

SENATE BILL NO. 485—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 27, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises various provisions relating to transportation network companies. (BDR 58-1009)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to transportation network companies; revising requirements for the digital network or software application service of a transportation network company; requiring drug and alcohol testing of drivers affiliated with transportation network companies; revising requirements for investigating the criminal history of such drivers; requiring a driver affiliated with a transportation network company to complete training and a physical examination; requiring a transportation network company to maintain industrial insurance which covers all drivers affiliated with the company; revising provisions relating to fares; requiring the inspection of a motor vehicle operated by a driver affiliated with a transportation network company after a motor vehicle crash; revising requirements relating to insurance for a transportation network company and a driver affiliated with such a company; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes a transportation network company to enter into an
- 2 agreement with one or more drivers to receive connections to potential passengers
- 3 using the digital network or software application service of the company under
- 4 certain circumstances. (NRS 706A.160) **Section 2** of this bill requires a passenger
- 5 using the digital network or software application service of a transportation network
- 6 company to specify the time at which the passenger wishes to receive transportation
- 7 services and prohibits a request for transportation services which would commence



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within 15 minutes after the request is made. **Section 3** of this bill allows a driver affiliated with a transportation network company to engage in certain activities relating to organization and collective bargaining to the greatest extent allowed under federal law. **Section 4** of this bill requires a prospective driver to pass a drug and alcohol test before applying to become affiliated with a transportation network company and to agree to submit to such a test randomly, when cited for a traffic violation and when involved in a motor vehicle crash. **Section 4** replaces the existing requirement for the criminal history of a prospective driver to be investigated using certain databases with a requirement to submit the fingerprints of the prospective driver to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. **Section 4** requires a prospective driver to: (1) complete a comprehensive course of training in the safe operation of a motor vehicle to provide transportation services before becoming affiliated with a transportation network company and at least annually thereafter; and (2) undergo a medical examination to determine whether the prospective driver meets the physical qualifications established under federal regulations relating to motor carrier safety before becoming affiliated with a transportation network company and at least biennially thereafter. **Section 4** requires a transportation network company to: (1) maintain workers' compensation coverage for each driver affiliated with the company; and (2) comply with a notice to withhold income for the purpose of satisfying child support obligations for a driver affiliated with the company.

Existing law authorizes a transportation network company to charge a fare on behalf of a driver for the transportation services provided to a passenger by the driver. (NRS 706A.170) **Section 5** of this bill requires such a fare to be just and reasonable and requires all transportation network companies to file with the Nevada Transportation Authority schedules and tariffs including all rates, fares and charges which the company has established. **Section 5** also authorizes the Authority to investigate rates, fares, charges, regulations, practices and services and make just and reasonable changes. Finally, **section 5** requires the Authority to adopt regulations establishing a maximum fare that may be charged as a surge price and prohibiting predatory fares.

Existing law establishes certain requirements for a motor vehicle operated by a driver in affiliation with a transportation network company and requires an annual inspection of such a motor vehicle. (NRS 706A.180) **Section 6** of this bill requires such a motor vehicle to be inspected as soon as practicable after the motor vehicle is involved in a motor vehicle crash.

Existing law requires a transportation network company or driver affiliated with such a company to continuously provide certain levels of liability insurance depending on whether the driver is providing transportation services or logged into the digital network or software application service of the company and available to receive requests for transportation services. (NRS 690B.470) **Section 7** of this bill requires a single level of coverage to be in effect during any period in which a driver provides transportation services or is logged into the digital network or software application service of a transportation network company and available to receive requests for transportation services. **Section 7** also requires a transportation network company to maintain similar coverage for all drivers affiliated with the company which operates as primary insurance if the insurance provided by the driver lapses or fails to meet the requirements of law or if the driver fails to obtain insurance which meets the requirements of law.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 706A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *The digital network or software application service of a transportation network company must:*

1. Require a passenger to specify the time at which the passenger wishes to receive transportation services; and

2. Prohibit a passenger from requesting to receive transportation services which would commence within 15 minutes after the time the passenger makes the request using the digital network or software application service of the company.

Sec. 3. *Nothing in this chapter shall be construed to deny a driver the right to join an organization of any kind which has as one of its purposes improvement of the terms and conditions of affiliation between drivers and transportation network companies, to associate with other drivers to engage in collective bargaining with transportation network companies or to perform similar actions to the greatest extent practicable under federal law.*

Sec. 4. NRS 706A.160 is hereby amended to read as follows:

706A.160 1. A transportation network company may enter into an agreement with one or more drivers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver to the company.

2. Before a transportation network company allows a person to be connected to potential passengers using the digital network or software application service of the company pursuant to an agreement with the company, the company must:

(a) Require the person to submit an application to the company, which must include, without limitation:

(1) The name, age and address of the applicant.

(2) A copy of the driver's license of the applicant.

(3) A record of the driving history of the applicant.

(4) A description of the motor vehicle of the applicant and a copy of the motor vehicle registration.

(5) Proof that the applicant has complied with the requirements of NRS 485.185.

(6) Proof that the applicant has submitted to and passed a drug and alcohol test that meets the requirements of 49 C.F.R. Part 40 within 10 business days before submitting the application.

(b) At the time of application and not less than once every 3 years thereafter, conduct or contract with a third party to conduct an investigation of the criminal history of the applicant, which must include, without limitation **†**



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~~(1) A review of a commercially available database containing criminal records from each state which are validated using a search of the primary source of each record.~~

~~(2) A search of a database containing the information available in the sex offender registry maintained by each state.] ,~~
submission to the company or third party, as applicable, of a complete set of the fingerprints of the applicant and written permission authorizing the company or third party, as applicable, to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(c) At the time of application and not less than once every year thereafter, obtain and review a complete record of the driving history of the applicant.

(d) At the time of application and not less than once every year thereafter, require the applicant to complete a comprehensive course of training in the safe operation of a motor vehicle to provide transportation services in affiliation with a transportation network company.

(e) At the time of application and not less than once every 2 years thereafter, require the applicant to undergo a medical examination to determine whether the applicant meets the physical qualifications established by the Federal Motor Carrier Safety Regulations, 49 C.F.R. §§ 391.41 et seq., and submit a certificate signed and dated by a physician stating that the physician has examined the applicant and found that the applicant meets the physical qualifications described in this paragraph.

3. A transportation network company may enter into an agreement with a driver if:

(a) The applicant is at least 19 years of age.

(b) The applicant possesses a valid driver's license issued by the Department of Motor Vehicles unless the applicant is exempt from the requirement to obtain a Nevada driver's license pursuant to NRS 483.240.

(c) The applicant provides proof that the motor vehicle operated by him or her is registered with the Department of Motor Vehicles unless the applicant is exempt from the requirement to register the motor vehicle in this State pursuant to NRS 482.385.

(d) The applicant provides proof that the motor vehicle operated by him or her is operated and maintained in compliance with all applicable federal, state and local laws.

(e) The applicant provides proof that he or she currently is in compliance with the provisions of NRS 485.185.

(f) In the 3 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of



1 three or more violations of the motor vehicle laws of this State or
2 any traffic ordinance of any city or town, the penalty prescribed for
3 which is a misdemeanor.

4 (g) In the 3 years immediately preceding the date on which the
5 application is submitted, the applicant has not been found guilty of
6 any violation of the motor vehicle laws of this State or any traffic
7 ordinance of any city or town, the penalty prescribed for which is a
8 gross misdemeanor or felony.

9 (h) In the 7 years immediately preceding the date on which the
10 application is submitted, the applicant has not been found guilty of
11 any violation of federal, state or local law prohibiting driving or
12 being in actual physical control of a vehicle while under the
13 influence of intoxicating liquor or a controlled substance.

14 (i) In the 7 years immediately preceding the date on which the
15 application is submitted, the applicant has not been found guilty of
16 any crime involving an act of terrorism, an act of violence, a sexual
17 offense, fraud, theft, damage to property of another or the use of a
18 motor vehicle in the commission of a felony.

19 ~~[(j) The name of the applicant does not appear in the database~~
20 ~~searched pursuant to subparagraph (2) of paragraph (b) of~~
21 ~~subsection 2.]~~

22 4. *A transportation network company may enter into an*
23 *agreement with a driver only if the driver agrees to submit to a*
24 *drug and alcohol test that meets the requirements of 49 C.F.R.*
25 *Part 40:*

26 (a) *Randomly;*

27 (b) *At any time the driver is cited for a traffic violation; and*

28 (c) *At any time the driver is involved in a motor vehicle crash.*

29 5. A transportation network company shall terminate an
30 agreement with any driver who:

31 (a) Fails to submit to the transportation network company a
32 change in his or her address, driver's license or motor vehicle
33 registration within 30 days after the date of the change.

34 (b) Fails to immediately report to the transportation network
35 company any change in his or her driving history or criminal
36 history.

37 (c) Refuses to authorize the transportation network company to
38 obtain and review an updated complete record of his or her driving
39 history not less than once each year and an investigation of his or
40 her criminal history not less than once every 3 years.

41 (d) Is determined by the transportation network company to be
42 ineligible for an agreement pursuant to subsection 3 on the basis of
43 any updated information received by the transportation network
44 company.



1 (e) Refuses to submit to or fails a drug or alcohol test
2 administered pursuant to subsection 4.

3 6. For the purpose of obtaining the benefits of the Nevada
4 Industrial Insurance Act, drivers who enter into an agreement
5 with a transportation network company pursuant to this section
6 are deemed employees of the company and entitled to receive for
7 disability incurred by reason thereof the benefits under the
8 Nevada Industrial Insurance Act. The transportation network
9 company shall report and pay premiums to a private carrier
10 authorized to provide industrial insurance in this State for persons
11 so engaged.

12 7. For the purposes of chapter 31A of NRS, a transportation
13 network company is deemed to be the employer of any driver who
14 provides transportation services in affiliation with the company.

15 8. The Authority may adopt regulations establishing
16 minimum standards for a comprehensive course of training
17 required pursuant to paragraph (d) of subsection 2.

18 Sec. 5. NRS 706A.170 is hereby amended to read as follows:

19 706A.170 1. In accordance with the provisions of this
20 chapter, a transportation network company which holds a valid
21 permit issued by the Authority pursuant to this chapter may, on
22 behalf of a driver, charge a fare for transportation services provided
23 to a passenger by the driver. *Any such fare must be just and*
24 *reasonable, and an unjust or unreasonable fare is prohibited and*
25 *shall be deemed to be unlawful.*

26 2. Every transportation network company shall file with the
27 Authority:

28 (a) Within a time to be fixed by the Authority, schedules and
29 tariffs that must:

30 (1) Be open to public inspection; and

31 (2) Include all rates, fares and charges which the company
32 has established and which are in force at the time of filing for any
33 service performed in connection therewith by any driver affiliated
34 with the company.

35 (b) As part of the schedules and tariffs filed pursuant to
36 paragraph (a), all regulations of the company that in any manner
37 affect the rates or fares charged or to be charged for any service
38 and all regulations of the company that the company has adopted
39 to comply with the provisions of this chapter.

40 3. No changes may be made in any schedule or tariff,
41 including schedules of joint rates, or in the regulations affecting
42 any rates or charges, except upon 30 days' notice to the Authority,
43 and all those changes must be plainly indicated on any new
44 schedules filed in lieu thereof at least 30 days before the time such
45 changes are to take effect. The Authority, upon application of any



1 *transportation network company, may prescribe a shorter time*
2 *within which such changes may be made.*

3 4. *The Authority may at any time, upon its own motion,*
4 *investigate any of the rates, fares, charges, regulations, practices*
5 *and services filed pursuant to this section and, after hearing, by*
6 *order, make such changes as may be just and reasonable.*

7 5. *The Authority may dispense with the hearing on any*
8 *change requested in rates, fares, charges, regulations, practices or*
9 *services filed pursuant to this section.*

10 6. *All rates, fares, charges, classifications and joint rates,*
11 *regulations, practices and services fixed by the Authority are in*
12 *force, and are prima facie lawful, from the date of the order until*
13 *changed or modified by the Authority.*

14 7. *All regulations, practices and services prescribed by the*
15 *Authority must be enforced and are prima facie reasonable unless*
16 *suspended or found otherwise in an action brought for the*
17 *purpose, or until changed or modified by the Authority itself upon*
18 *satisfactory showing made.*

19 8. If a fare is charged, the company must disclose the rates
20 charged by the company and the method by which the amount of a
21 fare is calculated:

22 (a) On an Internet website maintained by the company; or

23 (b) Within the digital network or software application service of
24 the company.

25 ~~13-1~~ 9. If a fare is charged, the company must offer to each
26 passenger the option to receive, before the passenger enters the
27 motor vehicle of a driver, an estimate of the amount of the fare that
28 will be charged to the passenger.

29 ~~14-1~~ 10. A transportation network company may accept
30 payment of a fare only electronically. A transportation network
31 company or a driver shall not solicit or accept cash as payment of a
32 fare.

33 ~~15-1~~ 11. A transportation network company shall not impose
34 any additional charge for a driver who provides transportation
35 services to a person with a physical disability because of the
36 disability.

37 ~~16-1~~ 12. The Authority may adopt regulations establishing a
38 maximum fare that may be charged during an emergency, as defined
39 in NRS 414.0345.

40 13. *The Authority shall adopt regulations establishing a*
41 *maximum fare that may be charged as a surge price and*
42 *prohibiting any fare determined by the Authority to be predatory.*
43 *As used in this subsection, "surge price" means a fare which is*
44 *increased, as a result of high demand for transportation services,*
45 *above the fare that is usually charged.*



Sec. 6. NRS 706A.180 is hereby amended to read as follows:

706A.180 1. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the company if the motor vehicle operated by the driver to provide transportation services:

(a) Is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle.

(b) Has less than four doors.

(c) Is designed to carry more than eight passengers, including the driver.

(d) Is a farm tractor, mobile home, recreational vehicle, semitractor, semitrailer, trailer, bus, motorcycle or tow car.

2. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide transportation services, ~~and~~ not less than once each year thereafter ~~and~~ *and as soon as practicable after the motor vehicle is involved in any motor vehicle crash.*

3. The inspection required by subsection 2 must include, without limitation, an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, tail lights, turn indicator lights, braking lights, front seat adjustment mechanism, doors, horn, speedometer, bumpers, muffler, exhaust, tires, rear view mirrors and safety belts of the vehicle which ensures the proper functioning of each component.

Sec. 7. NRS 690B.470 is hereby amended to read as follows:

690B.470 1. Every transportation network company or driver shall continuously provide, during any period in which the driver is providing transportation services ~~and~~ *or logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services*, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375 ~~and~~

~~—(a) In~~ *, in* an amount of not less than \$1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident or motor vehicle crash that occurs while the driver is providing transportation services, ~~and~~

~~—(b) In an amount of not less than \$50,000 for bodily injury to or death of one person in any one accident or motor vehicle crash that occurs while the driver is logged into the digital network or software~~



~~application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;~~

~~—(c) Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than \$100,000 for bodily injury to or death of two or more persons in any one accident or motor vehicle crash that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and~~

~~—(d) In an amount of not less than \$25,000 for injury to or destruction of property of others in any one accident or motor vehicle crash that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;~~

~~—~~ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. The transportation network company insurance required by subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company or the driver, or both.

3. Every transportation network company shall continuously provide, during any period in which the driver is providing transportation services ~~+~~ *or logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services*, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 as primary insurance if : ~~the insurance provided by the driver:~~

(a) ~~Lapses; or~~ *The insurance provided by the driver lapses;*

(b) ~~Fails~~ *The insurance provided by the driver fails* to meet the requirements of subsection 1 ~~+~~ ; or

(c) The driver fails to obtain insurance which meets the requirements of subsection 1.

4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, transportation network company insurance shall be deemed to satisfy the requirements of NRS 485.185 or 485.186,



1 as appropriate, regardless of whether the insurance is provided by
2 the transportation network company or the driver, or both, if the
3 transportation network company insurance otherwise satisfies the
4 requirements of NRS 485.185 or 485.186, as appropriate.

5 5. In addition to the coverage required pursuant to subsection
6 1, a policy of transportation network company insurance may
7 include additional coverage, including, without limitation, coverage
8 for medical payments, coverage for uninsured or underinsured
9 motorists, comprehensive coverage and collision coverage.

10 6. An insurer who provides transportation network company
11 insurance shall not require a policy of insurance for the operation of
12 a motor vehicle required pursuant to NRS 485.185 or 485.186, as
13 appropriate, to deny a claim before the transportation network
14 company insurance provides coverage for a claim.

15 7. An insurer who provides transportation network company
16 insurance has a duty to defend and indemnify the driver and the
17 transportation network company.

18 8. An insurer who provides transportation network company
19 insurance which includes comprehensive coverage or collision
20 coverage for the operation of a motor vehicle against which a
21 lienholder holds a lien shall issue any payment for a claim under
22 such coverage:

23 (a) Directly to the person who performs repairs upon the
24 vehicle; or

25 (b) Jointly to the owner of the vehicle and the lienholder.

26 9. A transportation network company that provides
27 transportation network company insurance for a motor vehicle is not
28 deemed to be the owner of the motor vehicle.

29 **Sec. 8.** The amendatory provisions of section 4 of this act
30 apply to agreements entered into before, on or after July 1, 2017.

31 **Sec. 9.** This act becomes effective on July 1, 2017.

