



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 237

131st General Assembly  
(As Passed by the House)

**Reps.** Duffey and Hackett, Bishoff, Amstutz, Anielski, Antani, Antonio, Ashford, Buchy, Burkley, Derickson, Dever, Dovilla, Green, Grossman, Henne, Kunze, McColley, Pelanda, Retherford, Sears, Terhar, Young

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## BILL SUMMARY

- Requires an entity to obtain a transportation network company (TNC) permit from the Public Utilities Commission in order to use a digital network to prearrange rides between riders and TNC drivers.
- Requires, generally, each TNC driver to be covered by an automobile liability insurance policy that provides primary coverage for the driver when the driver is logged on to the TNC's digital network or is providing TNC services.
- Establishes coverage requirements for the primary automobile insurance policies required under the bill for TNC drivers.
- Specifies that the required insurance policy can be obtained through an insurer licensed to do business in Ohio, or through certain individuals and businesses holding a surplus lines broker's license in Ohio.
- Permits a lender or secured party of a personal vehicle to obtain comprehensive or collision damage coverage on the vehicle at the expense of the driver if the driver fails to meet the bill's insurance coverage requirements.
- Requires a TNC and any insurer potentially providing automobile insurance that meets the bill's insurance coverage requirements to cooperate to exchange specified relevant information to directly interested parties in a claims coverage investigation.
- Requires a TNC to do all of the following:

--Disclose the TNC's fare calculation method and provide estimated rates;

- Ensure that riders receive a photograph of the TNC driver and the license plate number of the driver's vehicle prior to the TNC driver's arrival;
  - Provide a receipt for all TNC services that includes specified contents;
  - Conduct a background check on an applicant seeking to serve as a TNC driver and obtain and review a driver history report for such a person;
  - Refuse to allow certain persons to serve as TNC drivers, including persons without a driver's license, registered vehicle, or adequate insurance, or persons who have been convicted of specified crimes;
  - Provide certain disclosures concerning insurance coverage to a TNC driver before the driver first accepts a request to provide TNC services on the digital network;
  - Adopt a zero tolerance policy regarding the use of drugs or alcohol while driving for a TNC;
  - Maintain records of TNC drivers and TNC services for at least two years; and
  - Comply with other specified requirements.
- Prohibits a TNC driver, during any period the driver is logged onto a TNC digital network, from soliciting or accepting passengers other than through the digital network or accepting any payment other than through the digital network.
  - Specifies that the regulation of TNCs, TNC drivers, and TNC services is a matter of statewide concern and expresses the intent of the General Assembly to preempt local regulation.

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## CONTENT AND OPERATION

### Overview

The bill establishes requirements governing transportation network companies (TNCs), such as Uber or Lyft, TNC drivers, and the services provided by TNCs. Under the bill, a "transportation network company" includes any entity operating in Ohio that uses a digital network, such as an online-enabled application, software, website, or other system, to prearrange rides between TNC riders to TNC drivers. A TNC driver is defined as an individual who: (1) receives connections to passengers and potential passengers and related services from a TNC in exchange for the payment of a fee to the company, and (2) uses a personal vehicle to offer or provide TNC services to riders upon a connection through a digital network controlled by a TNC in return for compensation or payment of a fee.<sup>1</sup>

TNC services subject to regulation under the bill include the provision of transportation beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by the TNC, continuing while the driver transports the requesting rider, and ending when the last requesting rider departs from the TNC driver's personal vehicle. The bill provides that TNC services do not include services provided by a taxicab or other similar vehicle for hire, a chauffeured limousine, or a ridesharing agreement.<sup>2</sup>

### TNC permits

The bill authorizes the Public Utilities Commission (PUCO) to adopt rules in accordance with the Administrative Procedure Act for purposes of issuing permits to TNCs and implementing the requirements related to such companies. Additionally, the PUCO must issue a TNC permit to any entity that: applies for a permit in accordance with rules adopted by the PUCO; affirms that the entity will maintain compliance with

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<sup>1</sup> R.C. 3938.01(C), (F), and (G).

<sup>2</sup> R.C. 3938.01(I).



the requirements applicable to TNCs; and submits a permit fee of \$5,000. A TNC permit is valid for one year commencing on the date of issuance.<sup>3</sup>

The bill prohibits any entity from operating a TNC without a valid permit issued by the PUCO or operating a TNC without complying with the requirements applicable to TNCs.<sup>4</sup>

### **Insurance requirements**

The bill requires each TNC driver to be covered by a primary automobile insurance policy that recognizes that the driver is a TNC driver or otherwise uses a vehicle to transport passengers for compensation. The policy must provide coverage during both of the following periods of time:

- (1) While the driver is logged on to the TNC's digital network; and
- (2) While the driver is engaged in TNC services.

The insurance policy may be maintained by the TNC driver, the TNC itself, or a combination of both.<sup>5</sup> An automobile insurance policy maintained by a TNC cannot require the driver's personal automobile insurer or policy to first deny a claim before providing coverage.<sup>6</sup>

In the event personal automobile insurance maintained by a TNC driver does not meet the bill's required liability coverage amounts, insurance maintained by the TNC must provide the required coverage, beginning with the first dollar of the claim. Further, the TNC has the duty to defend the claim.<sup>7</sup>

### **Minimum liability coverage requirements**

The primary automobile insurance policy required by the bill must meet certain coverage requirements. While a TNC driver is logged on to the TNC's digital network and is available to receive transportation requests, but is not engaged in TNC services, the automobile insurance must meet the following minimum coverage amounts:

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<sup>3</sup> R.C. 4925.02(A) and (B).

<sup>4</sup> R.C. 4925.02(C).

<sup>5</sup> R.C. 3938.02(A)(1) and (3).

<sup>6</sup> R.C. 3938.02(B)(2).

<sup>7</sup> R.C. 3938.02(B)(1).



(1) At least \$50,000 because of bodily injury to or death of one person in any one accident;

(2) At least \$100,000 because of bodily injury or death of two or more persons in any one accident; and

(3) At least \$25,000 because of injury to property of others in any one accident.

While a TNC driver is engaged in TNC services, the automobile insurance must be maintained in an amount of at least \$1 million because of bodily injury or death of one or more persons or injury to property of others in any one accident.<sup>8</sup>

The required liability insurance may be obtained from either (1) a domestic, foreign, or alien insurance company authorized to issue such a policy under Ohio's Insurance Law, or (2) an insurer not holding a license in Ohio if the policy is obtained through an individual or business entity holding an Ohio surplus lines broker's license if the individual or entity has a credit rating of at least "A-" from A.M. Best or "A" from Demotech.<sup>9</sup>

The bill specifies that an automobile insurance policy that meets the bill's coverage requirements also satisfies the proof of financial responsibility requirements for motor vehicles under Ohio's Proof of Financial Responsibility Law.<sup>10</sup>

### **Proof of insurance**

The bill requires a TNC driver to carry proof of insurance satisfying the bill's insurance coverage requirements at all times during the driver's use of a personal vehicle in connection with a TNC's digital network. This proof of insurance can be provided either physically or through the use of an electronic wireless communications device that is designed or used to communicate and displays text or images.<sup>11</sup>

In the event of an accident, the bill requires the TNC driver to provide this proof of insurance to all parties claiming an interest in the insurance, other insurers, and upon the request of a peace officer or State Highway Patrol trooper pursuant to Ohio's Proof of Financial Responsibility Law. Upon such a request by an officer or trooper, the driver

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<sup>8</sup> R.C. 3938.02(A)(2).

<sup>9</sup> R.C. 3938.02(C).

<sup>10</sup> R.C. 3938.02(E).

<sup>11</sup> R.C. 3938.02(D) and R.C. 4509.103(A), not in the bill.

also must disclose to the same parties whether or not the driver was logged on to the TNC's digital network or was providing TNC services at the time of the accident.<sup>12</sup>

### **Insurance policy exclusions**

Notwithstanding Ohio's Proof of Financial Responsibility Law, the bill permits an insurer issuing an automobile insurance policy to the owner or operator of a personal vehicle to exclude any and all coverage under the policy for any loss or injury that occurs while a TNC driver is logged on to a TNC's digital network or while the driver is providing TNC services. This right to exclude coverage applies to any coverage included under the policy, including all of the following:

- (1) Liability coverage for bodily injury and property damage;
- (2) Uninsured and underinsured motorist coverage;
- (3) Uninsured and underinsured motor vehicle property damage coverage;
- (4) Medical payments coverage;
- (5) Comprehensive physical damage coverage; and
- (6) Collision physical damage coverage.<sup>13</sup>

If an insurer excludes such coverage, the insurer has no duty to defend or indemnify any claim expressly excluded under the policy. If an insurer does defend or indemnify a claim against a TNC driver that is excluded under the policy terms, however, the insurer has a right of contribution against any other insurer that provides automobile insurance to the driver at the time of the loss in satisfaction of the bill's insurance requirements.<sup>14</sup>

The bill specifies all of the following with respect to excluding insurance coverage:

- (1) The bill does not require that a personal automobile insurance policy provide coverage while a TNC driver is logged on to the TNC's digital network, while the driver is engaged in TNC services, or while the driver otherwise uses a vehicle to transport passengers for compensation.

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<sup>12</sup> R.C. 3938.02(D).

<sup>13</sup> R.C. 3938.03(A).

<sup>14</sup> R.C. 3938.03(B).



(2) None of the bill's provisions are to be construed to invalidate or limit an automobile insurance policy provision that excludes coverage for vehicles that are used to carry persons or property for a charge or that are available for hire by the public.

(3) None of the bill's provisions are to be construed to preclude an insurer from providing coverage for a TNC driver's vehicle, if the insurer chooses to do so by contract or endorsement.<sup>15</sup>

### **Force-placed insurance**

The bill also addresses the rights of lienholders holding an interest in a personal vehicle used to provide TNC services (such as a bank financing a loan on the vehicle or a car dealership issuing the vehicle to the driver under a lease). The bill specifies that it does not limit the right of a lender or secured party of a personal vehicle to require the TNC driver to maintain comprehensive or collision damage coverage (or show evidence of such coverage) for when (1) the driver is logged on to the TNC's digital network but is not providing TNC services and (2) the driver is actually performing TNC services. If the driver fails to maintain the required comprehensive or collision damage coverage, or to show evidence of such coverage upon reasonable request by the lender or secured party, the bill permits the lender or secured party to obtain the coverage at the expense of the driver without prior notice to the driver.

If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the bill requires the TNC to 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 vehicle.<sup>16</sup>

### **Duties during insurance claims**

In a claims coverage investigation, the bill requires a TNC and any insurer potentially providing automobile insurance that meets the bill's insurance coverage requirements to cooperate to exchange relevant information to directly interested parties and any personal insurer of the TNC driver. The parties must disclose, at minimum, the following information:

(1) The precise times that the TNC driver logged on and off of the TNC's digital network in the 12-hour period before and after the event resulting in the loss; and

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<sup>15</sup> R.C. 3938.03(B)(1) and (C).

<sup>16</sup> R.C. 3938.03(E) and (F).



(2) A clear description of the coverage, exclusions, and limits provided under any automobile insurance maintained pursuant to the bill's requirements and any other information reasonably necessary to determine insurance coverage.<sup>17</sup>

### **Required insurance disclosures to TNC drivers**

Before a TNC first allows a TNC driver to accept a request for TNC services on the TNC's digital network, the bill requires the TNC to disclose to the driver in writing the following information regarding insurance coverage:

(1) The insurance coverage, including the types of coverage and limits for each type of coverage, that the TNC provides while the driver uses a personal vehicle in connection with TNC services; and

(2) That, depending on the terms of the policy, the TNC driver's own personal automobile insurance policy might not provide any coverage while the driver uses a personal vehicle to provide or be available to provide TNC services.

In addition, the TNC must provide a notice to a prospective driver in the driver's terms of service before the TNC first allows the driver to accept a request for TNC services on the company's digital network. The notice must state the following:

If the vehicle that you plan to use to provide transportation network company services for our transportation network company has a lien against it, you must notify the lienholder that you will be using the vehicle for transportation services that may violate your contract with the lienholder.<sup>18</sup>

### **Requirements applicable to TNCs and TNC drivers**

#### **General requirements**

The bill requires a TNC to do all of the following:

(1) Disclose its fare calculation method on its digital network;

(2) Provide TNC riders or potential riders with the applicable rates charged by the TNC;

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<sup>17</sup> R.C. 3938.03(D).

<sup>18</sup> R.C. 3938.04.



(3) Allow a TNC rider or potential rider to request and receive an estimated fare before the rider or potential rider receives TNC services;

(4) Ensure that for each TNC service request, before the TNC rider enters the TNC driver's vehicle, the TNC's digital network provides a photograph of the TNC driver and the license plate number of the motor vehicle that will provide the TNC service;

(5) Establish a process by which the TNC will accept payments for TNC services through the company's digital network and prohibit the acceptance of cash by any TNC driver;

(6) Within a reasonable period of time after the completion of TNC services, transmit an electronic receipt to the TNC rider that includes the origin and destination of the trip, the distance of the trip, the total time during which TNC services were provided, and an itemization of the total fare charged;

(7) Designate an agent located within Ohio who is authorized to receive service of process;

(8) Comply with the insurance requirements applicable to TNCs discussed above; and

(9) Comply with any other requirements established by the PUCO.<sup>19</sup>

## **Requirements related to TNC drivers**

### **TNC driver review process**

Under the bill, prior to authorizing a person to act as a TNC driver, a TNC must do all of the following:

(1) Require the person to submit an application to the TNC that includes, at a minimum: the person's address, age, and driver's license number; information on the person's driving history; a copy of the certificate of motor vehicle registration for the vehicle the person will use to provide TNC services; and proof of automobile insurance.

(2) Conduct a background check on each applicant, including:

--A search of a multi-state/multi-jurisdiction criminal records database, or a similar nationwide criminal records database, and validation of any records through a primary source search; and

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<sup>19</sup> R.C. 4925.03.

--A search of the U.S. Department of Justice national sex offender public website;  
and

(3) Obtain and review a driving history report with regard to each applicant.<sup>20</sup>

**Persons prohibited from serving as a TNC driver**

Additionally, under the bill, a TNC is prohibited from authorizing a person to serve as a TNC driver if any of the following apply to the person:

(1) The person does not possess a valid driver's license.

(2) The person does not possess a valid certification of motor vehicle registration for the motor vehicle that the person intends to use to provide TNC services.

(3) The person does not possess automobile liability insurance for the vehicle that the person intends to use to provide TNC services that meets the insurance requirements specified above, unless the TNC provides such insurance on behalf of the driver.

(4) The person has not attained the age of 19.

(5) Within the past three years, the person has been convicted of, or pleaded guilty to, more than three violations of the laws related to any of the following: physical control of a motor vehicle while under the influence, texting while driving, speeding, street racing, unsafely passing another vehicle, driving left of center, failure to signal, failure to yield the right-of-way to a pedestrian, driving on a sidewalk, or failure to stop for a school bus.

(6) Within the past three years, the person has been convicted of, or pleaded guilty to, any serious vehicle-related offense, including a violation of the laws regarding: evading the police in a motor vehicle, driving under a suspended license, operating a motor vehicle without a valid license, or operating a vehicle in willful or wanton disregard of the safety of persons or property.

(7) Within the past seven years, the person has been convicted of, or pleaded guilty to, any of the following: operating a vehicle under the influence of drugs, alcohol, or a combination of both; the commission of any felony offense while operating, or being a passenger in, a motor vehicle; a theft or fraud offense; a property damage offense; a sex offense; a specified offense of violence; or a specified act of terrorism.

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<sup>20</sup> R.C. 4925.04(A).

(8) A search of the U.S. Department of Justice national sex offender public website indicates that the person is identified as a sex offender.

The offenses listed above include violations of an existing or former municipal ordinance, an existing or former law of Ohio or another state, or a violation of federal law.<sup>21</sup>

### **Prohibitions applicable to TNC drivers**

The bill prohibits TNC drivers from accepting payment for TNC services by any means other than through the TNC digital network. Additionally, the bill prohibits TNC drivers from soliciting or accepting passengers other than through the digital network at any time during which the TNC driver is logged onto the digital network.<sup>22</sup>

### **Prohibition against impaired driving and complaint process**

Under the bill, a TNC must prohibit all TNC drivers from logging onto the TNC's digital network or providing TNC services while under the influence of any amount of alcohol or a drug of abuse. A drug of abuse generally means any controlled substance, prescription or injectable medication, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes. However, drug of abuse does not include any drug that was obtained pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the drug is taken in accordance with the directions of the health professional and does not impair the ability of the person who took the drug to operate a motor vehicle.<sup>23</sup>

A TNC must notify all drivers of this prohibition, establish a procedure by which a rider may report a complaint against a TNC driver for a violation of the TNC's prohibition against impaired driving, and provide notice of this policy and the complaint procedure on the TNC's digital network. Upon receiving a complaint alleging a violation of the prohibition against impaired driving, a TNC must immediately suspend the access of the driver accused of the violation to the TNC's digital network and conduct an investigation into the reported incident. A TNC must retain all complaints and all records related to the investigation of such a complaint, for a period of two years commencing on the date each complaint was filed.<sup>24</sup>

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<sup>21</sup> R.C. 4925.04(B).

<sup>22</sup> R.C. 4925.08.

<sup>23</sup> R.C. 4925.05(A) and R.C. 4506.01(M), not in the bill.

<sup>24</sup> R.C. 4925.05(A) to (C).



## **Discrimination**

The bill prohibits any TNC from charging any additional fee for providing TNC services to a person with a disability on the basis of the disability. The bill also requires a TNC to provide an option on the TNC's digital network for a potential rider to request a wheelchair-accessible vehicle. If the TNC cannot arrange such a service for a potential rider who requests a wheelchair-accessible vehicle, the TNC must direct the potential rider to another provider if possible. Further, the bill prohibits a TNC driver from failing to comply with the nondiscrimination policy of a TNC for which the driver provides TNC services if such a policy has been established. The bill also prohibits a TNC driver from failing to comply with any applicable law regarding nondiscrimination or the accommodation of service animals.<sup>25</sup>

## **Employment status of TNC drivers**

Under the bill, Ohio's Minimum Wage, Workers' Compensation, Unemployment, Semimonthly Wage Payment, Assignment of Future Wages, and Whistleblower's Laws do not apply to TNCs with regard to TNC drivers, and TNC drivers are not employees for purposes of those laws, except where agreed to by written contract. If the parties do agree to the application of one or more of these laws in a written contract, the TNC is required to notify the appropriate agency of the election to cover the driver under the applicable law. If the parties subsequently change this election, the TNC is required to notify the appropriate agency of the change.

Likewise, a TNC driver also is not an agent of a TNC, unless agreed to by written contract.<sup>26</sup>

## **Maintenance of records**

The bill requires a TNC to keep a record of all TNC drivers for not less than two years after the date each driver last provided TNC services. A TNC also must keep records of each instance in which TNC services are provided for not less than two years after the services are provided.<sup>27</sup>

## **Exclusive state regulation**

The bill specifies that the regulation of TNCs, TNC drivers, and TNC services is a matter of general statewide interest that requires statewide regulation. Further, the

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<sup>25</sup> R.C. 4925.06.

<sup>26</sup> R.C. 4925.10.

<sup>27</sup> R.C. 4925.07.



provisions of law contained in the bill constitute a comprehensive plan with respect to all aspects of the regulation of TNCs, TNC drivers, and TNC services. Accordingly, the bill states the intent of the General Assembly to preempt any local ordinance, resolution, or other law adopted to license, register, tax, or otherwise regulate TNCs, TNC drivers, and TNC services (see **COMMENT**).<sup>28</sup>

The bill also specifies that with regard to the provision of TNC services, no TNC or TNC driver may be regulated as a chauffeured limousine, a taxicab or vehicle for hire, or a for-hire motor carrier. Additionally, the bill provides that no vehicle used to provide TNC services can be required to register as a chauffeured limousine, a taxicab or vehicle for hire, or a for-hire motor carrier in order to provide TNC services.<sup>29</sup>

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## COMMENT

Under Article XVIII, Section 3 of the Ohio Constitution, municipal corporations "have the authority to exercise all powers of local self-government and adopt and enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with general laws." Accordingly, a statute enacted by the General Assembly that purports to limit that constitutional authority may be invalid as applied to municipal corporations. See *Canton v. State*, 95 Ohio St.3d 149, 2002-Ohio-2005.

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## HISTORY

ACTION	DATE
Introduced	06-01-15
Reported, H. Gov't Accountability & Oversight	06-24-15
Passed House (95-0)	06-25-15

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<sup>28</sup> R.C. 4925.09(A).

<sup>29</sup> R.C. 4925.09(B).

