

1 HB190  
2 189649-2  
3 By Representatives Faulkner, Garrett, Williams (JD), Fridy,  
4 Shiver, Faust, Ainsworth, Pettus, Mooney and Drake  
5 RFD: Commerce and Small Business  
6 First Read: 11-JAN-18

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would require transportation  
9 network companies to obtain a permit from the  
10 Public Service Commission, maintain an agent for  
11 service of process, implement a nondiscrimination  
12 policy, implement a zero tolerance intoxicating  
13 substance policy, and maintain certain records.

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

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

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

1 companies or transportation network company drivers  
2 or vehicles.

3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT

7  
8 Relating to transportation network companies; to  
9 require transportation network companies to obtain a permit  
10 from the Public Service Commission, maintain an agent for  
11 service of process, implement a nondiscrimination policy,  
12 implement a zero tolerance intoxicating substance policy, and  
13 maintain certain records; to require drivers and vehicles that  
14 provide rides through transportation network companies to meet  
15 certain safety and consumer protection requirements; to  
16 require transportation network companies to collect a local  
17 assessment fee for each trip fare and remit it to the Public  
18 Service Commission and require the commission to distribute a  
19 portion of the fee to the municipality or county where a ride  
20 originates; to and prohibit municipalities and certain  
21 authorities from imposing taxes or business licenses on  
22 transportation network companies or transportation network  
23 company drivers or vehicles.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

27 (1) COMMISSION. The Public Service Commission.

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

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

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

9           (5) TNC DRIVER. A TNC driver as defined in Section  
10 32-7C-1, Code of Alabama 1975.

11           (6) TNC RIDER. A TNC rider as defined in Section  
12 32-7C-1, Code of Alabama 1975.

13           (7) TNC VEHICLE. A personal vehicle, as defined in  
14 Section 32-7C-1, Code of Alabama 1975. The term may include a  
15 vehicle that is let or rented to another person for  
16 consideration.

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

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

24           (b) A TNC driver is not required to register the  
25 vehicle that the TNC driver uses to provide prearranged rides  
26 under this act as a commercial motor vehicle or for-hire

1 vehicle under the Alabama Motor Carrier Act, Chapter 3, Title  
2 37, Code of Alabama 1975.

3 Section 3. (a) A person may not operate a TNC in the  
4 state without first having obtained a permit from the  
5 commission, provided that any TNC operating in the state  
6 before July 1, 2018, may continue operating until the  
7 commission creates a permit process and sets a registration  
8 deadline.

9 (b) The commission shall issue a permit to each  
10 applicant that meets the requirements for a TNC under this  
11 act.

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

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

19 a. The total local assessment fees collected by a  
20 TNC.

21 b. For prearranged rides that originated within a  
22 municipality, a report listing the percentage of the gross  
23 trip fare that originated in each municipality during the  
24 reporting period.

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

1 trip fare that originated in the unincorporated portion of  
2 each county during the reporting period.

3 (2) The TNC shall be responsible for determining  
4 whether a prearranged ride originated within the boundaries of  
5 a municipality or originated within the unincorporated portion  
6 of a county.

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

19 (d) The local assessment fees submitted to the  
20 commission shall be administered by the commission and may  
21 only be expended as provided in this section. The commission  
22 may retain an amount necessary to cover the expenses derived  
23 from regulation of TNCs and the collection, remittance, and  
24 distribution of local assessment fees pursuant to this  
25 section, provided the amount retained may not exceed 50  
26 percent of the total local assessment fees collected.

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

12           (f) No more than every two years, the commission may  
13 request that a TNC engage an independent third party auditor  
14 to verify the local assessment fees submitted to the  
15 commission pursuant to subdivision (1) of subsection (b) are  
16 accurate. The TNC that is subject to the audit shall engage  
17 the independent third party auditor, which shall be selected  
18 at the sole discretion of the TNC, and bear all costs  
19 associated with the third party audit. The independent third  
20 party auditor must be a certified public accounting firm  
21 licensed in the state and qualified to perform engagements in  
22 accordance with American Institute of Certified Public  
23 Accountants (AICPA) standards. The TNC shall provide the  
24 commission with a copy of the third party audit report within  
25 15 days of completion, which shall in no event occur later  
26 than 90 days after receipt of the commission's written  
27 request. The third party audit shall be limited to a single

1 calendar quarter that may be selected by the commission. If  
2 any underpayment of over five percent is identified through  
3 the audit, the TNC shall remit the underpaid local assessment  
4 fees to the appropriate municipality or county.

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

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

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

26 Section 6. A TNC may charge a fare for the services  
27 provided to a TNC rider. If a fare is collected from a rider,

1 the TNC shall disclose to the rider the fare or fare  
2 calculation on its digital network. If the fare is not  
3 disclosed to the rider before the beginning of the prearranged  
4 ride, the rider shall have the option to receive an estimated  
5 fare before the beginning of the prearranged ride.

6 Section 7. The TNC's digital network shall display a  
7 picture of the TNC driver and the license plate number of the  
8 motor vehicle use for providing the prearranged ride before  
9 the rider enters the TNC driver's vehicle.

10 Section 8. Within a reasonable period of time  
11 following the completion of a trip, a TNC shall transmit an  
12 electronic receipt to the rider that lists all of the  
13 following:

- 14 (1) The origin and destination of the trip.
- 15 (2) The total time and distance of the trip.
- 16 (3) The total fare paid.

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

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

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

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

4           a. A multistate or multi-jurisdiction criminal  
5 records locator or other similar commercial nationwide  
6 database with validation.

7           b. The United State Department of Justice National  
8 Sex Offender Public Website.

9           (3) The TNC shall obtain and review, or have a third  
10 party obtain and review, a driving history report of each  
11 applicant.

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

14           (1) Has had more than three moving violations in the  
15 prior three-year period, or one of the following major  
16 violations in the prior three-year period:

17           a. Fleeing or attempting to elude a law enforcement  
18 officer.

19           b. Reckless driving.

20           c. Driving with a suspended or revoked license.

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

23           a. A felony.

24           b. Misdemeanor driving under the influence, reckless  
25 driving, hit and run, or any other misdemeanor violent offense  
26 or sexual battery.

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

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

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

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

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

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

15 (b) The TNC shall include on its website a notice  
16 concerning the TNC's zero tolerance intoxicating substance  
17 policy and the means to make a complaint about a suspected  
18 violation of the policy.

19 (c) Upon receipt of a rider complaint alleging a  
20 violation of the zero tolerance intoxicating substance policy,  
21 the TNC shall immediately suspend the TNC driver's access to  
22 the TNC's digital network and conduct an investigation into  
23 the reported incident. The suspension shall last the duration  
24 of the investigation.

25 Section 12. A TNC driver may not accept a trip for  
26 compensation other than a trip arranged through a TNC's  
27 digital network.

1           Section 13. (a) The TNC shall adopt a policy of  
2 nondiscrimination on the basis of destination, race, color,  
3 national origin, religious belief or affiliation, sex,  
4 disability, age, sexual orientation, or gender identity with  
5 respect to riders and potential riders. The TNC shall notify  
6 TNC drivers of the policy.

7           (b) TNC drivers shall comply with all applicable  
8 laws regarding nondiscrimination against riders or potential  
9 riders on the basis of destination, race, color, national  
10 origin, religious belief or affiliation, sex, disability, age,  
11 sexual orientation, or gender identity.

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

14           (d) A TNC may not impose additional charges for  
15 providing services to individuals with physical disabilities  
16 because of those disabilities.

17           Section 14. (a) A TNC shall maintain the following  
18 records:

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

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

24           (b) For the sole purpose of verifying that a TNC is  
25 in compliance with subsection (a) and Section 10 and no more  
26 than annually, the commission may visually inspect a random  
27 sample of up to five percent of the records that the TNC is

1 required to maintain pursuant to subsection (a). All samples  
2 shall include records sufficient to verify the TNC's  
3 compliance with the background check requirements and  
4 standards set forth in Section 10. The audit shall take place  
5 at a mutually agreed upon location in Montgomery, Alabama, or  
6 through a mutually agreed upon secure electronic process. Any  
7 record furnished to the commission may exclude information  
8 that would identify specific TNC drivers or riders, unless the  
9 commission demonstrates that there is good cause to inspect  
10 the identifying information.

11 (c) The governing body of a municipality that  
12 enacted a TNC ordinance prior to January 1, 2018, and  
13 permitted at least one TNC to operate prior to January 1,  
14 2018, pursuant to the TNC ordinance, may request from the  
15 commission an analysis regarding a TNC's compliance with  
16 Section 10 as it applies to that municipality based on the  
17 audit performed by the commission pursuant to subsection (b).  
18 If the requested analysis reveals a TNC is not in compliance  
19 with Section 10, the commission shall include that information  
20 in the analysis provided to the municipality and work in  
21 coordination with the governing body to bring the TNC into  
22 compliance. If no such audit analysis is available for a TNC  
23 from the prior one-year period at the time of the governing  
24 body's request, the governing body that enacted a TNC  
25 ordinance prior to January 1, 2018, and permitted at least one  
26 TNC to operate prior to January 1, 2018, may request that the  
27 commission initiate an audit pursuant to subsection (b).

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

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

21 (f) No political subdivision of the state, including  
22 the commission, may disclose any records, data, or information  
23 provided by a TNC pursuant to this act to a third party absent  
24 a court order or subpoena. In the event that records, data, or  
25 information provided pursuant to this act is sought through a  
26 court order or subpoena, the commission or other political

1 subdivision shall promptly notify the TNC so as to afford the  
2 TNC the opportunity to take actions to prevent disclosure.

3 Section 15. (a) The failure of a TNC to comply with  
4 this act or rule adopted pursuant to this act or commission  
5 order issued pursuant to this act may result in the revocation  
6 of the TNC's permit by the commission or the assessment of a  
7 civil penalty, or both, in accordance with procedures  
8 established by the commission. The civil penalty for TNCs may  
9 not exceed five hundred dollars (\$500) for each violation for  
10 each day the TNC knew or should have known about the  
11 violation.

12 (b) The failure by a TNC driver to comply with this  
13 act or rule adopted pursuant to this act or commission order  
14 issued pursuant to this act may result in the suspension of  
15 the TNC driver from operating on any TNC's digital network or  
16 the assessment of a civil penalty, or both, in accordance with  
17 procedures established by the commission. The civil penalty  
18 for TNC drivers may not exceed one hundred dollars (\$100) for  
19 each violation for each day the TNC driver knew or should have  
20 known about the violation.

21 Section 16. The commission may adopt rules to  
22 implement and enforce this act in accordance with its  
23 established rules of practice and procedures.

24 Section 17. (a) It is the intent of the Legislature  
25 to provide for uniformity of laws governing TNCs, TNC drivers,  
26 and TNC vehicles throughout the state, and to provide that  
27 TNCs, TNC drivers, and TNC vehicles be governed exclusively by

1 this act, Chapter 7C of Title 32, Code of Alabama 1975  
2 governing insurance requirements for TNCs and TNC drivers, and  
3 any rules adopted by the commission consistent with this act.

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

7 (1) Impose a tax on, or require a license for, a TNC  
8 or a TNC driver or TNC vehicle if the tax or license relates  
9 to providing prearranged rides, or subjects a TNC, TNC driver,  
10 or TNC vehicle to any rate, entry, operation, or other  
11 requirement of the county, municipality, special district,  
12 airport authority, port authority, or other local governmental  
13 entity or subdivision.

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

17 (3) Subject a TNC or a TNC driver to a rate, entry,  
18 operation, or other requirement of the county, municipality,  
19 special district, airport authority, port authority, or other  
20 local governmental entity.

21 (c) This section does not prohibit the governing  
22 body of a municipality from electing by ordinance to prohibit  
23 TNCs from operating within its corporate limits.  
24 Notwithstanding the foregoing, the governing body of a  
25 municipality may not specify additional or alternative  
26 requirements, taxes, or licenses for TNCs, TNC drivers, or TNC

1 vehicles as conditions for operating within its corporate  
2 limits

3 (d) This section does not prohibit an airport from  
4 charging reasonable pickup fees at that airport, for use of  
5 the airport's facilities or designating locations for staging,  
6 pickup, and other similar operations at the airport.

7 (e) This section does not prohibit the Alabama State  
8 Port Authority from regulating access to its properties and  
9 facilities or from charging reasonable and necessary fees,  
10 provided the regulations, fees, and any required credentials  
11 are consistent with regulations, fees, and credentials that  
12 apply to taxicab companies.

13 Section 18. Section 4 shall become operative 30 days  
14 after the Public Service Commission makes available the GIS  
15 data required under subsection (c) of Section 4.

16 Section 19. This act shall become effective on July  
17 1, 2018, following its passage and approval by the Governor or  
18 its otherwise becoming law, and Section 4 shall become  
19 operative 30 days after the Public Service Commission makes  
20 available the GIS data required under subsection (c) of  
21 Section 4.