

By: Hunter

H.B. No. 4215

Substitute the following for H.B. No. 4215:

By: Phelan

C.S.H.B. No. 4215

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of delivery network companies; requiring an occupational permit; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 2402, Occupations Code, is amended to read as follows:

CHAPTER 2402. TRANSPORTATION NETWORK AND DELIVERY NETWORK  
COMPANIES

SECTION 2. Section 2402.001, Occupations Code, is amended by amending Subdivisions (1) and (2) and adding Subdivisions (1-a), (1-b), (1-c), (2-a), and (3-a) to read as follows:

(1) "Delivery customer" means an individual who orders or receives a digitally prearranged delivery through a delivery network company's digital network undertaken by a delivery person.

(1-a) "Delivery network company" means 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. The term does not include an entity that only delivers products that the entity produces or stores on the entity's premises.

(1-b) "Delivery person" means an individual who undertakes a digitally prearranged delivery in this state using a delivery network company's digital network.

(1-c) "Department" means the Texas Department of

Licensing and Regulation.

(2) "Digital network" means any online-enabled application, website, or system offered or used by:

(A) a transportation network company that enables the prearrangement of rides between passengers and drivers; or

(B) a delivery network company that enables digitally prearranged deliveries.

(2-a) "Digitally prearranged delivery" means the transport and delivery or attempted delivery of goods to a delivery customer that is prearranged through a delivery network company's digital network. The term 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.

(3-a) "Driver" means an individual who undertakes a digitally prearranged ride between points chosen by a passenger.

SECTION 3. Section 2402.002, Occupations Code, is amended to read as follows:

Sec. 2402.002. NATURE OF TRANSPORTATION NETWORK AND DELIVERY NETWORK COMPANIES, DRIVERS, DELIVERY PERSONS, AND VEHICLES. Transportation network companies, delivery network companies, and drivers or delivery persons logged in to the company's digital network are not common carriers, contract carriers, or motor carriers.

SECTION 4. Section 2402.003(a), Occupations Code, is amended to read as follows:

(a) Notwithstanding any other provision of law, and except

as provided by Subsections (b) and (c), the regulation of transportation network companies, delivery network companies, drivers or delivery persons logged in to a digital network, and vehicles used to provide digitally prearranged rides or deliveries:

(1) is an exclusive power and function of this state; and

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

- (A) imposing a tax;
  - (B) requiring an additional license or permit;
  - (C) setting rates;
  - (D) imposing operational or entry requirements;
- or
- (E) imposing other requirements.

SECTION 5. Section 2402.004, Occupations Code, is amended to read as follows:

Sec. 2402.004. PROVISIONS APPLICABLE TO DRIVERS AND DELIVERY PERSONS LOGGED IN TO DIGITAL NETWORK. A provision of this chapter that applies to a driver or delivery person logged in to a digital network applies while the driver or delivery person is logged in:

(1) to receive requests for digitally prearranged rides or deliveries; or

(2) ~~[and] while [the driver is logged in and]~~ providing a digitally prearranged ride or delivery.

SECTION 6. Section 2402.051(a), Occupations Code, is amended to read as follows:

1 (a) A person may not operate a transportation network  
2 company or delivery network company in this state without obtaining  
3 and maintaining a permit issued under this chapter.

4 SECTION 7. Section 2402.052, Occupations Code, is amended  
5 to read as follows:

6 Sec. 2402.052. FEE. (a) A transportation network company  
7 or delivery network company shall annually pay to the department a  
8 fee to maintain a permit under this chapter in an amount determined  
9 by department rule to cover the costs of administering this  
10 chapter.

11 (b) The department may not impose a fee for:

12 (1) drivers or delivery persons authorized to use a  
13 transportation network company's or delivery network company's  
14 digital network; or

15 (2) vehicles used to provide digitally prearranged  
16 rides or deliveries.

17 SECTION 8. Chapter 2402, Occupations Code, is amended by  
18 adding Subchapter C-1 to read as follows:

19 SUBCHAPTER C-1. OPERATION OF DELIVERY NETWORK COMPANIES

20 Sec. 2402.131. INTOXICATING SUBSTANCE POLICY. (a) A  
21 delivery network company shall implement an intoxicating substance  
22 policy that prohibits a delivery person who is logged in to the  
23 company's digital network from any amount of intoxication.

24 (b) A delivery network company shall include on its Internet  
25 website or digital network application:

26 (1) a notice concerning the company's intoxicating  
27 substance policy; and

1           (2) the means to make a complaint about a suspected  
2 violation of the policy.

3           (c) A delivery network company shall maintain records  
4 relevant to a complaint for a period of at least two years after the  
5 date the complaint is received.

6           Sec. 2402.132. DELIVERY PERSON REQUIREMENTS. (a) Before a  
7 delivery network company authorizes an individual to access the  
8 company's digital network as a delivery person, the company must:

9                 (1) confirm that the individual:

10                         (A) is at least 18 years of age; and

11                         (B) maintains:

12                                 (i) valid government-issued photo  
13 identification; or

14                                 (ii) if the individual indicates an  
15 intention to undertake digitally prearranged deliveries by motor  
16 vehicle, a valid driver's license issued by this state or another  
17 state;

18                 (2) conduct, or cause to be conducted, a local, state,  
19 and national criminal background check for the individual that  
20 includes the use of:

21                         (A) a commercial multistate and  
22 multijurisdiction criminal records locator or other similar  
23 commercial nationwide database; and

24                         (B) the national sex offender public website  
25 maintained by the United States Department of Justice or a  
26 successor agency; and

27                 (3) if the individual indicates an intention to

undertake digitally prearranged deliveries by motor vehicle,  
obtain and review the individual's driving record.

(b) A delivery network company may not permit an individual  
to log in as a delivery person on the company's digital network if:

(1) the individual has been convicted in the preceding  
seven-year period of any of the following:

(A) driving while intoxicated under Section  
49.04 or 49.045, Penal Code;

(B) use of a motor vehicle to commit a felony;

(C) a felony crime involving property damage;

(D) fraud;

(E) theft;

(F) an act of violence; or

(G) an act of terrorism;

(2) the individual is found to be registered in the  
national sex offender public website maintained by the United  
States Department of Justice or a successor agency; or

(3) for an individual who is authorized to undertake  
digitally prearranged deliveries by motor vehicle, the individual  
has been convicted in the three-year period preceding the issue  
date of the driving record obtained under Subsection (a)(3) of:

(A) more than four offenses classified by the  
Department of Public Safety as moving violations; or

(B) one or more of the following offenses:

(i) fleeing or attempting to elude a police  
officer under Section 545.421, Transportation Code;

(ii) reckless driving under Section

1 545.401, Transportation Code;

2 (iii) driving without a valid driver's  
3 license under Section 521.025, Transportation Code; or

4 (iv) driving with an invalid driver's  
5 license under Section 521.457, Transportation Code.

6 (c) A delivery network company shall conduct or cause to be  
7 conducted a criminal background check before authorizing a delivery  
8 person to access the company's digital network.

9 (d) A delivery network company shall restrict a delivery  
10 person's access to the company's digital network at the request of  
11 law enforcement or on receipt of a court order.

12 Sec. 2402.133. NONDISCRIMINATION. (a) A delivery network  
13 company shall adopt a policy that prohibits a delivery person  
14 logged in to the company's digital network from discriminating on  
15 the basis of a delivery customer's or potential delivery customer's  
16 geographical location or destination, race, color, national  
17 origin, religious belief or affiliation, sex, disability, or age.

18 (b) For the purposes of Subsection (a), "sex" means the  
19 physical condition of being male or female.

20 (c) A delivery network company shall notify each person  
21 authorized to log in as a delivery person on the company's digital  
22 network of the nondiscrimination policy. A delivery person logged  
23 in to the company's digital network shall comply with the  
24 nondiscrimination policy.

25 (d) A delivery network company may not impose an additional  
26 charge for delivery to individuals with physical disabilities  
27 because of those disabilities.

1       Sec. 2402.134. DELIVERY PERSONS AS INDEPENDENT  
2 CONTRACTORS. A delivery person is considered an independent  
3 contractor for all purposes, and not an employee of a delivery  
4 network company in any manner, if:

5               (1) the company does not:

6                       (A) prescribe the specific hours during which the  
7 delivery person is required to be logged in to the company's digital  
8 network;

9                       (B) impose restrictions on the delivery person's  
10 ability to use other delivery network companies' digital networks;

11                      (C) prescribe the territory within which the  
12 delivery person may provide deliveries; or

13                      (D) restrict the delivery person from engaging in  
14 another occupation or business; and

15               (2) the company and the delivery person agree in  
16 writing that the delivery person is an independent contractor.

17       SECTION 9. Section 2402.151, Occupations Code, is amended  
18 by adding Subsection (a-1) to read as follows:

19       (a-1) A delivery network company shall maintain records  
20 evidencing compliance with the requirements of this chapter for a  
21 period of two years.

22       SECTION 10. Section 2402.152, Occupations Code, is amended  
23 to read as follows:

24       Sec. 2402.152. COLLECTION, USE, OR DISCLOSURE OF RECORDS  
25 AND OTHER COMPANY INFORMATION. (a) Any records, data, or other  
26 information disclosed to a public entity in this state, including  
27 the department, by a transportation network company or delivery



1 network company, including names, addresses, and any other  
2 personally identifiable information of drivers or delivery persons  
3 is not subject to disclosure under Chapter 552, Government Code.

4 (b) A public entity, including the department, may not  
5 disclose any records, data, or other information provided by a  
6 transportation network company or delivery network company under  
7 this chapter to a third party except in compliance with a court  
8 order or subpoena. If information provided under this chapter is  
9 sought through a court order or subpoena, the public entity shall  
10 promptly notify the transportation network company or delivery  
11 network company to afford the company the opportunity to take  
12 actions to prevent disclosure.

13 (c) In collecting, using, or disclosing any records, data,  
14 or other information submitted by a transportation network company  
15 or delivery network company under this chapter, a public entity,  
16 including the department, shall:

17 (1) consider the potential risks to the privacy of the  
18 individuals whose information is being collected, used, or  
19 disclosed;

20 (2) ensure that the information to be collected, used,  
21 or disclosed is necessary, relevant, and appropriate to the proper  
22 administration of this chapter; and

23 (3) take all reasonable measures and make all  
24 reasonable efforts to protect, secure, and, where appropriate,  
25 encrypt or limit access to the information.

26 (d) A transportation network company or delivery network  
27 company required to submit, disclose, or otherwise provide

1 personally identifiable information of drivers or delivery persons  
2 to a public entity of this state, including the department, is not  
3 liable in any civil or criminal action for any unauthorized  
4 disclosure, misuse, alteration, destruction, access or  
5 acquisition, or use of the information that occurs while the  
6 information is in the possession of any public entity of this state.

7 SECTION 11. Section 2402.153, Occupations Code, is amended  
8 to read as follows:

9 Sec. 2402.153. DISCLOSURE OF PASSENGER OR DELIVERY CUSTOMER  
10 INFORMATION. (a) A transportation network company or delivery  
11 network company may disclose a passenger's or delivery customer's  
12 personal identifying information to a third party only if:

13 (1) the passenger or delivery customer consents;

14 (2) the disclosure is required by a legal obligation;

15 or

16 (3) the disclosure is required to:

17 (A) protect or defend the terms of use of the  
18 transportation network company or delivery network company  
19 service; or

20 (B) investigate a violation of those terms.

21 (b) Notwithstanding Subsection (a), a transportation  
22 network company or delivery network company may share a passenger's  
23 or delivery customer's name with a driver or delivery person  
24 accessing the company's digital network to facilitate:

25 (1) identification of the passenger or delivery  
26 customer by the driver or delivery person; or

27 (2) communication between the passenger or delivery

1 customer and the driver or delivery person.

2       SECTION 12. Section 2402.154, Occupations Code, is amended  
3 to read as follows:

4       Sec. 2402.154. DATA SHARING WITH MUNICIPALITY. A  
5 municipality and a transportation network company or delivery  
6 network company may voluntarily enter into an agreement under which  
7 the company shares the company's data with the municipality.

8       SECTION 13. Section 2402.201, Occupations Code, is amended  
9 to read as follows:

10       Sec. 2402.201. PERMIT SUSPENSION OR REVOCATION. The  
11 department may suspend or revoke a permit issued to a  
12 transportation network company or delivery network company that  
13 violates a provision of this chapter.

14       SECTION 14. This Act takes effect September 1, 2025.