

2018 Regular Session

HOUSE BILL NO. 749

BY REPRESENTATIVES BARRAS, ABRAHAM, BACALA, BAGLEY, CHAD BROWN, TERRY BROWN, CARMODY, STEVE CARTER, CROMER, DWIGHT, FALCONER, FOIL, GISCLAIR, GUINN, LANCE HARRIS, HAVARD, HAZEL, HENSGENS, HORTON, HUVAL, MAGEE, MCFARLAND, NORTON, PUGH, SHADOIN, STEFANSKI, THIBAUT, AND ZERINGUE AND SENATORS APPEL, CHABERT, CORTEZ, ERDEY, HEWITT, LAFLEUR, MIZELL, PEACOCK, AND WHITE

TRANSPORTATION: Provides relative to transportation network company requirements

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(30) and R.S. 45:201.4(6) and 201.6(G)(2) and to enact
3 Part D of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950, to be
4 comprised of R.S. 45:202 through 216, relative to transportation network companies;
5 to provide for public records exceptions; to provide for transportation network
6 company requirements; to provide for definitions; to provide for insurance
7 requirements; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 44:4.1(B)(30) is hereby amended and reenacted to read as follows:

10 §4.1. Exceptions

11 * * *

12 B. The legislature further recognizes that there exist exceptions, exemptions,
13 and limitations to the laws pertaining to public records throughout the revised
14 statutes and codes of this state. Therefore, the following exceptions, exemptions, and

1 limitations are hereby continued in effect by incorporation into this Chapter by
2 citation:

3 * * *

4 (30) ~~R.S. 45:1313(C)~~ R.S. 45:214(C), 215(F), 1313(C)

5 * * *

6 Section 2. R.S. 45:201.4(6) and 201.6(G)(2) are hereby amended and reenacted and
7 Part D of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950, comprised of R.S.
8 45:202 through 216, is hereby enacted to read as follows:

9 §201.4. Definitions

10 The following terms, as used in this Part, have the meanings ascribed to them
11 in this Section except when a different meaning is expressly stated or clearly
12 indicated by the context:

13 * * *

14 (6) "Transportation network company" or "company" means a person,
15 whether natural or juridical, that uses a digital network to connect transportation
16 network company riders to transportation network company drivers who provide
17 prearranged rides, or a person, whether natural or juridical, that provides a
18 technology platform to a transportation network company rider that enables the
19 transportation network company rider to schedule a prearranged ride.

20 * * *

21 §201.6. Requirements for insurance.

22 * * *

23 G. A policy of insurance procured pursuant to this Section:

24 * * *

25 (2) May be placed with an authorized insurer or with a surplus lines insurer
26 pursuant to R.S. 22:432; that has a rating of no less than A- from A.M. Best or an A
27 from Demotech, Inc. or a similar rating from another rating agency recognized by
28 the Department of Insurance.

29 * * *

1 PART D. TRANSPORTATION NETWORK2 COMPANY REQUIREMENTS3 §202. Definitions

4 All definitions provided for in R.S. 45:201.4 are applicable to Part D of
5 Chapter 4 of Title 45, which provides requirements for transportation network
6 companies, unless a different definition is provided in this Part, or the context in
7 which a term is used in this Part indicates a different meaning. The following terms,
8 as used in this Part, shall have the meanings ascribed to them in this Section except
9 where a different meaning is expressly stated or clearly indicated by the context:

10 A. "Covered intrastate prearranged ride" means any intrastate prearranged
11 ride originating within the jurisdiction of the local governmental subdivision, except
12 such prearranged rides in which a rider is matched with, or eligible to be matched
13 with, another rider through the company's digital network.

14 B. "Department" means the Louisiana Department of Agriculture and
15 Forestry.

16 C. "Gross trip fare" means the base fare plus any time or distance charges,
17 excluding any additional charges such as airport or venue fees.

18 D. "Local governmental subdivision" means any parish or municipality as
19 defined in Article VI, Section 44(1) of the Constitution of Louisiana.

20 E. "Transportation network company vehicle" or "vehicle" has the same
21 meaning as "personal vehicle" as defined in R.S. 45:201.4(3).

22 §203. Classification of carriers

23 A company or a driver shall not be considered a common carrier, contract
24 carrier, or motor carrier, and does not provide taxi or for hire vehicle service. In
25 addition, a driver is not required to register the vehicle that the driver uses to provide
26 prearranged rides as a commercial motor vehicle or a for hire vehicle.

27 §204. Transportation network company permits

28 A. A person shall not operate a company in the state of Louisiana without
29 first obtaining a permit from the department. However, if a company has been

1 operating in this state prior to the effective date of this Part, they may continue
2 operating until the department creates a permit process and sets a registration
3 deadline. As a part of the permit process, a company shall be required to provide the
4 department with a certificate of insurance verifying compliance with R.S. 45:201.6
5 and listing the department as a certificate holder.

6 B. The department shall issue a permit to each applicant that meets the
7 requirements applicable to a company as provided for in this Part.

8 §205. Service of process

9 A company shall maintain an agent for service of process in the state of
10 Louisiana.

11 §206. Fare transparency

12 If a fare is collected from a rider, the company shall disclose to the rider the
13 fare or fare calculation method located on its website or within the online-enabled
14 technology application service prior to the start of the prearranged ride. If the fare
15 is not disclosed to the rider prior to the beginning of the prearranged ride, the rider
16 shall have the option to receive an estimated fare before the start of the prearranged
17 ride.

18 §207. Identification of transportation network company vehicles and drivers

19 The company's digital network shall display a picture of the driver and the
20 license plate number of the motor vehicle used for providing the prearranged ride
21 before the rider enters the driver's vehicle.

22 §208. Electronic receipt

23 Within a reasonable amount of time following the completion of a
24 prearranged ride, a company shall transmit an electronic receipt to the rider on behalf
25 of the driver. The receipt shall include all of the following:

26 (1) The origin and destination of the trip.

27 (2) The duration and distance of the trip.

28 (3) The total fare paid for the trip.

1 §209. Zero tolerance policy

2 A. The company shall implement a zero tolerance policy regarding a driver's
3 activities while accessing the company's digital network. The zero tolerance policy
4 shall address the use of drugs or alcohol while a driver is providing prearranged rides
5 or is logged into the company's digital network but is not providing prearranged
6 rides. The company shall provide notice of this policy on its website as well as
7 procedures to report a complaint about a driver with whom a rider was matched and
8 whom the rider reasonably suspects was under the influence of drugs or alcohol
9 during the course of the prearranged ride.

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

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

18 §210. Transportation network company driver requirements

19 A. Before an individual is authorized to accept trip requests through a
20 transportation network company's digital network, the following conditions shall be
21 met:

22 (1) The individual shall submit an application to the company, which
23 includes information regarding his address, age, driver's license, motor vehicle
24 registration, insurance, and any other information required by the company.

25 (2) The company or a third party shall conduct a local and national criminal
26 background check for each applicant that includes the following:

27 (a) A multi-state and multi-jurisdiction criminal records locator or other
28 similar commercial nationwide database with validation of any records through
29 primary source search.

1 (b) A search of the national sex offender public website maintained by the
2 United States Department of Justice.

3 (3) The company or a third party shall obtain and review a driving history
4 research report for each applicant.

5 B. The company or a third party shall conduct the background check and
6 driving history research report set forth in Paragraphs (A)(2) and (A)(3) of this
7 Section at least once every two years.

8 C. The company shall not authorize an individual to act as a driver if the
9 individual's driving history report reveals the individual received more than three
10 moving violations within the three-year period prior to applying to the company.

11 D. The company shall not authorize an individual to act as a driver if the
12 individual's initial background check or any subsequent background check reveals
13 the individual:

14 (1) Has had more than one of the following violations within the three-year
15 period prior to applying to the company:

16 (a) Flight from an officer or aggravated flight from an officer as provided for
17 in R.S. 14:108.1.

18 (b) Reckless operation of a vehicle as provided for in R.S. 14:99.

19 (c) Operating a vehicle while under suspension for certain prior offenses as
20 provided for in R.S. 14:98.8.

21 (2) Has been convicted, within the past seven years, of:

22 (a) Any enumerated felony as provided for in Title 14 of the Louisiana
23 Revised Statutes of 1950, comprised of R.S. 14:1 through 601.

24 (b) Operating a vehicle while intoxicated as provided for in R.S. 14:98
25 through 98.4.

26 (c) Hit and run driving as provided for in R.S. 14:100.

27 (d) Any crime of violence as defined in R.S. 14:2(B).

28 (3) Is listed as an offender in the national sex offender public website
29 maintained by the United States Department of Justice.

1 (4) Does not possess a valid driver's license to operate a personal vehicle.

2 (5) Does not possess the required registration to operate a motor vehicle used
3 to provide prearranged rides.

4 §211. Prohibited conduct

5 A driver may not accept a trip for compensation other than a trip arranged
6 through a company's digital network.

7 §212. Nondiscrimination; accessibility

8 A. The company shall adopt a nondiscrimination policy with respect to riders
9 and potential riders and shall inform drivers of such policy.

10 B. Drivers shall comply with all applicable nondiscrimination laws.

11 C. Drivers shall comply with all applicable laws relating to transporting
12 service animals.

13 D. A company shall not impose any additional charges for providing services
14 to persons with physical disabilities.

15 §213. Records

16 A company shall maintain the following records:

17 (1) Individual trip records for at least three years from the date each trip was
18 provided.

19 (2) Individual records of drivers for at least three years after the date which
20 a driver's relationship with the company has ended.

21 §214. Audit procedures; confidentiality of records

22 A. For the sole purpose of verifying that a company is in compliance with
23 the requirements of this Part, annually at most, the department shall have the right
24 to visually inspect a sample of records that the company is required to maintain. The
25 sample shall consist of required records pertaining to up to fifty drivers. If, after the
26 initial review, the department has a reasonable basis to conclude that the company
27 is not in compliance with the requirements of this Part, the department may, upon
28 reasonable notice, conduct a supplemental audit of records for an additional selection
29 of drivers. The audit shall take place at a location in Baton Rouge. Any record

1 furnished to the department may exclude information that would identify specific
2 drivers or riders.

3 B. In response to a specific complaint against any driver or company, the
4 department is authorized to inspect records held by the company that are necessary
5 to investigate and resolve the complaint. The company and department shall
6 endeavor to have the inspection take place at a mutually agreed upon location in the
7 state. Any record furnished to the department may exclude information that would
8 identify specific drivers or riders, unless the identity of a driver or rider is relevant
9 to the complaint.

10 C. Any records inspected by the department pursuant to this Section are
11 designated confidential, are not subject to disclosure to a third party by the
12 department without prior written consent of the company, and are exempt from
13 disclosure pursuant to the Public Records Law, R.S. 44:1 et seq. Nothing in this
14 Section shall be construed as applying to other department records related to its
15 regulation of transportation network companies if such records do not include
16 information that is otherwise designated confidential or exempted pursuant to the
17 Public Records Law or as limiting the applicability of any other exemptions under
18 the Public Records Law.

19 §215. Local fee

20 A. A local governmental subdivision is authorized to impose a fee of up to
21 one percent of the gross trip fare for each covered intrastate prearranged ride.

22 B. A local governmental subdivision may impose a fee pursuant to this
23 Section by passing an ordinance that imposes such a fee on each company permitted
24 by the department in accordance with R.S. 45:204. A municipality's fee may only
25 apply to covered intrastate prearranged rides originating within the incorporated
26 limits of the municipality. A parish's fee may only apply to covered intrastate
27 prearranged rides originating within the unincorporated portions of the parish.

28 C. A local governmental subdivision shall provide, at least thirty days prior,
29 written notice to each company permitted by the department, in accordance with R.S.

1 45:204, of an initial hearing, reading, or consideration of an ordinance imposing a
2 fee pursuant to this Section. A local governmental subdivision shall also provide
3 written notice within ten days of the passage of any ordinance imposing a fee
4 pursuant to this Section. A fee imposed pursuant to this Section shall not go into
5 effect until at least sixty days after passage of the ordinance imposing the fee.

6 D. If a local governmental subdivision passes an ordinance imposing a fee,
7 a company shall collect the fee on behalf of drivers for each covered intrastate
8 prearranged ride. Each company shall remit the total fee to the local governmental
9 subdivision on a quarterly basis within thirty days after the end of the calendar
10 quarter.

11 E. The department shall have the sole audit authority with respect to fees
12 remitted by a company to a local governmental subdivision. A company shall keep
13 accurate books and records reflecting its accounting and payment of fees, pursuant
14 to this Section, in accordance with generally accepted accounting principles. For
15 each local governmental subdivision that passes an ordinance imposing a fee, the
16 department may, at its discretion, upon reasonable prior written request, and no more
17 than annually, audit a company's books and records related to its accounting and
18 payment of fees to the local governmental subdivision. Such an audit shall be
19 limited to a single calendar quarter, which may be chosen by the department, for
20 each local governmental subdivision. The department shall endeavor to have any
21 such audits for a particular company occur within the same calendar quarter. If the
22 department has not undertaken an audit for that local governmental subdivision
23 within the prior one-year period, and the local governmental subdivision has a
24 reasonable basis to suspect a material underpayment by a company, the local
25 governmental subdivision shall request that the department initiate an audit pursuant
26 to this Subsection. If underpayment of over one percent to any local governmental
27 subdivision is identified in an audit conducted by the department, the company shall
28 remit the underpaid fees to the local governmental subdivision within thirty days of

1 the conclusion of the department's audit. A local governmental subdivision shall not
2 add additional audit authority by ordinance.

3 F. The total fee remitted to any local governmental subdivision by a
4 company, any records maintained by a company pursuant to this Section that are
5 obtained by a local governmental subdivision, the department, or any other public
6 body, and any records that incorporate information from records maintained pursuant
7 to this Section shall not be subject to disclosure pursuant to the Louisiana Public
8 Records Law, R.S. 44:1, et seq., or any other applicable law. A local governmental
9 subdivision, the department, or any other public body shall not disclose records,
10 information, or total fee amounts provided by a company to a third party unless
11 disclosure is required by a subpoena or court order. If a disclosure is required, the
12 local governmental subdivision, the department, or public body shall promptly notify
13 the company prior to the disclosure. Nothing in this Subsection shall prohibit the
14 department from communicating the results of an audit pursuant to Subsection E of
15 this Section to the local governmental subdivision of which the fees were the subject
16 of the audit.

17 §216. Controlling authority

18 A. It is the intent of the legislature to provide uniform laws to govern
19 companies, drivers, and vehicles throughout the state in order to protect and promote
20 the safety and welfare of the residents of Louisiana.

21 B. Notwithstanding any other provision of law to the contrary, companies,
22 drivers, and vehicles are governed exclusively by state law, including Part C of this
23 Chapter, this Part, and any rules promulgated by the department consistent with this
24 Part.

25 C. A local governmental subdivision shall not do any of the following:

26 (1) Impose a tax on, or require a license for, a company, a driver, or a vehicle
27 if such tax or license relates to providing prearranged rides, except as provided in
28 R.S. 45:215.

fare", "local governmental subdivision", and "transportation network company vehicle" for the purposes of proposed law.

Proposed law defines "covered intrastate prearranged ride" as any intrastate prearranged ride originating within the jurisdiction of the local governmental subdivision, except such prearranged rides in which a rider is matched with, or eligible to be matched with, another rider through the company's digital network.

Proposed law defines "department" as the Louisiana Department of Agriculture and Forestry.

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

Proposed law provides that a "transportation network company vehicle" or "vehicle" shall have the same meaning as "personal vehicle" as defined in present law.

Proposed law establishes a classification of carriers; specifically, provides that a company or driver is not a common carrier, contract carrier, or motor carrier.

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 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 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 of 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 to address the use of drugs or alcohol while a driver is providing prearranged rides or is logged into the company's digital network but is not 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 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 to 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 to 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 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 the transporting of 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 three years after each trip or dissolution of a relationship with a driver.

Proposed law provides requirements and procedures for an audit of a company by the department. Specifies that the audit procedures are to include the right by the department to visually inspect a sample of records, pertaining up to fifty drivers, that the company is required to maintain. Proposed law further provides that if the department has a reasonable basis to conclude that the company is not in compliance with the requirements of present law after initial review, the department may conduct a supplemental audit of records for an additional selection of drivers at a location in Baton Rouge; the identity of specific drivers or riders may be excluded from the records.

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 provides that any records inspected by the department pursuant to proposed law are designated confidential, are not subject to disclosure to a third party, and are exempt from disclosure pursuant to the Public Records Law provided for in present law. Proposed law provides an exclusion from this designation if such records do not include information that is otherwise designated confidential or exempted pursuant to the Public Records Law provided for in present law, or as limiting the applicability of any other exemption under the Public Records Law provided for in present law.

Proposed law authorizes a local governmental subdivision to impose a fee of up to one percent of the gross trip fare for each covered 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 provides that municipality's fee applies only to covered intrastate prearranged rides originating within the incorporated limits of a municipality, and that a parish's fee applies only to covered intrastate prearranged rides originating within the unincorporated portions of the parish.

Proposed law requires a local governmental subdivision to 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 at least 60 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 grants the department sole audit authority with respect to the fees remitted by a company to a local governmental subdivision; 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 department to audit a company's books and records relating to its accounting and payment of fees to the local governmental subdivision, with the audit limited to a single calendar year, which may be chosen by the department.

Proposed law provides that if the department has not undertaken an audit for a local governmental subdivision within the prior one-year period, and the local governmental subdivision has a reasonable basis to suspect underpayment, the local governmental subdivision must request that the department initiate an audit pursuant to proposed law, and if underpayment is over one percent, requires the company to remit the underpaid fees to the local governmental subdivision within 30 days.

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 relating to taxing a company, 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 insurance requirements, such as requiring a policy of insurance be placed with an authorized insurer or with a surplus lines insurer pursuant to present law that has a rating of no less than A- from A.M. Best or an A from Demotech, Inc. or a similar rating from another rating agency recognized by the Dept. of Insurance.

Effective July 1, 2018.

(Amends R.S. 44:4.1(B)(30) and R.S. 45:201.4(6) and 201.6(G)(2); Adds R.S. 45:202 through 216)