

---

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 749 Original

2018 Regular Session

Barras

**Abstract:** Provides relative to transportation network company requirements.

Present law provides exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state.

Proposed law adds records of a transportation network company (company) that are inspected by the Dept. of Agriculture and Forestry (department) for audit to the list of exemptions from disclosure under the Public Records Law. Proposed law further adds total fees remitted to a governing authority by a company, records maintained by a company pursuant to proposed law, and records that incorporate information from records maintained pursuant to proposed law to the list of exemptions from disclosure under the Public Records Law.

Present law defines "transportation network company" means a person, whether natural or juridical, that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides, or a person, whether natural or juridical, that provides a technology platform to a transportation network company rider that enables the transportation network company rider to schedule a prearranged ride.

Proposed law adds that a "transportation network company", as provided for in present law, can also be referred to as a "company" in proposed law.

Proposed law references definitions in present law for "digital network", "personal vehicle", "prearranged ride", "transportation network company driver", and "transportation network company rider" and defines "covered intrastate prearranged ride", "department", "gross trip fare", "local governmental subdivision", and "transportation network company vehicle" for the purposes of proposed law.

Proposed law defines "covered intrastate prearranged ride" as any intrastate prearranged ride originating within the jurisdiction of the local governmental subdivision, except such prearranged rides in which a rider is matched with, or eligible to be matched with, another rider through the company's digital network.

Proposed law defines "department" as the Louisiana Department of Agriculture and Forestry.

Proposed law defines "gross trip fare" as the base fare plus any time or distance charges, excluding any additional charges such as airport or venue fees.

Proposed law defines "local governmental subdivision" as any parish or municipality as defined in Article VI, Section 44(1) of the Constitution of Louisiana.

Proposed law provides that a "transportation network company vehicle" or "vehicle" shall have the same meaning as "personal vehicle" as defined in present law.

Proposed law establishes a classification of carriers; specifically, provides that a company or driver is not a common carrier, contract carrier, or motor carrier.

Proposed law prohibits a person from operating a company without first obtaining a permit from the department and further provides requirements for the permit. Proposed law provides an exception to this requirement for companies that have been operating in this state prior to the effective date of proposed law.

Proposed law requires the department to issue a permit to each applicant that meets the requirements applicable to a company as provided for in proposed law.

Proposed law requires a company to maintain an agent for service of process in this state.

Proposed law requires companies to disclose the fare or the fare calculation method located on their website or within the online-enabled technology application service to the rider prior to the prearranged ride if a fare is collected from the rider.

Proposed law requires the company's digital network to display a picture of the driver and the license plate number of the vehicle that will be used prior to the rider entering the car for a prearranged ride.

Proposed law requires the transmission of an electronic receipt to the rider on behalf of a driver within a reasonable time following the completion of a prearranged ride. Proposed law requires that the origin and destination of the trip, the duration and distance of the trip, and the total fare of the trip be included on the receipt.

Proposed law requires a company to implement a zero tolerance policy regarding a driver's activities while accessing the company's digital network. Proposed law requires the policy to address the use of drugs or alcohol while a driver is providing prearranged rides or is logged into the company's digital network but is not providing prearranged rides, and requires the company to provide notice of this policy on its website as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the prearranged ride.

Proposed law requires a company to suspend a driver's ability to accept trip requests through the company's digital network immediately upon receipt of a rider's complaint alleging a violation of the zero tolerance policy. Proposed law further requires the company to conduct an investigation into the reported incident and mandates that the suspension must last until the investigation is complete. Proposed law requires the company to maintain records relevant to the complaint for a period of two years from the date that a rider's complaint is received by the company.

Proposed law establishes application, background check, and driving history requirements that an individual must meet prior to being authorized to accept trip requests through a company's digital network.

Proposed law requires the application to include information regarding the applicant's address, age, driver's license, motor vehicle registration, insurance, and any other information required by the company.

Proposed law requires the company or a third party to conduct a local and national criminal background check for each applicant that includes: a multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database, a search of the national sex offender public website maintained by the U.S. Dept. of Justice, and the applicant's driving history. Proposed law further requires the company to conduct the background check or driving history research report at least once every two years.

Proposed law requires a company to prohibit an individual from acting as a driver if, within the three-year period prior to applying to the company, the individual's driving history report reveals more than three moving violations, or the individual's initial background check or any subsequent background check reveals the individual has had at least one of the following violations: flight from an officer or aggravated flight from an officer, reckless operation of a vehicle, or operating a vehicle while under suspension.

Proposed law requires a company to prohibit an individual from acting as a driver if the individual has been convicted, within the past seven years, of any enumerated felony in present law, operating a vehicle while intoxicated, hit and run driving, or any crime of violence as provided for in present law. Proposed law further requires a company to prohibit an individual from acting as a driver if the individual is listed as an offender on the national sex offender public website maintained by the U.S. Dept. of Justice, or does not possess a valid driver's license or the required registration to operate a motor vehicle.

Proposed law prohibits a driver from accepting a trip for compensation if it is not arranged through the company's digital network.

Proposed law requires a company to adopt a nondiscrimination policy with respect to riders and potential riders and to inform its drivers of this policy. Proposed law requires the drivers to comply with all applicable nondiscrimination laws and all applicable laws relating to the transporting of service animals.

Proposed law prohibits a company from imposing any additional charges for providing services to persons with physical disabilities.

Proposed law requires a company to keep individual trip records and individual driver records for three years after each trip or dissolution of a relationship with a driver.

Proposed law provides requirements and procedures for an audit of a company by the department.

Specifies that the audit procedures are to include the right by the department to visually inspect a sample of records, pertaining up to fifty drivers, that the company is required to maintain. Proposed law further provides that if the department has a reasonable basis to conclude that the company is not in compliance with the requirements of present law after initial review, the department may conduct a supplemental audit of records for an additional selection of drivers at a location in Baton Rouge; the identity of specific drivers or riders may be excluded from the records.

Proposed law authorizes the department to inspect records held by the company that are necessary to investigate and resolve a specific complaint against a driver or the company. Requires the inspection to take place at a mutually agreed upon place by the department and the company. Specifies that the identity of a driver or rider may be excluded unless it is relevant to the complaint.

Proposed law provides that any records inspected by the department pursuant to proposed law are designated confidential, are not subject to disclosure to a third party, and are exempt from disclosure pursuant to the Public Records Law provided for in present law. Proposed law provides an exclusion from this designation if such records do not include information that is otherwise designated confidential or exempted pursuant to the Public Records Law provided for in present law, or as limiting the applicability of any other exemption under the Public Records Law provided for in present law.

Proposed law authorizes a local governmental subdivision to impose a fee of up to one percent of the gross trip fare for each covered intrastate prearranged ride. Further provides that the local governmental subdivision may impose such a fee by passing an ordinance that imposes the fee on each company permitted by the department in accordance with present law.

Proposed law provides that municipality's fee applies only to covered intrastate prearranged rides originating within the incorporated limits of a municipality, and that a parish's fee applies only to covered intrastate prearranged rides originating within the unincorporated portions of the parish.

Proposed law requires a local governmental subdivision to provide written notice to each company at least 30 days prior to an initial hearing, reading, or consideration of an ordinance imposing a fee pursuant to proposed law. Further provides that a local governmental subdivision must also provide written notice within 10 days of the passage of any ordinance imposing a fee pursuant to proposed law, and such ordinance cannot go into effect until at least 60 days after passage of the ordinance.

Proposed law requires a company to collect the fee on behalf of the drivers and remit the total fee to the local governmental subdivision on a quarterly basis within 30 days of the end of the calendar quarter.

Proposed law grants the department sole audit authority with respect to the fees remitted by a company to a local governmental subdivision; requires a company to keep accurate books and records reflecting its accounting and payment of fees; and upon reasonable prior written request, no more than annually, authorizes the department to audit a company's books and records relating to its accounting and payment of fees to the local governmental subdivision, with the audit limited to a single calendar year, which may be chosen by the department.

Proposed law provides that if the department has not undertaken an audit for a local governmental subdivision within the prior one-year period, and the local governmental subdivision has a reasonable basis to suspect underpayment, the local governmental subdivision must request that the department initiate an audit pursuant to proposed law, and if underpayment is over one percent, requires the company to remit the underpaid fees to the local governmental subdivision within 30 days.

Proposed law provides that it is the intent of the legislature to provide for the uniformity of laws to govern transportation network companies, along with any rules promulgated by the department. Further provides restrictions to the governing authorities relating to taxing a company, requiring a company to acquire a local business license or other type of authorization to operate, or subject a company to any rate, entry, operation or other requirement except as provided for in proposed law.

Proposed law provides insurance requirements, such as requiring a policy of insurance be placed with an authorized insurer or with a surplus lines insurer pursuant to present law that has a rating of no less than A- from A.M. Best or an A from Demotech, Inc. or a similar rating from another rating agency recognized by the Dept. of Insurance.

Effective July 1, 2018.

(Amends R.S. 44:4.1(B)(30) and R.S. 45:201.4(6) and 201.6(G)(2); Adds R.S. 45:202 through 216)