

1 SB143
2 190192-4
3 By Senators Singleton and Marsh
4 RFD: Tourism and Marketing
5 First Read: 11-JAN-18

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

1 expenditure of local funds within the meaning of Amendment 621
2 of the Constitution of Alabama of 1901, now appearing as
3 Section 111.05 of the Official ReCompilation of the
4 Constitution of Alabama of 1901, as amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 (1) COMMISSION. The Public Service Commission.

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

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

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

17 (5) TNC DRIVER. A TNC driver as defined in Section
18 32-7C-1, Code of Alabama 1975.

19 (6) TNC RIDER. A TNC rider as defined in Section
20 32-7C-1, Code of Alabama 1975.

21 (7) TNC VEHICLE. A personal vehicle, as defined in
22 Section 32-7C-1, Code of Alabama 1975.

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

25 Section 2. (a) A TNC or TNC driver is not a common
26 carrier, contract carrier, or motor carrier, as defined in
27 Section 37-3-2, Code of Alabama 1975, does not provide taxi or

1 for-hire vehicle services, and is not subject to the Alabama
2 Motor Carrier Act, Chapter 3, Title 37, Code of Alabama 1975.

3 (b) A TNC driver is not required to register the
4 vehicle that the TNC driver uses to provide prearranged rides
5 under this act as a commercial motor vehicle or for-hire
6 vehicle under the Alabama Motor Carrier Act, Chapter 3, Title
7 37, Code of Alabama 1975.

8 Section 3. (a) A person may not operate a TNC in the
9 state without first having obtained a permit from the
10 commission.

11 (b) The commission shall issue a permit to each
12 applicant that meets the requirements for a TNC under this act
13 and may require the permit to be renewed annually.

14 (c) A TNC operating under a municipal ordinance in a
15 municipality of this state on June 30, 2018, may operate at
16 any location in this state without the permit required under
17 subsection (a) until the later of:

18 (1) The thirtieth day after the date the permit
19 process is adopted by the commission.

20 (2) The date the TNC's application for a permit
21 under this section, submitted to the commission before the
22 date described in subdivision (1), is approved or denied.

23 (d) Any person who operates a TNC without having
24 obtained a permit in accordance with this section is guilty of
25 a Class C misdemeanor.

26 Section 4. (a) A TNC shall collect a local
27 assessment fee equal to one percent of the gross trip fare for

1 all prearranged rides that originate in the state in
2 accordance with this act.

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

6 a. The total local assessment fees collected by a
7 TNC.

8 b. For prearranged rides that originated within a
9 municipality, a report listing the percentage of the gross
10 trip fare that originated in each municipality during the
11 reporting period.

12 c. For prearranged rides that originated outside a
13 municipality, a report listing the percentage of the gross
14 trip fare that originated in the unincorporated portion of
15 each county during the reporting period.

16 (2) The TNC shall be responsible for determining
17 whether a prearranged ride originated within the boundaries of
18 a municipality or originated within the unincorporated portion
19 of a county.

20 (c) To ensure proper distribution of the local
21 assessment fee, the commission shall prepare and make
22 available for public use Geographic Information System (GIS)
23 data in the form of a file showing the state's county and
24 municipal boundaries. To the extent the commission updates the
25 GIS file, the commission shall notify TNCs and make available
26 to TNCs the updated GIS file. In addition to the requirements
27 of this section, municipalities shall provide annexation

1 information to the commission within 30 days after the
2 annexation is complete. Such information shall include a
3 written description of the boundary, along with a map or plat
4 that clearly defines the new territory added.

5 (d) The local assessment fees submitted to the
6 commission shall be administered by the commission and may
7 only be expended as provided in this section. The commission
8 may retain an amount necessary to cover the expenses derived
9 from regulation of TNCs and the collection, remittance, and
10 distribution of local assessment fees pursuant to this
11 section, provided the amount retained may not exceed 50
12 percent of the total local assessment fees collected.

13 (e) No later than 60 days after the end of each
14 calendar quarter, the commission shall distribute the local
15 assessment fees collected for the preceding calendar quarter,
16 minus the amount retained pursuant to subsection (d), to each
17 municipality where a prearranged ride originated and to each
18 county where a prearranged ride originated in the
19 unincorporated portion of the county, during that calendar
20 quarter. The distribution shall be proportionate to the
21 percentage of the gross trip fare that originated in each
22 applicable municipality and unincorporated portion of a
23 county.

24 (f) No more than every two years, the commission may
25 request that a TNC engage an independent third party auditor
26 to verify the local assessment fees submitted to the
27 commission pursuant to subdivision (1) of subsection (b) are

1 accurate. The TNC that is subject to the audit shall engage
2 the independent third party auditor, which shall be selected
3 at the sole discretion of the TNC, and bear all costs
4 associated with the third party audit. The independent third
5 party auditor must be a certified public accounting firm
6 licensed in the state and qualified to perform engagements in
7 accordance with American Institute of Certified Public
8 Accountants (AICPA) standards. The TNC shall provide the
9 commission with a copy of the third party audit report within
10 15 days of completion, which shall in no event occur later
11 than 90 days after receipt of the commission's written
12 request. The third party audit shall be limited to two
13 calendar quarters that may be selected by the commission. If
14 any underpayment of over three percent is identified through
15 the audit, the TNC shall remit the underpaid local assessment
16 fees to the appropriate municipality or county.

17 (g) The governing body of a municipality that
18 enacted a TNC ordinance prior to January 1, 2018, and
19 permitted at least one TNC to operate prior to January 1,
20 2018, pursuant to the TNC ordinance, may request the
21 commission to review the portions of a third party audit
22 report provided to the commission pursuant to subsection (f)
23 that are applicable to the municipality. If no third party
24 audit report is available for a TNC from the prior two-year
25 period at the time of the governing body's request, the
26 governing body that enacted a TNC ordinance prior to January
27 1, 2018, and permitted at least one TNC to operate prior to

1 January 1, 2018, may request the commission to initiate an
2 audit pursuant to subsection (f).

3 (h) Any record maintained by a TNC or submitted to
4 the commission or a political subdivision of the state
5 pursuant to this section shall be considered tax information
6 and may not be disclosed, as provided in subsection (a) of
7 Section 40-2A-10, Code of Alabama 1975, except as otherwise
8 provided in this section.

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

11 Section 6. A TNC may charge a fare for the services
12 provided to a TNC rider. If a fare is collected from a rider,
13 the TNC shall disclose to the rider the fare or fare
14 calculation on its digital network. If the fare is not
15 disclosed to the rider before the beginning of the prearranged
16 ride, the rider shall have the option to receive an estimated
17 fare before the beginning of the prearranged ride.

18 Section 7. The TNC's digital network shall display a
19 picture of the TNC driver, the first name of the TNC driver,
20 and the make, model, and license plate number of the TNC
21 driver's vehicle before the rider enters the TNC vehicle.

22 Section 8. Within a reasonable period of time
23 following the completion of a trip, a TNC shall transmit an
24 electronic receipt to the rider that lists all of the
25 following:

- 26 (1) The origin and destination of the trip.
27 (2) The total time and distance of the trip.

1 (3) The total fare paid.

2 (4) The TNC driver's first name.

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

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

9 (1) The individual shall submit an application to
10 the TNC, that includes information regarding his or her
11 address, age, driver's license, motor vehicle registration,
12 and other information required by the TNC.

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

16 a. A multistate or multi-jurisdiction criminal
17 records locator or other similar commercial nationwide
18 database with validation (primary source search).

19 b. The United State Department of Justice National
20 Sex Offender Public Website.

21 (3) The TNC shall obtain and review, or have a third
22 party obtain and review, a driving history report of each
23 applicant.

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

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

4 a. Fleeing or attempting to elude a law enforcement
5 officer.

6 b. Reckless driving.

7 c. Driving with a suspended or revoked license.

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

10 a. A felony.

11 b. Misdemeanor driving under the influence, reckless
12 driving, hit and run, or any other misdemeanor violent offense
13 or sexual battery.

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

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

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

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

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

24 (c) (1) Any individual who impersonates a TNC driver
25 without having met the requirements of this section is guilty
26 of a Class C misdemeanor.

1 (2) If an individual unlawfully impersonates a TNC
2 driver under subdivision (1) while committing a felony, the
3 unlawful impersonation may be an aggravating factor under
4 Section 12-25-34.2, Code of Alabama 1975, for sentencing
5 purposes.

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

10 (b) The TNC shall include on its website a notice
11 concerning the TNC's zero tolerance intoxicating substance
12 policy and the means to make a complaint about a suspected
13 violation of the policy.

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

20 Section 12. A TNC driver may not accept a trip for
21 compensation, including soliciting or accepting passenger
22 rides on demand or through a street hail, other than a trip
23 arranged through a TNC's digital network. Any individual who
24 violates this section is guilty of a Class C misdemeanor.

25 Section 13. (a) The TNC shall adopt a policy of
26 nondiscrimination with respect to riders and potential riders.
27 The TNC shall notify TNC drivers of the policy.

1 (b) TNC drivers shall comply with all applicable
2 laws regarding nondiscrimination against riders or potential
3 riders.

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

6 (d) A TNC may not impose additional charges for
7 providing services to individuals with physical disabilities
8 because of those disabilities.

9 Section 14. (a) A TNC shall maintain the following
10 records:

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

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

16 (b) For the sole purpose of verifying that a TNC is
17 in compliance with subsection (a) and Section 10 and no more
18 than annually, the commission may visually inspect a random
19 sample of the records that the TNC is required to maintain
20 pursuant to subsection (a). All samples shall include records
21 sufficient to verify the TNC's compliance with the background
22 check requirements and standards set forth in Section 10. The
23 audit shall take place at a mutually agreed upon location in
24 Montgomery, Alabama, or through a mutually agreed upon secure
25 electronic process. Any record furnished to the commission may
26 exclude information that would identify specific TNC drivers

1 or riders, unless the commission demonstrates that there is
2 good cause to inspect the identifying information.

3 (c) The governing body of a municipality that
4 enacted a TNC ordinance prior to January 1, 2018, and
5 permitted at least one TNC to operate prior to January 1,
6 2018, pursuant to the TNC ordinance, may request from the
7 commission an analysis regarding a TNC's compliance with
8 Section 10 as it applies to that municipality based on the
9 audit performed by the commission pursuant to subsection (b).
10 If the requested analysis reveals a TNC is not in compliance
11 with Section 10, the commission shall include that information
12 in the analysis provided to the municipality and work in
13 coordination with the governing body to bring the TNC into
14 compliance. If no such audit analysis is available for a TNC
15 from the prior one-year period at the time of the governing
16 body's request, the governing body that enacted a TNC
17 ordinance prior to January 1, 2018, and permitted at least one
18 TNC to operate prior to January 1, 2018, may request that the
19 commission initiate an audit pursuant to subsection (b).

20 (d) In response to a specific complaint against a
21 TNC driver or a TNC, the commission may inspect records held
22 by the TNC pursuant to subsection (a) that are necessary to
23 investigate and resolve the complaint. The inspection shall
24 take place at a mutually agreed upon location in Montgomery,
25 Alabama, or through a mutually agreed upon secure electronic
26 process. Any record furnished to the commission may exclude
27 information that would identify specific TNC drivers or

1 riders, unless the identity of a driver or rider is relevant
2 to the complaint.

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

13 (f) No political subdivision of the state, including
14 the commission, may disclose any records, data, or information
15 provided by a TNC pursuant to this act to a third party absent
16 a court order or subpoena. In the event that records, data, or
17 information provided pursuant to this act is sought through a
18 court order or subpoena, the commission or other political
19 subdivision shall promptly notify the TNC so as to afford the
20 TNC the opportunity to take actions to prevent disclosure.

21 Section 15. (a) The failure of a TNC to comply with
22 this act or rule adopted pursuant to this act or commission
23 order issued pursuant to this act may result in the revocation
24 of the TNC's permit by the commission or the assessment of a
25 civil penalty, or both, in accordance with procedures
26 established by the commission. The civil penalty for TNCs may
27 not exceed five hundred dollars (\$500) for each violation for

1 each day the TNC knew or should have known about the
2 violation.

3 (b) The failure by a TNC driver to comply with this
4 act or rule adopted pursuant to this act or commission order
5 issued pursuant to this act may result in the suspension of
6 the TNC driver from operating on any TNC's digital network or
7 the assessment of a civil penalty, or both, in accordance with
8 procedures established by the commission. The civil penalty
9 for TNC drivers may not exceed one hundred dollars (\$100) for
10 each violation for each day the TNC driver knew or should have
11 known about the violation.

12 Section 16. The commission may adopt rules to
13 implement and enforce this act in accordance with its
14 established rules of practice and procedures, including, but
15 not limited to, rules providing for safety inspections of TNC
16 vehicles and establishing requirements for a distinctive TNC
17 emblem or signage, known as trade dress, to be displayed on
18 the exterior of a TNC vehicle.

19 Section 17. (a) It is the intent of the Legislature
20 to provide for uniformity of laws governing TNCs, TNC drivers,
21 and TNC vehicles throughout the state, and to provide that
22 TNCs, TNC drivers, and TNC vehicles be governed exclusively by
23 state law, including Chapter 7C of Title 32, Code of Alabama
24 1975 governing insurance requirements for TNCs and TNC
25 drivers, and any rules adopted by the commission consistent
26 with this act.

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

4 (1) Impose a tax on, or require a license for, a TNC
5 or a TNC driver or TNC vehicle if the tax or license relates
6 to providing prearranged rides.

7 (2) Require a TNC or a TNC driver to obtain a
8 business license or any other type of similar authorization to
9 operate within the jurisdiction.

10 (3) Subject a TNC, TNC driver, or a TNC vehicle to a
11 rate, entry, operation, or other requirement of the county,
12 municipality, special district, airport authority, port
13 authority, or other local governmental entity if the rate,
14 entry, operation, or other requirement relates to providing
15 prearranged rides or transportation network services.

16 (c) This section does not prohibit the governing
17 body of a municipality from electing by ordinance to prohibit
18 TNCs from providing prearranged rides that originate within
19 its corporate limits. Notwithstanding the foregoing, the
20 governing body of a municipality may not specify additional or
21 alternative requirements, taxes, or licenses for TNCs, TNC
22 drivers, or TNC vehicles as conditions for operating within
23 its corporate limits

24 (d) This section does not prohibit an airport or
25 cruise terminal from charging reasonable pickup fees at that
26 airport or cruise terminal, for use of the airport's or cruise
27 terminal's facilities, or designating locations for staging,

1 pickup, and other similar operations at the airport or cruise
2 terminal.

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

9 (f) This section shall not be construed to prohibit
10 any law enforcement officer from enforcing applicable penal or
11 traffic laws, or, in connection with the enforcement of
12 applicable penal or traffic laws, from requesting to review a
13 TNC driver's electronic waybill within the TNC's digital
14 network.

15 Section 18. The Public Service Commission shall make
16 available the GIS data required under subsection (c) of
17 Section 4 no later than July 1, 2018.

18 Section 19. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621 because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 20. This act shall become effective on July
25 1, 2018, following its passage and approval by the Governor or
26 its otherwise becoming law, except Section 4 shall become
27 operative on August 1, 2018.

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Senate

Read for the first time and referred to
the Senate committee on Tourism and Marketing..... 11-JAN-18

Read for the second time and placed on
the calendar..... 18-JAN-18

Read for the third time and passed as
amended 25-JAN-18

Yeas 28
Nays 0

Patrick Harris,
Secretary.