

FOR OFFICE USE ONLY	

HOUSE FLOOR AMENDMENTS

2018 Regular Session

Amendments proposed by Representative Magee to Engrossed Senate Bill No. 332 by Senator Cortez

1 AMENDMENT NO. 1

2 On page 1, delete line 2 in its entirety and insert the following:

3 "To amend and reenact R.S. 45:201.6(G)(2) and to enact R.S. 48:94 and Chapter 36
 4 of Title 48 of the Louisiana Revised Statutes of 1950, to be comprised of
 5 R.S. 48:2201 through 2215, relative to the Department of Transportation and
 6 Development; to"

7 AMENDMENT NO. 2

8 On page 1, line 5, after "website;" delete the remainder of the line and insert "to provide for
 9 transportation network company requirements; to provide for requirements for insurance;
 10 to provide for definitions; to provide for fare transparency; to provide for publication of
 11 certain information on the department's website; to provide for an electronic receipt; to
 12 provide for a zero tolerance policy; to provide for prohibited conduct; to provide for audits;
 13 to provide for local fees; and to provide for related matters."

14 AMENDMENT NO. 3

15 On page 1, delete line 7 in its entirety and insert the following:

16 "Section 1. R.S. 45:201.6(G)(2) is hereby amended and reenacted to read as follows:

17 §201.6. Requirements for insurance.
 18 * * *

19 G. A policy of insurance procured pursuant to this Section:
 20 * * *

21 (2) May be placed with an authorized insurer or with a surplus lines insurer
 22 ~~pursuant to R.S. 22:432.~~ as defined in R.S. 22:46(17.1).
 23 * * *

24 Section 2. R.S. 48:94 and Chapter 36 of Title 48 of the Louisiana Revised Statutes
 25 of 1950, comprised of R.S. 48:2201 through 2215, are hereby enacted to read as
 26 follows:"

27 AMENDMENT NO. 4

28 On page 1, after line 13, insert the following:

29 "CHAPTER 36. TRANSPORTATION NETWORK COMPANY REQUIREMENTS
 30 §2201. Definitions
 31 All definitions provided for in R.S. 45:201.4 are applicable to this Chapter,
 32 unless a different definition is provided for in this Chapter, or the context in which
 33 the term is used in this Chapter indicates a different meaning. The following terms
 34 shall have the meaning ascribed to them in this Section, except where a different
 35 meaning is expressly stated or clearly indicated by context:

1 (1) "Department" means the Louisiana Department of Transportation and
 2 Development.

3 (2) "Gross trip fare" means the base fare plus any time or distance charges,
 4 excluding any additional charges such as airport or venue fees.

5 (3) "Intrastate prearranged ride" means any prearranged ride as provided for
 6 in R.S. 45:201.4(4), originating within the jurisdiction of the local governmental
 7 subdivision.

8 (4) "Local governmental subdivision" means any parish or municipality as
 9 defined in Article VI, Section 44(1) of the Constitution of Louisiana.

10 (5) "Transportation network company vehicle" or "vehicle" has the same
 11 meaning as "personal vehicle" as defined in R.S. 45:201.4(3).

12 §2202. Classification of carriers

13 A company or a driver shall not be considered a common carrier, contract
 14 carrier, or motor carrier, and does not provide taxi or for hire vehicle service. In
 15 addition, a driver is not required to register the vehicle that the driver uses to provide
 16 prearranged rides as a commercial motor vehicle or a for hire vehicle.

17 §2203. Transportation network company permits

18 A. A person shall not operate a company in this state without first obtaining
 19 a permit from the department. However, if a company has been operating in this
 20 state prior to the effective date of this Chapter, they may continue operating until the
 21 department creates a permit process and sets a registration deadline. As a part of the
 22 permit process, a company shall be required to provide the department with a
 23 certificate of insurance verifying compliance with R.S. 45:201.6 and listing the
 24 department as a certificate holder.

25 B. The department shall issue a permit to each applicant that meets the
 26 requirements applicable to a company as provided for in this Chapter.

27 §2204. Service of process

28 A company shall maintain an agent for service of process in this state.

29 §2205. Transparency; publication of fares and transportation network company
 30 driver requirements

31 A. The department shall publish information on fare transparency and
 32 transportation network driver requirements on the department's internet website.

33 B. If a fare is collected from a rider, the company shall disclose to the rider
 34 the fare or fare calculation method located on its website or within the
 35 online-enabled technology application service prior to the start of the prearranged
 36 ride. If the fare is not disclosed to the rider prior to the beginning of the prearranged
 37 ride, the rider shall have the option to receive an estimated fare before the start of the
 38 prearranged ride.

39 §2206. Identification of transportation network company vehicles and drivers

40 The company's digital network shall display a picture of the driver and the
 41 license plate number of the motor vehicle used for providing the prearranged ride
 42 before the rider enters the driver's vehicle.

43 §2207. Electronic receipt

44 Within a reasonable amount of time following the completion of a
 45 prearranged ride, a company shall transmit an electronic receipt to the rider on behalf
 46 of the driver. The receipt shall include all of the following:

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

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

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

50 §2208. Zero tolerance policy

51 A. The company shall implement a zero tolerance policy regarding a driver's
 52 activities while accessing the company's digital network. The zero tolerance policy
 53 shall address the use of drugs or alcohol while a driver is providing prearranged rides
 54 or is logged into the company's digital network but is not providing prearranged
 55 rides. The company shall provide notice of this policy on its website as well as
 56 procedures to report a complaint about a driver with whom a rider was matched and
 57 whom the rider reasonably suspects was under the influence of drugs or alcohol
 58 during the course of the prearranged ride.

1 B. Upon receipt of a rider's complaint alleging a violation of the zero
 2 tolerance policy, the company shall suspend the alleged driver's ability to accept trip
 3 requests through the company's digital network immediately, and shall conduct an
 4 investigation into the reported incident. The suspension shall last the duration of the
 5 investigation.

6 C. The company shall maintain records relevant to the enforcement of this
 7 requirement for a period of at least two years from the date that a rider's complaint
 8 is received by the company.

9 §2209. Transportation network company driver requirements

10 A. Before an individual is authorized to accept trip requests through a
 11 transportation network company's digital network, the following conditions shall be
 12 met:

13 (1) The individual shall submit an application to the company, which
 14 includes information regarding his address, age, driver's license, motor vehicle
 15 registration, insurance, and any other information required by the company.

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

18 (a) A multi-state and multi-jurisdiction criminal records locator or other
 19 similar commercial nationwide database with validation of any records through
 20 primary source search.

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

23 (3) The company or a third party shall obtain and review a driving history
 24 research report for each applicant.

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

28 C. The company shall not authorize an individual to act as a driver if the
 29 individual's driving history report reveals the individual received more than three
 30 moving violations within the three-year period prior to applying to the company.

31 D. The company shall not authorize an individual to act as a driver if the
 32 individual's initial background check or any subsequent background check reveals
 33 the individual:

34 (1) Has had more than one of the following violations within the three-year
 35 period prior to applying to the company:

36 (a) Flight from an officer or aggravated flight from an officer as provided for
 37 in R.S. 14:108.1.

38 (b) Reckless operation of a vehicle as provided for in R.S. 14:99.

39 (c) Operating a vehicle while under suspension for certain prior offenses as
 40 provided for in R.S. 14:98.8.

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

42 (a) Any enumerated felony as provided for in Title 14 of the Louisiana
 43 Revised Statutes of 1950, comprised of R.S. 14:1 through 601.

44 (b) Operating a vehicle while intoxicated as provided for in R.S. 14:98
 45 through 98.4.

46 (c) Hit and run driving as provided for in R.S. 14:100.

47 (d) Any crime of violence as defined in R.S. 14:2(B).

48 (3) Is listed as an offender on the national sex offender public website
 49 maintained by the United States Department of Justice.

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

51 (5) Does not possess the required registration to operate a motor vehicle used
 52 to provide prearranged rides.

53 §2210. Prohibited conduct

54 A driver may not accept a trip for compensation other than a trip arranged
 55 through a company's digital network.

56 §2211. Nondiscrimination; accessibility

57 A. The company shall adopt a nondiscrimination policy with respect to riders
 58 and potential riders and shall inform drivers of such policy.

59 B. Drivers shall comply with all applicable nondiscrimination laws.

1 C. Drivers shall comply with all applicable laws relating to transporting
 2 service animals.

3 D. A company shall not impose any additional charges for providing services
 4 to persons with physical disabilities.

5 §2212. Records

6 A company shall maintain the following records:

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

9 (2) Individual records of drivers for at least three years after the date which
 10 a driver's relationship with the company has ended.

11 §2213. Audit procedures; confidentiality of records

12 A. For the sole purpose of verifying that a company is in compliance with
 13 the requirements of this Chapter, annually at most, the department shall have the
 14 right to visually inspect a sample of records that the company is required to maintain.
 15 The sample shall consist of required records pertaining to up to one hundred drivers.
 16 If, after the initial review, the department has a reasonable basis to conclude that the
 17 company is not in compliance with the requirements of this Chapter, the department
 18 may, upon reasonable notice, conduct a supplemental audit of records for an
 19 additional selection of drivers. The audit shall take place at a location in Baton
 20 Rouge. Any record furnished to the department may, as appropriate, exclude
 21 information that would identify specific drivers or riders.

22 B. The governing body of a local governmental subdivision may request
 23 from the department a report on the results of the audit performed by the commission
 24 pursuant to Subsection A of this Section.

25 C. In response to a specific complaint against any driver or company, the
 26 department is authorized to inspect records held by the company that are necessary
 27 to investigate and resolve the complaint. The company and department shall
 28 endeavor to have the inspection take place at a mutually agreed upon location in the
 29 state. Any record furnished to the department may exclude information that would
 30 identify specific drivers or riders, unless the identity of a driver or rider is relevant
 31 to the complaint.

32 D. Any records inspected by the department pursuant to this Section are
 33 designated confidential and are not subject to disclosure to a third party by the
 34 department without prior written consent of the company. Nothing in this Section
 35 shall be construed as applying to other department records related to its regulation
 36 of transportation network companies if such records do not include information that
 37 is otherwise designated confidential.

38 §2214. Local fees

39 A. A local governmental subdivision that enacted a transportation network
 40 company ordinance prior to March 1, 2018, that included a per-trip fee and has a
 41 company operating within the corporate limits of the local governmental subdivision
 42 as of March 1, 2018, is authorized to impose a fee up to or equal to the per-trip fee
 43 imposed by the local governmental subdivision's transportation network company
 44 ordinance as of March 1, 2018, on each intrastate prearranged ride originating within
 45 the corporate limits of the local governmental subdivision. Nothing in this
 46 Subsection shall be construed to allow a local governmental subdivision to impose
 47 any fees or requirements other than the per-trip fee specified in this Subsection.

48 B. Any local governmental subdivision not included in Subsection A of this
 49 Section is authorized to impose a fee of up to one percent of the gross trip fare for
 50 each intrastate prearranged ride. A local governmental subdivision that imposes a
 51 per-trip fee pursuant to Subsection A of this Section shall not also impose a fee
 52 pursuant to this Subsection. Nothing in this Subsection shall be construed to allow
 53 a local governmental subdivision to impose any fees or requirements other than the
 54 fee specified in this Subsection.

55 C. A local governmental subdivision authorized to impose a fee pursuant to
 56 Subsection B of this Section may impose the specified fee that complies with
 57 Subsection B of this Section by passing an ordinance. The ordinance shall impose
 58 the specified fee that complies with Subsection B of this Section on each company
 59 permitted by the department in accordance with R.S. 48:2203. A municipality's fee

1 may apply only to intrastate prearranged rides originating within the incorporated
 2 limits of the municipality. A parish's fee may apply only to intrastate prearranged
 3 rides originating within the unincorporated portions of the parish.

4 D. A local governmental subdivision shall provide, at least thirty days prior,
 5 written notice to each company permitted by the department, in accordance with R.S.
 6 48:2203, of an initial hearing, reading, or consideration of an ordinance imposing a
 7 fee pursuant to this Section. A local governmental subdivision shall also provide
 8 written notice within ten days of the passage of any ordinance imposing a fee
 9 pursuant to this Section. A fee imposed pursuant to this Section shall not go into
 10 effect until the first day of the month that is at least thirty days after passage of the
 11 ordinance imposing the fee.

12 E. If a local governmental subdivision passes an ordinance imposing a fee
 13 pursuant to this Section, a company shall collect the fee on behalf of drivers for each
 14 intrastate prearranged ride. Each company shall remit the total fee to the local
 15 governmental subdivision on a quarterly basis within thirty days after the end of the
 16 calendar quarter.

17 F. The department shall have the sole audit authority with respect to fees
 18 remitted by a company to a local governmental subdivision. A company shall keep
 19 accurate books and records reflecting its accounting and payment of fees, pursuant
 20 to this Section, in accordance with generally accepted accounting principles. For
 21 each local governmental subdivision that passes an ordinance imposing a fee
 22 pursuant to this Section, the department may, at its discretion, upon reasonable prior
 23 written request, and no more than annually, conduct an audit by visually inspecting
 24 a company's books and records related to its accounting and payment of fees to the
 25 local governmental subdivision. Such an audit shall be limited to a single calendar
 26 quarter, which may be chosen by the department, for each local governmental
 27 subdivision. The department shall endeavor to have any such audits for a particular
 28 company occur within the same calendar quarter. If the local governmental
 29 subdivision has a reasonable basis to suspect a material underpayment by a company,
 30 the local governmental subdivision shall request that the department initiate an audit
 31 pursuant to this Subsection. If an underpayment of over fifty dollars to any local
 32 governmental subdivision is identified in an audit conducted by the department, the
 33 company shall remit the underpaid fees to the local governmental subdivision within
 34 thirty days of the conclusion of the department's audit. A local governmental
 35 subdivision shall not add additional audit authority by ordinance. Any record
 36 furnished or disclosed to the department may, as appropriate, exclude information
 37 that would identify specific drivers or riders.

38 G. The governing body of a local governmental subdivision may request to
 39 review the results of an audit conducted pursuant to Subsection F of this Section with
 40 respect to fees remitted by a company to the local governmental subdivision.

41 H. The total fee remitted to any local governmental subdivision by a
 42 company, any records maintained by a company pursuant to this Section that are
 43 obtained by a local governmental subdivision, the department, or any other public
 44 body, and any records that incorporate information from records maintained pursuant
 45 to this Section are designated confidential and are not subject to disclosure to a third
 46 party without prior written consent of the company. Nothing in this Subsection shall
 47 prohibit the department from communicating the results of an audit pursuant to
 48 Subsection F of this Section to the local governmental subdivision of which the fees
 49 were the subject of the audit.

50 §2215. Controlling authority

51 A. It is the intent of the legislature to provide uniform laws to govern
 52 companies, drivers, and vehicles throughout the state in order to protect and promote
 53 the safety and welfare of the residents of Louisiana.

54 B. Except as provided in R.S. 48:2214 and Subsection D of this Section, and
 55 notwithstanding any other provision of law to the contrary, companies, drivers, and
 56 vehicles are governed exclusively by state law, including Part C of the Motor Carrier
 57 law as provided for in R.S. 45:161 et. seq., this Chapter, and any rules promulgated
 58 by the department consistent with this Chapter.

59 C. A local governmental subdivision shall not do any of the following:

1 (1) Impose a tax on, or require a license for, a company, a driver, or a vehicle
 2 if such tax or license relates to providing prearranged rides, except as provided in
 3 R.S. 48:2214 or Subsection D of this Section.

4 (2) Require a company or a driver to obtain a business license or any other
 5 type of similar authorization to operate within the jurisdiction.

6 (3) Subject a company, a driver, or a vehicle to any rate, entry, operation, or
 7 other requirement of the governing authority, except as provided in R.S. 48:2214 or
 8 Subsection D of this Section.

9 D. The provisions of this Section do not prohibit an airport from charging
 10 pick-up fees for the use of the airport's facilities or designating locations for staging,
 11 pick-up, and other similar operations at the airport. An airport pick-up fee is not a
 12 local fee subject to the provisions of R.S. 48:2214.

13 E. Nothing in this Section may be construed to prohibit the state from
 14 maintaining, enforcing, prescribing, or continuing in effect any law or regulation
 15 regarding the sale, distribution, repair, or service of vehicles pursuant to Title 32 of
 16 the Louisiana Revised Statutes of 1950.

17 Section 3. The department shall also have the authority to promulgate rules and
 18 regulations to implement and enforce this Act. The rules and regulations may be more
 19 stringent than the requirements set forth in this Act, provided that they are consistent with
 20 the requirements of this Act. Additionally, the department shall report to the Joint
 21 Legislative Committee on Transportation, Highways and Public Works for review and
 22 approval of any rules or regulations promulgated by the department.

23 Section 4. This Act shall become effective July 1, 2018."