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2 90th General Assembly
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4

A Bill

SENATE BILL 800

5 By: Senator Rapert
6 By: Representative Davis
7

For An Act To Be Entitled

9 AN ACT TO ENSURE THE SAFETY, RELIABILITY, AND COST-
10 EFFECTIVENESS OF TRANSPORTATION NETWORK COMPANY
11 SERVICES; TO PRESERVE AND ENHANCE ACCESS TO
12 TRANSPORTATION OPTIONS FOR THE STATE'S RESIDENTS AND
13 VISITORS; AND FOR OTHER PURPOSES.
14

Subtitle

15
16 TO ENSURE THE SAFETY, RELIABILITY, AND
17 COST-EFFECTIVENESS OF TRANSPORTATION
18 NETWORK COMPANY SERVICES; AND TO PRESERVE
19 AND ENHANCE ACCESS TO TRANSPORTATION
20 OPTIONS FOR THE STATE'S RESIDENTS AND
21 VISITORS.
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24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code Title 23, Chapter 13, is amended to add an
28 additional subchapter to read as follows:
29

30 Subchapter 7 – Transportation Network Company Services Act

31
32 23-13-701. Title.

33 This subchapter shall be known and may be cited as the "Transportation
34 Network Company Services Act".
35

36 23-13-702. Definitions.



1 As used in this subchapter:

2 (1)(A) "Transportation network company" means an individual or
3 entity licensed under this subchapter that operates in this state and uses a
4 website, digital network, or software application to connect passengers to
5 transportation network company services provided by transportation network
6 company drivers.

7 (B) "Transportation network company" does not mean:

8 (i) A broker, common carrier, contract carrier, or
9 motor carrier, as defined in § 23-13-203;

10 (ii) A taxicab, taxicab association, for-hire
11 vehicle owner, or for-hire motor vehicle service; or

12 (iii) An individual or entity that owns, controls,
13 operates, or manages a motor vehicle used by a transportation network company
14 driver;

15 (2) "Transportation network company driver" means an individual
16 who operates a motor vehicle that is:

17 (A) Owned, leased, or otherwise authorized for use by the
18 individual;

19 (B) Not a taxicab or a for-hire motor vehicle; and

20 (C) Used to provide transportation network company
21 services; and

22 (3) "Transportation network company services" means
23 transportation of a passenger between points chosen by the passenger and
24 prearranged with a transportation network company driver through the use of a
25 transportation network company website, digital network, or software
26 application.

27
28 23-13-703. Commercial vehicle registration not required.

29 A transportation network company driver is not required to register the
30 motor vehicle used for transportation network company services as a
31 commercial or for-hire motor vehicle.

32
33 23-13-704. Transportation network company permit required.

34 (a) An individual or entity shall not operate a transportation network
35 company in this state without first having obtained a permit to operate a
36 transportation network company from the Arkansas Public Service Commission.

1 (b) The commission shall:

2 (1) Issue forms for a transportation network company to
3 demonstrate that it meets all requirements of this subchapter to obtain a
4 permit; and

5 (2) Issue a transportation network company permit to an
6 applicant that:

7 (A) Meets all qualifications of this subchapter; and

8 (B) Pays an annual permit fee of five thousand dollars
9 (\$5,000) to the commission.

10
11 23-13-705. Agent for service of process.

12 A transportation network company shall maintain an agent for service of
13 process under the Model Registered Agents Act, § 4-20-101 et seq.

14
15 23-13-706. Fare charged for transportation network company services.

16 (a) A transportation network company may charge a fare for
17 transportation network company services.

18 (b) If a fare is charged, the transportation network company shall
19 disclose to passengers on the transportation network company’s website,
20 digital network, or within its software application:

21 (1) The fare calculation method for transportation network
22 company services;

23 (2) Applicable rates charged for transportation network company
24 services; and

25 (3) The option to receive an estimated fare before the passenger
26 enters the transportation network company driver’s motor vehicle.

27
28 23-13-707. Duration of transportation network company services.

29 Transportation network company services:

30 (1) Begin when a transportation network company driver accepts a
31 request to transport a passenger received through the transportation network
32 company’s digital network or software application service;

33 (2) Continue while the transportation network company driver
34 transports the passenger in the transportation network company driver’s motor
35 vehicle; and

36 (3) End when the passenger exits the transportation network

1 company driver’s motor vehicle.

2

3 23-13-708. Identification of transportation network company drivers
4 and motor vehicles.

5 Before a passenger enters the transportation network company driver’s
6 motor vehicle, the transportation network company website, digital network,
7 or software application used by the transportation network company to arrange
8 the transportation network company service shall display:

9 (1) A picture of the transportation network company driver; and

10 (2) The license plate number of the motor vehicle the
11 transportation network company driver will use to provide the transportation
12 network company service.

13

14 23-13-709. Electronic receipt.

15 Within a reasonable time after transportation network company services
16 end, a transportation network company shall transmit an electronic receipt to
17 the passenger that lists:

18 (1) The origin and destination of the trip;

19 (2) The total time and distance of the trip; and

20 (3) An itemization of the total fare paid, if any.

21

22 23-13-710. Insurance requirements.

23 (a) No later than ninety (90) days after the effective date of this
24 subchapter, a transportation network company and transportation network
25 company drivers shall comply with the motor vehicle liability insurance
26 coverage requirements of this section.

27 (b) While a transportation network company driver is logged into the
28 transportation network company’s, website, digital network, or software
29 application and available to receive requests for transportation but is not
30 providing transportation network company services, motor vehicle liability
31 insurance coverage that meets the minimum coverage requirements under § 27-
32 22-104(b) shall be maintained by the transportation network company in a
33 manner that provides coverage if a transportation network company driver’s
34 own motor vehicle liability insurance policy:

35 (1) Excludes coverage under the terms of the policy; or

36 (2) Does not provide the minimum coverage required by § 27-22-

1 104(b).

2 (c)(1) While a transportation network company driver is providing
3 transportation network company services, the transportation network company
4 shall provide primary motor vehicle liability insurance coverage of at least
5 one million dollars (\$1,000,000) for death, personal injury, and property
6 damage that recognizes the transportation network company driver's provision
7 of transportation network company services.

8 (2) The motor vehicle liability insurance coverage required by
9 subdivision (c)(1) of this section may be satisfied by any combination of:

10 (A) Motor vehicle liability insurance coverage maintained
11 by the transportation network company driver; and

12 (B) Motor vehicle liability insurance coverage maintained
13 by the transportation network company.

14 (d) If the motor vehicle liability insurance coverage maintained by a
15 transportation network company driver to fulfill the insurance requirements
16 of this section has lapsed, is denied, is nonexistent, or the transportation
17 network company driver has failed to provide the required coverage, the motor
18 vehicle liability insurance coverage maintained by the transportation network
19 company shall provide the coverage required by this section, beginning with
20 the first dollar of a claim.

21 (e) The motor vehicle liability insurance coverage required by this
22 section may be placed with an insurer authorized to do business in this state
23 or with a surplus lines insurer eligible under § 23-65-305.

24 (f) Compliance with the motor vehicle liability insurance coverage
25 required by this section satisfies all financial responsibility requirements
26 for a motor vehicle under § 27-22-101 et seq.

27
28 23-13-711 Insurer disclosure requirements.

29 (a) Before a transportation network company driver is allowed to
30 accept a request for transportation network company services on the
31 transportation network company's website, digital network, or software
32 application, the transportation network company shall disclose in writing to
33 the transportation network company drivers:

34 (1) The motor vehicle liability insurance coverage and limits of
35 liability that the transportation network company provides while the
36 transportation network company driver uses a personal motor vehicle in

1 connection with a transportation network company's website, digital network,
2 or software application; and

3 (2) That the transportation network company driver's own motor
4 vehicle liability insurance policy may not provide coverage while the
5 transportation network company driver uses a motor vehicle for transportation
6 network company services.

7 (b)(1) If the exclusion from coverage is expressly stated in the motor
8 vehicle liability insurance policy and the policy form is approved for sale
9 in this state, an insurer that writes a motor vehicle liability insurance
10 policy in this state may exclude any or all coverage and the duty to
11 indemnify or defend the insured that is afforded under the insured's motor
12 vehicle liability insurance policy for loss or injury that occurs while an
13 insured motor vehicle provides or is available to provide transportation
14 network company services.

15 (2) An exclusion of coverage and the duty to indemnify or defend
16 under subdivision (b)(1) of this section may apply to any coverage included
17 in a motor vehicle liability insurance policy, including without limitation:

18 (A) Liability coverage for bodily injury and property
19 damage;

20 (B) Uninsured and underinsured motorist coverage;

21 (C) Medical payments coverage;

22 (D) Comprehensive physical damage coverage; and

23 (E) Collision physical damage coverage.

24 (3) An insurer shall notify an insured after receiving a notice
25 of loss within the time required by § 23-66-206(13) that the insurer has no
26 duty to defend or indemnify any person or organization for liability for a
27 loss that is properly excluded under the terms of the applicable primary or
28 excess insurance policy.

29 (c)(1) An insurer that writes motor vehicle liability insurance in
30 this state shall disclose in a prominent place on its application for
31 insurance whether the motor vehicle liability insurance policy provides
32 coverage while an insured vehicle provides or is available to provide
33 transportation network company services.

34 (2) If a motor vehicle liability insurance policy contains an
35 exclusion for transportation network company services, the insurer or its
36 agent shall disclose in writing the exact language of the exclusion to the

1 applicant during the application process.

2 (d) In a claims coverage investigation, a transportation network
3 company and its insurer shall:

4 (1) Cooperate to facilitate the exchange of information,
5 including the precise times that a transportation network company driver
6 logged on and off of the transportation network company’s website, digital
7 network, or software application in the twenty-four-hour period immediately
8 preceding the accident being investigated; and

9 (2) Disclose to each other a clear description of the coverage,
10 exclusions, and limits provided under any insurance policy each party issued
11 or maintained.

12
13 23-13-712. Drug or alcohol use prohibited.

14 (a) A transportation network company shall:

15 (1) Implement a zero-tolerance policy prohibiting the use of
16 drugs or alcohol while a transportation network company driver is providing
17 transportation network company services or is logged into the transportation
18 network company’s website, digital network, or software application, but is
19 not providing transportation network company services; and

20 (2) Provide notice on its website, digital network, and software
21 application of the zero-tolerance policy and its procedures to report a
22 complaint about a transportation network company driver with whom a passenger
23 was matched and whom the passenger reasonably suspects was under the
24 influence of drugs or alcohol during the time that transportation network
25 company services were provided.

26 (b)(1) Upon receipt of a passenger complaint under this section, the
27 transportation network company shall immediately suspend the transportation
28 network company driver’s access to the transportation network company’s
29 website, digital network, and software application, and shall conduct an
30 investigation into the reported incident.

31 (2) The suspension shall last until the investigation is
32 completed.

33 (c) The transportation network company shall maintain records relevant
34 to a complaint under this section for at least two (2) years from the date
35 the complaint is received by the transportation network company.

1 23-13-713. Driver requirements.

2 (a) Before permitting an individual to act as a transportation network
3 company driver on its website, digital network, or software application, a
4 transportation network company shall:

5 (1) Require the individual to submit an application to the
6 transportation network company that includes information regarding the
7 individual's address, age, driver's license, driving history, motor vehicle
8 registration, motor vehicle liability insurance coverage, and other
9 information required by the transportation network company;

10 (2) Conduct, or have a third party conduct, a state and national
11 criminal background check for each applicant that includes searching:

12 (A) A multistate and multijurisdictional criminal records
13 locator or other similar commercial nationwide database with validation of
14 primary source searches; and

15 (B) The National Sex Offender Registry database; and

16 (3) Obtain and review the individual's driving history.

17 (b) A transportation network company shall not permit an individual to
18 act as a transportation network company driver on its website, digital
19 network, or software application who at the time of submitting an
20 application:

21 (1) Has had more than three (3) moving violations or has had one
22 (1) major violation within the previous three (3) years including without
23 limitation attempting to evade the police, reckless driving, or driving on a
24 suspended or revoked license;

25 (2) Has been convicted within the past seven (7) years of
26 driving under the influence of drugs or alcohol, fraud, a sexual offense,
27 using a motor vehicle to commit a felony, or a crime involving property
28 damage, theft, acts of violence, or acts of terror;

29 (3) Is a match in the National Sex Offender Registry database;

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

31 (5) Does not possess proof of registration for the motor vehicle
32 or motor vehicles to be used to provide transportation network company
33 services;

34 (6) Does not possess proof of motor vehicle liability insurance
35 coverage for the motor vehicle or motor vehicles to be used to provide
36 transportation network company services; or

1 (7) Is not at least nineteen (19) years of age.

2
3 23-13-714. Compliance with motor vehicle safety and emissions
4 requirements.

5 A transportation network company shall not allow a transportation
6 network company driver to accept trip requests through the transportation
7 network company's website, digital network, or software application unless
8 the motor vehicle that the transportation network company driver will use to
9 provide transportation network company services meets the state's motor
10 vehicle safety and emissions requirements for a private motor vehicle or the
11 safety and emissions requirements for a private motor vehicle of the state in
12 which the motor vehicle is registered.

13
14 23-13-715. Street hails prohibited.

15 A transportation network company driver shall not solicit or accept a
16 passenger who hails the transportation network company driver from the
17 street.

18
19 23-13-716. Cash trips prohibited.

20 (a) A transportation network company shall adopt a policy prohibiting
21 solicitation or acceptance of cash payments from passengers and notify
22 transportation network company drivers of the policy.

23 (b) Transportation network company drivers shall not solicit or accept
24 cash payments from passengers.

25 (c) A payment for transportation network company services shall be
26 made only electronically using the transportation network company's digital
27 network or software application.

28
29 23-13-717. No discrimination – Accessibility.

30 (a) A transportation network company shall adopt a policy of
31 nondiscrimination with respect to passengers and potential passengers and
32 notify transportation network company drivers of its policy.

33 (b) Transportation network company drivers shall comply with all
34 applicable laws regarding nondiscrimination against passengers or potential
35 passengers.

36 (c) Transportation network company drivers shall comply with all

1 applicable laws to accommodate service animals.

2 (d) A transportation network company shall not impose additional
3 charges for providing services to a person with a physical disability because
4 of the disability.

5 (e)(1) A transportation network company shall provide a passenger an
6 opportunity to indicate whether he or she requires a wheelchair-accessible
7 motor vehicle.

8 (2) If a transportation network company cannot arrange
9 wheelchair-accessible transportation network company service in any instance,
10 it shall direct the passenger to an alternate provider of wheelchair-
11 accessible service, if available.

12
13 23-13-718. Records.

14 A transportation network company shall maintain:

15 (1) Individual trip records for at least one (1) year from the
16 date each trip was provided; and

17 (2) Transportation network company driver records for at least
18 one (1) year from the date a transportation network company driver was active
19 on the transportation network company's website, digital network, or software
20 application.

21
22 23-13-719. Exclusive authority.

23 (a) Transportation network companies and transportation network
24 company drivers are governed exclusively by this subchapter and any rules
25 promulgated by the Arkansas Public Service Commission consistent with this
26 subchapter.

27 (b) A county, municipality, or other local entity shall not tax or
28 license a transportation network company, a transportation network company
29 driver, or a motor vehicle used by a transportation network company driver if
30 the tax or license relates to providing transportation network company
31 services or subjects a transportation network company to any type of rate,
32 entry, operational, or other requirement of the county, municipality, or
33 other local entity.

34
35 23-13-720. Rules.

36 The Arkansas Public Service Commission may promulgate rules to

1 implement this subchapter.
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