

By: Paddie, Thompson of Harris, Nevárez,
Kuempel, Morrison, et al.

H.B. No. 100

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of transportation network companies;
requiring an occupational permit; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 14, Occupations Code, is
amended by adding Chapter 2402 to read as follows:

CHAPTER 2402. TRANSPORTATION NETWORK COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2402.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of
Licensing and Regulation.

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

(3) "Digitally prearranged ride" means a ride in a
personal vehicle between points chosen by the passenger that is
prearranged through a digital network.

(4) "Personal vehicle" means a vehicle that:
(A) is owned, leased, or otherwise authorized for
use by a driver; and

(B) is not a taxicab, limousine, or other vehicle
regulated by a municipality under Section 215.004, Local Government
Code, or a joint airport board under Section 22.081, Transportation

1 Code.

2 (5) "Transportation network company" means a
3 corporation, partnership, sole proprietorship, or other entity
4 that, for compensation, enables a passenger to prearrange with a
5 driver, exclusively through the entity's digital network, a
6 digitally prearranged ride. The term does not include an entity
7 that provides:

8 (A) street-hail taxicab services;

9 (B) limousine or other car services arranged by a
10 method other than through a digital network;

11 (C) shared expense carpool or vanpool
12 arrangements; or

13 (D) a type of ride service for which:

14 (i) the fee received by the driver does not
15 exceed the driver's costs of providing the ride; or

16 (ii) the driver receives a fee that exceeds
17 the driver's costs associated with providing the ride but makes not
18 more than three round-trips per day between the driver's or
19 passenger's place of employment and the driver's or passenger's
20 home.

21 Sec. 2402.002. NATURE OF TRANSPORTATION NETWORK COMPANIES,
22 DRIVERS, AND VEHICLES. Transportation network companies and
23 drivers logged in to the company's digital network are not common
24 carriers, contract carriers, or motor carriers.

25 Sec. 2402.003. CONTROLLING AUTHORITY. (a) Notwithstanding
26 any other provision of law, and except as provided by Subsections
27 (b) and (c), the regulation of transportation network companies,

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

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

4 and

5 (2) may not be regulated by a municipality or other
6 local entity, including by:

7 (A) imposing a tax;

8 (B) requiring an additional license or permit;

9 (C) setting rates;

10 (D) imposing operational or entry requirements;

11 or

12 (E) imposing other requirements.

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

16 (c) The governing body of a governmental entity with
17 jurisdiction over a cruise ship terminal may impose regulations,
18 including a reasonable fee, on a transportation network company
19 that provides digitally prearranged rides to or from the terminal.

20 (d) Regulations under Subsections (b) and (c) may not:

21 (1) conflict with the requirements of this chapter; or

22 (2) include requirements for drivers in addition to
23 those under Section 2402.107.

24 (e) This chapter does not affect the ability of a local
25 authority, as defined by Section 541.002, Transportation Code, to:

26 (1) take an action described by Section 542.202,
27 Transportation Code, or otherwise authorized by Subtitle C, Title

1 7, Transportation Code, that allows the local authority to adopt
2 traffic rules in the jurisdiction of the authority if the rules are
3 applied to transportation network company vehicles and drivers in
4 the same manner as non-transportation network company vehicles and
5 drivers; or

6 (2) enforce a provision of Subtitle C, Title 7,
7 Transportation Code, or any other state law relating to the
8 operation of traffic on public roads.

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

15 SUBCHAPTER B. PERMIT REQUIRED

16 Sec. 2402.051. PERMIT REQUIRED. (a) A person may not
17 operate a transportation network company in this state without
18 obtaining and maintaining a permit issued under this chapter.

19 (b) The department shall issue a permit to each applicant
20 that meets the requirements of this chapter and pays the fee
21 required by Section 2402.052.

22 Sec. 2402.052. FEE. (a) A transportation network company
23 shall annually pay to the department a fee to maintain a permit
24 under this chapter in an amount determined by department rule to
25 cover the costs of administering this chapter.

26 (b) The department may not impose a fee for:

27 (1) drivers authorized to use a transportation network

1 company's digital network; or

2 (2) vehicles used to provide digitally prearranged
3 rides.

4 SUBCHAPTER C. OPERATION OF TRANSPORTATION NETWORK COMPANIES

5 Sec. 2402.101. INSURANCE REQUIRED. The requirements of
6 Chapter 1954, Insurance Code, apply to transportation network
7 companies and drivers logged in to a digital network.

8 Sec. 2402.102. SHARED RIDES. A digitally prearranged ride
9 may be wholly or partly shared by multiple passengers if the
10 passengers consent to sharing the ride.

11 Sec. 2402.103. FARES. A transportation network company
12 that charges a fare for a digitally prearranged ride shall:

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

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

18 (A) the applicable rates being charged; and

19 (B) the option to receive an estimated fare.

20 Sec. 2402.104. DIGITAL NETWORK IDENTIFICATION OF DRIVERS
21 AND VEHICLES TO PASSENGERS. A transportation network company
22 shall, before a passenger enters a vehicle for a digitally
23 prearranged ride, provide through the company's digital network to
24 the passenger requesting the ride:

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

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

1 Sec. 2402.105. ELECTRONIC RECEIPT. Within a reasonable
2 time following the completion of a digitally prearranged ride, the
3 transportation network company whose digital network was used to
4 prearrange the ride shall transmit, through electronic mail or text
5 message, a receipt to the passenger who requested the ride that
6 includes:

- 7 (1) the origin and destination of the ride;
8 (2) the total time and distance of the ride; and
9 (3) an itemization of the total fare paid, if any.

10 Sec. 2402.106. INTOXICATING SUBSTANCE POLICY. (a) A
11 transportation network company shall implement an intoxicating
12 substance policy that prohibits a driver who is logged in to the
13 company's digital network from any amount of intoxication.

14 (b) A transportation network company shall include on its
15 Internet website:

- 16 (1) a notice concerning the company's intoxicating
17 substance policy; and
18 (2) the means to make a complaint about a suspected
19 violation of the policy.

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

- 23 (1) conduct an investigation into the reported
24 incident; and
25 (2) immediately suspend the driver's access to the
26 company's digital network for the duration of the investigation.

27 (d) A transportation network company shall maintain records

1 relevant to a complaint for a period of at least two years after the
2 date the complaint is received.

3 Sec. 2402.107. DRIVER REQUIREMENTS. (a) Before permitting
4 an individual to log in as a driver on the company's digital
5 network, a transportation network company must:

6 (1) confirm that the individual:

7 (A) is at least 18 years of age;

8 (B) maintains a valid driver's license issued by
9 this state, another state, or the District of Columbia; and

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

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

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

19 (B) the national sex offender public website
20 maintained by the United States Department of Justice or a
21 successor agency; and

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

23 (b) A transportation network company may not permit an
24 individual to log in as a driver on the company's digital network if
25 the individual:

26 (1) has been convicted in the three-year period
27 preceding the issue date of the driving record obtained under

1 Subsection (a)(3) of:

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

4 (B) one or more of the following offenses:

5 (i) fleeing or attempting to elude a police
6 officer under Section 545.421, Transportation Code;

7 (ii) reckless driving under Section
8 545.401, Transportation Code;

9 (iii) driving without a valid driver's
10 license under Section 521.025, Transportation Code; or

11 (iv) driving with an invalid driver's
12 license under Section 521.457, Transportation Code;

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

15 (A) driving while intoxicated under Section
16 49.04 or 49.045, Penal Code;

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

18 (C) a felony crime involving property damage;

19 (D) fraud;

20 (E) theft;

21 (F) an act of violence; or

22 (G) an act of terrorism; or

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

26 (c) A transportation network company shall conduct or cause
27 to be conducted an annual criminal background check described by

1 Subsection (a)(2) for each driver authorized to access the
2 company's digital network.

3 Sec. 2402.108. DIGITALLY PREARRANGED RIDES ONLY. A driver
4 who is logged in to a digital network may not solicit or provide a
5 ride for compensation unless the passenger has been matched to the
6 driver through the digital network.

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

11 Sec. 2402.110. DISPLAY OF DIGITAL IDENTIFICATION. (a) In
12 this section, "digital identification" means information stored on
13 a digital network that may be accessed by a driver and that:

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

21 (b) On request of a law enforcement officer or a government
22 official enforcing or administering this chapter, a driver
23 providing a digitally prearranged ride shall:

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

27 (c) This section does not require a driver to relinquish

1 possession of the electronic device containing the digital
2 identification.

3 Sec. 2402.111. VEHICLE REQUIREMENTS. (a) A transportation
4 network company shall, for each motor vehicle used by a driver to
5 provide digitally prearranged rides through the company's digital
6 network:

7 (1) require the vehicle to meet the requirements of
8 Chapter 548, Transportation Code; and

9 (2) confirm that the vehicle has:

10 (A) four doors; and

11 (B) a maximum passenger capacity of not more than
12 eight people, including the driver.

13 (b) A vehicle used to provide digitally prearranged rides
14 may be owned, leased, or rented by, or otherwise made available to,
15 the driver.

16 (c) Section 547.607, Transportation Code, does not apply to
17 a personal vehicle used to provide digitally prearranged rides.

18 Sec. 2402.112. NONDISCRIMINATION; ACCESSIBILITY. (a) A
19 transportation network company shall adopt a policy that prohibits
20 a driver logged in to the company's digital network from:

21 (1) discriminating on the basis of a passenger's or
22 potential passenger's location or destination, race, color,
23 national origin, religious belief or affiliation, sex, disability,
24 or age; and

25 (2) refusing to provide service to a potential
26 passenger with a service animal.

27 (b) For the purposes of Subsection (a), "sex" means the

1 physical condition of being male or female.

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

7 (d) A transportation network company may not impose an
8 additional charge for transportation of individuals with physical
9 disabilities because of those disabilities.

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

16 Sec. 2402.113. ACCESSIBILITY PILOT PROGRAM. (a) Each
17 transportation network company shall conduct, for a period of two
18 years beginning not later than the 90th day after the date the
19 company is issued a permit under Section 2402.051, an accessibility
20 pilot program in one of the four largest markets in which the
21 company operates in this state to:

22 (1) offer their services to disabled persons,
23 including disabled persons using a fixed-frame wheelchair; and

24 (2) ensure that, if necessary, referrals to alternate
25 providers of wheelchair-accessible service are made in a manner
26 that does not unreasonably delay the provision of service.

27 (a-1) Notwithstanding Subsection (a), a transportation

1 network company that is issued a permit under Section 2402.051 on or
2 before January 1, 2018, shall begin the pilot program under
3 Subsection (a) not later than that date. This subsection expires
4 January 1, 2020.

5 (b) Not later than the 100th day after the date a
6 transportation network company begins a pilot program under
7 Subsection (a), the company shall submit to the department a report
8 demonstrating the company's compliance with Subsection (a).

9 (c) A transportation network company shall provide a report
10 on the findings of the company's pilot program to each legislative
11 standing committee with primary jurisdiction over transportation
12 not later than the 75th day after the date the program ends. At a
13 minimum, the report must include information regarding:

14 (1) the number of vehicles equipped to accommodate a
15 passenger with a fixed-frame wheelchair that were available through
16 the company's digital network in the market in which the pilot
17 program was conducted at the time the program ended;

18 (2) the average time elapsed between the time a
19 fixed-frame wheelchair-bound passenger requested a ride and the
20 time the ride began;

21 (3) the number of rides provided to fixed-frame
22 wheelchair-bound passengers during the duration of the program; and

23 (4) the number of instances in which the company
24 referred a fixed-frame wheelchair-bound passenger to another
25 provider because the passenger could not be accommodated by the
26 company.

27 (d) The department:

1 (1) shall:

2 (A) by rule establish requirements for a report
3 under Subsection (b); and

4 (B) provide the transportation network company
5 with notice of those requirements at the time the department issues
6 the company's permit; and

7 (2) may revoke the company's permit for failure to
8 timely submit a report required under this section.

9 Sec. 2402.114. DRIVERS AS INDEPENDENT CONTRACTORS. A
10 driver who is authorized to log in to a transportation network
11 company's digital network is considered an independent contractor
12 for all purposes, and not an employee of the company in any manner,
13 if:

14 (1) the company does not:

15 (A) prescribe the specific hours during which the
16 driver is required to be logged in to the company's digital network;

17 (B) impose restrictions on the driver's ability
18 to use other transportation network companies' digital networks;

19 (C) limit the territory within which the driver
20 may provide digitally prearranged rides; or

21 (D) restrict the driver from engaging in another
22 occupation or business; and

23 (2) the company and the driver agree in writing that
24 the driver is an independent contractor.

25 Sec. 2402.115. AGREEMENTS WITH LOCAL ENTITIES FOR LARGE
26 EVENTS. Notwithstanding Section 2402.003, a municipality or other
27 local entity may contract with a transportation network company

1 operating in the municipality's or entity's jurisdiction for the
2 coordination of large events occurring in the municipality's or
3 entity's jurisdiction. An agreement under this section:

4 (1) may not exclude a transportation network company
5 holding a permit under this chapter from providing services at the
6 event; and

7 (2) must have comparable terms for each company
8 providing services at the event.

9 SUBCHAPTER D. RECORDS AND OTHER INFORMATION

10 Sec. 2402.151. RETENTION AND SUBMISSION OF RECORDS. (a) A
11 transportation network company shall maintain:

12 (1) records evidencing compliance with the
13 requirements of this chapter for a period of two years;

14 (2) individual ride records for at least five years
15 after the date the ride was provided; and

16 (3) driver records for at least five years after the
17 date the driver ceases to be authorized to log in as a driver on the
18 company's digital network.

19 (b) The department shall provide a means for information
20 required to be submitted for the purposes of this chapter to be
21 submitted electronically.

22 Sec. 2402.152. COLLECTION, USE, OR DISCLOSURE OF RECORDS
23 AND OTHER COMPANY INFORMATION. (a) Any records, data, or other
24 information disclosed to a public entity in this state, including
25 the department, by a transportation network company, including
26 names, addresses, and any other personally identifiable
27 information of drivers is not subject to disclosure under Chapter

1 552, Government Code.

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

10 (c) In collecting, using, or disclosing any records, data,
11 or other information submitted by a transportation network company
12 under this chapter, a public entity, including the department,
13 shall:

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

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

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

23 (d) A transportation network company required to submit,
24 disclose, or otherwise provide personally identifiable information
25 of drivers to a public entity of this state, including the
26 department, is not liable in any civil or criminal action for any
27 unauthorized disclosure, misuse, alteration, destruction, access

1 or acquisition, or use of the information that occurs while the
2 information is in the possession of any public entity of this state.

3 Sec. 2402.153. DISCLOSURE OF PASSENGER INFORMATION. (a) A
4 transportation network company may disclose a passenger's personal
5 identifying information to a third party only if:

6 (1) the passenger consents;
7 (2) the disclosure is required by a legal obligation;

8 or

9 (3) the disclosure is required to:
10 (A) protect or defend the terms of use of the
11 transportation network company service; or

12 (B) investigate a violation of those terms.

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

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

19 Sec. 2402.154. DATA SHARING WITH MUNICIPALITY. A
20 municipality and a transportation network company may voluntarily
21 enter into an agreement under which the company shares the
22 company's data with the municipality.

23 SUBCHAPTER E. ENFORCEMENT

24 Sec. 2402.201. PERMIT SUSPENSION OR REVOCATION. The
25 department may suspend or revoke a permit issued to a
26 transportation network company that violates a provision of this
27 chapter.

1 SECTION 2. A transportation network company operating under
2 a municipal ordinance in a municipality of this state immediately
3 before the effective date of this Act may operate at any location in
4 this state without the permit required under Section 2402.051,
5 Occupations Code, as added by this Act, until the later of:

6 (1) the 30th day after the date rules adopted by the
7 Texas Department of Licensing and Regulation to administer Section
8 2402.051 become effective; or

9 (2) the date the company's application for a permit
10 under Section 2402.051 submitted to the department before the date
11 described by Subdivision (1) of this section is approved or denied.

12 SECTION 3. On the effective date of this Act, any
13 municipality's or other local entity's ordinance or policy related
14 to transportation network companies or drivers authorized to access
15 transportation network companies' digital networks is void and has
16 no effect.

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