

1-1 By: Nichols, Campbell S.B. No. 361  
1-2 (In the Senate - Filed December 19, 2016; February 1, 2017,  
1-3 read first time and referred to Committee on Business & Commerce;  
1-4 March 22, 2017, reported favorably by the following vote: Yeas 7,  
1-5 Nays 1; March 22, 2017, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to transportation network companies.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. The heading to Subtitle F, Title 7,  
1-22 Transportation Code, is amended to read as follows:

1-23 SUBTITLE F. COMMERCIAL MOTOR VEHICLES AND PERSONAL VEHICLES USED  
1-24 FOR COMMERCIAL PURPOSES

1-25 SECTION 2. Subtitle F, Title 7, Transportation Code, is  
1-26 amended by adding Chapter 649 to read as follows:

1-27 CHAPTER 649. TRANSPORTATION NETWORK COMPANIES

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 649.001. DEFINITIONS. In this chapter:

1-30 (1) "Digital network" means any online-enabled  
1-31 application, website, or system offered or used by a transportation  
1-32 network company that enables the prearrangement of rides between  
1-33 passengers and drivers.

1-34 (2) "Digitally prearranged ride" means a ride in a  
1-35 personal vehicle between points chosen by the passenger that is  
1-36 prearranged through a digital network.

1-37 (3) "Personal vehicle" means a vehicle that:

1-38 (A) is owned, leased, or otherwise authorized for  
1-39 use by a driver; and

1-40 (B) is not a taxicab, limousine, or other vehicle  
1-41 regulated by a municipality under Section 215.004, Local Government  
1-42 Code, or a joint airport board under Section 22.081, Transportation  
1-43 Code.

1-44 (4) "Transportation network company" means a  
1-45 corporation, partnership, sole proprietorship, or other entity  
1-46 that, for compensation, enables a passenger to prearrange with a  
1-47 driver, exclusively through the entity's digital network, a  
1-48 digitally prearranged ride. The term does not include an entity  
1-49 that provides:

1-50 (A) in addition to digitally prearranged rides:

1-51 (i) street-hail taxicab services; or

1-52 (ii) limousine or other car services  
1-53 arranged by a method other than through a digital network;

1-54 (B) shared expense carpool or vanpool  
1-55 arrangements; or

1-56 (C) a type of ride service for which:

1-57 (i) the fee received by the driver does not  
1-58 exceed the driver's costs of providing the ride; or

1-59 (ii) the driver receives a fee that exceeds  
1-60 the driver's costs associated with providing the ride but makes not  
1-61 more than three round-trips per day between the driver's or

passenger's place of employment and the driver's or passenger's home.

Sec. 649.002. NATURE OF TRANSPORTATION NETWORK COMPANIES, DRIVERS, AND VEHICLES. Transportation network companies and drivers logged in to the company's digital network are not common carriers, contract carriers, or motor carriers.

Sec. 649.003. CONTROLLING AUTHORITY. (a) Notwithstanding any other provision of law, and except as provided by Subsection (b), the regulation of transportation network companies, 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, state agency, or other state or local entity, including by:

(A) imposing a tax;

(B) requiring a license;

(C) setting rates;

(D) imposing operational requirements; or

(E) imposing other requirements.

(b) An airport owner or operator may impose a reasonable fee on a transportation network company that provides digitally prearranged rides to or from the airport.

Sec. 649.004. PROVISIONS APPLICABLE TO DRIVERS LOGGED IN TO DIGITAL NETWORK. 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. OPERATION OF TRANSPORTATION NETWORK COMPANIES

Sec. 649.051. INSURANCE REQUIRED. The requirements of Chapter 1954, Insurance Code, apply to transportation network companies and drivers logged in to a digital network.

Sec. 649.052. SHARED RIDES. A digitally prearranged ride may be wholly or partly shared by multiple passengers if the passengers consent to sharing the ride.

Sec. 649.053. FARES. A transportation network company that charges a fare for a digitally prearranged ride shall:

(1) disclose to passengers the fare calculation method on the digital network; and

(2) before the passenger enters the vehicle for the ride, provide through the digital network to the passenger requesting the ride:

(A) the applicable rates being charged; and

(B) the option to receive an estimated fare.

Sec. 649.054. DIGITAL NETWORK IDENTIFICATION OF DRIVERS AND VEHICLES TO PASSENGERS. A transportation network company shall, before a passenger enters a vehicle for a digitally prearranged ride, provide through the company's digital network to the passenger requesting the ride:

(1) the driver's first name and picture; and

(2) the make, model, and license plate number of the driver's vehicle.

Sec. 649.055. PAYMENT; ELECTRONIC RECEIPT. (a) A driver providing a digitally prearranged ride shall accept payment for the ride only through the digital network.

(b) Within a reasonable time following the completion of a digitally prearranged ride, the transportation network company whose digital network was used to prearrange the ride shall transmit, through electronic mail or text message, a receipt to the passenger who requested the ride that includes:

(1) the origin and destination of the ride;

(2) the total time and distance of the ride; and

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

Sec. 649.056. INTOXICATING SUBSTANCE POLICY. (a) A transportation network company shall implement an intoxicating substance policy that prohibits a driver who is logged in to the company's digital network from any amount of intoxication.

(b) A transportation network company shall include on its

Internet website:

(1) a notice concerning the company's intoxicating substance policy; and

(2) the means to make a complaint about a suspected violation of the policy.

(c) On receipt of a passenger complaint alleging a violation of the intoxicating substance policy, a transportation network company shall:

(1) conduct an investigation into the reported incident; and

(2) immediately suspend the driver's access to the company's digital network for the duration of the investigation.

(d) A transportation network company shall maintain records relevant to a complaint for a period of at least two years after the date the complaint is received.

Sec. 649.057. DRIVER REQUIREMENTS. (a) Before permitting an individual to log in as a driver on the company's digital network, a transportation network company must:

(1) confirm that the individual:

(A) is at least 19 years of age;

(B) maintains a valid driver's license; and

(C) possesses proof of registration and automobile financial responsibility for each motor vehicle to be used to provide digitally prearranged rides;

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

(A) a commercial multistate and multijurisdiction criminal records locator or other similar commercial nationwide database; and

(B) the national sex offender registry database maintained by the United States Department of Justice or a successor agency; and

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

(b) A transportation network company shall not permit an individual to log in as a driver on the company'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:

(A) more than three offenses classified by the Department of Public Safety as moving violations; or

(B) one or more of the following offenses:

(i) fleeing or attempting to elude a police officer under Section 545.421;

(ii) reckless driving under Section 545.401;

(iii) driving without a valid driver's license under Section 521.025; or

(iv) driving with an invalid driver's license under Section 521.457;

(2) has been convicted in the preceding seven-year period of any of the following:

(A) driving while intoxicated under Section 49.04 or 49.045, Penal Code;

(B) use of a motor vehicle to commit a felony;

(C) a crime involving felony property damage;

(D) felony fraud;

(E) felony theft;

(F) an act of violence; or

(G) an act of terrorism; or

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

Sec. 649.058. DIGITALLY PREARRANGED RIDES ONLY. A driver who is logged in to a digital network shall not solicit or provide a ride for compensation unless the passenger has been matched to the driver through the digital network.

Sec. 649.059. PAYMENT ONLY THROUGH DIGITAL NETWORK. A

driver may receive payment for a digitally prearranged ride only through the digital network and shall not solicit or accept cash payments from a passenger.

Sec. 649.060. PASSENGER ACTING IN UNLAWFUL, DISORDERLY, OR ENDANGERING MANNER. A driver who has accepted a digitally prearranged ride may refuse to transport a passenger acting in an unlawful, disorderly, or endangering manner.

Sec. 649.061. DIGITAL IDENTIFICATION TO LAW ENFORCEMENT OFFICER. (a) In this section, "digital identification" means information stored on a digital network that may be accessed by a driver and that:

- (1) serves as proof of the identity of the driver;
- (2) serves as proof that the insurance coverage requirements of Chapter 1954, Insurance Code, are satisfied;
- (3) displays a photo of the driver;
- (4) displays an image of the driver's vehicle; and
- (5) identifies the make, model, and license plate number of the vehicle used by the driver.

(b) On request of a law enforcement officer, a driver providing a digitally prearranged ride shall:

- (1) display the driver's digital identification; and
- (2) display electronic proof that the ride was matched through the digital network.

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

Sec. 649.062. VEHICLE REQUIREMENTS. (a) A transportation network company shall, for each motor vehicle used by a driver to provide digitally prearranged rides through the company's digital network:

- (1) require the vehicle to meet the requirements of Chapter 548; and
- (2) confirm that the vehicle has:
  - (A) four doors; and
  - (B) a maximum passenger capacity of not more than eight people, including the driver.

(b) A vehicle used to provide digitally prearranged rides:

- (1) may be owned, leased, or rented by the driver; and
- (2) may not also be used to provide street-hail taxicab service, limousine service, or other similar for-hire service regulated by a municipality under Section 215.004, Local Government Code, or a joint airport board under Section 22.081, Transportation Code.

Sec. 649.063. NONDISCRIMINATION; ACCESSIBILITY. (a) A transportation network company shall adopt a policy that prohibits a driver logged in to the company's digital network from:

- (1) discriminating on the basis of a passenger's or potential passenger's location or destination, race, color, national origin, religious belief or affiliation, sex, disability, or age; and
- (2) refusing to provide service to a potential passenger with a service animal unless the driver has a medically documented condition that prevents the driver from transporting animals.

(b) A transportation network company shall notify each person authorized to log in as a driver on the company's digital network of the nondiscrimination policy. A driver logged in to the company's digital network shall comply with the nondiscrimination policy.

(c) A transportation network company shall not impose an additional charge for transportation of individuals with physical disabilities because of those disabilities.

(d) A transportation network company shall provide a passenger an opportunity to indicate whether the passenger requires a wheelchair-accessible vehicle. If a wheelchair-accessible vehicle cannot be provided, the company shall direct the requesting passenger to an alternate provider of wheelchair-accessible service, if available.

Sec. 649.064. DRIVERS AS INDEPENDENT CONTRACTORS. A driver



who is authorized to log in to a transportation network company's digital network is considered an independent contractor, and not an employee of the company, if:

- (1) the company does not:
  - (A) prescribe the specific hours during which the driver is required to be logged in to the company's digital network;
  - (B) impose restrictions on the driver's ability to use other transportation network companies' digital networks;
  - (C) limit the territory within which the driver may provide digitally prearranged rides; or
  - (D) restrict the driver from engaging in another occupation or business; and
- (2) the company and the driver agree in writing that the driver is an independent contractor.

Sec. 649.065. FIRE EXTINGUISHER. Section 547.607 does not apply to a vehicle used to provide digitally prearranged rides.

#### SUBCHAPTER C. RECORDS AND OTHER INFORMATION

Sec. 649.101. RETENTION OF RECORDS. A transportation network company shall maintain:

- (1) records evidencing compliance with the requirements of this chapter for a period of two years;
- (2) individual ride records for at least one year after the date the ride was provided; and
- (3) driver records for at least one year after the date the driver ceases to be authorized to log in as a driver on the company's digital network.

Sec. 649.102. COLLECTION, USE, OR DISCLOSURE OF RECORDS AND OTHER COMPANY INFORMATION. (a) Any records, data, or other information disclosed to a public entity in this state by a transportation network company, including names, addresses, and any other personally identifiable information of drivers, is not subject to disclosure under Chapter 552, Government Code.

(b) A public entity may not disclose any records, data, or other information provided by a transportation network company under this chapter to a third party except in compliance with a court order or subpoena. If information provided under this chapter is sought through a court order or subpoena, the public entity shall promptly notify the transportation network company to afford the company the opportunity to take actions to prevent disclosure.

(c) In collecting, using, or disclosing any records, data, or other information submitted by a transportation network company under this chapter, a public entity shall:

- (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) A transportation network company required to submit, disclose, or otherwise provide personally identifiable information of drivers to a public entity of this state 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. 649.103. DISCLOSURE OF PASSENGER INFORMATION. (a) A transportation network company may disclose a passenger's personal identifying information to a third party only if:

- (1) the passenger consents;
  - (2) the disclosure is required by a legal obligation;
- or
- (3) the disclosure is required to:
    - (A) protect or defend the terms of use of the transportation network company service; or
    - (B) investigate a violation of those terms.

(b) Notwithstanding Subsection (a), a transportation network company may share a passenger's name with a driver accessing the company's digital network to facilitate:

- (1) identification of the passenger by the driver; or
- (2) communication between the passenger and the driver.

SECTION 3. On the effective date of this Act, any municipality's or other local entity's ordinance or policy related to transportation network companies or drivers authorized to access transportation network companies' digital networks that contradicts or is otherwise inconsistent with this Act is void and has no effect.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

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