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## DIGEST

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HB 749 Reengrossed

2018 Regular Session

Barras

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

Proposed law provides definitions for "transportation network company", "bodily injury", "digital network", "personal vehicle", "prearranged ride", "transportation network company driver", "transportation network company rider", "pre-trip acceptance period", "intrastate prearranged ride", "department", "gross trip fare", "local governmental subdivision", and "transportation network company vehicle"

Proposed law defines "transportation network company" as 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 an intrastate prearranged ride.

Proposed law defines "bodily injury" as claims for general and special damages for personal injury arising under present law (Civil Code Article 2315).

Proposed law defines "digital network" as any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

Proposed law defines "personal vehicle" as a vehicle that is used by a transportation network company driver and is owned, leased, or otherwise authorized for use by the transportation network company driver. A personal vehicle is not a vehicle subject to Parts A and B of the Motor Carrier law as provided for in R.S. 45:161 et seq. or engaged solely in interstate commerce.

Proposed law defines "prearranged ride" as the provision of transportation by a driver to a rider that commences when a driver accepts a ride requested by a person through a digital network controlled by a transportation network company, continues during the driver transporting a requesting rider, and ends when the last requesting rider departs from the personal vehicle. A prearranged ride does not include shared expense van pool services, as defined pursuant to R.S. 45:162(18), or shared expense car pool services, as defined pursuant to R.S. 45:162(1), transportation provided using a vehicle subject to Part A or B of the Motor Carrier law as provided for in R.S. 45:161 et seq. or engaged solely in interstate commerce.

Proposed law defines "transportation network company driver" as a person who receives connections

to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company, and who uses a personal vehicle to offer or provide a prearranged ride to persons upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

Proposed law defines "transportation network company rider" as a person who uses a transportation network company's digital network to connect with a transportation network driver who provides intrastate prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

Proposed law defines "pre-trip acceptance period" as any period of time during which a driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in an intrastate prearranged ride.

Proposed law defines "intrastate prearranged ride" as any prearranged ride originating within the jurisdiction of the local governmental subdivision.

Proposed law defines "department" as the La. Dept. 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" shall have the same meaning as "personal vehicle".

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 paid for 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 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 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 transporting 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 one hundred 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, as appropriate, from the records.

Proposed law grants the governing body of a local governmental subdivision the ability to request a report from the department on the results of an audit performed by the commission pursuant to present law.

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 and are not subject to disclosure to a third party without written consent. Proposed law provides an exclusion from this designation if such records do not include information that is otherwise designated confidential.

Proposed law authorizes a local governmental subdivision that has enacted a company ordinance that includes a per-trip fee prior to March 1, 2018, and has a company operating within the corporate limits of a local governmental subdivision as of March 1, 2018, to impose a fee up to or equal to the per-trip fee imposed by the local governmental subdivision's company ordinance as of March 1, 2018, on each intrastate prearranged ride within the corporate limits of the local governmental subdivision.

Proposed law authorizes a local governmental subdivision to impose a per-trip fee up to one percent of the gross trip fare for each 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 prohibits a local governmental subdivision that imposes a per-trip fee pursuant to proposed law from imposing any fees or requirements other than the fee specified in proposed law.

Proposed law requires a local governmental subdivision 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 the first day of the month that it is at least 30 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 conduct an audit by visually inspecting 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 a 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 fifty dollars, requires the company to remit the underpaid fees to the local governmental subdivision within 30 days.

Proposed law provides that any record furnished or disclosed to the department may, as appropriate, exclude information that would identify specific drivers or riders. Further provides that the governing body of a local governmental subdivision may request to review the results of an audit conducted pursuant to proposed law with respect to fees remitted by a company to the local governmental subdivision.

Proposed law provides that the total fee remitted to any local governmental subdivision by a

company, any records maintained by a company pursuant to proposed law that are obtained by a local governmental subdivision, the department, or any other public body, and any records that incorporate information from records maintained pursuant to proposed law are designated confidential and are not subject to disclosure to a third party without prior written consent of the company.

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 that proposed law does not prohibit an airport from charging pick-up fees for the use of the airport's facilities or designating locations for staging, pick-up, and other similar operations at the airport. Further provides that nothing in proposed law may be construed to prohibit the state from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding the sale, distribution, repair, or service of vehicles.

Proposed law authorizes the department to promulgate rules and regulations to implement and enforce proposed law and specifies that the rules may be more stringent than the requirements set forth in proposed law. Mandates that the department report to the Joint Legislative Committee on Transportation, Highways and Public Works for review and approval of any rules or regulations promulgated by the department.

Effective July 1, 2018.

(Amends R.S. 45:201.6(G)(2); Adds R.S. 3:4741.1 - 4741.15)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Remove the Public Records law, references to the Public Records law and exceptions to the Public Records law from the bill.
2. Make technical changes.
3. Change "covered intrastate prearranged rides" to "intrastate prearranged rides" and modifies the definition to reflect "intrastate prearranged ride".
4. Change the amount of drivers for which the company is required to maintain records for audit purposes from 50 to 100.
5. Authorize the governing body of a local governmental subdivision to request a report from the department on the results on an audit performed by the commission.

6. Specify that a local governmental subdivision's authority to enact local ordinances or fees for companies and provides for the time period within the ordinance or fee will become effective.
7. Specify that the audit provision in proposed law require the visual inspection of certain books and records kept by the companies.
8. Specify that certain records furnished or disclosed to the department may exclude information specific to the identification of drivers.
9. Designate certain records obtained by a local governmental subdivision, the department, or any other public body as confidential and exempt from disclosure to a third party without prior written consent of the company.
10. Authorize the request of an audit with respect to fees by the governing body of a local governmental subdivision. Specify that if an underpayment of \$50, instead of 1%, to any local governmental subdivision occurs the company must remit the underpaid fees to the local governmental subdivision within 30 days of the audit.
11. Specify that any record furnished or disclosed to the department may exclude appropriate information that would identify specific drivers or riders.
12. Clarify that records maintained by a company and obtained by the department are confidential and not subject to disclosure to a third party without the written consent of the company.
13. Grant airports the authority to charge pick-up fees and designate locations for staging, pick-up and other similar operations at the airport.
14. Clarify that proposed law cannot be construed as prohibiting the state from maintaining, enforcing, prescribing, or continuing in effect any law or regulation regarding the sale, distribution, repair or service of vehicles.
15. Authorize the department to promulgate rules and regulations to implement the provisions of proposed law.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Move proposed law provisions governing transportation network company requirements from Part D of Chapter 4 of Title 45 of the La. Revised Statutes of 1950 to Part III of Chapter 30 of Title 3 of the La. Revised Statutes of 1950.
3. Add definitions for bodily injury, digital network, prearranged ride, pre-trip acceptance

period, transportation network company driver, transportation network company rider,  
and personal vehicle.