

2
3 HOUSE COMMERCE AND SMALL BUSINESS COMMITTEE SUBSTITUTE FOR
4 HB190

5
6
7
8
9 SYNOPSIS: This bill would require transportation
10 network companies to obtain a permit from the
11 Public Service Commission, maintain an agent for
12 service of process, implement a nondiscrimination
13 policy, implement a zero tolerance intoxicating
14 substance policy, and maintain certain records.

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

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

25 This bill would also prohibit municipalities
26 and certain authorities from imposing taxes or
27 business licenses on transportation network

1 companies or transportation network company drivers
2 or vehicles.

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

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to transportation network companies; to
2 require transportation network companies to obtain a permit
3 from the Public Service Commission, maintain an agent for
4 service of process, implement a nondiscrimination policy,
5 implement a zero tolerance intoxicating substance policy, and
6 maintain certain records; to require drivers and vehicles that
7 provide rides through transportation network companies to meet
8 certain safety and consumer protection requirements; to
9 require transportation network companies to collect a local
10 assessment fee for each trip fare and remit it to the Public
11 Service Commission and require the commission to distribute a
12 portion of the fee to the municipality or county where a ride
13 originates; to prohibit municipalities and certain authorities
14 from imposing taxes or business licenses on transportation
15 network companies or transportation network company drivers or
16 vehicles; and in connection therewith would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds within the meaning of Amendment 621
19 of the Constitution of Alabama of 1901, now appearing as
20 Section 111.05 of the Official Recompilation of the
21 Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

25 (1) COMMISSION. The Public Service Commission.

26 (2) DIGITAL NETWORK. Digital network, as defined in
27 Section 32-7C-1, Code of Alabama 1975.

1 (3) GROSS TRIP FARE. The sum of the base fare
2 charge, distance charge, and time charge for a complete trip
3 at rates published on the TNC's website. The term does not
4 include any additional fees, including airport or venue fees.

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

7 (5) TNC DRIVER. A TNC driver as defined in Section
8 32-7C-1, Code of Alabama 1975.

9 (6) TNC RIDER. A TNC rider as defined in Section
10 32-7C-1, Code of Alabama 1975.

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

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

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

20 (b) A TNC driver is not required to register the
21 vehicle that the TNC driver uses to provide prearranged rides
22 under this act as a commercial motor vehicle or for-hire
23 vehicle under the Alabama Motor Carrier Act, Chapter 3, Title
24 37, Code of Alabama 1975.

25 Section 3. (a) A person may not operate a TNC in the
26 state without first having obtained a permit from the
27 commission.

1 (b) The commission shall issue a permit to each
2 applicant that meets the requirements for a TNC under this act
3 and may require the permit to be renewed annually.

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

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

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

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

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

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

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

25 b. For prearranged rides that originated within a
26 municipality, a report listing the percentage of the gross

1 trip fare that originated in each municipality during the
2 reporting period.

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

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

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

23 (d) The local assessment fees submitted to the
24 commission shall be administered by the commission and may
25 only be expended as provided in this section. The commission
26 may retain an amount necessary to cover the expenses derived
27 from regulation of TNCs and the collection, remittance, and

1 distribution of local assessment fees pursuant to this
2 section, provided the amount retained may not exceed 50
3 percent of the total local assessment fees collected.

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

15 (f) No more than every two years, the commission may
16 request that a TNC engage an independent third party auditor
17 to verify the local assessment fees submitted to the
18 commission pursuant to subdivision (1) of subsection (b) are
19 accurate. The TNC that is subject to the audit shall engage
20 the independent third party auditor, which shall be selected
21 at the sole discretion of the TNC, and bear all costs
22 associated with the third party audit. The independent third
23 party auditor must be a certified public accounting firm
24 licensed in the state and qualified to perform engagements in
25 accordance with American Institute of Certified Public
26 Accountants (AICPA) standards. The TNC shall provide the
27 commission with a copy of the third party audit report within

1 15 days of completion, which shall in no event occur later
2 than 90 days after receipt of the commission's written
3 request. The third party audit shall be limited to two
4 calendar quarters that may be selected by the commission. If
5 any underpayment of over three percent is identified through
6 the audit, the TNC shall remit the underpaid local assessment
7 fees to the appropriate municipality or county.

8 (g) The governing body of a municipality that
9 enacted a TNC ordinance prior to January 1, 2018, and
10 permitted at least one TNC to operate prior to January 1,
11 2018, pursuant to the TNC ordinance, may request the
12 commission to review the portions of a third party audit
13 report provided to the commission pursuant to subsection (f)
14 that are applicable to the municipality. If no third party
15 audit report is available for a TNC from the prior two-year
16 period at the time of the governing body's request, the
17 governing body that enacted a TNC ordinance prior to January
18 1, 2018, and permitted at least one TNC to operate prior to
19 January 1, 2018, may request the commission to initiate an
20 audit pursuant to subsection (f).

21 (h) Any record maintained by a TNC or submitted to
22 the commission or a political subdivision of the state
23 pursuant to this section shall be considered tax information
24 and may not be disclosed, as provided in subsection (a) of
25 Section 40-2A-10, Code of Alabama 1975, except as otherwise
26 provided in this section.

1 Section 5. A TNC shall maintain an agent for service
2 of process in the state.

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

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

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

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

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

25 Section 10. (a) Before allowing an individual to
26 accept trip requests through a TNC's digital network as a TNC
27 driver, all of the following must occur:

1 (1) The individual shall submit an application to
2 the TNC, that includes information regarding his or her
3 address, age, driver's license, motor vehicle registration,
4 and other information required by the TNC.

5 (2) The TNC shall conduct, or have a third party
6 conduct, a local and national criminal background check for
7 each applicant that shall include a review of the following:

8 a. A multistate or multi-jurisdiction criminal
9 records locator or other similar commercial nationwide
10 database with validation (primary source search).

11 b. The United State Department of Justice National
12 Sex Offender Public Website.

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

16 (b) The TNC may not permit an individual to act as a
17 TNC driver on its digital network who:

18 (1) Has had more than three moving violations in the
19 prior three-year period, or one of the following major
20 violations in the prior three-year period:

21 a. Fleeing or attempting to elude a law enforcement
22 officer.

23 b. Reckless driving.

24 c. Driving with a suspended or revoked license.

25 (2) Has been convicted, within the past seven years,
26 of any of the following:

27 a. A felony.

1 b. Misdemeanor driving under the influence, reckless
2 driving, hit and run, or any other misdemeanor violent offense
3 or sexual battery.

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

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

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

10 (6) Does not maintain proof of or does not possess
11 automobile insurance required under Chapter 7C of Title 32,
12 Code of Alabama 1975.

13 (7) Is under the age of 19 years.

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

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

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

26 (b) The TNC shall include on its website a notice
27 concerning the TNC's zero tolerance intoxicating substance

1 policy and the means to make a complaint about a suspected
2 violation of the policy.

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

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

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

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

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

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

25 Section 14. (a) A TNC shall maintain the following
26 records:

1 (1) Individual trip records for at least two years
2 from the date each trip was provided.

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

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

19 (c) The governing body of a municipality that
20 enacted a TNC ordinance prior to January 1, 2018, and
21 permitted at least one TNC to operate prior to January 1,
22 2018, pursuant to the TNC ordinance, may request from the
23 commission an analysis regarding a TNC's compliance with
24 Section 10 as it applies to that municipality based on the
25 audit performed by the commission pursuant to subsection (b).
26 If the requested analysis reveals a TNC is not in compliance
27 with Section 10, the commission shall include that information

1 in the analysis provided to the municipality and work in
2 coordination with the governing body to bring the TNC into
3 compliance. If no such audit analysis is available for a TNC
4 from the prior one-year period at the time of the governing
5 body's request, the governing body that enacted a TNC
6 ordinance prior to January 1, 2018, and permitted at least one
7 TNC to operate prior to January 1, 2018, may request that the
8 commission initiate an audit pursuant to subsection (b).

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

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

1 Section 36-12-40, Code of Alabama 1975, or the validity of any
2 court order.

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

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

20 (b) The failure by a TNC driver to comply with this
21 act or rule adopted pursuant to this act or commission order
22 issued pursuant to this act may result in the suspension of
23 the TNC driver from operating on any TNC's digital network or
24 the assessment of a civil penalty, or both, in accordance with
25 procedures established by the commission. The civil penalty
26 for TNC drivers may not exceed one hundred dollars (\$100) for

1 each violation for each day the TNC driver knew or should have
2 known about the violation.

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

10 Section 17. (a) It is the intent of the Legislature
11 to provide for uniformity of laws governing TNCs, TNC drivers,
12 and TNC vehicles throughout the state, and to provide that
13 TNCs, TNC drivers, and TNC vehicles be governed exclusively by
14 state law, including Chapter 7C of Title 32, Code of Alabama
15 1975 governing insurance requirements for TNCs and TNC
16 drivers, and any rules adopted by the commission consistent
17 with this act.

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

21 (1) Impose a tax on, or require a license for, a TNC
22 or a TNC driver or TNC vehicle if the tax or license relates
23 to providing prearranged rides, or subjects a TNC, TNC driver,
24 or TNC vehicle to any rate, entry, operation, or other
25 requirement of the county, municipality, special district,
26 airport authority, port authority, or other local governmental
27 entity or subdivision.

1 (2) Require a TNC or a TNC driver to obtain a
2 business license or any other type of similar authorization to
3 operate within the jurisdiction.

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

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

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

22 (e) This section does not prohibit the Alabama State
23 Port Authority from regulating access to its properties and
24 facilities or from charging reasonable and necessary fees,
25 provided the regulations, fees, and any required credentials
26 are consistent with regulations, fees, and credentials that
27 apply to taxicab companies.

1 (f) This section shall not be construed to prohibit
2 any law enforcement officer from enforcing applicable penal or
3 traffic laws, or, in connection with the enforcement of
4 applicable penal or traffic laws, from requesting to review a
5 TNC driver's electronic waybill within the TNC's digital
6 network.

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

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

16 Section 20. This act shall become effective on July
17 1, 2018, following its passage and approval by the Governor or
18 its otherwise becoming law, except Section 4 shall become
19 operative on August 1, 2018.