

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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KORTZ AND PASHINSKI, AUGUST 28, 2014

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, AUGUST 28, 2014

AN ACT

1 Amending Titles 53 (Municipalities Generally), 66 (Public
2 Utilities) and 75 (Vehicles) of the Pennsylvania Consolidated
3 Statutes, in taxicabs and limousines in first class cities,
4 further providing for definitions; in general provisions,
5 further providing for definitions; in powers and duties,
6 further providing for assessment for regulatory expenses upon
7 public utilities and for power of commission to require
8 insurance; in contract carrier by motor vehicle and broker,
9 further providing for declaration of policy and definitions;
10 providing for transportation network services; in general
11 provisions, further providing for definitions; and, in
12 registration of vehicles, further providing for application
13 for registration.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The definitions of "call or demand service,"
17 "taxicab service" and "limousine service" in section 5701 of
18 Title 53 of the Pennsylvania Consolidated Statutes are amended
19 to read:

20 § 5701. Definitions.

21 The following words and phrases when used in this chapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

1 * * *

2 "Call or demand service" or "taxicab service." Local common
3 carrier service for passengers, rendered on either an exclusive
4 or nonexclusive basis, where the service is characterized by the
5 fact that passengers normally hire the vehicle and its driver
6 either by telephone call or by hail, or both. The term does not
7 include limousine service. The term shall not include
8 transportation network services as defined in 66 Pa.C.S. § 102
9 (relating to definitions).

10 * * *

11 "Limousine service."

12 (1) Except as provided in paragraph (2), a motor vehicle
13 providing any of the following services:

14 (i) Local, nonscheduled common carrier service for
15 passengers on an exclusive basis for compensation.

16 (ii) Common carrier service for passengers for
17 compensation:

18 (A) from any airport, railroad station or hotel
19 located in whole or in part in a city of the first
20 class; or

21 (B) to any airport, railroad station or hotel
22 located in whole or in part in a city of the first
23 class from a point within the city of the first
24 class.

25 (2) The term does not include any of the following:

26 (i) Taxicab service.

27 (ii) Service that was otherwise exempt from the
28 jurisdiction of the Pennsylvania Public Utilities
29 Commission prior to the effective date of this
30 subparagraph.

(iii) Other paratransit service.

(iv) Employee commuter van pooling.

(v) A vehicle with a seating capacity of 16 or more persons, including the driver.

(vi) Transportation network services as defined in 66 Pa.C.S. § 102 (relating to definitions).

* * *

Section 2. The definitions of "common carrier" and "motor carrier" in section 102 of Title 66 are amended, the definition of "common carrier by motor vehicle" is amended by adding a paragraph and the section is amended by adding definitions to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Common carrier." Any and all persons or corporations holding out, offering, or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by, through, over, above, or under land, water, or air, and shall include forwarders, but shall not include contract carriers by motor vehicles, or brokers, or any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis. The term shall not include a transportation network company or transportation network company

1 driver.

2 "Common carrier by motor vehicle." Any common carrier who or
3 which holds out or undertakes the transportation of passengers
4 or property, or both, or any class of passengers or property,
5 between points within this Commonwealth by motor vehicle for
6 compensation, whether or not the owner or operator of such motor
7 vehicle, or who or which provides or furnishes any motor
8 vehicle, with or without driver, for transportation or for use
9 in transportation of persons or property as aforesaid, and shall
10 include common carriers by rail, water, or air, and express or
11 forwarding public utilities insofar as such common carriers or
12 such public utilities are engaged in such motor vehicle
13 operations, but does not include:

14 * * *

15 (10) A person or entity that is any of the following:

16 (i) A transportation network company.

17 (ii) A transportation network company driver.

18 * * *

19 "Motor carrier." A common carrier by motor vehicle, and a
20 contract carrier by motor vehicle. The term shall not include a
21 transportation network company or transportation network company
22 driver.

23 * * *

24 "Transportation network company." A company that uses a
25 digital network to connect a passenger with a transportation
26 network company driver for the purpose of transportation.

27 "Transportation network company driver." An individual who
28 uses the individual's personal vehicle to provide a ride for a
29 passenger arranged electronically through a transportation
30 network company.

1 "Transportation network company vehicle." A vehicle used by
2 a transportation network company driver to provide
3 transportation network services.

4 "Transportation network service." A service which meets all
5 of the following:

6 (1) Matches a passenger and driver electronically in
7 advance.

8 (2) Is rendered on an exclusive basis.

9 (3) Is characterized by an individual offering a ride to
10 a passenger in the individual's personal vehicle through a
11 digital network.

12 Section 3. Sections 510(a) introductory paragraph and 512 of
13 Title 66 are amended to read:

14 § 510. Assessment for regulatory expenses upon public
15 utilities.

16 (a) Determination of assessment.--Before November 1 of each
17 year, the commission shall estimate its total expenditures in
18 the administration of this part for the fiscal year beginning
19 July of the following year, which estimate shall not exceed
20 three-tenths of 1% of the total gross intrastate operating
21 revenues of the public utilities or transportation network
22 companies in accordance with section 2608 (relating to

23 commission costs) under its jurisdiction for the preceding
24 calendar year. Such estimate shall be submitted to the Governor
25 in accordance with section 610 of the act of April 9, 1929

26 (P.L.177, No.175), known as "The Administrative Code of 1929."

27 At the same time the commission submits its estimate to the
28 Governor, the commission shall also submit that estimate to the
29 General Assembly. The commission or its designated
30 representatives shall be afforded an opportunity to appear

1 before the Governor and the Senate and House Appropriations
2 Committees regarding their estimates. The commission shall
3 subtract from the final estimate:

4 * * *

5 § 512. Power of commission to require insurance.

6 (a) Motor carriers.--The commission may, as to motor
7 carriers, prescribe, by regulation or order, such requirements
8 as it may deem necessary for the protection of persons or
9 property of their patrons and the public, including the filing
10 of surety bonds, the carrying of insurance, or the
11 qualifications and conditions under which such carriers may act
12 as self-insurers with respect to such matters. All motor
13 carriers of passengers, whose current liquid assets do not
14 exceed their current liabilities by at least \$100,000, shall
15 cover each and every vehicle, transporting such passengers, with
16 a public liability insurance policy or a surety bond issued by
17 an insurance carrier or a bonding company authorized to do
18 business in this Commonwealth, in such amounts as the commission
19 may prescribe, but not less than \$5,000 for one and \$10,000 for
20 more than one person injured in any one accident.

21 (b) Transportation network companies.--The commission may,
22 in respect to transportation network companies, promulgate
23 regulations or issue orders establishing requirements necessary
24 for the protection of persons or property of their patrons and
25 the public, including the carrying of insurance as required
26 under section 2603 (relating to service standards and
27 requirements of transportation network companies).

28 Section 4. The definition of "broker" in section 2501(b) of
29 Title 66 is amended and paragraph (2) of the definition of
30 "contract carrier by motor vehicle" is amended by adding a

1 subparagraph to read:

2 § 2501. Declaration of policy and definitions.

3 * * *

4 (b) Definitions.--The following words and phrases when used
5 in this part shall have, unless the context clearly indicates
6 otherwise, the meanings given to them in this subsection:

7 "Broker." Any person or corporation not included in the term
8 "motor carrier" and not a bona fide employee or agent of any
9 such carrier, or group of such carriers, who or which, as
10 principal or agent, sells or offers for sale any transportation
11 by a motor carrier, or the furnishing, providing, or procuring
12 of facilities therefor, or negotiates for, or holds out by
13 solicitation, advertisement, or otherwise, as one who sells,
14 provides, furnishes, contracts, or arranges for such
15 transportation, or the furnishing, providing, or procuring of
16 facilities therefor, other than as a motor carrier directly or
17 jointly, or by arrangement with another motor carrier, and who
18 does not assume custody as a carrier. The term shall not include
19 a transportation network company or a transportation network
20 company driver.

21 "Contract carrier by motor vehicle."

22 * * *

23 (2) The term "contract carrier by motor vehicle" does
24 not include:

25 * * *

26 (x) A transportation network company or
27 transportation network company driver.

28 Section 5. Title 66 is amended by adding a chapter to read:

29 CHAPTER 26

30 TRANSPORTATION NETWORK SERVICES

1 Sec.
2 2601. Definitions.
3 2602. Applicability of certain laws and prohibition.
4 2603. Service standards and requirements for transportation
5 network companies.
6 2604. Service standards and requirements for transportation
7 network company drivers.
8 2605. Transportation network company vehicle requirements.
9 2606. Rates and forms of compensation.
10 2607. Regulations.
11 2608. Commission costs.

12 § 2601. Definitions.

13 The following words and phrases when used in this chapter
14 shall have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "License." Proof of the commission's approval authorizing a
17 transportation network company to operate a transportation
18 network service in this Commonwealth in accordance with this
19 chapter. The term does not include a certificate of public
20 convenience as described under Ch. 11 (relating to certificates
21 of public convenience).

22 § 2602. Applicability of certain laws and prohibition.

23 (a) Motor carrier laws.--The following laws and regulations
24 of this Commonwealth shall not apply to a transportation network
25 company or transportation network company driver:

26 (1) This title, except that the commission shall
27 regulate transportation network companies, drivers and
28 services under this chapter and Chapters 3 (relating to
29 public utility commission), 5 (relating to powers and
30 duties), 7 (relating to procedure on complaints) and 33

1 (relating to violations and penalties).

2 (2) 53 Pa.C.S (relating to municipalities generally).

3 (3) Laws and regulations containing special insurance
4 requirements for motor carriers, except as provided in
5 section 2603(a)(3)(vii) (relating to service standards and
6 requirements for transportation network companies).

7 (4) Laws imposing a greater standard of care on motor
8 carriers than that imposed on other drivers or owners of
9 motor vehicles.

10 (5) Laws and regulations imposing special equipment
11 requirements and special accident reporting requirements on
12 motor carriers.

13 (b) Municipal licenses and taxes.--A municipality may not
14 impose a tax on or require a license for a transportation
15 network company or transportation network service.

16 § 2603. Service standards and requirements for transportation
17 network companies.

18 (a) Requirements for transportation network companies.--

19 (1) A transportation network company may not operate in
20 this Commonwealth unless it holds and maintains a license
21 issued by the commission.

22 (2) An application for a license shall be made to the
23 commission in writing, be verified by oath or affirmation and
24 be in the form and contain the information as the commission
25 may, by regulation or order, require.

26 (3) A license shall be issued to a transportation
27 network company applicant if the commission is satisfied that
28 the applicant will do all of the following:

29 (i) Maintain accurate records of all transportation
30 network company drivers providing services arranged

1 through the transportation network company's digital
2 network. The commission shall determine, by regulation or
3 order, the appropriate time period for which the
4 transportation network company shall retain the records
5 of all transportation network company drivers.

6 (ii) Establish a driver training program designed to
7 ensure that each transportation network company driver
8 safely operates the driver's vehicle prior to the driver
9 being permitted to offer transportation network services
10 through the transportation network company. The following
11 shall apply to the driver training program:

12 (A) Each transportation network company shall
13 file its driver training program with the commission
14 upon application for a license to provide a
15 transportation network service.

16 (B) The commission shall establish, through
17 regulation or order, the components each driver
18 training program must include at a minimum.

19 (C) Each transportation network company must
20 file an annual report with the commission on the
21 number of transportation network company drivers
22 currently providing service for the transportation
23 network company that became eligible and completed
24 the driver training program.

25 (iii) Implement a zero tolerance policy on the use
26 of drugs or alcohol while a transportation network
27 company driver provides transportation network services,
28 provide notice of the zero tolerance policy on its
29 publicly accessible Internet website and procedures to
30 report a complaint about a transportation network company

1 driver with whom the passenger was matched and whom the
2 passenger reasonably suspects was under the influence of
3 drugs or alcohol during the course of the ride and
4 immediately suspend the transportation network company
5 driver upon receipt of a passenger complaint alleging a
6 violation of the zero tolerance policy. The suspension
7 shall last the duration of the investigation.

8 (iv) Obtain and review, prior to permitting a person
9 to act as a transportation network company driver on its
10 digital network, a criminal history research report for
11 the person. The following shall apply:

12 (A) The criminal history research report shall
13 be a national criminal background check, including
14 the national sex offender database.

15 (B) A person who has been convicted, within the
16 past seven years, of driving under the influence of
17 drugs or alcohol or of a crime involving property
18 damage and theft may not be a transportation network
19 company driver.

20 (C) A person who has been convicted at any time
21 for fraud, sexual offenses, use of a motor vehicle to
22 commit a felony, acts of violence or acts of terror
23 may not be a transportation network company driver.

24 (v) Obtain and review, prior to permitting a person
25 to act as a transportation network company driver on its
26 digital network, a driving history research report for
27 the person. A person with more than three moving
28 violations in the three-year period prior to the check or
29 a major violation in the three-year period prior to the
30 check may not be a transportation network company

1 driver. The commission shall determine, through
2 regulation or order, the frequency with which the
3 transportation network company must review the driving
4 history of each transportation network company driver.

5 (vi) Display, on the digital application used by the
6 transportation network company to connect transportation
7 network company drivers and passengers, a picture of the
8 transportation network company driver taken within the
9 preceding 12 months, a description of the individual's
10 vehicle used in providing transportation network services
11 and the license plate number of the vehicle.

12 (vii) Maintain commercial liability insurance
13 coverage in the amount of not less than \$1,000,000 per
14 incident, medical payments coverage in the amount of not
15 less than \$5,000 per incident, comprehensive and
16 collision coverage in the amount of not less than \$50,000
17 per incident and uninsured/underinsured motorist coverage
18 in the amount of not less than \$1,000,000 per incident
19 for incidents involving a transportation network company
20 driver while providing transportation network company
21 services. The following shall apply:

22 (A) Transportation network companies that file
23 with the commission, as provided for under
24 subparagraph (ix), at least \$1,000,000 of commercial
25 liability insurance coverage may operate vehicles
26 with a seating capacity of not more than eight
27 passengers, including the driver.

28 (B) Transportation network companies that file
29 with the commission at least \$1,500,000 of commercial
30 liability insurance coverage may operate vehicles

1 with a seating capacity of no more than ten
2 passengers, including the driver.

3 (C) The insurance required under this
4 subparagraph must apply as the primary coverage
5 regardless of any insurance policy held by the
6 transportation network company driver from the time
7 at which the transportation network company driver
8 opens the digital application used by a
9 transportation network company to connect
10 transportation network company drivers and
11 passengers, until the time at which the
12 transportation network company driver closes the
13 application or the passenger safely exits the
14 vehicle, whichever is later.

15 (D) Notwithstanding any insurance coverage held
16 or maintained by the transportation network company
17 driver, the transportation network company's
18 insurance coverage required under this subparagraph
19 shall cover, as the primary insurance coverage, each
20 claim arising for an injury from an incident
21 involving a transportation network company driver
22 while providing transportation network company
23 services during the times set forth in clause (C).

24 (viii) Direct, prior to permitting a person to act
25 as a transportation network company driver on its digital
26 network, that the person notify in writing the person's
27 personal auto insurance company of the person's intent to
28 operate as a driver on the applicant's digital network.
29 The applicant shall be required to maintain a copy of
30 such notification while the person is a transportation

1 network company driver on its digital network and for a
2 period of three years following termination of the
3 driver's affiliation with the applicant.

4 (ix) File with the commission a Form E evidencing
5 its commercial insurance coverage and other coverage as
6 required under subparagraph (vii). Except for the Form E,
7 the commission may not disclose to a third party any
8 information related to the insurance policy. A record
9 disclosed under this subparagraph shall not be subject to
10 disclosure to a third party by the commission, including
11 through a request submitted under the act of February 14,
12 2008 (P.L.6, No.3), known as the Right-to-Know Law.

13 (x) Maintain a website that provides a customer
14 service telephone number or e-mail address and the
15 telephone number of the commission's customer hotline.

16 (b) License.--

17 (1) The commission shall prescribe, through regulation
18 or order, the privileges, rights and authority provided with,
19 and suspension, revocation or renewal requirements for, the
20 issuance of a license under this chapter.

21 (2) A license under this chapter shall not provide the
22 same authority as a certificate of public convenience as
23 described under Chapter 11 (relating to certificates of
24 public convenience).

25 (c) Inspection of records.--Subject to reasonable
26 confidentiality obligations and confidentiality laws, the
27 commission may inspect records to investigate compliance with
28 the requirements of this chapter and regulations issued under
29 section 2606 (relating to rates and forms of compensation).

30 (d) Discrimination in service.--A transportation network

company may not, in regard to service, make or grant an
unreasonable preference or advantage to a person, corporation or
municipal corporation or subject a person, corporation or
municipal corporation to an unreasonable prejudice or
disadvantage. A transportation network company may not establish
or maintain an unreasonable difference, in regard to service,
between localities or between classes of service. This
subsection does not prohibit the establishment of reasonable
classifications of service.

§ 2604. Service standards and requirements for transportation
network company drivers.

(a) Separate licenses prohibited.--A separate license may
not be required for a transportation network company driver that
is approved to provide transportation network services by an
approved transportation network company.

(b) Requirements for transportation network drivers.--A
transportation network company driver must comply with all of
the following:

(1) Each transportation network company driver must pass
a criminal history search and a driving history search as
specified in section 2603 (relating to service standards and
requirements for transportation network companies).

(2) Each transportation network company driver shall be
subject to sections 501 (relating to general powers) and 3301
(relating to civil penalties for violations).

(3) A transportation network company driver must:

(i) Possess a valid driver's license, proof of motor
vehicle insurance and be at least 21 years of age.

(ii) Prior to acting as a transportation network
company driver for any approved transportation network

1 company, notify in writing the driver's personal auto
2 insurance company of the driver's intent to operate as a
3 driver for an approved transportation network company and
4 send to the transportation network company a copy of such
5 notification.

6 (iii) In the case of an accident, provide proof of
7 personal insurance and the transportation network
8 company's commercial liability insurance and other
9 coverage as required under section 2603(a)(3)(vii). A
10 transportation network company driver shall have 24 hours
11 to provide proof of the transportation network company's
12 commercial liability insurance and other coverage as
13 required under section 2603(a)(3)(vii).

14 (4) A transportation network company driver may only
15 accept a ride arranged through the approved transportation
16 network company's digital network and may not solicit or
17 accept street-hails or telephone calls.

18 § 2605. Transportation network company vehicle requirements.

19 (a) Authorized vehicles.--A transportation network company
20 vehicle must be an automobile or light duty truck that is
21 equipped and licensed for use on a public highway, including a
22 coupe, sedan, van, minivan, sport utility vehicle, hatchback,
23 convertible and pickup truck.

24 (b) Age of vehicle.--Unless otherwise permitted by the
25 commission, a vehicle may not be operated for purposes of
26 providing transportation network services if it is more than
27 eight model years old.

28 (c) Inspections required.--

29 (1) An annual certificate of inspection must be obtained
30 from an inspection station approved by the Department of

1 Transportation under 67 Pa. Code Ch. 175 (relating to vehicle
2 equipment and inspection) for each transportation network
3 company vehicle.

4 (2) A safety inspection must be conducted by the
5 transportation network company or a third party on each
6 transportation network company vehicle before the vehicle is
7 used to provide transportation network services, and annually
8 thereafter.

9 (3) An inspection under paragraph (2) shall be conducted
10 by an individual who is competent and qualified to make an
11 inspection to ensure that the equipment is in a safe
12 condition to be operated on the highway. The inspection shall
13 include the following:

14 (i) Foot brakes.

15 (ii) Emergency brakes.

16 (iii) Steering mechanism.

17 (iv) Windshield.

18 (v) Rear window and other glass.

19 (vi) Windshield wipers.

20 (vii) Headlights.

21 (viii) Tail lights.

22 (ix) Turn indicator lights.

23 (x) Brake lights.

24 (xi) Front seat adjustment mechanism.

25 (xii) The opening, closing and locking of doors.

26 (xiii) Horn.

27 (xvi) Speedometer.

28 (xv) Bumpers.

29 (xvi) Muffler and exhaust system.

30 (xvii) Condition of tires, including tread depth.

1 (xviii) Interior and exterior rear view mirrors.

2 (xix) Safety belts for driver and passenger.

3 (4) A commission officer may inspect the transportation
4 network company's vehicles to ensure compliance with
5 paragraph (3).

6 § 2606. Rates and forms of compensation.

7 (a) Passenger receipt.--Upon completion of a trip, each
8 transportation network company shall transmit an electronic
9 receipt to the passenger's e-mail address or mobile application
10 documenting the origination and destination of the trip and the
11 total amount paid, if any.

12 (b) Fares.--A transportation network company may offer
13 transportation network services at no charge, suggest a donation
14 or charge a fare. If a fare is charged, a transportation network
15 company must disclose the fare calculation method, the
16 applicable rates being charged and the option for an estimated
17 fare to the passenger before booking the ride. The amount of a
18 donation, charge, fare or other compensation provided or
19 received for transportation network services shall not be
20 subject to review or approval by the commission under Ch. 13
21 (relating to rates and distribution systems).

22 § 2607. Regulations.

23 The commission may promulgate regulations and issue orders to
24 enforce this chapter.

25 § 2608. Commission costs.

26 The program costs for commission implementation and
27 enforcement of this chapter shall be included in the
28 commission's proposed budget and shall be assessed upon
29 transportation network companies in accordance with section
30 510(a) (relating to assessment for regulatory expenses upon

1 public utilities).

2 Section 6. The definition of "bus" in section 102 of Title
3 75 is amended to read:

4 § 102. Definitions.

5 Subject to additional definitions contained in subsequent
6 provisions of this title which are applicable to specific
7 provisions of this title, the following words and phrases when
8 used in this title shall have, unless the context clearly
9 indicates otherwise, the meanings given to them in this section:

10 * * *

11 "Bus."

12 (1) A motor vehicle designed to transport 16 or more
13 passengers, including the driver; or

14 (2) a motor vehicle, other than a taxicab or limousine,
15 designed to transport not more than 15 passengers, including
16 the driver, and used for the transportation of persons for
17 compensation.

18 The term does not include a vehicle used in a ridesharing
19 arrangement, as defined in the act of December 14, 1982
20 (P.L.1211, No.279), entitled "An act providing for ridesharing
21 arrangements and providing that certain laws shall be
22 inapplicable to ridesharing arrangements," or a school bus[.] or
23 a motor vehicle designed for carrying not more than 15
24 passengers, exclusive of the driver, that is used as a
25 transportation network company vehicle as defined in 66 Pa.C.S.
26 § 102 (relating to definitions).

27 * * *

28 Section 7. Section 1305(b) of Title 75 is amended to read:

29 § 1305. Application for registration.

30 * * *

(b) Evidence of P.U.C. approval for buses and taxis.--Before registering any bus or taxi which is required under the laws of this Commonwealth to obtain a certificate of public convenience from the Pennsylvania Public Utility Commission, the department shall require evidence that the certificate has been issued and has not been revoked or has not expired. This subsection shall not apply to a transportation network company vehicle as defined in 66 Pa.C.S. § 102 (relating to definitions).

* * *

Section 8. This act shall take effect in 60 days.