

BILL ANALYSIS

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S.B. 361
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Since 2010, a number of private companies have entered the transportation services market by offering new travel options that use digital technology to provide an on-demand and highly automated private ride service. Transportation network companies (TNCs), as these companies are frequently classified, have expanded rapidly in cities worldwide. In Texas and other states, policy makers are considering whether TNCs should be regulated at all and, if so, at what level of government and how the TNCs should be regulated. Ten cities in Texas passed ordinances to regulate TNCs between late 2014 and May 2016. Several cities are planning or considering ordinances.

In Texas, H.B. 1733, 84th Legislature, Regular Session, codified as new Chapter 1954, Insurance Code, as "a corporation, partnership, sole proprietorship, or other entity operating in this state that uses a digital network to connect a transportation network company rider to a transportation network company driver for a prearranged ride." TNCs operate in dozens of Texas cities, both with and without local ordinances that regulate their services.

S.B. 361 gives authority to regulate transportation network companies, drivers logged in to a digital network, and vehicles used to provide digitally prearranged rides. It prohibits municipalities from regulating these entities in any way. The bill allows fare sharing between all parties partaking in the service and requires the disclosure of fare calculation methods including the applicable rates being charged and an estimated rate upon request. The bill also requires the TNC to provide the driver's first name and picture as well as the make, model, and license plate number of the driver's vehicle through the company's digital network and requires that the TNC provide passengers with a receipt within a reasonable amount of time following the ride.

Finally, the bill has several safety and protection measures. It requires that the TNC have an intoxication policy for their drivers that prohibits any amount of intoxication, as well as providing for a complaint procedure for passengers that suspect a driver is intoxicated. It requires that the TNC ensure that every driver is at least 19 years of age, maintains a valid driver's license, and possesses proof of registration and automobile financial responsibility. It requires the TNC to conduct, or cause to be conducted, a local, state, and national background check that includes a search of the National Sex Offender Registry and the applicant's driving record. It prohibits a TNC driver from setting up rides or accepting payments outside of the digital network while driving for the digital network.

As proposed, S.B. 361 amends current law relating to transportation network companies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subtitle F, Title 7, Transportation Code, to read as follows:

SUBTITLE F. COMMERCIAL MOTOR VEHICLES AND PERSONAL VEHICLES USED
FOR COMMERCIAL PURPOSES

SECTION 2. Amends Subtitle F, Title 7, Transportation Code, by adding Chapter 649, as follows:

CHAPTER 649. TRANSPORTATION NETWORK COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 649.001. DEFINITIONS. Defines "digital network," "digitally prearranged ride," "personal vehicle," and "transportation network company."

Sec. 649.002. NATURE OF TRANSPORTATION NETWORK COMPANIES, DRIVERS, AND VEHICLES. Provides that transportation network companies (TNCs) and drivers logged in to the company's digital network are not common, contract, or motor carriers.

Sec. 649.003. CONTROLLING AUTHORITY. (a) Provides that notwithstanding any other provision of law and except as provided by Subsection (b) the regulation of TNCs, drivers logged in to a digital network, and vehicles used to provide digitally prearranged rides is an exclusive power and function of this state and prohibits the regulation from being regulated by a municipality, state agency, or other state or local entity, including by imposing certain costs or requirements.

(b) Authorizes an airport owner or operator to impose a reasonable fee on a TNC that provides digitally prearranged rides to or from the airport.

Sec. 649.004. PROVISIONS APPLICABLE TO DRIVERS LOGGED IN TO DIGITAL NETWORK. Provides that a provision of this chapter that applies to a driver logged in to a digital network applies while the driver is logged in to receive requests for, and is providing, digitally prearranged rides.

SUBCHAPTER B. OPERATION OF TRANSPORTATION NETWORK COMPANIES

Sec. 649.051. INSURANCE REQUIRED. Provides that the requirements of Chapter 1954 (Insurance for Transportation Network Company Drivers), Insurance Code, apply to TNCs and drivers logged in to a digital network.

Sec. 649.052. SHARE RIDES. Authorizes a digitally prearranged ride to be wholly or partly shared by multiple passengers if the passengers consent to sharing the ride.

Sec. 649.053. FARES. Requires a TNC that charges a fare for a digitally prearranged ride to provide certain fare information to the passengers.

Sec. 649.054. DIGITAL NETWORK IDENTIFICATION OF DRIVERS AND VEHICLES TO PASSENGERS. Requires a TNC, before a passenger enters a vehicle for a digitally prearranged ride, to provide through the TNC's digital network to the passenger requesting the ride certain driver and vehicle information.

Sec. 649.055. PAYMENT; ELECTRONIC RECEIPT. (a) Requires a driver providing a digitally prearranged ride to accept payment for the ride only through the digital network.

(b) Requires the TNC whose digital network was used to prearrange the ride to transmit, within a reasonable time following the completion of a digitally prearranged ride, through electronic mail or text message, a receipt including certain information to the passenger who requested the ride.

Sec. 649.056. INTOXICATING SUBSTANCE POLICY. (a) Requires a TNC to implement an intoxicating substance policy that prohibits a driver who is logged in to the company's digital network from any amount of intoxication.

(b) Requires a TNC to include on its Internet website a notice concerning the TNC's intoxicating substance policy and the means to make a complaint about a suspected violation of the policy.

(c) Requires a TNC, on receipt of a passenger complaint alleging a violation of the intoxicating substance policy, to conduct an investigation into the reported incident and immediately suspend the driver's access to the TNC's digital network for the investigation duration.

(d) Requires a TNC to maintain records relevant to a complaint for at least two years after the date the complaint is received.

Sec. 649.057. DRIVER REQUIREMENTS. (a) Requires a TNC, before permitting an individual to log in as a driver on the company's digital network, to:

(1) confirm that the individual meets certain requirements;

(2) conduct, or cause to be conducted, a local, state, and national criminal background check for the individual that includes the use of certain databases; and

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

(b) Prohibits a TNC from permitting an individual to log in as a driver on the TNC's digital network if the individual has been convicted of certain offenses in the three-year period preceding the issue date of the obtained driving record, has been convicted in the preceding seven-year period of certain crimes, or is found to be in the national sex offender registry database.

Sec. 649.058. DIGITALLY PREARRANGED RIDES ONLY. Prohibits a driver who is logged in to a digital network from soliciting or providing a ride for compensation unless the passenger has been matched to the driver through the digital network.

Sec. 649.059. PAYMENT ONLY THROUGH DIGITAL NETWORK. Authorizes a driver to receive payment for a digitally prearranged ride only through the digital network and prohibits the driver from soliciting or accepting cash payments from a passenger.

Sec. 649.060. PASSENGER ACTING IN UNLAWFUL, DISORDERLY, OR ENDANGERING MANNER. Authorizes a driver who has accepted a digitally prearranged ride to refuse transport to a passenger acting in an unlawful, disorderly, or endangering manner.

Sec. 649.061. DIGITAL IDENTIFICATION TO LAW ENFORCEMENT OFFICER. (a) Defines "digital identification."

(b) Requires a driver providing a digitally prearranged ride, on request of a law enforcement officer, to display the driver's digital identification and electronic proof that the ride was matched through the digital network.

(c) Provides that this section does not require a driver to relinquish possession of the electronic device containing the digital identification.

Sec. 649.062. VEHICLE REQUIREMENTS. (a) Requires a TNC, for each motor vehicle used by a driver to provide digitally prearranged rides through the TNC's digital network, to require that the vehicle meets certain requirements.

(b) Authorizes a vehicle used to provide digitally prearranged rides to be owned, leased, or rented by the driver, and prohibits the vehicle from also being used to provide street-hail taxicab service, limousine service, or other similar for-hire service regulated by a municipality under Section 215.004 (Taxicabs and

Limousines), Local Government Code, or a joint airport board under Section 22.081 (Licensing of Vehicles for Hire and Passenger Transportation Services), Transportation Code.

Sec. 649.063. NONDISCRIMINATION; ACCESSIBILITY. (a) Requires a TNC to adopt a policy that prohibits a driver logged in to the TNC's digital network from discriminating against a passenger or potential passenger on the basis of certain factors, and from refusing to provide service to a potential passenger with a service animal unless the driver has a medically documented condition that prevents the driver from transporting animals.

(b) Requires a TNC to notify each person authorized to log in as a driver on the company's digital network of the nondiscrimination policy. Requires a driver logged in to the TNC's digital network to comply with the nondiscrimination policy.

(c) Prohibits a TNC from imposing an additional charge for transportation of individuals with physical disabilities because of those disabilities.

(d) Requires a TNC to provide a passenger an opportunity to indicate whether the passenger requires a wheelchair-accessible vehicle. Requires the TNC, if a wheelchair-accessible vehicle cannot be provided, to direct the requesting passenger to an alternate provider of wheelchair-accessible service, if available.

Sec. 649.064. DRIVERS AS INDEPENDENT CONTRACTORS. Provides that a driver who is authorized to log in to a TNC's digital network is considered an independent contractor, and not an employee of the company, if the TNC does not perform certain actions relating to the driver, and the TNC and driver agree in writing that the driver is an independent contractor.

Sec. 649.065. FIRE EXTINGUISHER. Provides that Section 547.607 (Fire Extinguisher Required) does not apply to a vehicle used to provide digitally prearranged rides.

SUBCHAPTER C. RECORDS AND OTHER INFORMATION.

Sec. 649.101. RETENTION OF RECORDS. Requires a TNC to maintain certain records for certain periods of time.

Sec. 649.102. COLLECTION, USE, OR DISCLOSURE OF RECORDS AND OTHER COMPANY INFORMATION. (a) Provides that any records, data, or other information disclosed to a public entity in this state by a TNC, including certain personally identifiable information of drivers is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(b) Prohibits a public entity from disclosing any records, data, or other information provided by a TNC to a third party except in compliance with a court order or subpoena. Requires the public entity, if provided information is sought through a court order or subpoena, to promptly notify the TNC to afford the TNC the opportunity to take actions to prevent disclosure.

(c) Requires a public entity, in collecting, using, or disclosing any records, data, or other information submitted by a TNC, to consider potential risks to the privacy of individuals whose information is being collected, used, or disclosed; ensure that the information is necessary, relevant, and appropriate to the proper administration of this chapter; and take all reasonable measures and make all reasonable efforts to protect, secure, and, where appropriate, encrypt or limit access to the information.

(d) Provides that a TNC required to submit, disclose, or otherwise provide personally identifiable information of drivers to a public entity of this state 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 public entity of this state.

Sec. 649.103. DISCLOSURE OF PASSENGER INFORMATION. (a) Authorizes a TNC to disclose a passenger's personal identifying information to a third party only if certain requirements are met.

(b) Authorizes a TNC, notwithstanding Subsection (a), to share a passenger's name with a driver accessing the TNC's digital network to facilitate identification of the passenger by the driver or communication between the passenger and the driver.

SECTION 3. Provides that, on the effective date of this Act, any municipality's or other local entity's ordinance or policy related to TNC or drivers authorized to access TNCs' digital networks that contradicts or is otherwise inconsistent with this Act is void and has no effect.

SECTION 4. Effective date: upon passage or September 1, 2017.