

2017 Regular Session

HOUSE BILL NO. 527

BY REPRESENTATIVE HAVARD AND SENATOR CORTEZ

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRANSPORTATION: Establishes safety, reliability, and access requirements for
Transportation Network Companies

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(30), and to enact Part D of Chapter 4 of Title 45 of the
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 45:202 through 216,
4 relative to Transportation Network Companies; to provide for definitions; to require
5 an operation permit for operation of a transportation network company; to require
6 fare transparency and electronic receipts for all riders; to provide relative to
7 identification requirements for transportation network company vehicles and drivers;
8 to require each transportation network company establish a drug and alcohol policy;
9 to provide relative to the limitations, driver conduct, discrimination policy, records,
10 assessment fees, and controlling authority of transportation network companies; to
11 provide for a public records exception; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

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

14 §4.1. Exceptions

15 * * *

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

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

* * *

(30) ~~R.S. 45:1313(C)~~ R.S. 45:215 and 1313(C)

* * *

Section 2. Part D of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950,
to be comprised of R.S. 45:202 through 216, is hereby enacted to read as follows:

PART D. TRANSPORTATION NETWORK COMPANY REQUIREMENTS

§202. Definitions

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

(1) "Department" means the Louisiana Department of Transportation and
Development.

(2) "Digital network" means any online-enabled technology application
service, website, or system offered or utilized by a transportation network company
that enables the prearrangement of rides with transportation network company
drivers.

(3) "Transportation network company vehicle" or "TNC vehicle" means a
vehicle that is used by a transportation network company driver to offer or provide
a prearranged ride and is owned, leased, or otherwise authorized for use by the
transportation network company driver. Notwithstanding any other provision of law
to the contrary, a vehicle that is let or rented to another for consideration may be
used as a transportation network company vehicle.

(4) "Transportation network company", "TNC", or "company" means a
corporation, partnership, sole proprietorship, or other entity licensed and operating
in this state that uses a digital network to connect a TNC rider to a TNC driver who
provides a prearranged ride. A TNC may not control, direct, or manage the personal

1 vehicle or the TNC driver who connects to its digital network, except where agreed
2 to by written contract.

3 (5) "Transportation network company driver" or "TNC driver" means an
4 individual who receives connections to potential riders and related services from a
5 transportation network company and, in return for compensation, uses a TNC vehicle
6 to offer or provide a prearranged ride to riders upon connection through a digital
7 network controlled by a transportation network company.

8 (6) "Transportation network company rider" or "rider" means an individual
9 or persons who use a transportation network company's digital network to connect
10 with a transportation network company driver who provides prearranged rides in the
11 TNC driver's TNC vehicle between points chosen by the rider.

12 (7) "Prearranged ride" means the provision of transportation by a TNC driver
13 to a rider, beginning when a TNC driver accepts a ride requested by a rider through
14 a digital network controlled by a transportation network company, continuing while
15 the TNC driver transports a requesting rider, and ending when the last requesting
16 rider departs from the TNC vehicle. A prearranged ride does not include
17 transportation provided by shared expense van pool services, as defined pursuant to
18 R.S. 45:162, shared expense car pool services, as defined pursuant to R.S. 45:162,
19 transportation provided using a vehicle subject to Part A or B of this Chapter, or
20 engaged solely in interstate commerce.

21 (8) "Gross trip fare" means the total charge, including the base fare and any
22 time or distance charges, for a prearranged ride.

23 (9) "Local assessment fee" means one percent of the gross trip fare.

24 §203. Classification of carriers; registration

25 A TNC or TNC driver is not a common carrier, contract carrier, or motor
26 carrier, and does not provide taxi or for-hire vehicle service. In addition, a TNC
27 driver is not required to register the vehicle that the TNC driver uses to provide
28 prearranged rides as a commercial motor vehicle or a for-hire vehicle.

29 §204. TNC permits

1 A. A person shall not operate a TNC in the state of Louisiana without
2 obtaining a permit from the department, except a TNC operating in the state before
3 the effective date of this Part may continue operating until the department creates a
4 permit process and sets a registration deadline.

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

7 §205. Service of process; TNC

8 A TNC shall maintain an agent for service of process in the state of
9 Louisiana.

10 §206. Fare transparency

11 If a fare is collected from a rider, the TNC shall disclose to the rider the fare
12 or fare calculation method on its website or within the online-enabled technology
13 application service prior to the start of the prearranged ride. If the TNC fails to
14 disclose the fare to the rider prior to the beginning of the prearranged ride, the rider
15 shall have the option to receive an estimated fare before the start of the prearranged
16 ride.

17 §207. Identification of TNC vehicles and drivers

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

21 §208. Electronic receipts

22 Within a reasonable amount of time following completion of a trip, a TNC
23 shall transmit an electronic receipt to the rider on behalf of the TNC driver. The
24 receipt shall include all of the following:

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

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

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

28 §209. Substance abuse policy

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

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

14 C. The TNC shall maintain records of all reported incidents for a period of
15 at least two years from the date that a rider complaint is received by the TNC.

16 §210. TNC limitations

17 TNC drivers shall be independent contractors and are not considered
18 employees of the TNC, if all of the following conditions are met:

19 (1) The TNC does not unilaterally prescribe specific hours during which a
20 TNC driver must be logged into the TNC's digital network.

21 (2) The TNC does not impose an express prohibition on the TNC driver's
22 ability to utilize digital networks from other TNCs.

23 (3) The TNC does not restrict a TNC driver from engaging in any other
24 occupation or business.

25 (4) The TNC and TNC driver agree in writing that the TNC driver is an
26 independent contractor with respect to the TNC.

27 §211. TNC driver requirements

28 A. Before an individual is authorized to accept trip requests through a TNC's
29 digital network, the following conditions shall be met:

1 (1) The individual shall submit an application to the TNC, which includes
2 his address, age, a copy of his driver's license and motor vehicle registration, and
3 other information required by the TNC.

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

6 (a) A search of the multi-state and multi-jurisdiction criminal records locator
7 or other similar commercial nationwide database with validation of any records
8 through primary source search.

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

11 (3) The TNC or a third party shall obtain and review a driving history
12 research report for each potential TNC driver.

13 B. The TNC shall not authorize an individual to act as a TNC driver on its
14 digital network if the individual:

15 (1) Has had more than three moving violations or one or more of the
16 following violations in the prior three-year period:

17 (a) Attempting to evade the police.

18 (b) Reckless driving.

19 (c) Driving with a suspended or revoked license.

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

21 (a) A felony.

22 (b) A misdemeanor for driving under the influence of drugs or alcohol, for
23 hit and run, or for any other driving-related offense.

24 (c) A misdemeanor for a violent offense or sexual battery.

25 (3) Is a match on the national sex offender public website maintained by the
26 United States Department of Justice.

27 (4) Does not possess a valid driver's license.

28 (5) Does not possess proof of registration for the motor vehicle used to
29 provide prearranged rides.

1 §212. Prohibited conduct

2 A TNC driver may not accept a trip for compensation if the trip was not
3 arranged through a TNC's digital network.

4 §213. Nondiscrimination; accessibility

5 A. The TNC shall adopt a nondiscrimination policy with respect to riders and
6 potential riders and shall notify TNC drivers of such policy.

7 B. TNC drivers shall comply with all applicable nondiscrimination laws.

8 C. TNC drivers shall comply with all applicable laws relating to the
9 transportation of service animals.

10 D. A TNC shall not impose additional charges for providing services to
11 persons with physical disabilities because of those disabilities.

12 §214. Records

13 A TNC shall maintain the following records:

14 (1) Individual trip records for at least one year from the date each trip was
15 provided.

16 (2) Individual records of all TNC drivers for at least one year after the date
17 on which a TNC driver's relationship with the TNC was terminated.

18 §215. Local assessment fee

19 A. A TNC shall collect a local assessment fee on behalf of a TNC driver for
20 all intrastate prearranged rides.

21 B. A TNC shall determine whether each intrastate prearranged ride
22 originated within the incorporated boundaries of a municipality, or outside of the
23 incorporated boundaries of a municipality and within the boundaries of a parish of
24 this state using geographic information system data made available by the
25 department.

26 C. Within thirty days of the end of a calendar quarter, a TNC shall submit
27 to the department all of the following:

28 (1) The total local assessment fees collected by a TNC on behalf of the TNC
29 drivers.

1 (2) A report listing the percentages of gross trip fares that originated in each
2 municipality during the reporting period.

3 (3) A report listing the percentage of gross trip fares that originated outside
4 a municipality during the reporting period.

5 D. The local assessment fees collected pursuant to this Section are to be
6 administered by the department as follows:

7 (1) The state shall retain five percent of the total local assessment fees
8 collected to cover expenses borne by the department from regulation of TNC's and
9 the collection and distribution of local assessment fees.

10 (2) Within sixty days of the end of the calendar quarter, the department shall
11 distribute the remaining portion of the total local assessment fees collected under
12 Subsection (C)(1) of this Section, after covering their expenses as provided for in
13 Paragraph (1) of this Subsection, to the local governmental subdivision where a trip
14 originated during the reporting period. The distribution to the local governmental
15 subdivision must be proportionate to the percentage of the gross trip fare that
16 originated in the local governmental subdivision.

17 E. Any records maintained by a TNC pursuant to this Section that are
18 obtained by the department, another public body, or a local governmental
19 subdivision, or any records that incorporate information from records maintained
20 pursuant to this Section, must not be subject to disclosure under the Louisiana public
21 records law, R.S. 44:1, et seq., or any other applicable law. The department may not
22 disclose records or information provided by a TNC unless disclosure is required by
23 a subpoena or court order. If a disclosure is required, the department shall promptly
24 notify the TNC prior to the disclosure.

25 F. Annually, the department may request that a TNC engage an independent
26 third-party auditor to verify the local assessment fees submitted to the department
27 pursuant to Paragraph (D)(1) of this Section are accurate. The TNC that is subject
28 to the audit shall engage the independent third-party auditor, which must be selected
29 at the sole discretion of the TNC, and shall bear all costs associated with the third-

1 party audit. The independent third-party auditor must be a certified public accounting
2 firm licensed in the state and qualified to perform engagements in accordance with
3 generally accepted government auditing standards. The TNC shall provide the
4 department with a copy of the third-party audit report within fifteen days of
5 completion, which shall in no event, occur later than ninety days after receipt of the
6 department's written request. If applicable, the audit report shall disclose the amount
7 of any underpayment and any overpayment. If the audit reveals that a TNC
8 underpaid the amount owed, the TNC shall, within ten business days, pay the
9 underpayment. If the audit reveals that a TNC overpaid the amount owed, the
10 department shall, within ten business days, refund the overpayment.

11 §216. Controlling authority

12 A. It is the intent of the legislature to provide for uniformity of laws
13 governing TNCs, TNC drivers, and TNC vehicles throughout the state in order to
14 protect and promote the safety and welfare of the residents of Louisiana.

15 B. Notwithstanding any other provision of law to the contrary, TNC's, TNC
16 drivers, and TNC vehicles are governed exclusively by state law, including Part C
17 of this Chapter, this Part, and any rules promulgated by the Department of
18 Transportation and Development consistent with this Part.

19 C. A local governmental subdivision, special district, airport authority, port
20 authority, or other local governmental entity or political subdivision shall not
21 perform any of the following acts:

22 (1) Impose a tax on, or require a license for, a TNC, a TNC driver, or a TNC
23 vehicle if such tax or license relates to providing prearranged rides.

24 (2) Require a transportation network company or a TNC driver to obtain a
25 business license or any other type of similar authorization to operate within the
26 jurisdiction.

27 (3) Subject a TNC, TNC driver, or TNC vehicle to any rate, entry, operation,
28 or other requirement of a local governmental subdivision, special district, airport
29 authority, port authority, or other local governmental entity or political subdivision.

1 D. This Section does not prohibit an airport from charging reasonable
 2 pick-up fees, consistent with any such fees charged to taxicab companies at that
 3 airport, for use of the airport's facilities or designating locations for staging, pick-up,
 4 and other similar operations at the airport.

5 Section 3. This Act shall become effective on July 1, 2017.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 527 Original

2017 Regular Session

Havard

Abstract: Provides relative to safety, reliability, and access requirements for Transportation Network Companies.

Proposed law adds references to the confidentiality provisions in proposed law to the public records law.

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

Proposed law defines "digital network" as any online-enabled technology application service, 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 "transportation network company vehicle" or "TNC vehicle" as a vehicle that is used by a transportation network company driver to offer or provide a prearranged ride and is owned, leased, or otherwise authorized for use by the transportation network company driver. Notwithstanding any other provision of law, a vehicle that is let or rented to another for consideration may be used as a transportation network company vehicle.

Proposed law defines "transportation network company", "TNC", or "Company" as a corporation, partnership, sole proprietorship, or other entity licensed and operating in this state that uses a digital network to connect a TNC rider to a TNC driver who provides a prearranged ride. A TNC may not control, direct, or manage the personal vehicle or the TNC driver who connects to its digital network, except where agreed to by written contract.

Proposed law defines "transportation network company driver" or "TNC driver" as an individual who receives connections to potential riders and related services from a transportation network company and, in return for compensation, uses a TNC vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company.

Proposed law defines "transportation network company rider" or "rider" as an individual or persons who use a transportation network company's digital network to connect with a transportation network company driver who provides prearranged rides in the TNC driver's TNC vehicle between points chosen by the rider.

Proposed law defines "prearranged ride" as 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 transportation network company, continuing while the TNC driver

transports a requesting rider, and ending when the last requesting rider departs from the TNC vehicle. A prearranged ride does not include transportation provided by shared expense van pool services, as defined pursuant to present law (R.S. 45:162(18)), shared expense car pool services, as defined pursuant to present law (R.S. 26 45:162(1)), transportation provided using a vehicle subject to present law (Part A or B of this Chapter), or engaged solely in interstate commerce.

Proposed law defines "gross trip fare" as the total charge, including the base fare and any time or distance charges, for a prearranged ride.

Proposed law defines "local assessment fee" as one percent of the gross trip fare.

Proposed law clarifies that a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier, does not provide taxi or for-hire vehicle service, and is not required to register the TNC vehicle as a commercial motor vehicle or for-hire vehicle.

Proposed law requires a person obtain a permit from the department prior to operating a TNC in the state and requires the department issue a permit to each applicant who meets the requirements as provided in proposed law. Allows a TNC operating in this state prior to the effective date of proposed law to continue operating until the department creates a permit process and sets a registration deadline.

Proposed law requires a TNC to maintain an agent for service of process in the state of La.

Proposed law requires a TNC to disclose the fare or fare calculation method on its website or within the online-enabled technology application prior to the beginning of the prearranged ride. Requires the TNC disclose, at a minimum, an estimated fare before the start of the prearranged ride.

Proposed law requires a TNC's digital network display a picture of the TNC driver and the license plate number of the motor vehicle used for providing the prearranged ride prior to the rider entering the vehicle.

Proposed law requires a TNC transmit an electronic receipt to the rider, within a reasonable amount of time following completion of a trip, which provides the total fare, origin, destination, duration, and distance of the trip.

Proposed law requires TNCs to implement a substance abuse zero tolerance policy which must address the use of drugs or alcohol while a TNC driver is providing prearranged rides or is logged into the TNC's digital network.

Proposed law provides that a TNC must provide notice of this policy and procedures to report a complaint on its website about a TNC driver whom the rider suspects was under the influence of drugs or alcohol during the course of his trip. Suspends a TNC driver upon receipt of a rider complaint alleging violation of the substance abuse zero tolerance policy and requires an investigation of the reported incident occur. Specifies that the suspension must last the duration of the investigation and provides that the TNC must maintain records of all reported incidents for a period of at least two years from the date of the complaint.

Proposed law specifies that TNC drivers are independent contractors and are not considered employees of the TNC if specific hours are not unilaterally prescribed to the TNC driver, the TNC does not impose an express prohibition on the TNC driver's ability to utilize the digital network, the TNC does not restrict the TNC driver from engaging in any other business or occupation, and the TNC and TNC driver agree, in writing, that the TNC driver is an independent contractor.

Proposed law requires the following conditions be met before an individual is authorized to accept trip requests through a TNC's digital network:

- (1) The individual must submit an application to the TNC, which includes his address, age, a copy of his driver's license and motor vehicle registration, and any other required information.
- (2) The TNC or a third party must conduct a local and national criminal background check for each applicant.
- (3) The TNC or a third party must obtain and review a driving history research report for each potential TNC driver.

Proposed law prohibits a TNC from authorizing an individual to act as a TNC driver on its digital network if any of the following exists:

- (1) The individual has had, in the prior three-year periods, more than three moving violations; a violation of attempting to evade the police; reckless driving; or driving with a suspended or revoked license.
- (2) The individual has been convicted, within the past seven years, of a felony; a misdemeanor for driving under the influence of drugs or alcohol; for hit and run, or any other driving-related offense; or a misdemeanor for a violent offense or sexual battery.
- (3) The individual is a match on the national sex offender public website maintained by the U.S. Dept. of Justice.
- (4) The individual does not possess a valid driver's license.
- (5) The individual does not possess proof of registration for the motor vehicle used to provide prearranged rides.

Proposed law prohibits a TNC driver from accepting a trip for compensation that was not arranged through a TNC's digital network.

Proposed law requires the TNC to adopt a nondiscrimination policy and provide notice of the policy to its riders. Specifies that all TNC drivers must comply with all applicable laws relating to discrimination and transportation of service animals. Prohibits a TNC from imposing additional charges for providing services to persons with physical disabilities.

Proposed law requires a TNC to maintain individual trip records and individual records of all TNC drivers for at least one year from the date the trip was provided and the TNC driver and rider relationship was terminated, respectively.

Proposed law authorizes a TNC to collect a local assessment fee for all intrastate prearranged rides and determine the origin of each intrastate prearranged ride using geographic information system data made available by the department. Requires the TNC submit the total local assessment fees collected, a report listing percentages of gross trip fares that originated in each municipality, and a report listing the percentage of gross trip fares that originated outside a municipality to the department within 30 days of the end of a calendar quarter.

Proposed law provides that the state must retain 5% of the total local assessment fees collected to cover departmental expenses incurred from regulation of TNCs and the department must distribute remaining funds proportionately to each local governmental subdivision where a trip originated.

Proposed law prohibits any records maintained by a TNC pursuant to proposed law, obtained by the department or other public entity from being disclosed under present law (R.S. 44:1, et seq.) Specifies that the department is prohibited from disclosing records or information

provided by a TNC unless disclosure is required by a subpoena or court order and provides that if such disclosure is required, the department must notify the TNC prior to disclosure.

Proposed law authorizes the department to request that a TNC engage an independent third-party auditor to verify the local assessment fees submitted to the department pursuant to proposed law are accurate. Allows the TNC to select the third party auditor and bear all costs associated with the audit. Requires the auditor be a certified public accounting firm licensed in the state and qualified to perform engagements in accordance with generally accepted government auditing standards.

Proposed law requires the audit report to be provided to the department within 15 days of completion, which must not occur later than 90 days after receipt of the department's written request, and provides for payment of any amount owed and refund of any amount overpaid.

Proposed law provides that TNCs, TNC drivers, and TNC vehicles are governed by the laws of the state of La. and any rules promulgated by the department.

Proposed law prohibits a local governmental subdivision, special district, airport authority, port authority, or other local governmental entity or political subdivision from imposing a tax on or requiring a license for a TNC, a TNC driver, or a TNC vehicle if such tax or license relates to providing prearranged rides; from requiring a TNC or a TNC driver to obtain a business license or any other type of similar authorization to operate within the jurisdiction; and from subjecting a TNC, TNC driver, or TNC vehicle to any rate, entry, operation, or other requirement of the local governmental subdivision, special district, airport authority, port authority, or other local governmental entity or political subdivision.

Proposed law clarifies that proposed law does not prevent an airport from charging reasonable pick-up fees, consistent with fees charged to taxicab companies at an airport, for use of airport facilities or designating locations for staging, pick-up, and other similar airport operations.

Effective July 1, 2017.

(Amends R.S. 44:4.1(B)(30); Adds R.S. 45:202-216)