

ACT No. 286

2019 Regular Session

HOUSE BILL NO. 575

BY REPRESENTATIVE MAGEE

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AN ACT

To amend and reenact R.S. 45:201.6(G)(2) and to enact Chapter 36 of Title 48 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 48:2191 through 2205, relative to transportation network companies; to provide for transportation network company and driver requirements; to provide for permits, fees, fare transparency, and identification of vehicles and drivers; to provide for a nondiscrimination policy; to provide for definitions and certain prohibitions; to provide for records and audit requirements; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

§201.6. Requirements for insurance

* * *

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

* * *

(2) May be placed with an authorized insurer or with a surplus lines insurer, pursuant to R.S. 22:432, that has a rating of no less than an A- from A.M. Best, an A from Demotech, Inc., or a similar rating from another rating agency recognized by the Department of Insurance.

* * *

Section 2. Chapter 36 of Title 48 of the Louisiana Revised Statutes of 1950, comprised of R.S. 48:2191 through 2205, is hereby enacted to read as follows:

CHAPTER 36. TRANSPORTATION NETWORK COMPANY REQUIREMENTS§2191. Definitions

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

(1) "Bodily injury" means claims for general and special damages for personal injury arising under Civil Code Article 2315.

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

(3) "Digital network" means 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.

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

(5) "Intrastate prearranged ride" means any prearranged ride, as provided for in this Section, originating within the jurisdiction of the local governmental subdivision.

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

(7) "Personal vehicle" means 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.

(8) "Prearranged ride" means 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), shared expense

1 car pool services, as defined pursuant to R.S. 45:162(1), or transportation provided
2 using a vehicle subject to Part A or B of the Motor Carrier law as provided for in
3 R.S. 45:161 et seq. or engaged solely in interstate commerce.

4 (9) "Pre-trip acceptance period" means any period of time during which a
5 driver is logged on to the transportation network company's digital network and is
6 available to receive transportation requests, but is not engaged in an intrastate
7 prearranged ride as defined in Paragraph (5) of this Section.

8 (10) "Transportation network company" or "company" means a person,
9 whether natural or juridical, that uses a digital network to connect transportation
10 network company riders to transportation network company drivers who provide
11 prearranged rides, or a person, whether natural or juridical, that provides a
12 technology platform to a transportation network company rider that enables the
13 transportation network company rider to schedule an intrastate prearranged ride.

14 (11) "Transportation network company driver" or "driver" means a person
15 who receives connections to potential passengers and related services from a
16 transportation network company in exchange for payment of a fee to the
17 transportation network company, and who uses a personal vehicle to offer or provide
18 a prearranged ride to persons upon connection through a digital network controlled
19 by a transportation network company in return for compensation or payment of a fee.

20 (12) "Transportation network company rider" or "rider" means a person who
21 uses a transportation network company's digital network to connect with a
22 transportation network driver who provides intrastate prearranged rides to the rider
23 in the driver's personal vehicle between points chosen by the rider.

24 (13) "Transportation network company vehicle" or "vehicle" has the same
25 meaning as "personal vehicle" as provided for in this Section.

26 §2192. Classification of carriers

27 A company or a driver shall not be considered a common carrier, contract
28 carrier, or motor carrier, and shall not provide taxi or for hire vehicle service. In
29 addition, a driver shall not be required to register the vehicle that the driver uses to
30 provide prearranged rides as a commercial motor vehicle or a for hire vehicle.

1 §2193. Transportation network company permits

2 A. A person shall not operate a company in the state of Louisiana without
3 first obtaining a permit from the department. However, if a company has been
4 operating in this state prior to the effective date of this Chapter, they may continue
5 operating until the department creates a permit process and sets a registration
6 deadline. As a part of the permit process, a company shall be required to provide the
7 department with a certificate of insurance verifying compliance with R.S. 45:201.6
8 and listing the department as a certificate holder.

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

11 C. The department shall not charge a fee for the issuance of any permit to a
12 company under this Section.

13 §2194. Service of process

14 A company shall maintain an agent for service of process in the state of
15 Louisiana.

16 §2195. Fare transparency

17 If a fare is collected from a rider, the company shall disclose to the rider the
18 fare or fare calculation method located on its website or within the online-enabled
19 technology application service prior to the start of the prearranged ride. If the fare
20 is not disclosed to the rider prior to the beginning of the prearranged ride, the rider
21 shall have the option to receive an estimated fare before the start of the prearranged
22 ride.

23 §2196. Identification of transportation network company vehicles and drivers

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

27 B. Upon the request of a rider, a driver shall present his physical license or
28 digitized driver's license to the rider prior to the start of each prearranged ride.

1 §2197. Electronic receipt

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

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

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

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

8 §2198. Zero tolerance policy

9 A. The company shall implement a zero tolerance policy regarding a driver's
10 activities while accessing the company's digital network. The zero tolerance policy
11 shall address the use of drugs or alcohol while a driver is providing prearranged rides
12 or is logged into the company's digital network, regardless of whether the driver is
13 providing prearranged rides. The company shall provide notice of this policy on its
14 website as well as procedures to report a complaint about a driver with whom a rider
15 was matched and whom the rider reasonably suspects was under the influence of
16 drugs or alcohol during the course of the prearranged ride.

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

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

25 §2199. Transportation network company driver requirements

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (3) Is listed as an offender in the national sex offender public website
 8 maintained by the United States Department of Justice.

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

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

12 §2200. Prohibitions

13 A. A driver shall not accept a trip for compensation other than a trip arranged
 14 through a company's digital network.

15 B.(1) A dispute arising in this state involving the company, or a driver
 16 operating under the provisions of this Chapter, shall not be governed by the laws of
 17 another jurisdiction and shall not be resolved outside of the state, unless agreed to
 18 by all parties in writing after the dispute has arisen.

19 (2) "Dispute" shall include but is not limited to a dispute involving liability
 20 arising from an alleged act or omission, a dispute involving interpretation of
 21 contractual terms or provisions, and a determination of rights, status, or other legal
 22 relations.

23 §2201. Nondiscrimination; accessibility

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

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

27 C. Drivers shall comply with all applicable laws relating to transporting
 28 service animals.

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

1 §2202. Records

2 A company shall maintain the following records:

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

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

7 §2203. Audit procedures; confidentiality of records

8 A. For the purpose of verifying that a company is in compliance with the
 9 requirements of this Chapter, the department shall have the right to audit the records
 10 that the company is required to maintain. The audit shall be conducted using a
 11 reasonable sampling procedure agreed upon by the department and the company, and
 12 shall take place at a location agreed upon by the department and the company. Any
 13 record furnished to the department may, as appropriate, exclude information that
 14 would identify specific drivers or riders.

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

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

25 §2204. Local and state fees

26 A. A local governmental subdivision that enacted a transportation network
 27 company ordinance prior to March 1, 2019, that included a per-trip fee and has a
 28 company operating within the corporate limits of the local governmental subdivision
 29 as of March 1, 2019, is authorized to impose a fee up to or equal to the per-trip fee
 30 imposed by the local governmental subdivision's transportation network company

1 ordinance as of March 1, 2019, on each intrastate prearranged ride originating within
2 the corporate limits of the local governmental subdivision. Nothing in this
3 Subsection shall be construed to allow a local governmental subdivision to impose
4 any fees or requirements other than the per-trip fee specified in this Subsection.

5 B. Any local governmental subdivision not included in Subsection A of this
6 Section may impose a fee of up to one percent of the gross trip fare for each
7 intrastate prearranged ride. A local governmental subdivision that imposes a per-trip
8 fee pursuant to Subsection A of this Section shall not impose a fee pursuant to this
9 Subsection. Nothing in this Subsection shall be construed to allow a local
10 governmental subdivision to impose any fees or requirements other than the fee
11 specified in this Subsection.

12 C. A local governmental subdivision authorized to impose a fee pursuant to
13 Subsection B of this Section may impose the specified fee that complies with
14 Subsection B of this Section by passing an ordinance. The ordinance shall impose
15 the specified fee, that complies with Subsection B of this Section, on each company
16 permitted by the department in accordance with R.S. 48:2193. A municipality's fee
17 may apply only to intrastate prearranged rides originating within the incorporated
18 limits of the municipality. A parish's fee may apply only to intrastate prearranged
19 rides originating within the unincorporated portions of the parish.

20 D. A local governmental subdivision shall provide, at least thirty days prior,
21 written notice to each company permitted by the department, in accordance with R.S.
22 48:2193, of an initial hearing, reading, or consideration of an ordinance imposing a
23 fee pursuant to this Section. A local governmental subdivision shall also provide
24 written notice within ten days of the passage of any ordinance imposing a fee
25 pursuant to this Section. A fee imposed pursuant to this Section shall not go into
26 effect until the first day of the month that is at least thirty days after passage of the
27 ordinance imposing the fee.

28 E. If a local governmental subdivision passes an ordinance imposing a fee
29 pursuant to this Section, a company shall collect the fee on behalf of drivers for each
30 intrastate prearranged ride. Each company shall remit the total fee to the local

1 governmental subdivision on a quarterly basis within thirty days after the end of the
2 calendar quarter.

3 F.(1) On a quarterly basis, each company shall remit to the Louisiana
4 Department of Revenue an assessment fee equal to one percent of the gross trip fare
5 for all prearranged rides that originate in this state in accordance with this Act. The
6 assessment fee shall be remitted on or before thirty days after the close of each
7 calendar quarter and shall be submitted with a report, on forms prescribed by the
8 secretary of the Department of Revenue, showing the gross trip fares that originated
9 in the state during the reporting quarter.

10 (2) Funds received by the Department of Revenue in the form of assessment
11 fees authorized in this Subsection shall be deposited immediately upon receipt into
12 the state treasury. After compliance with the requirements of Article VII, Section
13 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption
14 Fund, an amount equal to that deposited as required by this Subsection shall be
15 credited to the Department of Transportation and Development and shall be used
16 solely for the expenses of the operations of the Department of Transportation and
17 Development in regulating transportation network companies, and only in the
18 amounts appropriated by the legislature.

19 G. The Department of Revenue shall have the sole audit authority with
20 respect to fees remitted by a company to a local governmental subdivision and the
21 Department of Revenue. A company shall keep accurate books and records
22 reflecting its accounting and payment of fees, pursuant to this Section, in accordance
23 with generally accepted accounting principles. For the assessment fee imposed
24 pursuant to this Section and each local governmental subdivision that passes an
25 ordinance imposing a fee pursuant to this Section, the Department of Revenue may,
26 at its discretion, upon reasonable prior written request, and no more than annually,
27 conduct an audit of a company's books and records related to its accounting and
28 payment of fees to the local governmental subdivision and the Department of
29 Revenue. Such an audit shall be limited to a single calendar quarter. If the local
30 governmental subdivision has a reasonable basis to suspect a material underpayment

1 by a company, the local governmental subdivision shall request that the Department
 2 of Revenue initiate an audit pursuant to this Subsection. To be material, the
 3 underpayment to the local governmental subdivision must be greater than ten percent
 4 of the amount required to be remitted. If an underpayment of over fifty dollars to
 5 any local governmental subdivision is identified in an audit conducted by the
 6 Department of Revenue, the company shall remit the underpaid fees to the local
 7 governmental subdivision within thirty days of the conclusion of the Department of
 8 Revenue audit. A local governmental subdivision shall not add additional audit
 9 authority by ordinance. Any record furnished or disclosed to the Department of
 10 Revenue may, as appropriate, exclude information that would identify specific
 11 drivers or riders.

12 H. The governing body of a local governmental subdivision may request to
 13 review the results of an audit conducted pursuant to Subsection G of this Section
 14 with respect to fees remitted by a company to the local governmental subdivision.

15 §2205. Controlling authority

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

19 B. Except as provided in R.S. 48:2204 and Subsection D of this Section, and
 20 notwithstanding any other provision of law to the contrary, companies, drivers, and
 21 vehicles are governed exclusively by state law, including Part C of the Motor Carrier
 22 law as provided for in R.S. 45:161 et seq., this Chapter, and any rules promulgated
 23 by the department consistent with this Chapter.

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

25 (1) Impose a tax on, or require a license for, a company, a driver, or a vehicle
 26 if such tax or license relates to providing prearranged rides, except as provided in
 27 R.S. 48:2204 or Subsection D of this Section.

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

1 this Act. Additionally, the department shall report to the Joint Legislative Committee on
2 Transportation, Highways and Public Works for review and approval of any rules or
3 regulations promulgated by the department.

4 Section 4. This Act shall become effective July 1, 2019.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____