SYNOPSIS: This bill would require transportation network companies to obtain a permit from the Public Service Commission, maintain an agent for service of process, implement a nondiscrimination policy, implement a zero tolerance intoxicating substance policy, and maintain certain records.

This bill would require drivers and vehicles that provide rides through transportation network companies to meet certain safety and consumer protection requirements.

This bill would require transportation network companies to collect a local assessment fee for each trip fare and remit it to the Public Service Commission and require the commission to distribute a portion of the fee to the municipality or county where a ride originates.

This bill would also prohibit municipalities and certain authorities from imposing taxes or business licenses on transportation network
companies or transportation network company drivers
or vehicles.

Amendment 621 of the Constitution of Alabama
of 1901, now appearing as Section 111.05 of the
Official Recompilation of the Constitution of
Alabama of 1901, as amended, prohibits a general
law whose purpose or effect would be to require a
new or increased expenditure of local funds from
becoming effective with regard to a local
governmental entity without enactment by a 2/3 vote
unless: it comes within one of a number of
specified exceptions; it is approved by the
affected entity; or the Legislature appropriates
funds, or provides a local source of revenue, to
the entity for the purpose.

The purpose or effect of this bill would be
to require a new or increased expenditure of local
funds within the meaning of the amendment. However,
the bill does not require approval of a local
governmental entity or enactment by a 2/3 vote to
become effective because it comes within one of the
specified exceptions contained in the amendment.

A BILL
TO BE ENTITLED
AN ACT
Relating to transportation network companies; to require transportation network companies to obtain a permit from the Public Service Commission, maintain an agent for service of process, implement a nondiscrimination policy, implement a zero tolerance intoxicating substance policy, and maintain certain records; to require drivers and vehicles that provide rides through transportation network companies to meet certain safety and consumer protection requirements; to require transportation network companies to collect a local assessment fee for each trip fare and remit it to the Public Service Commission and require the commission to distribute a portion of the fee to the municipality or county where a ride originates; to prohibit municipalities and certain authorities from imposing taxes or business licenses on transportation network companies or transportation network company drivers or vehicles; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following words shall have the following meanings:

(1) COMMISSION. The Public Service Commission.

(2) DIGITAL NETWORK. Digital network, as defined in Section 32-7C-1, Code of Alabama 1975.
(3) GROSS TRIP FARE. The sum of the base fare charge, distance charge, and time charge for a complete trip at rates published on the TNC's website. The term does not include any additional fees, including airport or venue fees.

(4) TNC. A transportation network company, as defined in Section 32-7C-1, Code of Alabama 1975.

(5) TNC DRIVER. A TNC driver as defined in Section 32-7C-1, Code of Alabama 1975.

(6) TNC RIDER. A TNC rider as defined in Section 32-7C-1, Code of Alabama 1975.

(7) TNC VEHICLE. A personal vehicle, as defined in Section 32-7C-1, Code of Alabama 1975.

(8) PREARRANGED RIDE. Prearranged ride, as defined in Section 32-7C-1, Code of Alabama 1975.

Section 2. (a) A TNC or TNC driver is not a common carrier, contract carrier, or motor carrier, as defined in Section 37-3-2, Code of Alabama 1975, does not provide taxi or for-hire vehicle services, and is not subject to the Alabama Motor Carrier Act, Chapter 3, Title 37, Code of Alabama 1975.

(b) A TNC driver is not required to register the vehicle that the TNC driver uses to provide prearranged rides under this act as a commercial motor vehicle or for-hire vehicle under the Alabama Motor Carrier Act, Chapter 3, Title 37, Code of Alabama 1975.

Section 3. (a) A person may not operate a TNC in the state without first having obtained a permit from the commission.
(b) The commission shall issue a permit to each applicant that meets the requirements for a TNC under this act and may require the permit to be renewed annually.

(c) A TNC operating under a municipal ordinance in a municipality of this state on June 30, 2018, may operate at any location in this state without the permit required under subsection (a) until the later of:

(1) The thirtieth day after the date the permit process is adopted by the commission.

(2) The date the TNC's application for a permit under this section, submitted to the commission before the date described in subdivision (1), is approved or denied.

(d) Any person who operates a TNC without having obtained a permit in accordance with this section is guilty of a Class C misdemeanor.

Section 4. (a) A TNC shall collect a local assessment fee equal to one percent of the gross trip fare for all prearranged rides that originate in the state in accordance with this act.

(b)(1) No later than 30 days after the end of each calendar quarter, a TNC shall submit to the commission all of the following:

a. The total local assessment fees collected by a TNC.

b. For prearranged rides that originated within a municipality, a report listing the percentage of the gross
trip fare that originated in each municipality during the reporting period.

c. For prearranged rides that originated outside a municipality, a report listing the percentage of the gross trip fare that originated in the unincorporated portion of each county during the reporting period.

(2) The TNC shall be responsible for determining whether a prearranged ride originated within the boundaries of a municipality or originated within the unincorporated portion of a county.

(c) To ensure proper distribution of the local assessment fee, the commission shall prepare and make available for public use Geographic Information System (GIS) data in the form of a file showing the state's county and municipal boundaries. To the extent the commission updates the GIS file, the commission shall notify TNCs and make available to TNCs the updated GIS file. In addition to the requirements of this section, municipalities shall provide annexation information to the commission within 30 days after the annexation is complete. Such information shall include a written description of the boundary, along with a map or plat that clearly defines the new territory added.

(d) The local assessment fees submitted to the commission shall be administered by the commission and may only be expended as provided in this section. The commission may retain an amount necessary to cover the expenses derived from regulation of TNCs and the collection, remittance, and
distribution of local assessment fees pursuant to this section, provided the amount retained may not exceed 50 percent of the total local assessment fees collected.

(e) No later than 60 days after the end of each calendar quarter, the commission shall distribute the local assessment fees collected for the preceding calendar quarter, minus the amount retained pursuant to subsection (d), to each municipality where a prearranged ride originated and to each county where a prearranged ride originated in the unincorporated portion of the county, during that calendar quarter. The distribution shall be proportionate to the percentage of the gross trip fare that originated in each applicable municipality and unincorporated portion of a county.

(f) No more than every two years, the commission may request that a TNC engage an independent third party auditor to verify the local assessment fees submitted to the commission pursuant to subdivision (1) of subsection (b) are accurate. The TNC that is subject to the audit shall engage the independent third party auditor, which shall be selected at the sole discretion of the TNC, and bear all costs associated with the third party audit. The independent third party auditor must be a certified public accounting firm licensed in the state and qualified to perform engagements in accordance with American Institute of Certified Public Accountants (AICPA) standards. The TNC shall provide the commission with a copy of the third party audit report within
15 days of completion, which shall in no event occur later than 90 days after receipt of the commission's written request. The third party audit shall be limited to two calendar quarters that may be selected by the commission. If any underpayment of over three percent is identified through the audit, the TNC shall remit the underpaid local assessment fees to the appropriate municipality or county.

(g) The governing body of a municipality that enacted a TNC ordinance prior to January 1, 2018, and permitted at least one TNC to operate prior to January 1, 2018, pursuant to the TNC ordinance, may request the commission to review the portions of a third party audit report provided to the commission pursuant to subsection (f) that are applicable to the municipality. If no third party audit report is available for a TNC from the prior two-year period at the time of the governing body's request, the governing body that enacted a TNC ordinance prior to January 1, 2018, and permitted at least one TNC to operate prior to January 1, 2018, may request the commission to initiate an audit pursuant to subsection (f).

(h) Any record maintained by a TNC or submitted to the commission or a political subdivision of the state pursuant to this section shall be considered tax information and may not be disclosed, as provided in subsection (a) of Section 40-2A-10, Code of Alabama 1975, except as otherwise provided in this section.
Section 5. A TNC shall maintain an agent for service of process in the state.

Section 6. A TNC may charge a fare for the services provided to a TNC rider. If a fare is collected from a rider, the TNC shall disclose to the rider the fare or fare calculation on its digital network. If the fare is not disclosed to the rider before the beginning of the prearranged ride, the rider shall have the option to receive an estimated fare before the beginning of the prearranged ride.

Section 7. The TNC's digital network shall display a picture of the TNC driver, the first name of the TNC driver, and the make, model, and license plate number of the TNC driver's vehicle before the rider enters the TNC vehicle.

Section 8. Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the rider that lists all of the following:

(1) The origin and destination of the trip.
(2) The total time and distance of the trip.
(3) The total fare paid.
(4) The TNC driver's first name.

Section 9. A TNC driver or a TNC on behalf of the TNC driver shall maintain automobile insurance pursuant to Chapter 7C of Title 32, Code of Alabama 1975.

Section 10. (a) Before allowing an individual to accept trip requests through a TNC's digital network as a TNC driver, all of the following must occur:
(1) The individual shall submit an application to the TNC, that includes information regarding his or her address, age, driver's license, motor vehicle registration, and other information required by the TNC.

(2) The TNC shall conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include a review of the following:
   a. A multistate or multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search).
   b. The United State Department of Justice National Sex Offender Public Website.

(3) The TNC shall obtain and review, or have a third party obtain and review, a driving history report of each applicant.

(b) The TNC may not permit an individual to act as a TNC driver on its digital network who:
   (1) Has had more than three moving violations in the prior three-year period, or one of the following major violations in the prior three-year period:
      a. Fleeing or attempting to elude a law enforcement officer.
      b. Reckless driving.
      c. Driving with a suspended or revoked license.
   (2) Has been convicted, within the past seven years, of any of the following:
      a. A felony.
b. Misdemeanor driving under the influence, reckless
driving, hit and run, or any other misdemeanor violent offense
or sexual battery.

(3) Is a match in the U.S. Department of Justice
National Sex Offender Public Website.

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

(5) Does not possess proof of registration for the
motor vehicle or vehicles the applicant intends to use to
provide prearranged rides.

(6) Does not maintain proof of or does not possess
automobile insurance required under Chapter 7C of Title 32,

(7) Is under the age of 19 years.

(c) (1) Any individual who impersonates a TNC driver
without having met the requirements of this section is guilty
of a Class C misdemeanor.

(2) If an individual unlawfully impersonates a TNC
driver under subdivision (1) while committing a felony, the
unlawful impersonation may be an aggravating factor under
Section 12-25-34.2, Code of Alabama 1975, for sentencing
purposes.

Section 11. (a) A TNC shall establish and enforce a
zero tolerance intoxicating substance policy for TNC drivers
that prohibits any amount of intoxication of the driver while
providing transportation network services.

(b) The TNC shall include on its website a notice
concerning the TNC's zero tolerance intoxicating substance
policy and the means to make a complaint about a suspected
violation of the policy.

(c) Upon receipt of a rider complaint alleging a
violation of the zero tolerance intoxicating substance policy,
the TNC shall immediately suspend the TNC driver's access to
the TNC's digital network and conduct an investigation into
the reported incident. The suspension shall last the duration
of the investigation.

Section 12. A TNC driver may not accept a trip for
compensation, including soliciting or accepting passenger
rides on demand or through a street hail, other than a trip
arranged through a TNC's digital network. Any individual who
violates this section is guilty of a Class C misdemeanor.

Section 13. (a) The TNC shall adopt a policy of
nondiscrimination with respect to riders and potential riders.
The TNC shall notify TNC drivers of the policy.

(b) TNC drivers shall comply with all applicable
laws regarding nondiscrimination against riders or potential
riders.

(c) TNC drivers shall comply with all applicable
laws relating to the transportation of service animals.

(d) A TNC may not impose additional charges for
providing services to individuals with physical disabilities
because of those disabilities.

Section 14. (a) A TNC shall maintain the following
records:
(1) Individual trip records for at least two years from the date each trip was provided.

(2) Individual records of TNC drivers at least two years from the date on which a TNC driver's relationship with the TNC ended.

(b) For the sole purpose of verifying that a TNC is in compliance with subsection (a) and Section 10 and no more than annually, the commission may visually inspect a random sample of the records that the TNC is required to maintain pursuant to subsection (a). All samples shall include records sufficient to verify the TNC's compliance with the background check requirements and standards set forth in Section 10. The audit shall take place at a mutually agreed upon location in Montgomery, Alabama, or through a mutually agreed upon secure electronic process. Any record furnished to the commission may exclude information that would identify specific TNC drivers or riders, unless the commission demonstrates that there is good cause to inspect the identifying information.

(c) The governing body of a municipality that enacted a TNC ordinance prior to January 1, 2018, and permitted at least one TNC to operate prior to January 1, 2018, pursuant to the TNC ordinance, may request from the commission an analysis regarding a TNC's compliance with Section 10 as it applies to that municipality based on the audit performed by the commission pursuant to subsection (b). If the requested analysis reveals a TNC is not in compliance with Section 10, the commission shall include that information
in the analysis provided to the municipality and work in
coordination with the governing body to bring the TNC into
compliance. If no such audit analysis is available for a TNC
from the prior one-year period at the time of the governing
body's request, the governing body that enacted a TNC
ordinance prior to January 1, 2018, and permitted at least one
TNC to operate prior to January 1, 2018, may request that the
commission initiate an audit pursuant to subsection (b).

(d) In response to a specific complaint against a
TNC driver or a TNC, the commission may inspect records held
by the TNC pursuant to subsection (a) that are necessary to
investigate and resolve the complaint. The inspection shall
take place at a mutually agreed upon location in Montgomery,
Alabama, or through a mutually agreed upon secure electronic
process. Any record furnished to the commission may exclude
information that would identify specific TNC drivers or
riders, unless the identity of a driver or rider is relevant
to the complaint.

(e) Any records, including any information contained
therein that would identify specific TNC drivers or riders
inspected by the commission under this section are not public
records and are not subject to disclosure to a third party by
the commission without prior written consent of the TNC, and
are exempt from disclosure under Section 36-12-40, Code of
Alabama 1975. Nothing in this section shall be construed as
limiting the applicability of any other exemptions under
Section 36-12-40, Code of Alabama 1975, or the validity of any court order.

(f) No political subdivision of the state, including the commission, may disclose any records, data, or information provided by a TNC pursuant to this act to a third party absent a court order or subpoena. In the event that records, data, or information provided pursuant to this act is sought through a court order or subpoena, the commission or other political subdivision shall promptly notify the TNC so as to afford the TNC the opportunity to take actions to prevent disclosure.

Section 15. (a) The failure of a TNC to comply with this act or rule adopted pursuant to this act or commission order issued pursuant to this act may result in the revocation of the TNC's permit by the commission or the assessment of a civil penalty, or both, in accordance with procedures established by the commission. The civil penalty for TNCs may not exceed five hundred dollars ($500) for each violation for each day the TNC knew or should have known about the violation.

(b) The failure by a TNC driver to comply with this act or rule adopted pursuant to this act or commission order issued pursuant to this act may result in the suspension of the TNC driver from operating on any TNC's digital network or the assessment of a civil penalty, or both, in accordance with procedures established by the commission. The civil penalty for TNC drivers may not exceed one hundred dollars ($100) for
each violation for each day the TNC driver knew or should have
known about the violation.

Section 16. The commission may adopt rules to
implement and enforce this act in accordance with its
established rules of practice and procedures, including, but
not limited to, rules providing for safety inspections of TNC
vehicles and establishing requirements for a distinctive TNC
emblem or signage, known as trade dress, to be displayed on
the exterior of a TNC vehicle.

Section 17. (a) It is the intent of the Legislature
to provide for uniformity of laws governing TNCs, TNC drivers,
and TNC vehicles throughout the state, and to provide that
TNCs, TNC drivers, and TNC vehicles be governed exclusively by
state law, including Chapter 7C of Title 32, Code of Alabama
1975 governing insurance requirements for TNCs and TNC
drivers, and any rules adopted by the commission consistent
with this act.

(b) A county, municipality, special district,
airport authority, port authority, or other local governmental
entity or subdivision may not do any of the following:

(1) Impose a tax on, or require a license for, a TNC
or a TNC driver or TNC vehicle if the tax or license relates
to providing prearranged rides, or subjects a TNC, TNC driver,
or TNC vehicle to any rate, entry, operation, or other
requirement of the county, municipality, special district,
airport authority, port authority, or other local governmental
entity or subdivision.
(2) Require a TNC or a TNC driver to obtain a business license or any other type of similar authorization to operate within the jurisdiction.

(3) Subject a TNC or a TNC driver to a rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity.

(c) This section does not prohibit the governing body of a municipality from electing by ordinance to prohibit TNCs from providing prearranged rides that originate within its corporate limits. Notwithstanding the foregoing, the governing body of a municipality may not specify additional or alternative requirements, taxes, or licenses for TNCs, TNC drivers, or TNC vehicles as conditions for operating within its corporate limits.

(d) This section does not prohibit an airport or cruise terminal from charging reasonable pickup fees at that airport or cruise terminal, for use of the airport's or cruise terminal's facilities, or designating locations for staging, pickup, and other similar operations at the airport or cruise terminal.

(e) This section does not prohibit the Alabama State Port Authority from regulating access to its properties and facilities or from charging reasonable and necessary fees, provided the regulations, fees, and any required credentials are consistent with regulations, fees, and credentials that apply to taxicab companies.
(f) This section shall not be construed to prohibit any law enforcement officer from enforcing applicable penal or traffic laws, or, in connection with the enforcement of applicable penal or traffic laws, from requesting to review a TNC driver’s electronic waybill within the TNC's digital network.

Section 18. The Public Service Commission shall make available the GIS data required under subsection (c) of Section 4 no later than July 1, 2018.

Section 19. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621 because the bill defines a new crime or amends the definition of an existing crime.

Section 20. This act shall become effective on July 1, 2018, following its passage and approval by the Governor or its otherwise becoming law, except Section 4 shall become operative on August 1, 2018.