

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 575

2019 Regular Session

Magee

TRANSPORTATION: Establishes requirements for transportation network companies

### Synopsis of Senate Amendments

1. Makes technical changes.
2. Prohibits the department from charging a fee for the issuance of any permit to a company.
3. Prohibits the resolution of a dispute arising in this state involving the company or a driver operating under the provisions of proposed law from being governed by the laws of another jurisdiction and from being resolved outside of the state unless agreed upon by all parties in writing after the dispute arises.
4. Specifies that the term "dispute" includes but is not limited to a dispute involving liability arising from an alleged act or omission, a dispute involving interpretation of contractual terms or provisions, and a determination of rights, status, or other legal relations.
5. Removes the requirement that the department may only visually inspect a sample of records one time per year to verify that a company is in compliance with the requirements of proposed law.
6. Authorizes the department to audit the records that a company is required to maintain using a reasonable sampling procedure agreed upon by the department and the company and specifies that the audit must take place at a location agreed upon by the department and the company.
7. Permits the company, as appropriate, to exclude information that would identify specific drivers or riders from any record furnished to the department.
8. Requires that each company remit to the La. Dept. of Revenue an assessment fee equal to 1% of the gross trip fare for all prearranged rides that originate in this state in accordance with proposed law on a quarterly basis.
9. Requires that the assessment fee be remitted on or before the 30 days after the close of each calendar quarter and be submitted with a report, on forms prescribed by the secretary of the Dept. of Revenue, showing the gross trip fares that originated in the state during the reporting quarter.
10. Requires that the assessment fees received by the Dept. of Revenue be deposited immediately upon receipt into the state treasury and, after compliance with the Constitution of La., an amount equal to that deposited must be credited to the Dept. of Transportation and Development and used solely for the operation expenses incurred by the Dept. of Transportation and Development for regulating transportation network companies.
11. Gives the Dept. of Revenue the sole audit authority with respect to fees remitted by a company to a local governmental subdivision and the Dept. of Revenue.
12. Deletes the requirement that audits for fees be chosen by the department and deletes the requirement that the department endeavor to have any such audits for a particular company occur within the same calendar quarter.

13. Authorizes a local governmental subdivision to request that the Dept. of Revenue initiate an audit if the local governmental subdivision has a reasonable basis to suspect a material underpayment by a company and defines "material" as an underpayment of greater than 10% of the amount required to be remitted.
14. Provides that proposed law must not prohibit a police department of a local governmental subdivision from contracting with a company operating in its jurisdiction for the purpose of coordinating pick-up and drop-off zones associated with large events occurring in that jurisdiction.
15. Defines "large event" as any event designated as SEAR-1, under the Federal Special Event Assessment Rating system, or as a National Special Security Event.
16. Requires that a contract between a police department of a local governmental subdivision and a company have comparable terms for each company, taxi cabs, limousines, or any other for-hire vehicles providing services at the large event, not exclude any company holding a permit pursuant to proposed law from providing services at the event, and not preclude the police department of a local governmental subdivision from enforcing traffic laws.
17. Requires that the department promulgate rules and regulations to implement and enforce the provisions of proposed law, instead of authorizing the department to do so.

#### **Digest of Bill as Finally Passed by Senate**

Present law authorizes a policy of insurance procured pursuant to present law to be placed with an authorized insurer or with a surplus lines insurer pursuant to present law.

Proposed law retains present law but requires that the authorized insurer or surplus lines insurer have a rating of no less than an A- from A.M. Best, an A from Demotech, Inc., or a similar rating from another rating agency recognized by the Dept. of Insurance.

Proposed law defines "bodily injury" as claims for general and special damages for personal injury arising under present law (Civil Code Article 2315).

Proposed law defines "department" as the La. Dept. of Transportation and Development.

Proposed law defines "digital network" as any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

Proposed law defines "gross trip fare" as the base fare plus any time or distance charges, excluding any additional charges such as airport or venue fees.

Proposed law defines "intrastate prearranged ride" as any prearranged ride originating within the jurisdiction of the local governmental subdivision.

Proposed law defines "local governmental subdivision" as any parish or municipality as defined in Article VI, Section 44(1) of the Constitution of Louisiana.

Proposed law defines "personal vehicle" as a vehicle that is used by a transportation network company driver and is owned, leased, or otherwise authorized for use by the transportation network company driver. Specifies that a personal vehicle is not a vehicle subject to Parts A and B of the Motor Carrier law as provided for in R.S. 45:161 et seq. or engaged solely in interstate commerce.

Proposed law defines "prearranged ride" as the provision of transportation by a driver to a rider that commences when a driver accepts a ride requested by a person through a digital network controlled by a transportation network company, continues during the driver transporting a requesting rider, and ends when the last requesting rider departs from the personal vehicle. Specifies that a prearranged ride does not include shared expense van pool services, as defined in present law, shared expense car pool services, as defined in present law, or transportation provided using a vehicle subject to Part A or B of the Motor Carrier law or engaged solely in interstate commerce.

Proposed law defines "pre-trip acceptance period" as any period of time during which a driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in an intrastate prearranged ride.

Proposed law defines "transportation network company" as a person, whether natural or juridical, that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides, or a person, whether natural or juridical, that provides a technology platform to a transportation network company rider that enables the transportation network company rider to schedule an intrastate prearranged ride.

Proposed law defines "transportation network company driver" as a person who receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company, and who uses a personal vehicle to offer or provide a prearranged ride to persons upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

Proposed law defines "transportation network company rider" as a person who uses a transportation network company's digital network to connect with a transportation network driver who provides intrastate prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

Proposed law provides that a "transportation network company vehicle" has the same meaning as "personal vehicle".

Proposed law establishes a classification of carriers; specifically, provides that a company or driver is not a common carrier, contract carrier, or motor carrier and exempts a driver from having to register the vehicle as a commercial motor vehicle or a for-hire vehicle.

Proposed law prohibits a person from operating a company without first obtaining a permit from the department and further provides requirements for the permit. Proposed law provides an exception to this requirement for companies that have been operating in this state prior to the effective date of proposed law.

Proposed law requires the department to issue a permit to each applicant that meets the requirements applicable to a company as provided for in proposed law.

Proposed law prohibits the department from charging a fee for the issuance of any permit to a transportation network company.

Proposed law requires a company to maintain an agent for service of process in this state.

Proposed law requires companies to disclose the fare or the fare calculation method located on their website or within the online-enabled technology application service to the rider prior to the prearranged ride if a fare is collected from the rider.

Proposed law requires the company's digital network to display a picture of the driver and the license plate number of the vehicle that will be used prior to the rider entering the car for a prearranged ride. Proposed law requires a driver to present his physical driver's license or

digitized driver's license to a rider prior to the start of each prearranged ride upon request.

Proposed law requires the transmission of an electronic receipt to the rider on behalf of a driver within a reasonable time following the completion of a prearranged ride. Proposed law requires that the origin and destination of the trip, the duration and distance of the trip, and the total fare paid for the trip be included on the receipt.

Proposed law requires a company to implement a zero tolerance policy regarding a driver's activities while accessing the company's digital network. Proposed law requires the policy address the use of drugs or alcohol while a driver is providing prearranged rides or is logged into the company's digital network regardless of whether the driver is providing prearranged rides, and requires the company to provide notice of this policy on its website as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the prearranged ride.

Proposed law requires a company to suspend a driver's ability to accept trip requests through the company's digital network immediately upon receipt of a rider's complaint alleging a violation of the zero tolerance policy. Proposed law further requires the company to conduct an investigation into the reported incident and mandates that the suspension must last until the investigation is complete. Proposed law requires the company to maintain records relevant to the complaint for a period of at least two years from the date that a rider's complaint is received by the company.

Proposed law establishes application, background check, and driving history requirements that an individual must meet prior to being authorized to accept trip requests through a company's digital network.

Proposed law requires the application include information regarding the applicant's address, age, driver's license, motor vehicle registration, insurance, and any other information required by the company.

Proposed law requires the company or a third party conduct a local and national criminal background check for each applicant that includes: a multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database, a search of the national sex offender public website maintained by the U.S. Dept. of Justice, and the applicant's driving history. Proposed law further requires the company to conduct the background check or driving history research report at least once every two years.

Proposed law requires a company to prohibit an individual from acting as a driver if, within the three year period prior to applying to the company, the individual's driving history report reveals more than three moving violations, or the individual's initial background check or any subsequent background check reveals the individual has had at least one of the following violations: flight from an officer or aggravated flight from an officer, reckless operation of a vehicle, or operating a vehicle while under suspension.

Proposed law requires a company to prohibit an individual from acting as a driver if the individual has been convicted, within the past seven years, of any enumerated felony in present law, operating a vehicle while intoxicated, hit and run driving, or any crime of violence as provided for in present law. Proposed law further requires a company to prohibit an individual from acting as a driver if the individual is listed as an offender on the national sex offender public website maintained by the U.S. Dept. of Justice, or does not possess a valid driver's license or the required registration to operate a motor vehicle.

Proposed law prohibits a driver from accepting a trip for compensation if it is not arranged through the company's digital network.

Proposed law prohibits the resolution of a dispute arising in this state involving the company, or a driver operating under the provisions of proposed law from being governed by the laws

of another jurisdiction and from being resolved outside of the state unless agreed upon by all parties in writing after the dispute arises.

Proposed law specifies that the term "dispute" includes but is not limited to a dispute involving liability arising from an alleged act or omission, a dispute involving interpretation of contractual terms or provisions, and a determination of rights, status, or other legal relations.

Proposed law requires a company to adopt a nondiscrimination policy with respect to riders and potential riders and to inform its drivers of this policy. Proposed law requires the drivers to comply with all applicable nondiscrimination laws and all applicable laws relating to transporting service animals.

Proposed law prohibits a company from imposing any additional charges for providing services to persons with physical disabilities.

Proposed law requires a company to keep individual trip records and individual driver records for at least three years after each trip or dissolution of a relationship with a driver.

Proposed law authorizes the department to audit the records that the company is required to maintain for the purpose of verifying that a company is in compliance with the requirements of proposed law. Requires that the department use a reasonable sampling procedure agreed upon by the department and the company and specifies that the audit must take place at a location agreed upon by the department and the company.

Proposed law permits the company, as appropriate, to exclude information that would identify specific drivers or riders from any record furnished to the department.

Proposed law grants the governing body of a local governmental subdivision the ability to request a report from the department on the results of an audit performed by the commission pursuant to present law.

Proposed law authorizes the department to inspect records held by the company that are necessary to investigate and resolve a specific complaint against a driver or the company. Requires the inspection to take place at a mutually agreed upon place by the department and the company. Specifies that the identity of a driver or rider may be excluded unless it is relevant to the complaint.

Proposed law authorizes a local governmental subdivision that has enacted a company ordinance that includes a per-trip fee prior to March 1, 2019, and has a company operating within the corporate limits of a local governmental subdivision as of March 1, 2019, to impose a fee up to or equal to the per-trip fee imposed by the local governmental subdivision's company ordinance as of March 1, 2019, on each intrastate prearranged ride within the corporate limits of the local governmental subdivision.

Proposed law authorizes a local governmental subdivision to impose a per-trip fee up to 1% of the gross trip fare for each intrastate prearranged ride. Further provides that the local governmental subdivision may impose such a fee by passing an ordinance that imposes the fee on each company permitted by the department in accordance with present law.

Proposed law prohibits a local governmental subdivision that imposes a per-trip fee pursuant to proposed law from imposing any fees or requirements other than the fee specified in proposed law.

Proposed law specifies that a municipality's fee may apply only to intrastate prearranged rides originating within the incorporated limits of the municipality and a parish's fee may apply only to intrastate prearranged rides originating within the unincorporated portions of the parish.

Proposed law requires a local governmental subdivision provide written notice to each company at least 30 days prior to an initial hearing, reading, or consideration of an ordinance imposing a fee pursuant to proposed law. Further provides that a local governmental subdivision must also provide written notice within 10 days of the passage of any ordinance imposing a fee pursuant to proposed law, and such ordinance cannot go into effect until the 1st day of the month that it is at least 30 days after passage of the ordinance.

Proposed law requires a company to collect the fee on behalf of the drivers and remit the total fee to the local governmental subdivision on a quarterly basis within 30 days of the end of the calendar quarter.

Proposed law requires that each company remit to the La. Dept. of Revenue an assessment fee equal to 1% of the gross trip fare for all prearranged rides that originate in this state in accordance with proposed law on a quarterly basis.

Proposed law requires that the assessment fee be remitted on or before the 30 days after the close of each calendar quarter and be submitted with a report, on forms prescribed by the secretary of the Dept. of Revenue, showing the gross trip fares that originated in the state during the reporting quarter.

Proposed law specifies that the funds received by the Dept. of Revenue in the form of assessment fees must be deposited immediately upon receipt into the state treasury and, after compliance with the Constitution of La., an amount equal to that deposited must be credited to the Dept. of Transportation and Development and used solely for the operation expenses incurred by the Dept. of Transportation and Development for regulating transportation network companies in the amount appropriated by the legislature.

Proposed law grants the Dept. of Revenue sole audit authority with respect to the fees remitted by a company to a local governmental subdivision and the Dept. of Revenue; requires a company to keep accurate books and records reflecting its accounting and payment of fees; and upon reasonable prior written request, no more than annually, authorizes the Dept. of Revenue to conduct an audit of a company's books and records relating to its accounting and payment of fees to the local governmental subdivision and Dept. of Revenue, with the audit limited to a single calendar quarter.

Proposed law provides that if a local governmental subdivision has a reasonable basis to suspect material underpayment, the local governmental subdivision must request that the Dept. of Revenue initiate an audit pursuant to proposed law and defines "material" as an underpayment of greater than 10% of the amount required to be remitted.

Proposed law specifies that an underpayment of over \$50 requires the company to remit the underpaid fees to the local governmental subdivision within 30 days of the conclusion of the Dept. of Revenue's audit.

Proposed law prohibits a local governmental subdivision from adding audit authority by ordinance.

Proposed law provides that any record furnished or disclosed to the Dept. of Revenue may, as appropriate, exclude information that would identify specific drivers or riders. Further provides that the governing body of a local governmental subdivision may request to review the results of an audit conducted pursuant to proposed law with respect to fees remitted by a company to the local governmental subdivision.

Proposed law provides that it is the intent of the legislature to provide for the uniformity of laws to govern transportation network companies, along with any rules promulgated by the department. Further provides restrictions to the governing authorities on imposing taxes, requiring a company to acquire a local business license or other type of authorization to operate, or subject a company to any rate, entry, operation, or other requirement, except as provided for in proposed law.

Proposed law provides that proposed law does not prohibit an airport from charging pick-up fees for the use of the airport's facilities or designating locations for staging, pick-up, and other similar operations at the airport and specifies that an airport pick-up fee is not a local fee subject to the provisions of proposed law relative to local and state fees.

Proposed law provides that proposed law does not prohibit a police department of a local governmental subdivision from contracting with a company operating in its jurisdiction for the purpose of coordination of pick-up and drop-off zones associated with large events occurring in that jurisdiction and defines "large event" as any event designated as SEAR-1, under the Federal Special Event Assessment Rating System, or as a National Special Security Event.

Proposed law requires that a contract between a police department of a local governmental subdivision and a company have comparable terms for each company, taxi cabs, limousines, or any other for-hire vehicles providing services at the large event, not exclude any company holding a permit pursuant to proposed law from providing services at the event, and not preclude the police department of a local governmental subdivision from enforcing traffic laws.

Proposed law provides that nothing in proposed law is to be construed to prohibit the state from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding the sale, distribution, repair, or service of vehicles.

Proposed law requires that the department promulgate rules and regulations to implement and enforce proposed law and specifies that the rules may be more stringent than the requirements set forth in proposed law. Mandates that the department report to the Joint Legislative Committee on Transportation, Highways and Public Works for review and approval of any rules or regulations promulgated by the department.

Effective July 1, 2019.

(Amends R.S. 45:201.6(G)(2); Adds R.S. 48:2191 - 2205)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make technical changes.
2. Change the governing authority for transportation network companies from the Dept. of Agriculture and Forestry to the Dept. of Transportation and Development.

#### The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Require a driver to present his physical or digitized driver's license to a rider prior to the start of each prearranged ride upon the request of the rider.
3. Delete the provision that required all records inspected by the department be designated confidential and the provision that prohibited any records inspected by the department from being subject to third party disclosure without prior written consent of the company.
4. Delete the provision that provided that the total fee remitted to any local governmental subdivision by a company, any records maintained by a company that are obtained by a local governmental subdivision, the department, or any

other public body, and any records that incorporate information from records maintained are designated confidential and are not subject to disclosure to a third party without prior written consent of the company.