

2017 Regular Session

HOUSE BILL NO. 527

BY REPRESENTATIVE HAVARD AND SENATOR CORTEZ

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRANSPORTATION: Establishes safety, reliability, and access requirements for Transportation Network Companies

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(30), and to enact Part D of Chapter 4 of Title 45 of the

3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 45:211 through 227,

4 relative to Transportation Network Companies; to provide for definitions; to require

5 an operation permit for operation of a transportation network company; to require

6 fare transparency and electronic receipts for all riders; to provide relative to

7 identification requirements for transportation network company vehicles and drivers;

8 to provide for requirements of transportation network company drivers; to require

9 each transportation network company to establish a drug and alcohol policy; to

10 provide relative to the limitations, driver conduct, discrimination policy, records,

11 audit procedures, assessment fees, and controlling authority of transportation

12 network companies; to provide for a public records exception; and to provide for

13 related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 44:4.1(B)(30) is hereby amended and reenacted to read as follows:

16 §4.1. Exceptions

17 \* \* \*

18 B. The legislature further recognizes that there exist exceptions, exemptions,

19 and limitations to the laws pertaining to public records throughout the revised

20 statutes and codes of this state. Therefore, the following exceptions, exemptions, and

1 limitations are hereby continued in effect by incorporation into this Chapter by  
2 citation:

3 \* \* \*

4 (30) ~~R.S. 45:1313(C)~~ R.S. 45:215, 216, 1313(C)

5 \* \* \*

6 Section 2. Part D of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950,  
7 comprised of R.S. 45:211 through 227, is hereby enacted to read as follows:

8 PART D. TRANSPORTATION NETWORK COMPANY REQUIREMENTS

9 §211. Definitions

10 The following terms, as used in this Part, shall have the meanings ascribed  
11 to them in this Section except where a different meaning is expressly stated or  
12 clearly indicated by the context:

13 (1) "Department" means the Department of Agriculture and Forestry.

14 (2) "Digital network" means any online-enabled technology application  
15 service, website, or system offered or utilized by a transportation network company  
16 that enables the prearrangement of rides with transportation network company  
17 drivers.

18 (3) "Gross trip fare" means the total charge, including the base fare and any  
19 time or distance charges, for a prearranged ride.

20 (4) "TNC fee" means one percent of the gross trip fare.

21 (5) "Prearranged ride" means the provision of transportation by a TNC driver  
22 to a rider, beginning when a TNC driver accepts a ride requested by a rider through  
23 a digital network controlled by a transportation network company, continuing while  
24 the TNC driver transports a requesting rider, and ending when the last requesting  
25 rider departs from the TNC vehicle. A prearranged ride does not include  
26 transportation provided by shared expense van pool services, as defined pursuant to  
27 R.S. 45:162, shared expense car pool services, as defined pursuant to R.S. 45:162,  
28 transportation provided using a vehicle subject to Part A or B of this Chapter, or  
29 engaged solely in interstate commerce.

1           (6) "Transportation network company", "TNC", or "company" means a  
2           corporation, partnership, sole proprietorship, or other entity licensed and operating  
3           in this state that uses a digital network to connect a TNC rider to a TNC driver who  
4           provides a prearranged ride. A TNC may not control, direct, or manage the personal  
5           vehicle or the TNC driver who connects to its digital network, except where agreed  
6           to by written contract.

7           (7) "Transportation network company driver" or "TNC driver" means an  
8           individual who receives connections to potential riders and related services from a  
9           TNC and, in return for compensation, uses a TNC vehicle to offer or provide a  
10          prearranged ride to riders upon connection through a digital network controlled by  
11          a TNC.

12          (8) "Transportation network company rider" or "rider" means an individual  
13          or persons who use a TNC's digital network to connect with a TNC driver who  
14          provides prearranged rides in the TNC driver's TNC vehicle between points chosen  
15          by the rider.

16          (9) "Transportation network company vehicle" or "TNC vehicle" means a  
17          vehicle that is used by a TNC driver to offer or provide a prearranged ride and is  
18          owned, leased, or otherwise authorized for use by the TNC driver. Notwithstanding  
19          any other provision of law to the contrary, a vehicle that is let or rented to another  
20          for consideration may be used as a TNC vehicle.

21          §212. Classification of carriers; registration

22                 A TNC or TNC driver is not a common carrier, contract carrier, or motor  
23                 carrier, and does not provide taxi or for-hire vehicle service. In addition, a TNC  
24                 driver is not required to register the vehicle that the TNC driver uses to provide  
25                 prearranged rides as a commercial motor vehicle or a for-hire vehicle.

26          §213. TNC permits

27                 A. A person shall not operate a TNC in the state of Louisiana without  
28                 obtaining a permit from the department, except a TNC operating in the state before

1 the effective date of this Part may continue operating until the department creates a  
2 permit process and sets a registration deadline.

3 B. The department shall issue a permit to each applicant that meets the  
4 requirements applicable to a TNC as provided for in this Part.

5 §214. Service of process; TNC

6 A TNC shall maintain an agent for service of process in the state of  
7 Louisiana.

8 §215. Fare transparency

9 If a fare is collected from a rider, the TNC shall disclose to the rider the fare  
10 or fare calculation method on its website or within the online-enabled technology  
11 application service prior to the start of the prearranged ride. If the TNC fails to  
12 disclose the fare to the rider prior to the beginning of the prearranged ride, the rider  
13 shall have the option to receive an estimated fare before the start of the prearranged  
14 ride.

15 §216. Identification of TNC vehicles and drivers

16 The TNC's digital network shall display a picture of the TNC driver and the  
17 license plate number of the motor vehicle used for providing the prearranged ride  
18 before the rider enters the TNC driver's vehicle.

19 §217. Electronic receipts

20 Within a reasonable amount of time following completion of a trip, a TNC  
21 shall transmit an electronic receipt to the rider on behalf of the TNC driver. The  
22 receipt shall include all of the following:

23 (1) The origin and destination of the trip.

24 (2) The duration and distance of the trip.

25 (3) The total fare paid for the trip.

26 §218. Substance abuse policy

27 A. Each TNC shall implement a substance abuse zero tolerance policy  
28 regarding a TNC driver's activities while accessing the TNC's digital network. The  
29 policy shall address the use of drugs or alcohol while a TNC driver is providing

1 prearranged rides or is logged into the TNC's digital network but is not providing  
2 prearranged rides. The TNC shall provide notice of this policy on its website, as  
3 well as procedures to report a complaint about a TNC driver with whom a rider was  
4 matched and whom the rider reasonably suspects was under the influence of drugs  
5 or alcohol during the course of the trip.

6 B. Upon receipt of a rider complaint alleging a violation of the substance  
7 abuse zero tolerance policy, the TNC shall suspend such TNC driver's ability to  
8 accept trip requests through the TNC's digital network as soon as feasible, and shall  
9 conduct an investigation of the reported incident. The suspension shall last the  
10 duration of the investigation.

11 C. The TNC shall maintain records of all reported incidents for a period of  
12 at least ten years from the date that a rider complaint is received by the TNC.

13 §219. TNC limitations

14 TNC drivers shall be independent contractors and are not considered  
15 employees of the TNC, if all of the following conditions are met:

16 (1) The TNC does not unilaterally prescribe specific hours during which a  
17 TNC driver must be logged into the TNC's digital network.

18 (2) The TNC does not impose an express prohibition on the TNC driver's  
19 ability to utilize digital networks from other TNCs.

20 (3) The TNC does not restrict a TNC driver from engaging in any other  
21 occupation or business.

22 (4) The TNC and TNC driver agree in writing that the TNC driver is an  
23 independent contractor with respect to the TNC.

24 §220. TNC driver requirements

25 A. Before an individual is authorized to accept trip requests through a TNC's  
26 digital network, the following conditions shall be met:

27 (1) The individual shall submit an application to the TNC, which includes  
28 his address, age, a copy of his driver's license and motor vehicle registration, and  
29 other information required by the TNC.

1           (2) The TNC or a third party shall conduct a local and national criminal  
2           background check for each applicant that includes the following:

3           (a) A search of the multi-state and multi-jurisdiction criminal records locator  
4           or other similar commercial nationwide database with validation of any records  
5           through primary source search.

6           (b) A search of the national sex offender public website maintained by the  
7           United States Department of Justice.

8           (3) The TNC or a third party shall obtain and review a driving history  
9           research report for each potential TNC driver.

10           B. The TNC or a third party shall conduct the background check and driving  
11           history research report set forth in Paragraphs (A)(2) and (A)(3) of this Section at  
12           least once every two years.

13           C. The TNC shall not authorize an individual to act as a TNC driver on its  
14           digital network if the driving history research report conducted when the individual  
15           first seeks access to the digital network reveals that the individual has had more than  
16           three moving violations in the prior three-year period.

17           D. The TNC shall not authorize an individual to act as a TNC driver on its  
18           digital network if the background check conducted when the individual first seeks  
19           access to the digital network or any subsequent background check reveals that  
20           individual:

21           (1) Has had one or more of the following violations in the prior three-year  
22           period:

23           (a) Attempting to evade the police.

24           (b) Reckless driving.

25           (c) Driving with a suspended or revoked license.

26           (2) Has been convicted, within the past seven years, of:

27           (a) A felony.

28           (b) A misdemeanor for driving under the influence of drugs or alcohol, for  
29           hit and run, or for any other driving-related offense.

1 (c) A misdemeanor for a violent offense or sexual battery.

2 (3) Is a match on the national sex offender public website maintained by the  
3 United States Department of Justice.

4 (4) Does not possess a valid driver's license to operate a personal vehicle.

5 (5) Does not possess proof of registration for the motor vehicle used to  
6 provide prearranged rides.

7 §221. Prohibited conduct

8 A TNC driver shall not accept a trip for compensation if the trip was not  
9 arranged through a TNC's digital network.

10 §222. Nondiscrimination; accessibility

11 A. The TNC shall adopt a nondiscrimination policy with respect to riders and  
12 potential riders and shall notify TNC drivers of such policy.

13 B. TNC drivers shall comply with all applicable nondiscrimination laws.

14 C. TNC drivers shall comply with all applicable laws relating to the  
15 transportation of service animals.

16 D. A TNC shall not impose additional charges for providing services to  
17 persons with physical disabilities because of those disabilities.

18 §223. Records

19 A TNC shall maintain the following records:

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

22 (2) Individual records of all TNC drivers for at least three years after the date  
23 on which a TNC driver's relationship with the TNC was terminated.

24 §224. Audit procedures; confidentiality of records

25 A. For the sole purpose of verifying that a TNC is in compliance with the  
26 requirements of this Chapter and no more than annually, the department shall have  
27 the right to inspect all records the TNC is required to maintain. The inspection and  
28 audit shall take place at a time and place in the state determined by the department.

1           B. In response to a specific complaint against any TNC driver or TNC, the  
2           department is authorized to inspect records held by the TNC that are necessary to  
3           investigate and resolve the complaint at a time and place in the state determined by  
4           the department.

5           C. Any records inspected by the department shall be confidential, shall not  
6           be subject to disclosure by the department to a third party without prior written  
7           consent of the TNC, and shall be exempt from disclosure pursuant to the Public  
8           Records Law. Nothing in this Section shall be construed to apply to any other  
9           records of the department related to its regulation of TNCs if such records do not  
10          include information that is designated confidential or is exempt from disclosure  
11          pursuant to the Public Records Law.

12          §225. TNC fee

13           A. The department shall assess a TNC fee and administer the distribution of  
14           TNC fees in accordance with Subsection D of this Section. A TNC shall collect a  
15           TNC fee on behalf of a TNC driver for all intrastate prearranged rides.

16           B. A TNC shall determine whether each intrastate prearranged ride  
17           originated within the incorporated boundaries of a municipality, or outside of the  
18           incorporated boundaries of a municipality and within the boundaries of a parish of  
19           this state using geographic information system data made available by the  
20           department.

21           C. Within thirty days of the end of a calendar quarter, a TNC shall submit  
22           to the department all of the following:

23           (1) The total TNC fees collected by a TNC on behalf of the TNC drivers.

24           (2) A report listing the percentages of gross trip fares that originated in each  
25           municipality during the reporting period.

26           (3) A report listing the percentage of gross trip fares that originated outside  
27           a municipality during the reporting period.

28           D. The TNC fees collected pursuant to this Section are to be administered  
29           by the department as follows:



1           (1) The department shall retain five percent of the total TNC fees collected  
2           to cover expenses borne by the department from regulation of TNCs and the  
3           collection and distribution of TNC fees.

4           (2) Within sixty days of the end of the calendar quarter, the department shall  
5           distribute the remaining portion of the total TNC fees collected pursuant to  
6           Paragraph (C)(1) of this Section, after covering their expenses as provided for in  
7           Paragraph (1) of this Subsection, to the local governmental subdivision where a trip  
8           originated during the reporting period. The distribution to the local governmental  
9           subdivision shall be proportionate to the percentage of the gross trip fare that  
10           originated in the local governmental subdivision.

11           E.(1) Any records maintained by a TNC pursuant to this Section that are  
12           obtained by the department, another public body, or a local governmental  
13           subdivision, or any records that incorporate information from records maintained  
14           pursuant to this Section including any third-party audit report as provided for in  
15           Subsection F of this Section, shall not be subject to disclosure under the Public  
16           Records Law, R.S. 44:1 et seq., or any other applicable law. The department,  
17           another public body, or a local governmental subdivision shall not disclose records  
18           or information provided by a TNC unless disclosure is required by a subpoena or  
19           court order, except nothing in this Paragraph shall be construed to prevent the  
20           department from allowing a representative of a local governmental subdivision of the  
21           state to inspect a third-party audit report in accordance with Subsection F of this  
22           Section. If a disclosure is required, the department shall promptly notify the TNC  
23           prior to the disclosure.

24           (2) Notwithstanding any contrary provision of law, all permits issued to a  
25           TNC by a governmental entity, all correspondence and documents exchanged  
26           between a TNC and a governmental entity, and all contracts between a TNC and a  
27           governmental entity shall be a public record and shall be subject to disclosure in  
28           accordance with the Public Records Law except that in the absence of a valid

1 subpoena, any information maintained by a TNC pursuant to R.S. 45:214 and  
2 obtained by the department or other governmental entity shall remain confidential.

3 F. Annually, the department may request that a TNC engage an independent  
4 third-party auditor to verify the TNC fees submitted to the department pursuant to  
5 Paragraph (C)(1) of this Section are accurate. The TNC that is subject to the audit  
6 shall engage the independent third-party auditor, which must be selected at the sole  
7 discretion of the TNC, and shall bear all costs associated with the third-party audit.  
8 The independent third-party auditor must be a certified public accounting firm  
9 licensed in the state and qualified to perform engagements in accordance with  
10 generally accepted government auditing standards. The TNC shall provide the  
11 department with a copy of the third-party audit report within fifteen days of  
12 completion, which shall in no event, occur later than ninety days after receipt of the  
13 department's written request. If applicable, the audit report shall disclose the amount  
14 of any underpayment and any overpayment. If the audit reveals that a TNC  
15 underpaid the amount owed, the TNC shall, within ten business days, pay the  
16 underpayment. If the audit reveals that a TNC overpaid the amount owed, the  
17 department shall, within ten business days, refund the overpayment. To the extent  
18 that an audit is requested by the department and completed by a TNC, a  
19 representative of a local governmental subdivision of the state may request to inspect  
20 a copy of the third-party audit report, including any conclusions regarding  
21 underpayment or overpayment as provided for in this Subsection, and the department  
22 shall grant that request.

23 §226. Controlling authority

24 A. It is the intent of the legislature to provide for uniformity of laws  
25 governing TNCs, TNC drivers, and TNC vehicles throughout the state in order to  
26 protect and promote the safety and welfare of the residents of Louisiana.

27 B. Notwithstanding any other provision of law to the contrary, TNCs, TNC  
28 drivers, and TNC vehicles are governed exclusively by state law, including Part C

1 of this Chapter, this Part, and any rules promulgated by the department consistent  
2 with this Part.

3 C. A local governmental subdivision, special district, airport authority, port  
4 authority, or other local governmental entity or political subdivision shall not  
5 perform any of the following acts:

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

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

11 (3) Subject a TNC, TNC driver, or TNC vehicle to any rate, entry, operation,  
12 or other requirement of a local governmental subdivision, special district, airport  
13 authority, port authority, or other local governmental entity or political subdivision.

14 D. This Section does not prohibit an airport from charging reasonable  
15 pick-up fees for use of the airport's facilities or designating locations for staging,  
16 pick-up, and other similar operations at the airport.

17 §227. Applicability; conflicts

18 The provisions of Part C of this Chapter shall supercede any provision of this  
19 Part deemed to conflict with Part C of this Chapter, and all requirements of Part C  
20 of this Chapter, specifically including R.S. 45:201.5 and all provisions relative to  
21 jurisdiction, liability, permitting, maintaining insurance, and prohibiting an advance  
22 limitation of liability shall remain in full force and effect. Any provision or  
23 agreement contrary to the requirements of Part C of this Chapter shall be null and  
24 void.

25 Section 3. This Act shall become effective on July 1, 2017.

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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)]

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HB 527 Re-Reengrossed

2017 Regular Session

Havard

**Abstract:** Provides relative to safety, reliability, and access requirements for Transportation Network Companies (TNCs).

Proposed law adds references to the confidentiality provisions in proposed law to the public records law.

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

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

Proposed law defines "transportation network company vehicle" or "TNC vehicle" as a vehicle that is used by a transportation network company driver to offer or provide a prearranged ride and is owned, leased, or otherwise authorized for use by the TNC driver. Notwithstanding any other provision of law, a vehicle that is let or rented to another for consideration may be used as a transportation network company vehicle.

Proposed law defines "transportation network company", "TNC", or "Company" as a corporation, partnership, sole proprietorship, or other entity licensed and operating in this state that uses a digital network to connect a TNC rider to a TNC driver who provides a prearranged ride. A TNC may not control, direct, or manage the personal vehicle or the TNC driver who connects to its digital network, except where agreed to by written contract.

Proposed law defines "transportation network company driver" or "TNC driver" as an individual who receives connections to potential riders and related services from a TNC and, in return for compensation, uses a TNC vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a TNC.

Proposed law defines "transportation network company rider" or "rider" as an individual or persons who use a TNC's digital network to connect with a TNC driver who provides prearranged rides in the TNC driver's TNC vehicle between points chosen by the rider.

Proposed law defines "prearranged ride" as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports a requesting rider, and ending when the last requesting rider departs from the TNC vehicle. A prearranged ride does not include transportation provided by shared expense van pool services, as defined pursuant to present law (R.S. 45:162(18)), shared expense car pool services, as defined pursuant to present law (R.S. 45:162(1)), transportation provided using a vehicle subject to present law, or engaged solely in interstate commerce.

Proposed law defines "gross trip fare" as the total charge, including the base fare and any time or distance charges, for a prearranged ride.

Proposed law defines "TNC fee" as one percent of the gross trip fare.

Proposed law clarifies that a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier, does not provide taxi or for-hire vehicle service, and is not required to register the TNC vehicle as a commercial motor vehicle or for-hire vehicle.

Proposed law requires a person to obtain a permit from the department prior to operating a TNC in the state and requires the department to issue a permit to each applicant who meets the requirements as provided in proposed law. Allows a TNC operating in this state prior to the effective date of proposed law to continue operating until the department creates a permit process and sets a registration deadline.

Proposed law requires a TNC to maintain an agent for service of process in the state.

Proposed law requires a TNC to disclose the fare or fare calculation method on its website or within the online-enabled technology application prior to the beginning of the prearranged ride. Requires the TNC disclose, at a minimum, an estimated fare before the start of the prearranged ride.

Proposed law requires a TNC's digital network to display a picture of the TNC driver and the license plate number of the motor vehicle used for providing the prearranged ride prior to the rider entering the vehicle.

Proposed law requires a TNC to transmit an electronic receipt to the rider, within a reasonable amount of time following completion of a trip, which provides the total fare, origin, destination, duration, and distance of the trip.

Proposed law requires TNCs to implement a substance abuse zero tolerance policy which must address the use of drugs or alcohol while a TNC driver is providing prearranged rides or is logged into the TNC's digital network.

Proposed law provides that a TNC must provide notice of this policy and procedures to report a complaint on its website about a TNC driver whom the rider suspects was under the influence of drugs or alcohol during the course of his trip. Suspends a TNC driver upon receipt of a rider complaint alleging violation of the substance abuse zero tolerance policy and requires an investigation of the reported incident. Specifies that the suspension must last the duration of the investigation and provides that the TNC must maintain records of all reported incidents for 10 years from the date of the complaint.

Proposed law specifies that TNC drivers are independent contractors and are not considered employees of the TNC if specific hours are not unilaterally prescribed to the TNC driver, the TNC does not impose an express prohibition on the TNC driver's ability to utilize the digital network, the TNC does not restrict the TNC driver from engaging in any other business or occupation, and the TNC and TNC driver agree, in writing, that the TNC driver is an independent contractor.

Proposed law requires the following conditions to be met before an individual is authorized to accept trip requests through a TNC's digital network:

- (1) The individual must submit an application to the TNC, which includes his address, age, a copy of his driver's license and motor vehicle registration, and any other required information.
- (2) The TNC or a third party must conduct a local and national criminal background check for each applicant.
- (3) The TNC or a third party must obtain and review a driving history research report for each potential TNC driver.

Proposed law requires a TNC or a third party to conduct the background check and driving history research report at least once every two years.

Proposed law prohibits a TNC from authorizing an individual to act as a TNC driver on its digital network if the driving history research report initially conducted reveals that the individual has had more than three moving violations in the prior three-year period.

Proposed law prohibits a TNC from authorizing an individual to act as a TNC driver on its digital network if any of the following exists:

- (1) The individual has had, in the prior three-year periods, a violation of attempting to evade the police; reckless driving; or driving with a suspended or revoked license one or more times.
- (2) The individual has been convicted, within the past seven years, of a felony; a misdemeanor for driving under the influence of drugs or alcohol; for hit and run, or any other driving-related offense; or a misdemeanor for a violent offense or sexual battery.
- (3) The individual is a match on the national sex offender public website maintained by the U.S. Dept. of Justice.
- (4) The individual does not possess a valid driver's license to operate a personal vehicle.
- (5) The individual does not possess proof of registration for the motor vehicle used to provide prearranged rides.

Proposed law prohibits a TNC driver from accepting a trip for compensation that was not arranged through a TNC's digital network.

Proposed law requires the TNC to adopt a nondiscrimination policy and provide notice of the policy to its riders. Specifies that all TNC drivers must comply with all applicable laws relating to discrimination and transportation of service animals. Prohibits a TNC from imposing additional charges for providing services to persons with physical disabilities.

Proposed law requires a TNC to maintain individual trip records and individual records of all TNC drivers for at least three years from the date the trip was provided and the TNC driver and rider relationship was terminated, respectively.

Proposed law permits the department to annually inspect all records that the TNC is required to maintain at a time and place in the state determined by the department and authorizes the department to exclude information that would identify specific drivers or riders.

Proposed law authorizes the department to inspect records held by the TNC that are necessary to investigate and resolve any complaint made against a TNC driver or TNC at a time and place in the state determined by the department.

Proposed law clarify that proposed law must not be construed to apply to any other records of the department related to regulation of TNCs if such records do not include information that is designated confidential or exempt from disclosure.

Proposed law requires the department assess a TNC fee and administer the distribution of the fees in accordance with proposed law. Authorizes a TNC to collect a TNC fee for all intrastate prearranged rides and requires the TNC to determine the origin of each intrastate prearranged ride using geographic information system data made available by the department. Requires the TNC to submit the total TNC fees collected, a report listing percentages of gross trip fares that originated in each municipality, and a report listing the

percentage of gross trip fares that originated outside a municipality to the department within 30 days of the end of a calendar quarter.

Proposed law mandates the department retain 5% of the total TNC fees collected to cover departmental expenses incurred from regulation of TNCs and the department must distribute remaining funds proportionately to each local governmental subdivision where a trip originated during the reporting period.

Proposed law prohibits any records maintained by a TNC pursuant to proposed law, obtained by the department or other public entity or any records that incorporate information from records maintained by a TNC, including third-party audit reports, from being disclosed under present law (Public Records Law). Specifies that the department is prohibited from disclosing records or information provided by a TNC unless disclosure is required by a subpoena or court order, except that nothing should prevent the department from allowing a representative of a local governmental subdivision of the state to inspect a third-party audit report in accordance with proposed law, and provides that if such disclosure is required, the department must notify the TNC prior to disclosure.

Proposed law requires all permits issued to a TNC by a governmental entity, all correspondence and documents exchanged between a TNC and governmental entity, and all contracts between a TNC and governmental entity to be a public record and subject to disclosure in accordance with present law (Public Records Law), except that in the absence of a valid subpoena, information maintained pursuant to proposed law and obtained by the department or other governmental entity will remain confidential.

Proposed law authorizes the department to request that a TNC engage an independent third-party auditor to verify the TNC fees submitted to the department pursuant to proposed law are accurate. Allows the TNC to select the third party auditor and bear all costs associated with the audit. Requires the auditor to be a certified public accounting firm licensed in the state and qualified to perform engagements in accordance with generally accepted government auditing standards.

Proposed law requires the audit report to be provided to the department within 15 days of completion, which must not occur later than 90 days after receipt of the department's written request, and provides for payment of any amount owed and refund of any amount overpaid.

Proposed law authorizes a representative of a local governmental subdivision of the state to request to inspect a copy of the third-party audit report and require the department grant that request if an audit is requested by the department and completed by a TNC.

Proposed law provides that TNCs, TNC drivers, and TNC vehicles are governed by the laws of the state and any rules promulgated by the department.

Proposed law prohibits a local governmental subdivision, special district, airport authority, port authority, or other local governmental entity or political subdivision from imposing a tax on or requiring a license for a TNC, a TNC driver, or a TNC vehicle if such tax or license relates to providing prearranged rides; from requiring a TNC or a TNC driver to obtain a business license or any other type of similar authorization to operate within the jurisdiction; and from subjecting a TNC, TNC driver, or TNC vehicle to any rate, entry, operation, or other requirement of the local governmental subdivision, special district, airport authority, port authority, or other local governmental entity or political subdivision.

Proposed law clarifies that proposed law does not prevent an airport from charging reasonable pick-up fees for use of airport facilities or designating locations for staging, pick-up, and other similar airport operations.

Proposed law requires that records inspected by the department remain confidential, prohibit the disclosure of the records by the department to a third party without prior written consent,

and specify that the records are exempt from disclosure pursuant to present law (Public Records Law).

Proposed law specifies that the provisions of present law will supersede any provision of proposed law if deemed to conflict and the provisions relative to jurisdiction, liability, permitting, maintaining insurance and prohibiting an advance limitation of liability will remain in full force and effect.

Effective July 1, 2017.

(Amends R.S. 44:4.1(B)(30); Adds R.S. 45:211-227)



Summary of Amendments Adopted by House

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

1. Make technical changes.
2. Transfer regulating authority to the Department of Agriculture and Forestry.
3. Require the TNC or third party to conduct a background check and driving history research report at least once every two years.
4. Prohibit a TNC from authorizing an individual to act as a TNC driver on its digital network if the driving history research report initially conducted reveals that the individual has had more than three moving violations in the prior three-year period.
5. Clarify a provision that prohibits a TNC from authorizing an individual to act as a TNC driver on its digital network if the background check initially conducted reveals that the individual has had one or more violations enumerated in proposed law in the prior three-year period.
6. Specify that a TNC cannot authorize an individual to act as a TNC driver if the person does not possess a valid driver's license to operate a personal vehicle.
7. Permit the department to annually visually inspect a sample of records that the TNC is required to maintain, chosen randomly by the department in a manner agreeable to both parties, at a mutually agreed location in the state and allows for the exclusion of information that would identify specific drivers or riders.
8. Authorize the department to inspect records held by the TNC that are necessary to investigate and resolve any complaint made against a TNC driver or TNC. Provide that the department and TNC have the inspection take place at a mutually agreed location in the state and any record furnished to the department may exclude information that would identify a specific driver or rider, unless such identification is relevant to the complaint.
9. Specify that any records inspected by the department are designated confidential, are not subject to disclosure to a third party by the department without prior written consent of the TNC, and are exempt from disclosure under present law.
10. Delete the requirement that an airport charge reasonable pick-up fees consistent with any such fees charged to taxicab companies at that airport, if the airport elects to charge pick-up fees.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Add provisions relative to the confidentiality of records to provide that proposed law does not apply to department records related to its regulation of TNCs if such records do not include information that is otherwise designated confidential or exempted pursuant to present law (Public Records Law).
2. Make technical changes.

Summary of Amendments Adopted by House

The House Floor Amendments to the reengrossed bill:

1. Require the TNC to maintain records of all reported incidents for a period of at least 10 years.
2. Increase the time period that TNC's are required to maintain individual trip and driver records from one to three years.
3. Clarify that the department has the right to inspect all records that the TNC is required to maintain and requires the inspection and audit take place at a time and place determined by the department.
4. Clarify that the department may inspect records necessary for investigation and resolution of a complaint at a time and place in the state determined by the department, instead of a mutually agreed upon place.
5. Remove a provision that authorized the exclusion of identifying information of a driver or rider provided to the department, unless the identity of a driver or rider is relevant to the complaint.
6. Change the name of the fee from a local assessment fee to a TNC fee.
7. Require the department to assess the TNC fee and administer the distribution of such fee in accordance with the provisions of proposed law.
8. Add that third-party audit reports are not be subject to disclosure under the Public Records Law or any other applicable law.
9. Add that a public body or local governmental subdivision cannot disclose records or information provided by a TNC unless disclosure is required by a court order or subpoena.
10. Clarify that nothing in proposed law will prevent the department from allowing a local governmental subdivision to inspect a third-party audit report in accordance with proposed law.
11. Add a requirement that all permits issued to a TNC by a governmental entity, all correspondence and documents exchanged between a TNC and governmental entity, and all contracts between a TNC and governmental entity to be a public record and subject to disclosure in accordance with the Public Records Law, except that in the absence of a valid subpoena, information maintained pursuant to proposed law and obtained by the department or other governmental entity will remain confidential.
12. Add authorization for a representative of a local governmental subdivision of the state request to inspect a copy of the third-party audit report and require the department grant that request if an audit is requested by the department and completed by a TNC.
13. Add a conflict provision that specify that the provisions of present law will supersede any provision of proposed law if deemed to conflict and the provisions relative to jurisdiction, liability, permitting, maintaining insurance and prohibiting an advance limitation of liability will remain in full force and effect.
14. Add a provision requiring that records inspected by the department remain confidential, prohibiting disclosure of the records by the department to a third party without prior written consent, and specifying that the records are exempt from disclosure pursuant to Public Records Law.

15. Clarify that proposed law must not be construed to apply to any other records of the department related to regulation of TNCs if such records do not include information that is designated confidential or exempt from disclosure.
16. Make technical changes.