

ENERGY, TRANSPORTATION, AND ENVIRONMENT

Resolution ETE-16-04

TRANSPORTATION NETWORK COMPANY ACT

WHEREAS, the auto insurance, consumer data, and transportation network industries share a mutual commitment to ensure safe transportation options for communities of color by requiring Transportation Network Company (TNC) drivers to have appropriate automobile insurance coverage and a thorough criminal background check;

WHEREAS, a clearly defined insurance and criminal background check framework for TNCs has now been adopted by over 20 state governments;

WHEREAS, none of these frameworks mandate fingerprint-based background checks, drug testing or other requirements that disproportionately burden communities of color who wish to participate in the new economic opportunities generated by TNC innovations;

WHEREAS, through/by this Resolution, the National Black Caucus of State Legislators (NBCSL) urges the adoption of commonsense TNC insurance and criminal background check rules designed to eliminate consumer confusion, provide a framework for safe transportation options, reduce discriminatory practices, and support marketplace innovation;

WHEREAS, through/by this Resolution, the NBCSL seeks to bring clarity and consistency to TNC laws, enhance consumer choice, increase entrepreneurial activity, and bring greater stability and confidence to the transportation network industry;

WHEREAS, through/by this Resolution, the NBCSL seeks to impose reasonable and workable requirements for TNCs and their drivers and provide insurers with the ability to make sound underwriting and pricing decisions; and

WHEREAS, through/by this Resolution, the NBCSL seeks to create an environment where TNC services will thrive and facilitate development of a robust market for this new business model.

THEREFORE BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) supports legislation to better regulate TNCs;

BE IT FURTHER RESOLVED, "Personal Vehicle" means a vehicle that is used by a TNC Driver and is:

- i. Owned, leased or otherwise authorized for use by the TNC Driver; and
- ii. Not a taxicab, limousine, or other for-hire vehicle;

BE IT FURTHER RESOLVED, "Digital Network" means any online-enabled application, software, website or system offered or utilized by a TNC that enables the prearrangement of rides with TNC Drivers;

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BE IT FURTHER RESOLVED, "TNC" means a corporation, partnership, sole proprietorship, or other entity that is licensed and operating in a State that uses a Digital Network to connect TNC Riders to TNC Drivers who provide Prearranged Rides. A TNC shall not be deemed to control, direct or manage the Personal Vehicles or TNC Drivers that connect to its Digital Network, except where agreed to by written contract;

BE IT FURTHER RESOLVED, "TNC Driver" or "driver" means an individual who:

- i. Receives connections to potential passengers and related services from a TNC in exchange for payment of a fee to the TNC; and
- ii. Uses a Personal Vehicle to offer or provide a Prearranged Ride to riders upon connection through a Digital Network controlled by a TNC in return for compensation or payment of a fee.

BE IT FURTHER RESOLVED, "TNC Rider" or "rider" means an individual or persons who use a TNC'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;

BE IT FURTHER RESOLVED, "Prearranged Ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a Digital Network controlled by a TNC, 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 transportation provided using a Taxi, Limousine, or other for-hire vehicle;

BE IT FURTHER RESOLVED, that members of the NBCSL should consider the interests of local airport authorities as it relates to the introduction of a Transportation Network Company Act;

BE IT FURTHER RESOLVED, that members of the NBCSL should consider the interests of automobile lienholders for TNC drivers;

BE IT FURTHER RESOLVED, On or before June 1, 2016, and thereafter, a TNC Driver or TNC on the driver's behalf shall maintain primary automobile insurance that:

1. Recognizes that the driver is a TNC Driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:
 - i. while the driver is logged on to the TNC's Digital Network; or
 - ii. While the driver is engaged in a Prearranged Ride.
2. The following automobile insurance requirements shall apply while a participating TNC Driver is logged on to the TNC's Digital Network and is available to receive transportation requests but is not engaged in a Prearranged Ride:
 - i. Primary automobile liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage.
 - ii. All other state mandated coverages for motor vehicles by state financial responsibility laws to the extent required by law.
 - iii. The coverage requirements of this subsection 2 may be satisfied by any of the

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following:

- a. Automobile insurance maintained by the TNC Driver; or b. Automobile insurance maintained by the TNC; or c. Any combination of subparagraphs (a) and (b).
- b. 3. The following automobile insurance requirements shall apply while a TNC Driver is engaged in a Prearranged Ride:
 - i. Primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury and property damage;
 - ii. All other state mandated coverages required of limousines by state financial responsibility laws to the extent required by law.
 - iii. The coverage requirements of this subsection 3 may be satisfied by any of the following:
 - a. Automobile insurance maintained by the TNC Driver; or b. Automobile insurance maintained by the TNC; or c. Any combination of subparagraphs (a) and (b).
4. If insurance maintained by driver in this Resolution has lapsed or does not provide the required coverage, insurance maintained by a TNC shall provide the coverage required by this Resolution beginning with the first dollar of a claim and have the duty to defend such claim.
5. Coverage under an automobile insurance policy maintained by the TNC shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.
6. Insurance required by this Resolution related/ing to the financial responsibility of a TNC may be placed with a state-licensed insurer or with an eligible surplus lines insurer.
7. Insurance satisfying the requirements of this Resolution related/ing to the financial responsibility of a TNC shall be deemed to satisfy a state's financial responsibility requirement for a motor vehicle.
8. A TNC Driver shall carry digital or physical proof of coverage satisfying the appropriate sections of this Resolution related/ing to the financial responsibility of a TNC with him or her, at all times during his or her 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 information to the directly interested parties, automobile insurers and investigating police officers, upon request. Upon such request, a TNC Driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the TNC's Digital Network or on a Prearranged Ride at the time of an accident;

BE IT FURTHER RESOLVED, that:

1. The TNC shall disclose in writing to TNC Drivers the following before they are allowed to accept a request for a Prearranged Ride on the TNC's Digital Network:
 - i. 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; and
 - ii. That the TNC Driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the TNC's Digital Network and is available to receive transportation requests or is engaged in a Prearranged Ride, depending on its

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terms;

BE IT FURTHER RESOLVED, that:

1. Insurers that write automobile insurance may exclude any and all coverage afforded under the policy issued to an owner or operator of a Personal Vehicle for any loss or injury that occurs while a Driver is logged on to a TNC's Digital Network or while a 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:

- i. Liability coverage for bodily injury and property damage;
- ii. Personal injury protection coverage;
- iii. Uninsured and underinsured motorist coverage;
- iv. Medical payments coverage;
- v. Comprehensive physical damage coverage; and
- vi. Collision physical damage coverage.

Such exclusions shall apply notwithstanding any requirement under any applicable state financial responsibility statute. Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the TNC's Digital Network, while the driver is engaged in a Prearranged Ride, or, while the driver otherwise uses a vehicle to transport passengers for compensation.

Nothing in this subsection shall be deemed to preclude an insurer from providing coverage for the TNC Driver's vehicle, if it so chose to do so by contract or endorsement.

2. Automobile insurers that exclude the coverage described in this Resolution shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this Resolution shall be deemed to invalidate or limit an exclusion contained in a policy including any policy in use or approved for use prior to the adoption of this Resolution that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy, shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of this Resolution at the time of loss.

3. In a claims coverage investigation, TNCs and any insurer potentially providing coverage under this Resolution shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the TNC Driver if applicable, including the precise times that a TNC 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 this Resolution;

BE IT RESOLVED, that:

1. Before permitting any TNC driver to provide transportation network services, a TNC:

- i. Shall conduct, or cause to be conducted, a local, state, and national background check of each driver, including a search of the national sex offender database, and confirm that the TNC driver has not been convicted of any of the following within the past seven years:
 - a. Driving under the influence of drugs or alcohol.

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- b. Use of a motor vehicle to commit a felony.
 - c. A crime involving property damage.
 - d. Fraud.
 - e. Sexual offenses.
 - f. Theft.
 - g. An act of violence.
 - h. An act of terror.
- ii. Shall not be required to obtain any of the following:
- a. a fingerprint-based background check;
 - b. a drug test
 - c. a medical examination; or
 - d. a warrant check

BE IT FINALLY RESOLVED, that a copy of this Resolution be transmitted to the President of the United States, the Vice President of the United States, members of the United States House of Representatives and the United States Senate, and other federal and state government officials as appropriate.

SPONSORS: Representative Harold M. Love, Jr. (TN) and Representative Karla May (MO)

Committee of Jurisdiction: Energy, Transportation, and Environment Policy Committee

Certified by Committee Co-Chairs: Representative Billy Mitchell (GA)

Representative Cherrish Pryor (IN)

Ratified in Plenary Session: Ratification Date is December 4, 2015

Ratification is certified by: Senator Catherine Pugh (MD), President