 387.735 and any rules promulgated by the**
3 **department consistent with sections 387.700 to 387.735. No municipality or other local or**
4 **state entity may impose a tax on, or require a license for, a TNC, a TNC driver, or a vehicle**
5 **used by a TNC driver where such tax or license relates to providing prearranged rides, or**
6 **subject a TNC to the municipality or other local or state entity's rate, entry, operational**
7 **or other requirements. Upon the enactment of this section, any municipality or other local**
8 **entity's ordinance or policy that is inconsistent with sections 387.700 to 387.735 shall be**
9 **void and shall have no force or effect.**

10 **2. Nothing in this section shall apply to an income tax imposed by the state or an**
11 **earnings tax.**

12 **3. The department of revenue shall promulgate all necessary rules and regulations**
13 **for the administration of this section by February 28, 2018. Any rule or portion of a rule,**
14 **as that term is defined in section 536.010, that is created under the authority delegated in**
15 **this section shall become effective only if it complies with and is subject to all of the**
16 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
17 **are nonseverable, and if any of the powers vested with the general assembly pursuant to**
18 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
19 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
20 **proposed or adopted after August 28, 2017, shall be invalid and void.**

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

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

387.735. 1. For the sole purpose of verifying that a TNC is in compliance with the
2 **requirements of sections 387.700 to 387.735, and no more than twice per calendar year, any**
3 **home rule city with more than four hundred thousand inhabitants and located in more**
4 **than one county shall have the right to inspect a sample of up to ten records that the TNC**
5 **is required to maintain. The sample shall be chosen from an anonymous list provided by**
6 **the TNC to an appropriately designated municipal official and in a manner agreeable to**
7 **both parties. After selecting the sample of ten unique records from the anonymous list, the**
8 **TNC shall provide sufficient identifying account details so that the municipal official can**
9 **conduct an audit to determine the TNC's compliance with existing regulations. The audit**
10 **shall take place at a mutually agreed location in Missouri.**

11 **2. Any home rule city with more than four hundred thousand inhabitants and**
12 **located in more than one county may charge each licensed TNC up to five thousand dollars**
13 **per year to cover the costs incurred for the review of the records. The amount collected**
14 **shall not exceed the costs of compliance.**

15 **3. In response to a specific complaint alleging criminal allegations against any TNC**
16 **driver or TNC, any home rule city with more than four hundred thousand inhabitants and**
17 **located in more than one county is authorized to inspect records held by the TNC that are**
18 **necessary to investigate and resolve the specific complaint. The TNC and the investigative**

19 agency shall endeavor to have the inspection take place at a mutually agreed location in
20 Missouri. Any records furnished may exclude information that would identify specific
21 drivers or riders, unless the identity of a driver or rider is relevant to the complaint.

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

26 5. Any home rule city with more than four hundred thousand inhabitants and
27 located in more than one county may fine a licensed TNC up to five hundred dollars per
28 violation discovered during this audit for failure to comply with the provisions of this
29 chapter. Each licensed TNC shall remit payment of any fine to the department, which shall
30 also have jurisdiction over appeals of such fines. Nothing in this provision shall limit the
31 rights of TNCs to seek redress in a court of law.

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

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

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

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

✓