

BILL ANALYSIS

C.S.H.B. 4215

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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that current law lacks regulatory clarity and uniform standards for delivery network companies, which facilitate the transportation of consumer goods from restaurants and retailers to customers through digital platforms. The bill author has also informed the committee that because current law primarily focuses on rideshare companies, there is a regulatory gap as the presence of app-based delivery services continues to increase. C.S.H.B. 4215 seeks to remedy this situation by incorporating delivery network companies in statutory provisions regulating transportation network companies and creating a clear framework specifically for delivery network companies.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 4215 amends the Occupations Code to provide for the regulation and operation of delivery network companies, defined by the bill as a business entity that offers or uses a digital network to arrange for the delivery of food, beverages, or consumer goods from a restaurant or retail establishment to a delivery customer, but does not include an entity that only delivers products that the entity produces or stores on the entity's premises.

Regulation of Delivery Network Companies

C.S.H.B. 4215 incorporates provisions regulating delivery network companies into the statutory framework established for transportation network companies under the Occupations Code, making certain of those statutory provisions also applicable to delivery network companies, delivery persons, and deliveries. Accordingly, the bill requires a delivery network company to obtain and maintain an appropriate permit issued by the Texas Department of Licensing and Regulation (TDLR), requires such a company to annually pay to TDLR a fee to maintain a permit in an amount determined by TDLR rule to cover the administration costs, prohibits TDLR from imposing a fee for delivery persons authorized to use such a company's digital network or vehicles used to provide deliveries, and authorizes TDLR to suspend or revoke a permit for such a company that violates applicable provisions. Moreover, the bill establishes the following:

- delivery network companies and delivery persons logged in to the company's digital network are not common carriers, contract carriers, or motor carriers;

- the regulation of delivery network companies, delivery persons logged in to a digital network, and vehicles used to provide deliveries is an exclusive power and function of the state and such companies, persons, and deliveries may not be regulated by a municipality or other local entity, including by imposing a tax, requiring an additional license or permit, setting rates, imposing operational or entry requirements, or imposing other requirements; and
- a provision of the bill relating to a delivery network company that applies to a delivery person logged in to a digital network applies while the person is logged in to receive requests for digitally prearranged deliveries or while providing such deliveries.

The bill requires a delivery network company to maintain records evidencing compliance with applicable requirements for a period of two years.

C.S.H.B. 4215 provides the following regarding the collection, use, or disclosure of certain records and other delivery network company information:

- any records, data, or other information disclosed to a public entity in Texas, including TDLR, by a delivery network company, including names, addresses, and any other personally identifiable information of delivery persons, is not subject to disclosure under state public information law;
- a public entity, including TDLR, may not disclose any records, data, or other information provided by a delivery network company under the bill's provisions to a third party except in compliance with a court order or subpoena and, if information provided under the bill's provisions is sought through a court order or subpoena, the public entity must promptly notify the delivery network company to afford the company the opportunity to take actions to prevent such disclosure;
- in collecting, using, or disclosing any records, data, or other information submitted by a delivery network company under the bill's provisions, a public entity, including TDLR, must do the following:
 - consider the potential risks to the privacy of the individuals whose information is being collected, used, or disclosed;
 - ensure that the information to be collected, used, or disclosed is necessary, relevant, and appropriate to the proper administration of the bill's provisions; and
 - take all reasonable measures and make all reasonable efforts to protect, secure, and, where appropriate, encrypt or limit access to the information; and
- a delivery network company required to submit, disclose, or otherwise provide personally identifiable information of delivery persons to a public entity of the state, including TDLR, is not liable in any civil or criminal action for any unauthorized disclosure, misuse, alteration, destruction, access or acquisition, or use of the information that occurs while the information is in the possession of any such public entity of the state.

The bill also provides the following regarding a delivery network company's disclosure of a delivery customer's personal identifying information:

- a delivery network company may disclose a delivery customer's personal identifying information to a third party only if the delivery customer consents, the disclosure is required by a legal obligation, or the disclosure is required to protect or defend the terms of use of the delivery network company service or to investigate a violation of those terms; and
- a delivery network company may share a delivery customer's name with a delivery person accessing the company's digital network to facilitate identification of the delivery customer by the delivery person or communication between the delivery customer and the delivery person.

The bill authorizes a municipality and a delivery network company to voluntarily enter into an agreement under which the company shares the company's data with the municipality.

Operation of Delivery Network Companies

C.S.H.B. 4215 requires a delivery network company to take the following actions:

- implement an intoxicating substance policy that prohibits a delivery person who is logged in to the company's digital network from any amount of intoxication;
- include on its website or digital network application a notice concerning the company's intoxicating substance policy and the means to make a complaint about a suspected violation of the policy;
- maintain records relevant to a complaint for a period of at least two years after the date the complaint is received; and
- do the following before authorizing an individual to access the company's digital network as a delivery person:
 - confirm that the individual is at least 18 years of age and maintains a valid government-issued photo identification or, if the individual indicates an intention to undertake digitally prearranged deliveries by motor vehicle, a valid driver's license issued by the state or another state;
 - conduct, or cause to be conducted, a local, state, and national criminal background check for the individual that includes the use of a commercial multistate and multijurisdiction criminal records locator or other similar commercial nationwide database and the national sex offender public website maintained by the U.S. Department of Justice or a successor agency; and
 - if the individual indicates an intention to undertake digitally prearranged deliveries by motor vehicle, obtain and review the individual's driving record.

C.S.H.B. 4215 prohibits a delivery network company from permitting an individual to log in as a delivery person on the company's digital network if any of the following applies:

- the individual has been convicted in the preceding seven-year period of driving while intoxicated or driving while intoxicated with a child passenger under the applicable Penal Code provisions, using a motor vehicle to commit a felony, of a felony crime involving property damage, fraud, theft, an act of violence, or an act of terrorism;
- the individual is found to be registered in the national sex offender public website maintained by the U.S. Department of Justice or a successor agency; or
- for an individual who is authorized to undertake digitally prearranged deliveries by motor vehicle, the individual has been convicted of any of the following in the three-year period preceding the issue date of the driving record obtained by the company under the bill's provisions:
 - more than four offenses classified by the Department of Public Safety (DPS) as moving violations; or
 - one or more of the offenses under Transportation Code provisions involving fleeing or attempting to elude a police officer, reckless driving, driving without a valid driver's license, or driving with an invalid driver's license.

The bill requires a delivery network company to conduct or cause to be conducted a criminal background check before authorizing a delivery person to access the company's digital network. The bill requires a delivery network company to restrict a delivery person's access to the company's digital network at the request of law enforcement or on receipt of a court order.

C.S.H.B. 4215 requires a delivery network company to adopt a policy that prohibits a delivery person logged in to the company's digital network from discriminating on the basis of a delivery customer's or potential delivery customer's geographical location or destination, race, color, national origin, religious belief or affiliation, sex, disability, or age. For such purposes, the bill defines "sex" as the physical condition of being male or female. The bill requires a delivery network company to notify each person authorized to log in as a delivery person on the company's digital network of the nondiscrimination policy and requires a delivery person logged in to the company's digital network to comply with the policy. The bill prohibits a delivery network company from imposing an additional charge for delivery to individuals with physical disabilities because of those disabilities.

C.S.H.B. 4215 establishes that a delivery person is considered an independent contractor for all purposes, and not an employee of a delivery network company in any manner, if the company

and the delivery person agree in writing that the delivery person is an independent contractor and, with respect to a delivery person, the company does not, as follows:

- prescribe the specific hours during which the person is required to be logged in to the company's digital network;
- impose restrictions on the person's ability to use other delivery network companies' digital networks;
- prescribe the territory within which the person may provide deliveries; or
- restrict the person from engaging in another occupation or business.

C.S.H.B. 4215 defines the following terms:

- "delivery customer" as an individual who orders or receives a digitally prearranged delivery through a delivery network company's digital network undertaken by a delivery person;
- "delivery person" as an individual who undertakes a digitally prearranged delivery in Texas using a delivery network company's digital network; and
- "digitally prearranged delivery" as the transport and delivery or attempted delivery of goods to a delivery customer that is prearranged through a delivery network company's digital network, which may include the selection or collection of items for delivery by an individual using a delivery network company's digital network and other tasks incidental to delivery.

The bill expands the definition of a "digital network," currently applicable only to a transportation network company, to include any online-enabled application, website, or system offered or used by a delivery network company that enables digitally prearranged deliveries. The bill also defines "driver," as applicable to the regulation of transportation network companies under current law and the regulation of delivery network companies under the bill's provisions, as an individual who undertakes a digitally prearranged ride between points chosen by a passenger.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4215 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the introduced version's provisions governing the operation of delivery network companies, as follows:

- with respect to the intoxicating substance policy, gives such a company the option of including the policy on its digital network application as an alternative to satisfying the requirement by including the policy on its website, as in the introduced;
- with respect to the delivery person requirements, replaces the conditions that the individual maintains a valid driver's license issued by the state, another state, or the District of Columbia and, if the individual will undertake digitally prearranged deliveries by motor vehicle, possesses proof of registration and automobile financial responsibility for each motor vehicle to be used to provide digitally prearranged deliveries with the conditions that the individual maintains valid government-issued photo identification or, if the individual indicates an intention to undertake digitally prearranged deliveries by motor vehicle, a valid driver's license issued by the state or another state;
- with respect to the condition that an individual has been convicted in the three-year period preceding the issue date of the obtained driving record triggering the prohibition against a delivery network company from permitting the individual to log in as a delivery person on the company's digital network:

- changes from an individual who will undertake digitally prearranged deliveries by motor vehicle to an individual who is authorized to undertake such deliveries by motor vehicle; and
- increases the number of offenses classified by DPS as moving violations of which the individual was convicted in the applicable period from three, as in the introduced, to four;
- with respect to the requirement for the nondiscrimination policy to prohibit a delivery person from discriminating on the basis of a delivery customer's or potential delivery customer's location, specifies that it is on the basis of the customer's or potential customer's geographical location; and
- with respect to the provision establishing that a delivery person is considered an independent contractor for all purposes, and not an employee of a delivery network company in any manner under certain conditions, changes an applicable condition from the company does not limit the territory within which the delivery person may provide deliveries, as in the introduced, to the company does not prescribe such territory.

Whereas the introduced required a delivery network company to conduct or cause to be conducted an applicable annual criminal background check for each delivery person authorized to access the company's digital network, the substitute requires a delivery network company to conduct or cause to be conducted a criminal background check before authorizing a delivery person to access the company's digital network. The substitute includes a provision absent from the introduced requiring a delivery network company to restrict a delivery person's access to the company's digital network at the request of law enforcement or on receipt of a court order.

Whereas the introduced revised statutory provisions that require a transportation network company to maintain certain records by making the requirement applicable to a delivery network company, the substitute does not. The substitute instead requires a delivery network company to maintain records evidencing compliance with the requirements of statutory provisions governing transportation network companies for a period of two years.

The substitute changes definitions present in the introduced as follows:

- for "delivery customer," from an individual who prearranges a delivery through a delivery network company's digital network that will be undertaken by a delivery person, as in the introduced, to an individual who orders or receives a digitally prearranged delivery through a delivery network company's digital network undertaken by a delivery person;
- for "delivery network company," from a corporation, partnership, sole proprietorship, or other entity operating in Texas that maintains a digital network to facilitate a delivery customer's arrangement of a digitally prearranged delivery by a delivery person, as in the introduced, to a business entity that offers or uses a digital network to arrange for the delivery of food, beverages, or consumer goods from a restaurant or retail establishment to a delivery customer, but does not include an entity that only delivers products that the entity produces or stores on the entity's premises;
- for "delivery person," from an individual who undertakes a digitally prearranged delivery to deliver goods to a delivery customer, as in the introduced, to an individual who undertakes a digitally prearranged delivery in Texas using a delivery network company's digital network; and
- for "digitally prearranged delivery," from the transport of goods using a passenger vehicle, a bicycle, a scooter, walking, public transportation, or other means of transportation, between points provided by the customer that is prearranged through a digital network, as in the introduced, to the transport and delivery or attempted delivery of goods to a delivery customer that is prearranged through a delivery network company's digital network, which may include selection or collection of items for delivery by an individual using a delivery network company's digital network and other tasks incidental to delivery.

Whereas the introduced expanded the definition of "digital network" to include any online-enabled application, website, or system offered or used by a delivery network company that

enables a delivery customer to prearrange the delivery of goods by a delivery person, the substitute expands that definition to include any online-enabled application, website, or system offered or used by a delivery network company that enables digitally prearranged deliveries.