



Ohio Legislative Service Commission

Final Analysis

Amanda M. Ferguson and Erika Padgett

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(As Passed by the General Assembly)

Reps. Duffey and Hackett, Bishoff, Amstutz, Anielski, Antani, Antonio, Ashford, Buchy, Burkley, Derickson, Dever, Dovilla, Green, Grossman, Henne, Kunze, McColley, Pelanda, Retherford, Sears, Terhar, Young

Sens. LaRose, Hottinger, Uecker, Bacon, Eklund, Faber, Jones, Sawyer, Seitz

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ACT SUMMARY

Transportation network companies

TNC permits

- Requires an entity to obtain a transportation network company (TNC) permit from the Public Utilities Commission in order to use a digital network to prearrange rides between riders and TNC drivers.

Requirements for TNCs and TNC drivers

- Requires a TNC to do all of the following:
 - Disclose its fare calculation method and provide estimated rates;
 - Ensure that a TNC rider receives a photograph of the TNC driver and the license plate number of the driver's vehicle or ensure that the name of the TNC is prominently displayed on the vehicle;
 - Provide a receipt for all TNC services that includes specified contents;
 - Conduct a background check on an applicant seeking to serve as a TNC driver and obtain and review a driver history report for the person;

*This version reflects Revised Code number changes made by the LSC Director pursuant to R.C. 103.131. See <https://www.legislature.ohio.gov/download?key=4150&format=pdf>.

--Refuse to allow certain persons to serve as TNC drivers, including persons without a driver's license, registered vehicle, or adequate insurance, or persons who have been convicted of specified crimes;

--Provide certain disclosures concerning insurance coverage to a TNC driver before the driver first accepts a request to provide TNC services on the digital network;

--Adopt a zero tolerance policy regarding the use of drugs or alcohol pertaining to TNC drivers;

--Maintain records of TNC drivers and TNC services; and

--Comply with other specified requirements.

- Prohibits a TNC driver, during any period the driver is logged onto a TNC digital network, from soliciting or accepting passengers other than through the digital network.
- Specifies that, in general, Ohio's labor laws do not apply to TNC drivers and TNC drivers are not employees for purposes of those laws, except where agreed to by written contract.
- Permits a TNC driver to bring an action and recover under Ohio's Whistleblower Law if a TNC has discontinued the driver's access to the TNC's digital network because the driver made a report under that Law.

Insurance requirements

- Requires, generally, each TNC driver to be covered by an automobile liability insurance policy that provides primary coverage for the driver when the driver is logged on to the TNC's digital network or is providing TNC services.
- Establishes coverage requirements for the primary automobile insurance policies required under the act for TNC drivers.
- Specifies that the required insurance policy must be obtained through an insurer licensed to do business in Ohio, or through an insurer not licensed in Ohio that meets specified criteria.
- Permits a lender or secured party of a personal vehicle to obtain comprehensive or collision damage coverage on the vehicle at the driver's expense if the driver fails to meet the act's insurance coverage requirements.

- Requires a TNC and any insurer providing automobile insurance pursuant to the act to cooperate to exchange specified relevant information to directly interested parties in a claims coverage investigation.
- Applies the act's TNC insurance requirements to taxicabs only when the taxicab is performing TNC services.

Exclusive state regulation

- Specifies that the regulation of TNCs, TNC drivers, and TNC services is a matter of statewide concern and expresses the intent of the General Assembly to preempt local regulation.
- Allows the operator of a public-use airport to adopt reasonable standards, regulations, procedures, and fees pertaining to TNC services provided to any TNC rider who requests service to, from, or on the airport's property.

Motor vehicle financial responsibility ID cards

- Permits a motor vehicle liability insurer to provide a policyholder with the ability to use an electronic wireless communications device to present proof of insurance, in lieu of the existing requirement that it provide financial responsibility identification cards.

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CONTENT AND OPERATION

Overview

The act establishes requirements governing transportation network companies (TNCs), TNC drivers, and the services provided by TNCs. A "transportation network company" includes any entity operating in Ohio that uses a digital network, such as an online-enabled application, software, website, or other system, to prearrange rides between TNC riders to TNC drivers. A TNC driver means an individual who: (1) receives connections to passengers and potential passengers and related services from a TNC in exchange for the payment of a fee to the company, and (2) uses a personal vehicle to offer or provide TNC services to riders upon a connection through a digital network controlled by a TNC in return for compensation or payment of a fee.¹

TNC services subject to regulation under the act are the provision of transportation beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by the TNC, continuing while the driver transports the requesting rider, and ending when the last requesting rider departs from the TNC driver's personal vehicle. The act provides that TNC services do not include services provided by a chauffeured limousine or a ridesharing agreement. TNC services also do not include services provided by a taxicab or other similar vehicle for hire, unless the taxicab or other vehicle is providing TNC services on behalf of a TNC that has been issued a TNC permit.²

TNC permits

The act authorizes the Public Utilities Commission (PUCO) to adopt rules in accordance with the Administrative Procedure Act for purposes of issuing annual permits to TNCs and implementing the requirements related to such companies. The PUCO must issue a TNC permit to any entity that applies for a permit in accordance with rules adopted by the PUCO, affirms that the entity will maintain compliance with the requirements that apply to TNCs, and submits a permit fee of \$5,000. The act further provides that nothing in the law can be construed to prohibit the issuance of a TNC permit to an entity that is also engaged in providing taxicab services, so long as the entity complies with the requirements above, all requirements that apply to TNCs, and

¹ R.C. 3942.01(C), (F), and (G).

² R.C. 3942.01(I).



any rules adopted by the PUCO. A TNC permit is valid for one year commencing on the date of issuance.³

The act prohibits any entity from operating a TNC without a valid permit issued by the PUCO or operating a TNC without complying with the requirements that apply to TNCs.⁴

Requirements for TNCs and TNC drivers

General requirements

The act requires a TNC to do all of the following:

- (1) Disclose its fare calculation method on its digital network;
- (2) Provide TNC riders or potential riders with the applicable rates charged by the TNC;
- (3) Allow a TNC rider or potential rider to request and receive an estimated fare before the rider or potential rider receives TNC services;
- (4) Ensure that for each TNC service request one of the following conditions is met:
 - (a) The TNC's digital network provides a photograph of the TNC driver and the license plate number of the motor vehicle that will provide the TNC service before the TNC rider enters the vehicle; or
 - (b) The name of the TNC is prominently displayed on the vehicle that will provide the TNC service;
- (5) Establish a process by which the TNC may accept payments for TNC services through the company's digital network;
- (6) Within a reasonable time after completion of TNC services, transmit an electronic receipt to the rider that includes the origin and destination of the trip, the distance of the trip, the total time during which TNC services were provided, an itemization of the total fare charged, and, if applicable, that the rider made a cash payment to the driver;

³ R.C. 4925.02(A), (B), and (C).

⁴ R.C. 4925.02(D).



(7) Designate an agent located within Ohio who is authorized to receive service of process;

(8) Comply with the insurance requirements discussed below; and

(9) Comply with any other requirements established by the PUCO.⁵

TNC drivers

Driver review process

Under the act, prior to authorizing a person to act as a TNC driver, a TNC must do the following:

(1) Require the person to submit an application to the TNC that includes, at a minimum: the person's address, age, and driver's license number; information on the person's driving history; a copy of the certificate of motor vehicle registration for the vehicle the person will use to provide TNC services; and proof of automobile insurance.

(2) Obtain and review a driving history report with regard to each applicant; and

(3) Conduct a background check on each applicant, including:

(a) A search of a multi-state/multi-jurisdiction criminal records database, or a similar nationwide criminal records database, and validation of any records through a primary source search; and

(b) A search of the U.S. Department of Justice national sex offender public website.⁶

Persons prohibited from serving as a TNC driver

A TNC is prohibited from authorizing a person to serve as a TNC driver if any of the following apply to the person:

(1) The person does not possess a valid driver's license.

(2) The person does not possess a valid certification of motor vehicle registration for the motor vehicle that the person intends to use to provide TNC services.

⁵ R.C. 4925.03.

⁶ R.C. 4925.04(A).



(3) The person does not possess automobile liability insurance for the vehicle that the person intends to use to provide TNC services that meets the insurance requirements specified below, unless the TNC provides the insurance on behalf of the driver.

(4) The person has not attained the age of 19.

(5) Within the past three years, the person has been convicted of, or pleaded guilty to, more than three violations of the laws related to any of the following: physical control of a motor vehicle while under the influence, texting while driving, speeding, street racing, unsafely passing another vehicle, driving left of center, failure to signal, failure to yield the right-of-way to a pedestrian, driving on a sidewalk, or failure to stop for a school bus.

(6) Within the past three years, the person has been convicted of, or pleaded guilty to, any serious vehicle-related offense, including a violation of the laws regarding: evading the police in a motor vehicle, driving under a suspended license, operating a motor vehicle without a valid license, or operating a vehicle in willful or wanton disregard of the safety of persons or property.

(7) Within the past seven years, the person has been convicted of, or pleaded guilty to, any of the following: operating a vehicle under the influence of drugs, alcohol, or a combination of both; the commission of any felony offense while operating, or being a passenger in, a motor vehicle; a theft or fraud offense; a property damage offense; a sex offense; a specified offense of violence; or a specified act of terrorism.

(8) A search of the U.S. Department of Justice national sex offender public website indicates that the person is identified as a sex offender.

The offenses listed above include violations of an existing or former municipal ordinance, an existing or former law of Ohio or another state, or a violation of federal law.⁷

Acceptance of cash by TNC drivers

The act allows a TNC driver to accept cash payments for TNC services if authorized to do so by the TNC that controls the digital network through which the driver provides the services. If a TNC driver accepts a cash payment for a TNC service, the driver must notify the TNC through the digital network that a cash payment has been made and of the amount of the payment. The rider also must confirm the amount

⁷ R.C. 4925.04(B).



of the cash payment through the digital network. The act specifies that these provisions may not be construed to require a TNC to authorize the acceptance of cash payments.⁸

Solicitation of passengers

The act prohibits TNC drivers from soliciting or accepting passengers other than through the digital network at any time during which the TNC driver is logged onto the digital network.⁹

Prohibition against impaired driving; complaint process

A TNC must prohibit all TNC drivers from logging onto the TNC's digital network or providing TNC services while under the influence of any amount of alcohol or a drug of abuse. A drug of abuse generally means any controlled substance, prescription or injectable medication, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes. However, drug of abuse does not include any drug that was obtained pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the drug is taken in accordance with the health professional's directions and does not impair the ability of the person who took the drug to operate a motor vehicle.¹⁰

A TNC must notify all drivers of this prohibition, establish a procedure by which a rider may report a complaint against a TNC driver for violating the TNC's prohibition against impaired driving, and provide notice of this policy and the complaint procedure on the TNC's digital network. Upon receiving a complaint alleging a violation, a TNC must immediately suspend the accused driver's access to its digital network and conduct an investigation into the reported incident. A TNC must retain all complaints and all records related to the investigation of a complaint for two years, commencing on the date the complaint was filed.¹¹

Discrimination

The act prohibits any TNC from charging any additional fee for providing TNC services to a person with a disability on the basis of the disability. It also requires a TNC to provide an option on the TNC's digital network for a potential rider to request a

⁸ R.C. 4925.08.

⁹ R.C. 4925.08.

¹⁰ R.C. 4925.05(A) and R.C. 4506.01(M), not in the act.

¹¹ R.C. 4925.05(A) to (C).



wheelchair-accessible vehicle. If the TNC cannot arrange such a service for a potential rider who requests a wheelchair-accessible vehicle, it must direct the potential rider to another provider if possible.

Further, the act prohibits a TNC driver from failing to comply with the TNC's nondiscrimination policy, if a policy has been established. The act also prohibits a TNC driver from failing to comply with any applicable law regarding nondiscrimination or the accommodation of service animals.¹²

Employment status of TNC drivers

Under the act, Ohio's Minimum Wage, Workers' Compensation, Unemployment, Semimonthly Wage Payment, and Assignment of Future Wages Laws do not apply to TNCs with regard to TNC drivers, and TNC drivers are not employees for purposes of those laws, except where agreed to by written contract. If the parties do agree to the application of one or more of these laws in a written contract, the TNC must notify the appropriate agency of the election to cover the driver under the applicable law. If the parties subsequently change this election, the TNC must notify the appropriate agency of the change.

Likewise, a TNC driver is not an agent of a TNC, unless agreed to by written contract.¹³

Whistleblowing by TNC drivers

The act permits a TNC driver to bring an action and recover under Ohio's Whistleblower Law if a TNC has discontinued the driver's access to its digital network because of the driver making a report under that Law. If a driver brings an action, the act requires the driver to follow the procedures for employees established in the Whistleblower Law and specifies that the driver is entitled to the remedies permitted under it.

However, the act states that a TNC driver is not an employee for purposes of the Whistleblower Law and that nothing in the act is to be construed to create an employer and employee relationship between a TNC driver and a TNC.¹⁴

¹² R.C. 4925.06.

¹³ R.C. 4925.10(A) and (B).

¹⁴ R.C. 4925.10(C).

Maintenance of records

A TNC must keep a record of all TNC drivers for not less than two years after the date each driver last provided TNC services. A TNC also must keep records of each instance in which TNC services are provided for not less than two years after the services are provided.¹⁵

Insurance requirements

The act requires each TNC driver to be covered by a primary automobile insurance policy that recognizes that the driver is a TNC driver or otherwise uses a vehicle to transport passengers for compensation. The policy must provide coverage during the following periods of time:

- (1) While the driver is logged on to the TNC's digital network; and
- (2) While the driver is engaged in TNC services.

The insurance policy may be maintained by the TNC driver, the TNC itself, or a combination of both.¹⁶ An automobile insurance policy maintained by a TNC cannot require the driver's personal automobile insurer or policy to first deny a claim before providing coverage.¹⁷

If personal automobile insurance maintained by a TNC driver does not meet the act's required liability coverage amounts, insurance maintained by the TNC must provide the required coverage, beginning with the first dollar of the claim. Further, the TNC has the duty to defend the claim.¹⁸

Minimum liability coverage requirements

The primary automobile insurance policy required by the act must meet certain coverage requirements. While a TNC driver is logged on to the TNC's digital network and is available to receive transportation requests, but is not engaged in TNC services, the automobile insurance must meet the following minimum coverage amounts:

- (1) A least \$50,000 because of bodily injury to or death of one person in any one accident;

¹⁵ R.C. 4925.07.

¹⁶ R.C. 3942.02(A)(1) and (3).

¹⁷ R.C. 3942.02(B)(2).

¹⁸ R.C. 3942.02(B)(1).

(2) At least \$100,000 because of bodily injury or death of two or more persons in any one accident; and

(3) At least \$25,000 because of injury to property of others in any one accident.

While a TNC driver is engaged in TNC services, the automobile insurance must be maintained in an amount of at least \$1 million because of bodily injury or death of one or more persons or injury to property of others in any one accident.¹⁹

The required liability insurance generally must be obtained from a domestic, foreign, or alien insurance company authorized to issue such a policy under Ohio's Insurance Law. But, if an insurer does not hold a license in Ohio, the insurer can offer a policy pursuant to the act if (1) the insurer is an eligible surplus lines insurance company and the policy is obtained through an individual or business entity holding an Ohio surplus lines broker's license or the insurer is an eligible risk retention group and (2) the insurer has a credit rating of at least "A-" from A.M. Best, "A" from Demotech, or a similar rating from another rating agency recognized by the Department of Insurance.²⁰

Under the act, an automobile insurance policy that meets the act's coverage requirements also satisfies the proof of financial responsibility requirements for motor vehicles under Ohio's Proof of Financial Responsibility Law. The act further specifies that its insurance requirements apply to taxicabs only when the taxicab is performing TNC services. When a taxicab is performing taxi services, the insurance requirements pertaining to taxicabs apply and the taxi must comply with all laws and ordinances relating to taxicabs.²¹

Proof of insurance

A TNC driver must carry proof of insurance satisfying the act's insurance coverage requirements at all times during the driver's use of a personal vehicle in connection with a TNC's digital network. This proof of insurance can be provided either physically or through the use of an electronic wireless communications device that is designed or used to communicate and displays text or images.²²

¹⁹ R.C. 3942.02(A)(2).

²⁰ R.C. 3942.02(C).

²¹ R.C. 3942.02(E) and (F).

²² R.C. 3942.02(D) and 4509.103(A).



In the event of an accident, the TNC driver must provide this proof of insurance to all parties claiming an interest in the insurance, other insurers, and upon the request of a peace officer or State Highway Patrol trooper pursuant to Ohio's Proof of Financial Responsibility Law. Upon the request by an officer or trooper, the driver also must disclose to the same parties whether or not the driver was logged on to the TNC's digital network or was providing TNC services at the time of the accident.²³

Insurance policy exclusions

Notwithstanding Ohio's Proof of Financial Responsibility Law, the act permits an insurer issuing an automobile insurance policy to the owner or operator of a personal vehicle to exclude any and all coverage under the policy for any loss or injury that occurs while a TNC driver is logged on to a TNC's digital network or while the driver is providing TNC services. This right to exclude coverage applies to any coverage included under the policy, including all of the following:

- (1) Liability coverage for bodily injury and property damage;
- (2) Uninsured and underinsured motorist coverage;
- (3) Uninsured and underinsured motor vehicle property damage coverage;
- (4) Medical payments coverage;
- (5) Comprehensive physical damage coverage; and
- (6) Collision physical damage coverage.²⁴

If an insurer excludes such coverage, the insurer has no duty to defend or indemnify any claim expressly excluded under the policy. If an insurer does defend or indemnify a claim against a TNC driver that is excluded under the policy terms, however, the insurer has a right of contribution against any other insurer that provides automobile insurance to the driver at the time of the loss in satisfaction of the act's insurance requirements.²⁵

The act specifies all of the following with respect to excluding insurance coverage:

²³ R.C. 3942.02(D).

²⁴ R.C. 3942.03(A).

²⁵ R.C. 3942.03(B).

(1) The act does not require that a personal automobile insurance policy provide coverage while a TNC driver is logged on to the TNC's digital network, while the driver is engaged in TNC services, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(2) None of the act's provisions are to be construed to invalidate or limit an automobile insurance policy provision that excludes coverage for vehicles that are used to carry persons or property for a charge or that are available for hire by the public.

(3) None of the act's provisions are to be construed to preclude an insurer from providing coverage for a TNC driver's vehicle, if the insurer chooses to do so by contract or endorsement.²⁶

Force-placed insurance

The act also addresses the rights of lienholders holding an interest in a personal vehicle used to provide TNC services (such as a bank financing a loan on the vehicle or a car dealership leasing the vehicle to the TNC driver). The act specifies that it does not limit the right of a lender or secured party of a personal vehicle to require the TNC driver to maintain comprehensive or collision damage coverage (or show evidence of the coverage) for when (1) the driver is logged on to the TNC's digital network but is not providing TNC services and (2) the driver is actually performing TNC services. If the driver fails to maintain the required coverage, or to show evidence of the coverage upon reasonable request by the lender or secured party, the lender or secured party may obtain the coverage at the driver's expense without prior notice to the driver.²⁷

Payments by a TNC's insurer

If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC must cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the vehicle.²⁸

Duties during insurance claims

In a claims coverage investigation, a TNC and any insurer providing automobile insurance that meets the act's insurance coverage requirements must cooperate to

²⁶ R.C. 3942.03(B)(1) and (C).

²⁷ R.C. 3942.03(E).

²⁸ R.C. 3942.03(F).

exchange relevant information to directly interested parties and any personal insurer of the TNC driver. The parties must disclose, at minimum, the following information:

(1) The precise times that the TNC driver logged on and off of the TNC's digital network in the 12-hour periods before and after the event resulting in the loss; and

(2) A clear description of the coverage, exclusions, and limits provided under any automobile insurance maintained pursuant to the act's requirements and any other information reasonably necessary to determine insurance coverage.²⁹

Required insurance disclosures to TNC drivers

Before a TNC first allows a TNC driver to accept a request for TNC services on its digital network, the TNC must disclose to the driver in writing the following information regarding insurance coverage:

(1) The insurance coverage, including the types of coverage and limits for each type of coverage, that the TNC provides while the driver uses a personal vehicle in connection with TNC services; and

(2) That, depending on the terms of the policy, the TNC driver's own personal automobile insurance policy might not provide any coverage while the driver uses a personal vehicle to provide or be available to provide TNC services.

In addition, the TNC must provide a notice to a prospective driver in the driver's terms of service before it first allows the driver to accept a request for TNC services on the company's digital network. The notice must state the following:

If the vehicle that you plan to use to provide transportation network company services for our transportation network company has a lien against it, you must notify the lienholder that you will be using the vehicle for transportation services that may violate your contract with the lienholder.³⁰

Exclusive state regulation

The act specifies that the regulation of TNCs, TNC drivers, and TNC services is a matter of general statewide interest that requires statewide regulation. Further, the provisions of law contained in the act constitute a comprehensive plan with respect to all aspects of the regulation of TNCs, TNC drivers, and TNC services. Accordingly, the

²⁹ R.C. 3942.03(D).

³⁰ R.C. 3942.04.



act states the intent of the General Assembly to preempt any local ordinance, resolution, or other law adopted to license, register, tax, or otherwise regulate TNCs, TNC drivers, and TNC services (see **COMMENT**). However, the act allows the operator of a public-use airport to adopt reasonable standards, regulations, procedures, and fees pertaining to TNC services provided to any TNC rider who requests service to, from, or on the airport's property. A TNC or TNC driver must comply with all standards, regulations, or procedures adopted by a public-use airport and pay any applicable fees in a timely manner. A public-use airport means an airport available for use by the general public without the prior approval of the owner or operator except as federal law or regulation require.³¹

Finally, the act specifies that with regard to the provision of TNC services, no TNC or TNC driver may be regulated as a chauffeured limousine, a taxicab or vehicle for hire, or a for-hire motor carrier. Additionally, no vehicle used to provide TNC services can be required to register as a chauffeured limousine, a taxicab or vehicle for hire, or a for-hire motor carrier in order to provide TNC services.³²

Motor vehicle financial responsibility ID cards

The act modifies existing law governing financial responsibility identification cards, which are provided by motor vehicle liability insurers to policyholders to present as proof of motor vehicle insurance. Under prior law, each insurer that provided motor vehicle liability insurance was required to also provide financial responsibility identification cards to all policyholders. The insurers were also permitted to provide a policyholder with the ability to utilize an electronic wireless communications device, such as a cell phone, computer, or tablet, to present proof of financial responsibility. The act permits each insurer to provide the policyholder with the ability to use an electronic wireless communications device to present proof of insurance in lieu of providing financial responsibility identification cards.³³

COMMENT

Under Article XVIII, Section 3 of the Ohio Constitution, municipal corporations "have the authority to exercise all powers of local self-government and adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws." Accordingly, a statute enacted by the General

³¹ R.C. 4563.30(A)(4), not in the act, and R.C. 4925.09(A).

³² R.C. 4925.09(B).

³³ R.C. 4509.103.

Assembly that purports to limit that constitutional authority may be invalid as applied to municipal corporations. See *Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005.

HISTORY

ACTION	DATE
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