

## **BILL ANALYSIS**

Senate Research Center

H.B. 100  
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State Affairs  
5/10/2017  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Transportation network companies (TNCs) utilize digital technology platforms to provide on-demand and highly automated private ride services. These services connect passengers with willing drivers who use their personal vehicles to provide rides. TNCs provide consumers with convenient transportation options, competitive pricing, and transparency regarding the journey's length, price, and wait time. Additionally, public safety is enhanced when passengers are provided with alternative options for reaching their destinations. At least 43 states have recognized the public need to provide predictable TNC regulation and have enacted legislation.

However, no consistent and predictable statewide regulation of TNCs exists in Texas. This has resulted in an inefficient and confusing patchwork of rules across local jurisdictions. These myriad regulations are often arbitrary and onerous. As a result, they may inhibit TNCs from growing their business and network or providing their services in many areas. The loss of TNCs results in less mobility and fewer safe transportation options, as well as a withering economic climate.

H.B. 100 establishes a uniform, rational statewide framework for regulating TNCs, enabling TNCs to help provide Texans with greater mobility options, earning opportunities, and increased public safety.

H.B. 100 amends current law relating to the regulation of transportation network companies, requires an occupational permit, and authorizes a fee.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 1 (Sections 2402.052 and 2402.113, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle C, Title 14, Occupations Code, by adding Chapter 2402, as follows:

#### CHAPTER 2402. TRANSPORTATION NETWORK COMPANIES

##### SUBCHAPTER A. GENERAL PROVISIONS

Section 2402.001. DEFINITIONS. Defines "department," "digital network," "digitally prearranged ride," "personal vehicle," and "transportation network company."

Sec. 2402.002. NATURE OF TRANSPORTATION NETWORK COMPANIES, DRIVERS, AND VEHICLES. Provides that transportation network companies (TNCs) and drivers logged in to the TNC's digital network are not common carriers, contract carriers, or motor carriers.

Sec. 2402.003. CONTROLLING AUTHORITY. (a) Provides that, notwithstanding any other provision of law, and except as provided by Subsections (b) and (c), the regulation

of TNCs, drivers logged in to a digital network, and vehicles used to provide digitally prearranged rides:

(1) is an exclusive power and function of this state; and

(2) may not be regulated by a municipality or other local entity, including by imposing certain requirements.

(b) Authorizes an airport owner or operator to impose regulations, including a reasonable fee, on a TNC that provides digitally prearranged rides to or from the airport.

(c) Authorizes the governing body of a governmental entity with jurisdiction over a cruise ship terminal to impose regulations, including a reasonable fee, on a TNC that provides digitally prearranged rides to or from the terminal.

(d) Prohibits regulations under Subsections (b) and (c) from conflicting with the requirements of this chapter or including requirements for drivers in addition to those under Section 2402.107.

(e) Provides that this chapter does not affect the liability of a local authority, as defined by Section 541.002 (Governmental Authorities), Transportation Code, to take certain actions relating to traffic rules.

Sec. 2402.004. PROVISIONS APPLICABLE TO DRIVERS LOGGED IN TO DIGITAL NETWORK. Provides that a provision of this chapter that applies to a driver logged in to a digital network applies while the driver is logged in to receive requests for digitally prearranged rides and while the driver is logged in and providing a digitally prearranged ride.

#### SUBCHAPTER B. PERMIT REQUIRED

Sec. 2402.051. PERMIT REQUIRED. (a) Prohibits a person from operating a TNC in this state without obtaining and maintaining a permit issued under this chapter.

(b) Requires the Texas Department of Licensing and Regulation (TDLR) to issue a permit to each applicant that meets the requirements of this chapter and pays the fee required by Section 2402.052.

Sec. 2402.052. FEE. (a) Requires a TNC to annually pay to TDLR a fee to maintain a permit under this chapter in an amount determined by TDLR rule to cover the costs of administering this chapter.

(b) Prohibits TDLR from imposing a fee for drivers authorized to use a TNC's digital network or vehicles used to provide digitally prearranged rides.

#### SUBCHAPTER C. OPERATION OF TRANSPORTATION NETWORK COMPANIES

Sec. 2402.101. INSURANCE REQUIRED. Provides that the requirements of Chapter 1954 (Insurance for Transportation Network Company Drivers), Insurance Code, apply to TNCs and drivers logged in to a digital network.

Sec. 2402.102. SHARED RIDES. Authorizes a digitally prearranged ride to be wholly or partly shared by multiple passengers if the passengers consent to sharing the ride.

Sec. 2402.103. FARES. Requires a TNC that charges a fare for a digitally prearranged ride to disclose to passengers the fare calculation method on the digital network and, before the passenger enters the vehicle for the ride, provide certain information through the digital network to the passenger requesting the ride.

Sec. 2402.104. DIGITAL NETWORK IDENTIFICATION OF DRIVERS AND VEHICLES TO PASSENGERS. Requires a TNC, before a passenger enters a vehicle for a digitally prearranged ride, to provide certain information through the TNC's digital network to the passenger requesting the ride.

Sec. 2402.105. ELECTRONIC RECEIPT. Requires the TNC whose digital network was used to prearrange the ride, within a reasonable time following the completion of a digitally prearranged ride, to transmit, through electronic mail or text message, a receipt to the passenger who requested the ride that includes certain information.

Sec. 2402.106. INTOXICATING SUBSTANCE POLICY. (a) Requires a TNC to implement an intoxicating substance policy that prohibits a driver who is logged in to the TNC's digital network from any amount of intoxication.

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

(c) Requires a TNC, on receipt of a passenger complaint alleging a violation of the intoxicating substance policy, to conduct an investigation into the reported incident and immediately suspend the driver's access to the TNC's digital network for the duration of the investigation.

(d) Requires a TNC to maintain records relevant to a complaint for a period of at least two years after the date the complaint is received.

Sec. 2402.107. DRIVER REQUIREMENTS. (a) Requires a TNC, before permitting an individual to log in as a driver on the TNC's digital network, to:

(1) confirm that the individual meets certain criteria;

(2) conduct, or cause to be conducted, a local, state, and national criminal background check for the individual that includes the use of certain databases; and

(3) obtain and review the individual's driving record.

(b) Prohibits a TNC from permitting an individual to log in as a driver on the TNC's digital network if the individual:

(1) has been convicted in the three-year period preceding the issue date of the driving record obtained under Subsection (a)(3) of certain offenses;

(2) has been convicted in the preceding seven-year period of any of certain offenses; or

(3) is found to be registered in the national sex offender public website maintained by the United States Department of Justice or a successor agency.

(c) Requires a TNC to conduct or cause to be conducted an annual criminal background check described by Subsection (a)(2) for each driver authorized to access the TNC's digital network.

Sec. 2402.108. DIGITALLY PREARRANGED RIDES ONLY. Prohibits a driver who is logged in to a digital network from soliciting or providing a ride for compensation unless the passenger has been matched to the driver through the digital network.

Sec. 2402.109. PASSENGER ACTING IN UNLAWFUL, DISORDERLY, OR ENDANGERING MANNER. Authorizes a driver who has accepted a digitally prearranged ride to refuse to transport a passenger acting in an unlawful, disorderly, or endangering manner.

Sec. 2402.110. DISPLAY OF DIGITAL IDENTIFICATION. (a) Defines "digital identification."

(b) Requires a driver providing a digitally prearranged ride, on request of a law enforcement officer or a government official enforcing or administering this chapter, to display the driver's digital identification and display electronic proof that the ride was matched through the digital network.

(c) Provides that this section does not require a driver to relinquish possession of the electronic device containing the digital identification.

Sec. 2402.111. VEHICLE REQUIREMENTS. (a) Requires a TNC, for each motor vehicle used by a driver to provide digitally prearranged rides through the TNC's digital network, to require the vehicle to meet certain requirements and confirm that the vehicle meets certain criteria.

(b) Authorizes a vehicle used to provide digitally prearranged rides to be owned, leased, or rented by, or otherwise made available to, the driver.

(c) Provides that Section 547.607 (Fire Extinguisher Required), Transportation Code, does not apply to a personal vehicle used to provide digitally prearranged rides.

Sec. 2402.112. NONDISCRIMINATION; ACCESSIBILITY. (a) Requires a TNC to adopt a policy that prohibits a driver logged in to the TNC's digital network from discriminating on the basis of certain characteristics of a passenger or potential passenger and refusing to provide service to a potential passenger with a service animal.

(b) Defines "sex" as the physical condition of being male or female.

(c) Requires a TNC to notify each person authorized to log in as a driver on the TNC's digital network of the nondiscrimination policy. Requires a driver logged in to the TNC's digital network to comply with the nondiscrimination policy.

(d) Prohibits a TNC from imposing an additional charge for transportation of individuals with physical disabilities because of those disabilities.

(e) Requires a TNC to provide a passenger an opportunity to indicate whether the passenger requires a wheelchair-accessible vehicle. Requires the TNC, if a wheelchair-accessible vehicle cannot be provided, to direct the requesting passenger to an alternate provider of wheelchair-accessible service, if available.

Sec. 2402.113. ACCESSIBILITY PILOT PROGRAM. (a) Requires each TNC to conduct, for a certain period, an accessibility pilot program in one of the four largest markets in which the company operates in this state to offer their services to disabled persons, including disabled persons using a fixed-frame wheelchair and ensure that, if necessary, referrals to alternate providers of wheelchair-accessible service are made in a manner that does not unreasonably delay the provision of service.

(a-1) Requires a TNC that is issued a permit under Section 2402.051 on or before January 1, 2018, notwithstanding Subsection (a), to begin the pilot program under Subsection (a) not later than that date. Provides that this subsection expires January 1, 2020.

(b) Requires a TNC, not later than a certain date, to submit to TDLR a report demonstrating the TNC's compliance with Subsection (a).

(c) Requires a TNC to provide a report on the findings of the TNC's pilot program to each legislative standing committee with primary jurisdiction over transportation not later than a certain date. Requires that the report include, at a minimum, certain information.

(d) Requires TDLR by rule to establish requirements for a report under Subsection (b) and provide the TNC with notice of those requirements at the time TDLR issues the TNC's permit and authorizes TDLR to revoke the TNC's permit for failure to timely submit a required report.

Sec. 2402.114. DRIVERS AS INDEPENDENT CONTRACTORS. Provides that a driver who is authorized to log in to a TNC's digital network is considered an independent contractor for all purposes, and not an employee of the TNC in any manner, if:

(1) the TNC does not impose certain restrictions or requirements on the driver; and

(2) the TNC and the driver agree in writing that the driver is an independent contractor.

Sec. 2402.115. AGREEMENTS WITH LOCAL ENTITIES FOR LARGE EVENTS. Authorizes a municipality or other local entity, notwithstanding Section 2402.003, to contract with a TNC operating in the municipality's or entity's jurisdiction for the coordination of large events occurring in the municipality's or entity's jurisdiction. Prohibits an agreement under this section from excluding a TNC holding a permit under this chapter from providing services at the event and requires a permit to have comparable terms for each TNC providing services at the event.

#### SUBCHAPTER D. RECORDS AND OTHER INFORMATION

Sec. 2402.151. RETENTION AND SUBMISSION OF RECORDS. (a) Requires a TNC to maintain certain records.

(b) Requires TDLR to provide a means for information required to be submitted for the purposes of this chapter to be submitted electronically.

Sec. 2402.152. COLLECTION, USE, OR DISCLOSURE OF RECORDS AND OTHER COMPANY INFORMATION. (a) Provides that any records, data, or other information disclosed to a public entity in this state, including TDLR, by a TNC, including names, addresses, and any other personally identifiable information of drivers is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(b) Prohibits a public entity, including TDLR, from disclosing any records, data, or other information provided by a TNC under this chapter to a third party except in compliance with a court order or subpoena. Requires the public entity, if information provided under this chapter is sought through a court order or subpoena, to promptly notify the TNC to afford the TNC the opportunity to take actions to prevent disclosure.

(c) Requires a public entity, including TDLR, in collecting, using, or disclosing any records, data, or other information submitted by a TNC under this chapter, to:

(1) consider the potential risks to the privacy of the individuals whose information is being collected, used, or disclosed;

(2) ensure that the information to be collected, used, or disclosed is necessary, relevant, and appropriate to the proper administration of this chapter; and

(3) take all reasonable measures and make all reasonable efforts to protect, secure, and, where appropriate, encrypt or limit access to the information.

(d) Provides that a TNC required to submit, disclose, or otherwise provide personally identifiable information of drivers to a public entity of this state, including TDLR, is not liable in any civil or criminal action for any unauthorized disclosure, misuse, alteration, destruction, access or acquisition, or use of the information that occurs while the information is in the possession of any public entity of this state.

Sec. 2402.153. DISCLOSURE OF PASSENGER INFORMATION. (a) Authorizes a TNC to disclose a passenger's personal identifying information to a third party only if certain conditions are met.

(b) Authorizes a TNC, notwithstanding Subsection (a), to share a passenger's name with a driver accessing the TNC's digital network to facilitate identification of the passenger by the driver or communication between the passenger and the driver.

Sec. 2402.154. DATA SHARING WITH MUNICIPALITY. Authorizes a municipality and a TNC to voluntarily enter into an agreement under which the TNC shares the TNC's data with the municipality.

#### SUBCHAPTER E. ENFORCEMENT

Sec. 2402.201. PERMIT SUSPENSION OR REVOCATION. Authorizes TDLR to suspend or revoke a permit issued to a TNC that violates a provision of this chapter.

SECTION 2. Authorizes a TNC operating under a municipal ordinance in a municipality of this state immediately before the effective date of this Act to operate at any location in this state without the permit required under Section 2402.051, Occupations Code, as added by this Act, until the later of:

(1) the 30th day after the date rules adopted by TDLR to administer Section 2402.051 become effective; or

(2) the date the TNC's application for a permit under Section 2402.051 submitted to TDLR before the date described by Subdivision (1) is approved or denied.

SECTION 3. Provides that, on the effective date of this Act, any municipality's or other local entity's ordinance or policy related to TNCs or drivers authorized to access TNCs' digital networks is void and has no effect.

SECTION 4. Effective date: upon passage or September 1, 2017.