

1-1 By: Paddie, et al. (Senate Sponsor - Schwertner) H.B. No. 100
 1-2 (In the Senate - Received from the House April 24, 2017;
 1-3 May 9, 2017, read first time and referred to Committee on State
 1-4 Affairs; May 12, 2017, reported favorably by the following vote:
 1-5 Yeas 8, Nays 1; May 12, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16		X		

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the regulation of transportation network companies;
 1-20 requiring an occupational permit; authorizing a fee.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle C, Title 14, Occupations Code, is
 1-23 amended by adding Chapter 2402 to read as follows:

1-24 CHAPTER 2402. TRANSPORTATION NETWORK COMPANIES

1-25 SUBCHAPTER A. GENERAL PROVISIONS

1-26 Sec. 2402.001. DEFINITIONS. In this chapter:

1-27 (1) "Department" means the Texas Department of
 1-28 Licensing and Regulation.

1-29 (2) "Digital network" means any online-enabled
 1-30 application, website, or system offered or used by a transportation
 1-31 network company that enables the prearrangement of rides between
 1-32 passengers and drivers.

1-33 (3) "Digitally prearranged ride" means a ride in a
 1-34 personal vehicle between points chosen by the passenger that is
 1-35 prearranged through a digital network.

1-36 (4) "Personal vehicle" means a vehicle that:

1-37 (A) is owned, leased, or otherwise authorized for
 1-38 use by a driver; and

1-39 (B) is not a taxicab, limousine, or other vehicle
 1-40 regulated by a municipality under Section 215.004, Local Government
 1-41 Code, or a joint airport board under Section 22.081, Transportation
 1-42 Code.

1-43 (5) "Transportation network company" means a
 1-44 corporation, partnership, sole proprietorship, or other entity
 1-45 that, for compensation, enables a passenger to prearrange with a
 1-46 driver, exclusively through the entity's digital network, a
 1-47 digitally prearranged ride. The term does not include an entity
 1-48 that provides:

1-49 (A) street-hail taxicab services;

1-50 (B) limousine or other car services arranged by a
 1-51 method other than through a digital network;

1-52 (C) shared expense carpool or vanpool
 1-53 arrangements; or

1-54 (D) a type of ride service for which:

1-55 (i) the fee received by the driver does not
 1-56 exceed the driver's costs of providing the ride; or

1-57 (ii) the driver receives a fee that exceeds
 1-58 the driver's costs associated with providing the ride but makes not
 1-59 more than three round-trips per day between the driver's or
 1-60 passenger's place of employment and the driver's or passenger's
 1-61 home.

2-1 Sec. 2402.002. NATURE OF TRANSPORTATION NETWORK COMPANIES,
 2-2 DRIVERS, AND VEHICLES. Transportation network companies and
 2-3 drivers logged in to the company's digital network are not common
 2-4 carriers, contract carriers, or motor carriers.

2-5 Sec. 2402.003. CONTROLLING AUTHORITY. (a) Notwithstanding
 2-6 any other provision of law, and except as provided by Subsections
 2-7 (b) and (c), the regulation of transportation network companies,
 2-8 drivers logged in to a digital network, and vehicles used to provide
 2-9 digitally prearranged rides:

2-10 (1) is an exclusive power and function of this state;
 2-11 and

2-12 (2) may not be regulated by a municipality or other
 2-13 local entity, including by:

2-14 (A) imposing a tax;

2-15 (B) requiring an additional license or permit;

2-16 (C) setting rates;

2-17 (D) imposing operational or entry requirements;

2-18 or

2-19 (E) imposing other requirements.

2-20 (b) An airport owner or operator may impose regulations,
 2-21 including a reasonable fee, on a transportation network company
 2-22 that provides digitally prearranged rides to or from the airport.

2-23 (c) The governing body of a governmental entity with
 2-24 jurisdiction over a cruise ship terminal may impose regulations,
 2-25 including a reasonable fee, on a transportation network company
 2-26 that provides digitally prearranged rides to or from the terminal.

2-27 (d) Regulations under Subsections (b) and (c) may not:

2-28 (1) conflict with the requirements of this chapter; or

2-29 (2) include requirements for drivers in addition to
 2-30 those under Section 2402.107.

2-31 (e) This chapter does not affect the ability of a local
 2-32 authority, as defined by Section 541.002, Transportation Code, to:

2-33 (1) take an action described by Section 542.202,
 2-34 Transportation Code, or otherwise authorized by Subtitle C, Title
 2-35 7, Transportation Code, that allows the local authority to adopt
 2-36 traffic rules in the jurisdiction of the authority if the rules are
 2-37 applied to transportation network company vehicles and drivers in
 2-38 the same manner as non-transportation network company vehicles and
 2-39 drivers; or

2-40 (2) enforce a provision of Subtitle C, Title 7,
 2-41 Transportation Code, or any other state law relating to the
 2-42 operation of traffic on public roads.

2-43 Sec. 2402.004. PROVISIONS APPLICABLE TO DRIVERS LOGGED IN
 2-44 TO DIGITAL NETWORK. A provision of this chapter that applies to a
 2-45 driver logged in to a digital network applies while the driver is
 2-46 logged in to receive requests for digitally prearranged rides and
 2-47 while the driver is logged in and providing a digitally prearranged
 2-48 ride.

2-49 SUBCHAPTER B. PERMIT REQUIRED

2-50 Sec. 2402.051. PERMIT REQUIRED. (a) A person may not
 2-51 operate a transportation network company in this state without
 2-52 obtaining and maintaining a permit issued under this chapter.

2-53 (b) The department shall issue a permit to each applicant
 2-54 that meets the requirements of this chapter and pays the fee
 2-55 required by Section 2402.052.

2-56 Sec. 2402.052. FEE. (a) A transportation network company
 2-57 shall annually pay to the department a fee to maintain a permit
 2-58 under this chapter in an amount determined by department rule to
 2-59 cover the costs of administering this chapter.

2-60 (b) The department may not impose a fee for:

2-61 (1) drivers authorized to use a transportation network
 2-62 company's digital network; or

2-63 (2) vehicles used to provide digitally prearranged
 2-64 rides.

2-65 SUBCHAPTER C. OPERATION OF TRANSPORTATION NETWORK COMPANIES

2-66 Sec. 2402.101. INSURANCE REQUIRED. The requirements of
 2-67 Chapter 1954, Insurance Code, apply to transportation network
 2-68 companies and drivers logged in to a digital network.

2-69 Sec. 2402.102. SHARED RIDES. A digitally prearranged ride

3-1 may be wholly or partly shared by multiple passengers if the
 3-2 passengers consent to sharing the ride.

3-3 Sec. 2402.103. FARES. A transportation network company
 3-4 that charges a fare for a digitally prearranged ride shall:

3-5 (1) disclose to passengers the fare calculation method
 3-6 on the digital network; and

3-7 (2) before the passenger enters the vehicle for the
 3-8 ride, provide through the digital network to the passenger
 3-9 requesting the ride:

3-10 (A) the applicable rates being charged; and

3-11 (B) the option to receive an estimated fare.

3-12 Sec. 2402.104. DIGITAL NETWORK IDENTIFICATION OF DRIVERS
 3-13 AND VEHICLES TO PASSENGERS. A transportation network company
 3-14 shall, before a passenger enters a vehicle for a digitally
 3-15 prearranged ride, provide through the company's digital network to
 3-16 the passenger requesting the ride:

3-17 (1) the driver's first name and picture; and

3-18 (2) the make, model, and license plate number of the
 3-19 driver's vehicle.

3-20 Sec. 2402.105. ELECTRONIC RECEIPT. Within a reasonable
 3-21 time following the completion of a digitally prearranged ride, the
 3-22 transportation network company whose digital network was used to
 3-23 prearrange the ride shall transmit, through electronic mail or text
 3-24 message, a receipt to the passenger who requested the ride that
 3-25 includes:

3-26 (1) the origin and destination of the ride;

3-27 (2) the total time and distance of the ride; and

3-28 (3) an itemization of the total fare paid, if any.

3-29 Sec. 2402.106. INTOXICATING SUBSTANCE POLICY. (a) A
 3-30 transportation network company shall implement an intoxicating
 3-31 substance policy that prohibits a driver who is logged in to the
 3-32 company's digital network from any amount of intoxication.

3-33 (b) A transportation network company shall include on its
 3-34 Internet website:

3-35 (1) a notice concerning the company's intoxicating
 3-36 substance policy; and

3-37 (2) the means to make a complaint about a suspected
 3-38 violation of the policy.

3-39 (c) On receipt of a passenger complaint alleging a violation
 3-40 of the intoxicating substance policy, a transportation network
 3-41 company shall:

3-42 (1) conduct an investigation into the reported
 3-43 incident; and

3-44 (2) immediately suspend the driver's access to the
 3-45 company's digital network for the duration of the investigation.

3-46 (d) A transportation network company shall maintain records
 3-47 relevant to a complaint for a period of at least two years after the
 3-48 date the complaint is received.

3-49 Sec. 2402.107. DRIVER REQUIREMENTS. (a) Before permitting
 3-50 an individual to log in as a driver on the company's digital
 3-51 network, a transportation network company must:

3-52 (1) confirm that the individual:

3-53 (A) is at least 18 years of age;

3-54 (B) maintains a valid driver's license issued by
 3-55 this state, another state, or the District of Columbia; and

3-56 (C) possesses proof of registration and
 3-57 automobile financial responsibility for each motor vehicle to be
 3-58 used to provide digitally prearranged rides;

3-59 (2) conduct, or cause to be conducted, a local, state,
 3-60 and national criminal background check for the individual that
 3-61 includes the use of:

3-62 (A) a commercial multistate and
 3-63 multijurisdiction criminal records locator or other similar
 3-64 commercial nationwide database; and

3-65 (B) the national sex offender public website
 3-66 maintained by the United States Department of Justice or a
 3-67 successor agency; and

3-68 (3) obtain and review the individual's driving record.

3-69 (b) A transportation network company may not permit an

4-1 individual to log in as a driver on the company's digital network if
4-2 the individual:
4-3 (1) has been convicted in the three-year period
4-4 preceding the issue date of the driving record obtained under
4-5 Subsection (a)(3) of:
4-6 (A) more than three offenses classified by the
4-7 Department of Public Safety as moving violations; or
4-8 (B) one or more of the following offenses:
4-9 (i) fleeing or attempting to elude a police
4-10 officer under Section 545.421, Transportation Code;
4-11 (ii) reckless driving under Section
4-12 545.401, Transportation Code;
4-13 (iii) driving without a valid driver's
4-14 license under Section 521.025, Transportation Code; or
4-15 (iv) driving with an invalid driver's
4-16 license under Section 521.457, Transportation Code;
4-17 (2) has been convicted in the preceding seven-year
4-18 period of any of the following:
4-19 (A) driving while intoxicated under Section
4-20 49.04 or 49.045, Penal Code;
4-21 (B) use of a motor vehicle to commit a felony;
4-22 (C) a felony crime involving property damage;
4-23 (D) fraud;
4-24 (E) theft;
4-25 (F) an act of violence; or
4-26 (G) an act of terrorism; or
4-27 (3) is found to be registered in the national sex
4-28 offender public website maintained by the United States Department
4-29 of Justice or a successor agency.
4-30 (c) A transportation network company shall conduct or cause
4-31 to be conducted an annual criminal background check described by
4-32 Subsection (a)(2) for each driver authorized to access the
4-33 company's digital network.
4-34 Sec. 2402.108. DIGITALLY PREARRANGED RIDES ONLY. A driver
4-35 who is logged in to a digital network may not solicit or provide a
4-36 ride for compensation unless the passenger has been matched to the
4-37 driver through the digital network.
4-38 Sec. 2402.109. PASSENGER ACTING IN UNLAWFUL, DISORDERLY, OR
4-39 ENDANGERING MANNER. A driver who has accepted a digitally
4-40 prearranged ride may refuse to transport a passenger acting in an
4-41 unlawful, disorderly, or endangering manner.
4-42 Sec. 2402.110. DISPLAY OF DIGITAL IDENTIFICATION. (a) In
4-43 this section, "digital identification" means information stored on
4-44 a digital network that may be accessed by a driver and that:
4-45 (1) serves as proof of the identity of the driver;
4-46 (2) serves as proof that the insurance coverage
4-47 requirements of Chapter 1954, Insurance Code, are satisfied;
4-48 (3) displays a photo of the driver;
4-49 (4) displays an image of the driver's vehicle; and
4-50 (5) identifies the make, model, and license plate
4-51 number of the vehicle used by the driver.
4-52 (b) On request of a law enforcement officer or a government
4-53 official enforcing or administering this chapter, a driver
4-54 providing a digitally prearranged ride shall:
4-55 (1) display the driver's digital identification; and
4-56 (2) display electronic proof that the ride was matched
4-57 through the digital network.
4-58 (c) This section does not require a driver to relinquish
4-59 possession of the electronic device containing the digital
4-60 identification.
4-61 Sec. 2402.111. VEHICLE REQUIREMENTS. (a) A transportation
4-62 network company shall, for each motor vehicle used by a driver to
4-63 provide digitally prearranged rides through the company's digital
4-64 network:
4-65 (1) require the vehicle to meet the requirements of
4-66 Chapter 548, Transportation Code; and
4-67 (2) confirm that the vehicle has:
4-68 (A) four doors; and
4-69 (B) a maximum passenger capacity of not more than

5-1 eight people, including the driver.

5-2 (b) A vehicle used to provide digitally prearranged rides
5-3 may be owned, leased, or rented by, or otherwise made available to,
5-4 the driver.

5-5 (c) Section 547.607, Transportation Code, does not apply to
5-6 a personal vehicle used to provide digitally prearranged rides.

5-7 Sec. 2402.112. NONDISCRIMINATION; ACCESSIBILITY. (a) A
5-8 transportation network company shall adopt a policy that prohibits
5-9 a driver logged in to the company's digital network from:

5-10 (1) discriminating on the basis of a passenger's or
5-11 potential passenger's location or destination, race, color,
5-12 national origin, religious belief or affiliation, sex, disability,
5-13 or age; and

5-14 (2) refusing to provide service to a potential
5-15 passenger with a service animal.

5-16 (b) For the purposes of Subsection (a), "sex" means the
5-17 physical condition of being male or female.

5-18 (c) A transportation network company shall notify each
5-19 person authorized to log in as a driver on the company's digital
5-20 network of the nondiscrimination policy. A driver logged in to the
5-21 company's digital network shall comply with the nondiscrimination
5-22 policy.

5-23 (d) A transportation network company may not impose an
5-24 additional charge for transportation of individuals with physical
5-25 disabilities because of those disabilities.

5-26 (e) A transportation network company shall provide a
5-27 passenger an opportunity to indicate whether the passenger requires
5-28 a wheelchair-accessible vehicle. If a wheelchair-accessible
5-29 vehicle cannot be provided, the company shall direct the requesting
5-30 passenger to an alternate provider of wheelchair-accessible
5-31 service, if available.

5-32 Sec. 2402.113. ACCESSIBILITY PILOT PROGRAM. (a) Each
5-33 transportation network company shall conduct, for a period of two
5-34 years beginning not later than the 90th day after the date the
5-35 company is issued a permit under Section 2402.051, an accessibility
5-36 pilot program in one of the four largest markets in which the
5-37 company operates in this state to:

5-38 (1) offer their services to disabled persons,
5-39 including disabled persons using a fixed-frame wheelchair; and

5-40 (2) ensure that, if necessary, referrals to alternate
5-41 providers of wheelchair-accessible service are made in a manner
5-42 that does not unreasonably delay the provision of service.

5-43 (a-1) Notwithstanding Subsection (a), a transportation
5-44 network company that is issued a permit under Section 2402.051 on or
5-45 before January 1, 2018, shall begin the pilot program under
5-46 Subsection (a) not later than that date. This subsection expires
5-47 January 1, 2020.

5-48 (b) Not later than the 100th day after the date a
5-49 transportation network company begins a pilot program under
5-50 Subsection (a), the company shall submit to the department a report
5-51 demonstrating the company's compliance with Subsection (a).

5-52 (c) A transportation network company shall provide a report
5-53 on the findings of the company's pilot program to each legislative
5-54 standing committee with primary jurisdiction over transportation
5-55 not later than the 75th day after the date the program ends. At a
5-56 minimum, the report must include information regarding:

5-57 (1) the number of vehicles equipped to accommodate a
5-58 passenger with a fixed-frame wheelchair that were available through
5-59 the company's digital network in the market in which the pilot
5-60 program was conducted at the time the program ended;

5-61 (2) the average time elapsed between the time a
5-62 fixed-frame wheelchair-bound passenger requested a ride and the
5-63 time the ride began;

5-64 (3) the number of rides provided to fixed-frame
5-65 wheelchair-bound passengers during the duration of the program; and

5-66 (4) the number of instances in which the company
5-67 referred a fixed-frame wheelchair-bound passenger to another
5-68 provider because the passenger could not be accommodated by the
5-69 company.

6-1 (d) The department:

6-2 (1) shall:

6-3 (A) by rule establish requirements for a report
6-4 under Subsection (b); and

6-5 (B) provide the transportation network company
6-6 with notice of those requirements at the time the department issues
6-7 the company's permit; and

6-8 (2) may revoke the company's permit for failure to
6-9 timely submit a report required under this section.

6-10 Sec. 2402.114. DRIVERS AS INDEPENDENT CONTRACTORS. A
6-11 driver who is authorized to log in to a transportation network
6-12 company's digital network is considered an independent contractor
6-13 for all purposes, and not an employee of the company in any manner,
6-14 if:

6-15 (1) the company does not:

6-16 (A) prescribe the specific hours during which the
6-17 driver is required to be logged in to the company's digital network;

6-18 (B) impose restrictions on the driver's ability
6-19 to use other transportation network companies' digital networks;

6-20 (C) limit the territory within which the driver
6-21 may provide digitally prearranged rides; or

6-22 (D) restrict the driver from engaging in another
6-23 occupation or business; and

6-24 (2) the company and the driver agree in writing that
6-25 the driver is an independent contractor.

6-26 Sec. 2402.115. AGREEMENTS WITH LOCAL ENTITIES FOR LARGE
6-27 EVENTS. Notwithstanding Section 2402.003, a municipality or other
6-28 local entity may contract with a transportation network company
6-29 operating in the municipality's or entity's jurisdiction for the
6-30 coordination of large events occurring in the municipality's or
6-31 entity's jurisdiction. An agreement under this section:

6-32 (1) may not exclude a transportation network company
6-33 holding a permit under this chapter from providing services at the
6-34 event; and

6-35 (2) must have comparable terms for each company
6-36 providing services at the event.

6-37 SUBCHAPTER D. RECORDS AND OTHER INFORMATION

6-38 Sec. 2402.151. RETENTION AND SUBMISSION OF RECORDS. (a) A
6-39 transportation network company shall maintain:

6-40 (1) records evidencing compliance with the
6-41 requirements of this chapter for a period of two years;

6-42 (2) individual ride records for at least five years
6-43 after the date the ride was provided; and

6-44 (3) driver records for at least five years after the
6-45 date the driver ceases to be authorized to log in as a driver on the
6-46 company's digital network.

6-47 (b) The department shall provide a means for information
6-48 required to be submitted for the purposes of this chapter to be
6-49 submitted electronically.

6-50 Sec. 2402.152. COLLECTION, USE, OR DISCLOSURE OF RECORDS
6-51 AND OTHER COMPANY INFORMATION. (a) Any records, data, or other
6-52 information disclosed to a public entity in this state, including
6-53 the department, by a transportation network company, including
6-54 names, addresses, and any other personally identifiable
6-55 information of drivers is not subject to disclosure under Chapter
6-56 552, Government Code.

6-57 (b) A public entity, including the department, may not
6-58 disclose any records, data, or other information provided by a
6-59 transportation network company under this chapter to a third party
6-60 except in compliance with a court order or subpoena. If information
6-61 provided under this chapter is sought through a court order or
6-62 subpoena, the public entity shall promptly notify the
6-63 transportation network company to afford the company the
6-64 opportunity to take actions to prevent disclosure.

6-65 (c) In collecting, using, or disclosing any records, data,
6-66 or other information submitted by a transportation network company
6-67 under this chapter, a public entity, including the department,
6-68 shall:

6-69 (1) consider the potential risks to the privacy of the

7-1 individuals whose information is being collected, used, or
7-2 disclosed;

7-3 (2) ensure that the information to be collected, used,
7-4 or disclosed is necessary, relevant, and appropriate to the proper
7-5 administration of this chapter; and

7-6 (3) take all reasonable measures and make all
7-7 reasonable efforts to protect, secure, and, where appropriate,
7-8 encrypt or limit access to the information.

7-9 (d) A transportation network company required to submit,
7-10 disclose, or otherwise provide personally identifiable information
7-11 of drivers to a public entity of this state, including the
7-12 department, is not liable in any civil or criminal action for any
7-13 unauthorized disclosure, misuse, alteration, destruction, access
7-14 or acquisition, or use of the information that occurs while the
7-15 information is in the possession of any public entity of this state.

7-16 Sec. 2402.153. DISCLOSURE OF PASSENGER INFORMATION. (a) A
7-17 transportation network company may disclose a passenger's personal
7-18 identifying information to a third party only if:

7-19 (1) the passenger consents;

7-20 (2) the disclosure is required by a legal obligation;

7-21 or

7-22 (3) the disclosure is required to:

7-23 (A) protect or defend the terms of use of the
7-24 transportation network company service; or

7-25 (B) investigate a violation of those terms.

7-26 (b) Notwithstanding Subsection (a), a transportation
7-27 network company may share a passenger's name with a driver
7-28 accessing the company's digital network to facilitate:

7-29 (1) identification of the passenger by the driver; or

7-30 (2) communication between the passenger and the
7-31 driver.

7-32 Sec. 2402.154. DATA SHARING WITH MUNICIPALITY. A
7-33 municipality and a transportation network company may voluntarily
7-34 enter into an agreement under which the company shares the
7-35 company's data with the municipality.

7-36 SUBCHAPTER E. ENFORCEMENT

7-37 Sec. 2402.201. PERMIT SUSPENSION OR REVOCATION. The
7-38 department may suspend or revoke a permit issued to a
7-39 transportation network company that violates a provision of this
7-40 chapter.

7-41 SECTION 2. A transportation network company operating under
7-42 a municipal ordinance in a municipality of this state immediately
7-43 before the effective date of this Act may operate at any location in
7-44 this state without the permit required under Section 2402.051,
7-45 Occupations Code, as added by this Act, until the later of:

7-46 (1) the 30th day after the date rules adopted by the
7-47 Texas Department of Licensing and Regulation to administer Section
7-48 2402.051 become effective; or

7-49 (2) the date the company's application for a permit
7-50 under Section 2402.051 submitted to the department before the date
7-51 described by Subdivision (1) of this section is approved or denied.

7-52 SECTION 3. On the effective date of this Act, any
7-53 municipality's or other local entity's ordinance or policy related
7-54 to transportation network companies or drivers authorized to access
7-55 transportation network companies' digital networks is void and has
7-56 no effect.

7-57 SECTION 4. This Act takes effect immediately if it receives
7-58 a vote of two-thirds of all the members elected to each house, as
7-59 provided by Section 39, Article III, Texas Constitution. If this
7-60 Act does not receive the vote necessary for immediate effect, this
7-61 Act takes effect September 1, 2017.

7-62 * * * * *