



DATE: March 18, 2019

TO: House Committee on Business and Labor

FROM: Amy Joyce, Legislative Liaison

SUBJECT: HB 3023, statewide regulation of Transportation Network Companies

INTRODUCTION

HB 3023 directs the Department of Transportation to implement the statewide regulation of Transportation Network Companies (TNCs). The regulation involves confirming business records and insurance, and may be better suited to another agency. The bill is somewhat vague regarding the scope and depth of regulation and oversight an agency is expected to pursue.

DISCUSSION

HB 3023 creates a statewide regulatory program for TNCs and preempts local regulation specific to TNCs. The system outlines roles and responsibilities for three entities: the TNC business, TNC drivers, and the regulating agency. The bill generally describes the duties of each.

Transportation Network Company Duties

- Obtain license to operate from the agency
- Verify driver qualifications (age; driving experience; criminal history; driving history)
- Verify vehicle age, registration, and that a safety inspection has been completed
- Provide consumers information electronically:
 - photo of driver and license plate number
 - rate/method of fee calculation, and estimated fee
 - consumer protection information (expectations on drivers, complaint process)
- Suspend a driver for complaints, and investigate complaints
- Provide customer a receipt with ride and fee details
- Potentially insure drivers; provide drivers information on insurance coverage including that TNC might not cover a loss
- Cover losses if driver's coverage has lapsed
- Keep record of each ride and each driver for three years; keep records related to complaints for two years
- Come to agreement with ODOT on record sample selection
- Ensure drivers do not provide rides for compensation outside of the TNC platform; ensure drivers do not discriminate against riders, comply with other requirements

Driver Duties / obligations

- Apply to TNC and include particular driver and vehicle information
- After a crash, provide insurance information to other party and law enforcement
- After a crash, if law enforcement asks, say whether engaged with a customer or connected to the platform
- Potentially carry their own insurance; in all cases carry proof of insurance

State Agency

- Review and approve or reject TNC license applications
- Inspect random sample of ride and driver records to determine compliance; random sample determined in conjunction with TNC
- Sanction TNCs for violations; impose civil penalties, no more than \$100 per violation
- Adopt administrative rules regarding records TNC must keep regarding rides and drivers; vehicle equipment “components” for safety inspection; records sampling process based on agreement with TNC; insurance requirements

Nearly all of the regulatory oversight contemplated is one of auditing paperwork for the purpose of ensuring consumer protection and proper financial transactions. Notices to consumers, contents of a receipt, verification of criminal background checks, and verification of necessary insurance policies are all business processes not in the usual purview of ODOT.

As written, the bill does not seem to require the TNC to carry any insurance on a vehicle or driver. Rather, the bill requires an insurance policy is carried by: 1) the TNC itself; 2) the driver; or 3) both. If the question of content, timing, and carrier of an insurance policy is expected to be contemplated and decided in administrative rule, ODOT is likely not the appropriate agency to make that determination. Other agencies regulate and understand the vagaries of different insurance products.

Understanding that the bill is a work in progress, the current language leaves fundamental questions regarding the expected level of regulation and oversight envisioned by the Legislature. The bill seems to limit agency oversight to auditing a selection of documents the TNCs must maintain on two topics: the drivers they employ and each ride given. While the bill directs TNCs to take particular actions and exercise specific oversight of its drivers, an agency has little means to ensure those requirements are met. Additionally, no avenue is established for public and consumer engagement. The department seeks to understand whether the policy goal is establishment of a robust regulatory framework or periodic agency review of a sample of records. That answer, as well as determining the volume of drivers and rides over which an agency will have oversight, will be critical to determine prior to legislation passing to estimate what an agency will need to stand up this new program.

SUMMARY

The Department of Transportation welcomes the opportunity to learn more about the level of regulatory oversight expected of an agency that takes on this program. As drafted, ODOT may not be the best fit to regulate TNCs.