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Bill Text: SC H3525 | 2015-2016 | 121st General Assembly | Amended

South Carolina House Bill 3525 (*In Recess*)

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Bill Title: Transportation Network Companies

Spectrum: Slight Partisan Bill (Republican 2-1)

Status: (*Enrolled*) 2015-06-23 - Ratified R 126 [\[H3525 Detail\]](#)

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FREE CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 18, 2015

H. 3525

Introduced by Reps. Sandifer, Forrester and Hayes

S. Printed 6/3/15--S.

Read the first time March 31, 2015.

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 16 TO CHAPTER 23, TITLE 58 SO AS TO PROVIDE FOR THE REGULATION OF TRANSPORTATION NETWORK COMPANIES; TO AMEND SECTION 58-4-60, RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE OFFICE OF REGULATORY STAFF, SO AS TO PROVIDE FOR THE EXPENSES OF THE TRANSPORTATION DEPARTMENT BORNE BY ASSESSMENTS TO TRANSPORTATION NETWORK COMPANIES IN ADDITION TO EXISTING SOURCES; AND TO AMEND SECTION 58-23-50, RELATING TO EXEMPTIONS FROM REGULATION OF MOTOR VEHICLE CARRIERS BY THE PUBLIC SERVICE COMMISSION, SO AS TO EXEMPT TRANSPORTATION NETWORK COMPANIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 23, Title 58 of the 1976 Code is amended by adding:

"Article 16

Transportation Network Company Act

Section 58-23-1610. For purposes of this article:

(1) 'Transportation Network Company' or 'TNC' means a person, corporation, partnership, sole proprietorship, or other entity operating in this State that uses a digital network, platform, or internet-enabled application to connect a passenger to a transportation network driver for the

feedback

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purpose of providing transportation for compensation using a vehicle. A transportation network company does not include transportation services provided pursuant to Articles 1 through 15 of Chapter 23, Title 58, or arranging non-emergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the State or a managed care organization.

(2) 'Personal vehicle' means a vehicle that is used by a transportation network company driver in connection with providing a prearranged ride and is:

(a) owned, leased, or otherwise authorized for use by the transportation network company driver; and

(b) not a taxi, charter bus, charter limousine, or for-hire vehicle.

(3) 'Digital network' means any online-enabled application, software, website, or system offered or used by a TNC that enables the prearrangement of rides with transportation network company drivers.

(4) 'Transportation Network Company driver' or 'TNC driver' means a person who uses a vehicle to provide transportation service for passengers matched through a transportation network company's digital network.

(5) 'Transportation Network Company insurance' or 'TNC insurance' means an insurance policy that specifically covers a driver's use of a vehicle in connection with a transportation network company's digital network, platform, or internet-enabled application.

(6) 'Transportation Network Company passenger' or 'TNC passenger' means a person for whom transportation is provided through a transportation network company's digital network. This includes a person for whom arrangements for transportation services using the transportation network company's digital network was arranged by someone other than the passenger.

(7) 'Transportation Network Company service' or 'TNC service' means a period of time when a transportation network company driver accepts a request arranged through the transportation network company's digital network and proceeds to the passenger location, continues while the transportation network company driver transports a requesting passenger in the transportation network company vehicle, and ends when the last requesting passenger exits the transportation network company vehicle.

(8) 'Transportation Network Company vehicle' or 'TNC vehicle' means a vehicle that is used by a TNC driver that has met the requirements of this article and has been approved by the TNC to provide transportation service arranged through a transportation network company digital platform. It must not have a manufacturer's rated seating capacity of more than eight passengers, including the driver.

(9) 'Prearranged ride' means the provision of transportation by a transportation network company driver to a transportation network company rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include shared expense carpool or vanpool arrangements, or transportation provided using a taxi, limousine, or other for-hire vehicle pursuant to a Class C certificate issued by the South Carolina Public Service Commission or pursuant to a license issued by the governing body of a county or city. A prearranged ride does not include services provided pursuant to articles 1 through 15 of Chapter 23, Title 58 or arranging non-emergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the State or a managed care organization.

(10) 'Transportation Network Company rider' or 'rider' means an individual or individuals who use a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

Section 58-23-1620. (A) Before a person, corporation, partnership, sole proprietorship, or other entity that uses a digital network, platform or internet-enable application to provide transportation for compensation using a personal vehicle commences to advertise or operate in South Carolina as a TNC, that entity shall comply with the requirements set forth within this article and hold a valid TNC permit issued by the Office of Regulatory Staff.

(B) That entity shall submit an application to the Office of Regulatory Staff and provide information that the Office of Regulatory Staff requires.

(C) In performing its responsibilities under this article, the Office of Regulatory Staff must balance the interest of the State in promoting innovative, safe, and cost-effective transportation services with an appropriate level of safety protections for TNC passengers and the general public.

(D) An application must be accompanied by information required by the Office of Regulatory Staff, which may condition its approval on terms that it determines to be just and reasonable to advance the goals of this article.

(E) Upon review of the application and a finding that the applicant is fit, willing, and able to conduct business pursuant to the provisions of this article, the Office of Regulatory Staff shall approve the application and issue the entity a TNC permit. A person or entity operating a TNC in South Carolina as of the effective date of this article may continue to operate for a period of sixty days following the effective date of this article so as to permit the person or entity to obtain a permit from the Office of Regulatory Staff pursuant to this section.

(F) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Public Service Commission within thirty days of the decision.

Section 58-23-1625. (A) Insurers that write automobile insurance in the State may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a TNC driver is logged on a TNC's digital network or while the driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:

- (1) liability coverage for bodily injury and property damage;
- (2) uninsured and underinsured motorist coverage;
- (3) medical payments coverage;
- (4) comprehensive physical damage coverage; and
- (5) collision physical damage coverage.

(B) The exclusions apply notwithstanding any requirement under Sections 56-9-10 through 56-9-630. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the transportation network driver is logged on the TNC's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a personal vehicle to transport passengers for compensation. Nothing may be considered to preclude an automobile insurer from providing coverage for the TNC driver's personal vehicle, if it chooses to do so by contract or endorsement.

(C) Automobile insurers that exclude coverage as permitted in subsections (A) and (B) have no duty to defend or indemnify any claim expressly excluded by those subsections. Nothing in this article may be considered to invalidate or limit an exclusion contained in a policy. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy as permitted in subsections (A) and (B) has a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of Section 58-23-1630 at the time of loss.

(D) In a claims coverage investigation, TNC's and any automobile insurer potentially providing coverage under Section 58-23-1630 shall cooperate to facilitate the exchange of relevant information with directly involved parties and any automobile insurer of the TNC driver if applicable, including the precise times that a driver logged on and off of the TNC's digital network in the twelve-hour period immediately preceding and in the twelve-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions, and limits provided under any automobile insurance maintained under Section 58-23-1630.

Section 58-23-1630. (A) A TNC driver or TNC on the driver's behalf shall maintain primary automobile insurance that recognizes that the driver is a TNC driver or otherwise uses a personal vehicle to transport riders for compensation and covers the driver:

- (1) while the driver is logged on the TNC's digital network; or
- (2) while the driver is engaged in a prearranged ride.

(B) The following automobile insurance requirements apply while a participating TNC driver is logged on the TNC's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

- (1) primary automobile liability insurance in the amount of at least fifty thousand dollars for death and bodily injury per person, at least one hundred thousand dollars for death and bodily injury per incident, and at least fifty thousand dollars for property damage;
 - (2) uninsured motorist coverage as required by Section 38-77-150; and
 - (3) the coverage requirements of this subsection may be satisfied by automobile insurance maintained by the TNC driver, automobile insurance maintained by the TNC, or both.
- (C) The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride:
- (1) primary automobile liability insurance that provides at least one million dollars for death, bodily injury, and property damage;
 - (2) uninsured motorist coverage as required by Section 38-77-150; and
 - (3) the coverage requirements of this subsection may be satisfied by automobile insurance maintained by the TNC driver, automobile insurance maintained by the TNC, or both;
- (D) If insurance maintained by the TNC driver in subsections (B) or (C) has lapsed or does not provide the required coverage, insurance maintained by a TNC must provide the coverage required by this section beginning with the first dollar of a claim and has the duty to defend such claim.
- (E) Coverage under an automobile insurance policy maintained by the TNC may not be dependent upon a personal automobile insurer first denying a claim nor may a personal automobile insurer be required to first deny the claim.
- (F) Insurance required by this section may be placed with an authorized insurer or with an eligible surplus lines insurer pursuant to Section 38-45-90.
- (G) Insurance satisfying the requirements of this section may be considered to satisfy the financial responsibility requirements for a motor vehicle pursuant to Sections 56-9-10 through 56-9-630.
- (H) A TNC driver shall carry proof of coverage satisfying subsections (B) and (C) at all times during use of a vehicle in connection with a TNC's digital network. In the event of an accident, a TNC driver shall provide this insurance coverage to the directly interested parties, automobile insurers, and the investigating police officers, upon request, pursuant to Section 56-10-225. Upon such request, a TNC driver shall also disclose to directly interested parties, automobile insurers, and the investigating police officers, whether he was logged on the TNC's digital network or on a prearranged ride at the time of an accident.
- (I) If a TNC's insurer pays a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. The Office of Regulatory Staff shall not assess any fines as a result of a violation of this subsection.

Section 58-23-1635. (A) Before TNC drivers are allowed to accept a request for a prearranged ride on the TNC's digital network, the TNC shall disclose to the drivers, in writing, the following information:

- (1) the insurance coverage, including the types of coverage and the limits for each coverage, that the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC's digital network;
- (2) depending on its terms, that the TNC driver's personal automobile insurance policy may not provide any coverage while the driver is logged onto the TNC's digital network and is available to receive a transportation request or is engaged in a prearranged ride; and
- (3) if the vehicle to be used to provide TNC services has a lien against it, the driver has a duty to notify the lienholder that the driver will be using the vehicle for transportation services that may violate the terms of the contract with the lienholder. The driver must disclose to the lender all insurance coverage information provided to the driver by the TNC pursuant to Section 58-23-1635. The TNC must provide a standardized form for TNC drivers to use for such notice to the lienholder. The form may be provided to the driver by the TNC in a digital format. The TNC driver must maintain evidence that notice has been sent to the lien holder as well as wait seven days prior to commencing driving in connection with a TNC.

(B) Nothing in this chapter limits the right of a lender or secured party on a driver's vehicle to require a driver to maintain comprehensive and collision damage coverage for a driver's vehicle or to show evidence of that coverage to the lender or secured party that would cover the period when the driver is logged on to the transportation network carrier's digital network regardless of whether the driver is engaged in a prearranged ride. If the driver fails to maintain the required comprehensive and collision coverage or to show evidence to the lender or secured party of the coverage upon reasonable request by the lender or secured party, the lender or secured party may fully enforce all provisions contained in the loan agreement with the borrower.

Section 58-23-1640. (A) The TNC driver shall have a certified mechanic licensed in South Carolina conduct a safety inspection of a TNC vehicle within thirty days of the vehicle first providing TNC services.

(B) The TNC shall not permit a TNC driver to provide TNC services if the TNC vehicle does not pass a certified mechanics inspection as identified in this article.

(C) The TNC driver shall have periodic safety inspections of the TNC vehicle performed at intervals of at least once each year.

(D) The TNC shall maintain documentation of a TNC vehicle inspection for a period of three years.

(E) The vehicle inspection shall include an inspection of:

- (1) foot brakes;
- (2) emergency brakes;
- (3) steering mechanism;
- (4) windshield;
- (5) rear window and other glass;
- (6) windshield wipers;
- (7) headlights;
- (8) tail lights;
- (9) turn indicator lights;
- (10) stop lights;
- (11) front seat adjustment mechanism;
- (12) door capability to open, close, lock, and unlock;
- (13) horn;
- (14) speedometer;
- (15) bumpers;
- (16) muffler and exhaust system;
- (17) tire condition including tread depth;
- (18) interior and exterior rearview mirrors; and
- (19) safety belts.

(F) A TNC vehicle must display a consistent and distinctive signage or emblem, which must be known as a trade dress, at all times when the TNC driver is active on the TNC digital platform or providing TNC service. The trade dress used by the TNC must be approved by the Office of Regulatory Staff before its use and:

- (1) must be readable during daylight hours at a distance of fifty feet;
- (2) must be reflective, illuminated, or otherwise patently visible so as to be seen in darkness; and

- (3) may be magnetic or removable in nature.
- (H) The Office of Regulatory Staff may conduct inspections of TNC vehicles.
- (I) The vehicle inspection records must be provided to the Office of Regulatory Staff by the TNC upon request.

Section 58-23-1650. (A) The TNC shall obtain certain background and qualification information from a TNC driver before the TNC driver is approved by the TNC to provide TNC services.

(B) The TNC driver qualification information shall include:

- (1) a valid driver's license issued by the South Carolina Department of Motor Vehicles or the current state of residence for the driver;
- (2) verification that the driver is twenty-one years of age or older;
- (3) a certified copy of the driver's ten year driving record issued by the South Carolina Department of Motor Vehicles and a record from the department of motor vehicles or equivalent agency of the state where the driver has been domiciled for that period;
- (4) conduct, or have a third party conduct, a local and national criminal background check for each applicant that must include:

(a) a multi-state and multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search); and

(b) national sex offender registry database search; and

(5) proof of automobile liability insurance in the name of the TNC driver which meets the requirements of Section 38-77-140.

(C) The TNC shall verify the TNC driver meets all of the driver qualification requirements in this section at intervals of at least one each year.

(D) The TNC shall maintain documentation of initial and annual verification of TNC driver qualifications for a period of three years.

(E) The Office of Regulatory Staff may conduct inspections of TNC driver qualification records.

(F) The TNC shall not permit a TNC driver to provide TNC services who:

- (1) does not meet the TNC driver qualifications listed in Section 58-23-1650(B) and (C);
- (2) is registered or required to be registered as a sex offender with the South Carolina Law Enforcement Division or the National Sex Offender Registry;
- (3) has been convicted within the past ten years of driving under the influence of drugs or alcohol, driving with an unlawful alcohol concentration, fraud, use of a motor vehicle to commit a felony, a felony crime involving property damage, theft and crimes as defined as violent pursuant to Section 16-1-60; or
- (4) is under the influence of drugs or alcohol. Nothing in this section may be construed to require drug testing by a TNC of a TNC driver.

(G) Before a TNC driver is allowed to provide a TNC service, the TNC must disclose to the TNC driver that the:

- (1) automobile liability insurance that the TNC provides while the TNC driver is engaged in TNC service or logged into the TNC digital network;
- (2) TNC driver's automobile liability insurance may not provide coverage while the TNC driver is engaged in TNC service or logged into the TNC digital network;
- (3) provision of TNC services may violate the terms of a contract or financing agreement with a lienholder; and
- (4) provision of TNC services may have financial consequences related to personal income tax and personal property tax liabilities.

Section 58-23-1660. (A) A TNC operating in this State shall comply with the following

standards:

(1) A TNC driver shall not provide TNC services or otherwise operate as a passenger vehicle for hire unless a TNC has matched the TNC driver to the TNC passenger through the digital network. A TNC driver shall not solicit or accept passenger rides on-demand or through a 'street hail.' All payment for TNC services must be made through the digital network and the TNC driver shall not accept cash payments.

(2) A TNC shall make available to prospective TNC passengers and TNC drivers the method by which the TNC calculates fares or the applicable rates being charged and an option to receive an estimated fare. If the rates vary from those identified in the application to the Office of Regulatory Staff, the TNC must provide the revised rates to the passenger on the digital network.

(3) A TNC shall provide the TNC passenger with an electronic receipt upon completion of the TNC service. The receipt must document the:

- (a) point of origin;
- (b) point of destination;
- (c) total duration and distance;
- (d) total fare/rate paid, including base fare and additional charges incurred for distance or duration; and
- (e) TNC driver's first name.

(4) A TNC driver shall display an identification badge including his photograph, first name, personal vehicle make and model, and personal vehicle license plate number. This information may be displayed to the TNC passenger through the TNC digital network.

(5) A TNC driver shall at all times carry in the TNC vehicle proof of the automobile liability insurance required of this article.

(6) A TNC shall provide customer support on its digital network, website, or both, for TNC passenger inquiries or complaints and shall respond promptly to all TNC passenger inquiries or complaints.

(7) A TNC shall not discriminate against TNC passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, or age.

(8) A TNC shall provide TNC services in compliance with all applicable laws for providing services to persons with physical and mental disabilities. Service animals and mobility equipment must be permitted to accompany a TNC passenger.

(9) A TNC shall provide TNC passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC service in any instance, it shall direct the TNC passenger to an alternate provider of wheelchair-accessible service, if available.

(10) A TNC driver shall take the most direct route to the destination unless the TNC passenger has consented to an alternate route.

(11) A TNC driver may refuse to transport a TNC passenger if the TNC passenger is acting in an unlawful, disorderly or endangering manner.

Section 58-23-1670. (A) A TNC shall maintain a record of all TNC services provided in South Carolina for a period of three years from the date of the TNC service. The records shall include:

- (1) the time at which a TNC driver logs into the digital network;
- (2) the time and place of commencement of TNC service;
- (3) the address of delivery of the TNC passenger;
- (4) the amount of fare charged to the TNC passengers; and
- (5) any inquiry or complaint of the TNC passenger, the date of the inquiry or complaint, and the resolution of the inquiry or complaint.

(B) A TNC shall maintain documentation of each TNC vehicle inspection for a period of three years.

(C) The TNC shall maintain documentation of initial and annual verification of TNC driver qualifications for a period of three years.

(D) The TNC shall provide, upon the request of the Office of Regulatory Staff, any factual information regarding TNC drivers, TNC passengers, and TNC services so as to investigate complaints arising under this article. This information must be provided to the Office of Regulatory Staff within a reasonable time period.

(E) A TNC shall not disclose a TNC driver or passenger's personally identifiable information to a third party unless the:

(1) TNC driver or TNC passenger consents;

(2) disclosure is required by legal obligation; or

(3) disclosure is required to investigate violations of the TNC driver or TNC passenger terms of use.

Section 58-23-1680. (A) A certified South Carolina law enforcement officer is authorized to enforce the requirements of this article.

(B) An officer, agent, or employee of a TNC or TNC driver who fails to comply with any requirement contained in this article must be assessed a civil penalty of not less than one hundred dollars for a first violation, not less than five hundred dollars for a second violation, and not less than one thousand dollars for a third violation and subsequent violations. Seventy-five percent of the penalties collected under this section must be remitted to the Office of Regulatory Staff to be used for enforcement operations. Magistrates have jurisdiction over contested violations of this section and are prohibited from suspending or reducing the penalties.

(C) The Office of Regulatory Staff may revoke a TNC permit if the TNC has made misrepresentation of a material fact in obtaining the TNC permit or, in the opinion of the Office of Regulatory Staff, has failed to comply with the requirements in this article.

(D) An aggrieved person with standing may file a request for a contested case of a decision of the Office of Regulatory Staff with the Public Service Commission of South Carolina within thirty days of the decision.

(E) Concerning potential violations of this article, TNC's and their officers, agents, employees, or customers is subject to the investigatory powers provided in Sections 58-4-50 and 58-4-55 to the Office of Regulatory Staff.

(F) The Office of Regulatory Staff is authorized to require regular updating of information required from a TNC under this article.

Section 58-23-1690. (A) The Office of Regulatory Staff may assess each TNC an annual fee in an amount necessary to permit the Office of Regulatory Staff to carry out the requirements of this article.

(B) The annual assessment of fees will be pursuant to Section 58-4-60(B).

Section 58-23-1700. (A) For the purposes of this section:

(1) 'Gross trip fare' means the sum of the base fare charge, distance charge, and time charge for the complete trip at rates published on the TNC's website.

(2) 'Local assessment fee' means one percent of the gross trip fare.

(3) 'Municipality' means a city or town issued a certificate of incorporation, or township created by act of the General Assembly.

(B) A TNC shall collect a local assessment fee on behalf of a TNC driver who accepts a request for a prearranged ride made through the TNC's digital network for all prearranged rides that originate in the state.

(C) Using the Geographic Information System (GIS) data made available by the Revenue and Fiscal Affairs Office pursuant to subsection (I), a TNC shall determine whether each prearranged trip occurred within the incorporated boundaries of a municipality, or outside of the incorporated

boundaries of a municipality and within the boundaries of a county of this state.

(D) No later than thirty days after the end of a calendar quarter, a TNC shall submit to the Office of Regulatory Staff:

- (1) the total local assessment fees collected by a TNC on behalf of the TNC drivers;
- (2) for trips that originated in a municipality, a report listing the percentage of the gross trip fare that originated in each municipality during the reporting period; and
- (3) for trips that originated outside a municipality, a report listing the percentage of the gross trip fare that originated outside a municipality during the reporting period.

(E) The funds collected pursuant to this section are not general fund revenue of the State and must be kept by the State Treasurer in a distinct and separate unbudgeted Trust & Agency fund and apart from the general fund. These funds are to be administered by the Office of Regulatory Staff pursuant to this section and expended only for the purposes provided in this chapter.

(F)(1) The Office of Regulatory Staff shall retain an amount of one percent of the local assessment fee collected under subsection (D)(1) to cover the expenses borne by the Office of Regulatory Staff derived from:

- (a) regulation of TNCs; and
- (b) collection, remittance, and distribution of local assessment fees pursuant to this section.

(2) Within sixty days of the end of the calendar quarter, the Office of Regulatory Staff shall distribute the remaining portion of the total local assessment fees collected under subsection (D)(1), minus the amount retained pursuant to subsection (F)(1), to each municipality where a trip originated during the reporting period and, for trips that originated outside a municipality, to each county where a trip originated during the reporting period. The distribution to each municipality or county must be proportionate to the percentage of the gross trip fare that originated in each municipality or county.

(G)(1) To ensure that the TNC has remitted the correct local assessment fee and has accurately reported the percentages attributable to municipalities and counties pursuant to subsection (D), upon request of the municipality, the Office of Regulatory Staff may inspect the necessary records at a TNC's place of business or a mutually agreed upon location. This inspection may not be conducted more than once a year.

(2) At least forty-five days before the Office of Regulatory Staff conducts an inspection of records pursuant to subsection (G)(1), the Office of Regulatory Staff shall notify the Municipal Association of South Carolina (MASC) or its successor organization of its intent to conduct an inspection and the date of the planned inspection.

(3) MASC may request that a TNC that is subject to inspection under subsection (G)(1) engage an independent third party auditor to verify that the local assessment to municipalities has been properly accounted for and distributed. At least thirty days before the scheduled audit, MASC must submit this request in writing to the Office of Regulatory Staff and the TNC subject to the audit.

(a) The TNC that is subject to the audit shall engage the independent third party auditor, which must be selected at the sole discretion of the TNC, and bear all costs associated with the third party audit. The independent third party auditor must be:

- (i) a certified public accounting firm licensed in the State; and
- (ii) qualified to perform engagements in accordance with Generally Accepted Government Auditing Standards (GAGAS).

(b) The TNC shall provide MASC with a copy of the third party audit report within fifteen days of completion, which shall in no event, occur later than ninety days after receipt of MASC's written request. The audit report must disclose the amount of any underpayments or overpayments to municipalities and counties.

(c) A person employed by or formerly employed by MASC who discloses to a third party any information that the TNC marked in the audit report as confidential must be assessed civil penalties as contained in Section 58-23-1680 unless the individual obtained the TNC's written consent prior to disclosure. Nothing in this section must be construed to restrict MASC from disclosing any overpayment or underpayment with the impacted municipalities or counties.

(4) In the event that a TNC submits a report to the ORS that is subsequently determined to be inaccurate, thereby leading to an underpayment or overpayment of a municipality or county's local assessment fee, the Office of Regulatory Staff shall correct the underpayment and overpayment by offsetting the amount of the underpayment or overpayment in subsequent local assessment fee distributions. In the event a TNC remits an assessment fee to the Office of Regulatory Staff that is determined to constitute an underpayment of the total assessment fee required by this article, the transportation network company shall, within thirty days of receiving notification of the determination, remit the balance owed to the Office of Regulatory Staff. A TNC that submits a report containing an inaccuracy or remits an assessment fee that constitutes an underpayment that is determined by the Office of Regulatory Staff to be the result of an intentional misrepresentation must be assessed damages that are no less than three times the amount of the underpayment or resultant underpayment to the municipality or county impacted.

(H) Any records maintained by a TNC pursuant to this section that are obtained by the Office of Regulatory Staff, a public body as defined by Section 30-4-20(a), or any records that incorporate information from records maintained pursuant to this section, must not be subject to disclosure under the Freedom of Information Act as provided for in Chapter 4, Title 30, or any other provision of law.

(I) The Office of Regulatory Staff may not disclose records or information provided by a TNC unless disclosure is required by a subpoena or court order. If a disclosure is required, the Office of Regulatory Staff shall promptly notify the TNC prior to the disclosure. Nothing in this section may be construed to restrict the Office of Regulatory Staff from disclosing any overpayment or underpayment with the impacted municipalities or counties.

(J) To ensure proper distribution of the local assessment fee pursuant to subsection (D)(2), the Revenue and Fiscal Affairs Office shall prepare and make available for public use a GIS file showing the state's county and municipal boundaries. This file must be updated on a quarterly basis, and published on the Revenue and Fiscal Affairs Office's website. In addition to the requirements of Section 5-3-90, municipalities shall provide annexation information to the Revenue and Fiscal Affairs Office within thirty days after the annexation is complete. Such information shall include a written description of the boundary, along with a map or plat which clearly defines the new territory added.

(K) This section takes effect ninety days after the effective date of this article.

Section 58-23-1710. (A) Except as otherwise provided in this chapter, TNCs and TNC drivers are governed exclusively by this article and by any regulations promulgated by the Office of Regulatory Staff consistent with this article. TNC drivers remain subject to all local ordinances outside the scope of this article, whether directly or indirectly impacting the delivery of TNC driver services, including but not limited to parking and traffic regulations that are not inconsistent with the provisions of this article.

(B) Political subdivisions are prohibited from imposing a tax on a TNC, a TNC driver, or a vehicle used by a TNC driver, including a business license tax, where the tax is assessed in connection with prearranged rides in the state. Nothing in this article may be construed to restrict a municipality from collecting a business license tax from a TNC located within its boundaries if the tax is limited to receipts or revenue that is not subject to a local assessment fee pursuant to Section 58-23-1700 or a business license tax.

(C) In order for a TNC and a TNC driver to provide prearranged rides on airport property, the TNC must comply with Federal Aviation Administration regulations and airport regulations relating to:

- (1) payment of reasonable fee to operate at the airport, agreed to by the TNC and each individual airport, not based on a per-passenger, per-driver, or per-vehicle basis; and
- (2) designating locations for staging, pick-ups, drop-offs, and other similar locations.

Section 58-23-1720. The provisions contained in this article do not preempt any federal regulation relating to the provision of transportation services at any facility regulated by the United States Federal Aviation Administration."

SECTION 2. Section 58-4-60(B) of the 1976 Code is amended to read:

"(B)(1) The expenses of the Transportation Department of the Office of Regulatory Staff, with the exception of the expenses incurred in its railway jurisdiction, must be borne by the revenues from license fees derived pursuant to Sections 58-23-530 through 58-23-630, [assessments to the](#)

Transportation Network Companies pursuant to Sections 58-23-1690 and 58-23-1700. and assessments to the carriers of household goods and hazardous waste for disposal carriers. The expenses of the railway section of the Office of Regulatory Staff must be borne by the railroad companies subject to the commission's jurisdiction according to their gross income from operations in this State.

(2) All other expenses of the Office of Regulatory Staff must be borne by the public utilities subject to the jurisdiction of the commission. On or before the first day of July in each year, the Department of Revenue must assess each public utility, railway company, household goods carrier, and hazardous waste for disposal carrier its proportion of the expenses in proportion to its gross income from operation in this State in the year ending on the thirtieth day of June preceding that on which the assessment is made which is due and payable on or before July fifteenth. The assessments must be charged against the companies by the Department of Revenue and collected by the department in the manner provided by law for the collection of taxes from the companies including the enforcement and collection provisions of Article 1, Chapter 54 ~~of~~ Title 12 and paid, less the Department of Revenue actual incremental increase in the cost of administration into the state treasury as other taxes collected by the Department of Revenue for the State."

SECTION 3. Section 58-23-50 of the 1976 Code is amended by adding a subsection at the end to read:

"(C) Articles 1 to 11 of this chapter also do not apply to Transportation Network Companies and Transportation Network Company Drivers."

SECTION 4. Except as provided in Section 58-23-1700(K), as contained in Section 1, the provisions of this act take effect upon approval by the Governor.

/s/Sen. Robert Wesley Hayes, Jr. /s/Rep. Bill Sandifer

Sen. C. Bradley Hutto /s/Rep. Paul Michael Forrester

/s/Sen. Sean M. Bennett /s/Rep. Leonidas E. Stavrinakis

On Part of the Senate. On Part of the House.