



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 984

PRINTERS NO. 2167

PRIME SPONSOR: Bartolotta

COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
Public Utility Commission Funds	See "Fiscal Impact"	See "Fiscal Impact"
Delaware County Funds	See "Fiscal Impact"	See "Fiscal Impact"
Philadelphia Parking Authority Funds	See "Fiscal Impact"	See "Fiscal Impact"
School District of Philadelphia Funds	See "Fiscal Impact"	See "Fiscal Impact"

SUMMARY: Provides for the regulation of transportation network companies, like Uber and Lyft, throughout the Commonwealth. This legislation would take effect immediately.

ANALYSIS: This legislation amends Titles 53 (Municipalities Generally), 66 (Public Utilities) and 75 (Vehicles) to establish regulations governing the operations of transportation network companies (TNCs) in the Commonwealth.

TNCs in Philadelphia - Provisions Applicable only to Operations in Philadelphia

- Limousine companies, operating under a certificate issued by the Philadelphia Parking Authority (PPA), whose tariffs permit the carrier to charge mileage-based rates may continue to do so and be regulated as traditional limousine carriers.
- PPA has exclusive regulatory authority over TNC service originating in the city.
 - Authorized to initiate enforcement actions against a licensed TNC or anyone holding themselves out to be a licensed TNC.
 - PPA Orders may be appealed to Philadelphia County Common Pleas Court.
 - PPA authorized to promulgate rules and regulations regarding TNC service originating in the city.

Licensing:

- TNCs seeking licensure must file an application with PPA and pay a one-time application fee of \$50,000
- Qualifications for Licensure and Renewal - A TNC must:
 - Be registered with Dept. of State
 - Maintain a registered agent in PA for service of process
 - Maintain an internet website that includes all required information
 - Prove that the TNC has secured all required insurance policies
 - Maintain all required records
 - Eligibility is a continuing requirement for maintenance of a license

- Applications for licensure are not subject to protest or objection by a third party
 - If an application is denied, the applicant can appeal and receive a hearing. Denial of appeal may be appealed to the court.
 - Upon final denial of an application, applicant may not re-apply for a license for 6 months.
 - TNCs operating in Philadelphia before the effective date must make application within 45 days. TNCs may continue to operate while application is being considered.
 - A license is non-transferrable, absent PPA approval.

Record Maintenance and Retention:

- TNC shall keep books and records of account related to its operations and retain the same for 3 years.
- The PPA is authorized to inspect the records in response to complaints about a TNC or TNC driver or a compliance inquiry by PPA.

Compliance Audits:

- The PPA is authorized to conduct compliance audits to ensure TNC drivers meet all driver eligibility requirements.
- The PPA may direct a TNC to provide a selection of randomly selected unique identifiers assigned to drivers by a TNC to ensure compliance with driver screening requirements.
- Up to 5% of the drivers identified may be selected by PPA for a compliance audit.
- PPA may conduct one audit (5% of listed drivers) every 90 days.
- If audit reveals that a TNC authorized a non-compliant driver to operate, the TNC may be fined \$1,000 per non-compliant driver.
- Non-compliant drivers shall be immediately removed from a TNCs digital network and the PPA may alert other TNCs of the driver's ineligibility.
- PPA may require a follow-up report related to audit discrepancies and conduct remedial audits.
- Non-compliant drivers discovered during an enforcement action will also subject a TNC to an audit and penalties.

Vehicle Standards and Inspections:

- It is a violation for a TNC to knowingly permit a driver to use a vehicle that does not meet these requirements.
- Vehicles must be kept clean at all times.
- Vehicles licensed as a taxi/limousine may not be used to provide TNC service.
- Vehicles must be inspected as required by Title 75 and pass inspection.
- Additional Inspection Requirement
 - PPA is authorized to conduct vehicle inspections to ensure compliance with mechanical and vehicle safety standards.
 - Once every 4 months, PPA may request a TNC to provide the last 4 digits of the plate number, state of license plate, vehicle make and model and expiration date of vehicle inspection for the following:
 - 500 vehicles for a Class A TNC (more than 10,000 drivers)

- 250 vehicles for a Class B TNC (1,001 to 10,000 drivers)
- 100 vehicles for a Class C TNC (1 to 1,000 drivers)
- The vehicle list shall consist of the following:
 - 90% of listed vehicles shall have been used to provide at least 100 prearranged rides in the preceding 6-weeks.
 - 5% of listed vehicles shall have been operated by drivers to provide at least 20 prearranged rides in the preceding 6-week period and who live in the city or within a 15 mile radius of an authority-operated inspection station.
 - 5% of listed vehicles shall have been operated by drivers to provide at least 10 prearranged rides in the preceding 6-week period and who live in the city or within a 15 mile radius of an authority-operated inspection station.
- PPA may select vehicles for random inspection not more than once every 30 days.
- PPA shall notify drivers to submit their vehicles for inspection to verify compliance with mechanical and vehicle quality standards.
 - Vehicle quality standards include: restrictions on dents, loose panels and bumpers, vandalism or spray paint on the outside of vehicle, working seat belts, intact door seals, operational windows, door handles, interior locks and interior lights, 4 properly aligned doors, functioning air conditioning system.
- PPA may prohibit the operation of vehicles that do not satisfy mechanical and safety requirements.
- PPA may direct a TNC to disqualify a driver until the vehicle meets the requirements.
- Drivers who fail to report for inspection are prohibited from operating as a driver in Philadelphia until the inspection is completed.
- Vehicles that pass the random inspection shall not be re-selected for random inspection for:
 - Class A TNC - 2 years
 - Class B and C TNC - 3 years
- License plate and other identifying information submitted to PPA is not subject to disclosure to third parties, including under a Right-to-Know Law request.

Airports and Train Stations - A PPA license authorizing a TNC to operate in Philadelphia does not include the authority to operate at Philadelphia International Airport. However, the airport owner/operator is not prohibited or limited in its ability to adopt contracts, licenses and regulations regarding the duties and responsibilities of TNCs, TNC drivers and transportation network services on airport property, including the ability to impose fees.

- In the event that TNCs were allowed to operate, a \$0.40 per vehicle charge would be levied on TNCs when picking up or dropping off a passenger at the airport. That fee shall be remitted to Delaware County.
- Prohibits passenger pickup by a TNC at a train station owned by AMTRAK.

Fines and Penalties:

- The PPA may issue fines of up to \$1,000 per violation per day and may require drivers to complete a supplemental training program. The PPA may suspend, revoke, or deny a license for violation of this chapter or PPA order or regulation. Following any cancellation or

revocation of a license, a TNC is not eligible to apply for a new license for 1-year. The PPA may confiscate and impound vehicles and equipment used to provide transportation network service without proof that the vehicle is operated by a driver affiliated with a licensed TNC.

Driver Disqualification – The PPA may:

- Issue an order disqualifying a person from being a TNC driver for operating in violation of driver eligibility requirements and operating regulations upon notice to the driver.
- Place a TNC driver or vehicle out of service prior to a final determination related to a violation if the driver or vehicle has an immediate adverse impact on transportation network service or presents a direct threat to public safety.

Assessments:

- Gross Receipts Assessment - TNCs shall pay 1.4% of gross receipts from fares originating in the city on a quarterly basis.
 - Amounts shall be deposited in a restricted receipts account within the State Treasury and be divided as follows:
 - 66.67% to the Philadelphia School District
 - 33.33% shall go to the Philadelphia Parking Authority
 - This section shall expire on December 31, 2019.
 - If an assessment is imposed after December 31, 2019, the percentage amount may not be less than the 1.4%.

Taxis and Limousines in Philadelphia – Provisions Applicable only to Operations in Philadelphia

- The legislation also provides for the regulation of taxicabs and limousines in Philadelphia. The PPA shall promulgate temporary regulations within 90 days but shall then expire upon the promulgation of final-form regulations or two years, whichever is later.
 - Such regulations shall address issues such as the dollar amount of all fees and assessments, vehicle inspections, dispatcher requirements, log sheets and manifests, meter and metering requirements, vehicle standards, vehicle quality standards, marking of taxicabs, requirements for the purchase and use of safety cameras, driver qualifications, penalties, use of standby vehicles, and limousine rates and rate change procedures.
 - The legislation would limit annual assessments on taxicab medallion holders to 1% of gross revenues generated within the city.

TNCs under PUC Jurisdiction – Provisions Applicable only to Operations in 66 Counties

Insurance:

- TNCs must provide coverage to repair vehicles in the event of an accident while providing TNC service.

- Coverage requirements for dual motor carriers shall be the same as the insurance coverage for taxis. The PUC shall review and increase coverage requirements for taxis and dual motor carriers as necessary, in the public interest.
- The PUC can modify insurance requirements by order or regulation.
- Lienholder and Lessor Requirements
 - TNC shall provide specific notice to drivers regarding whether it provides insurance to cover vehicle repairs in the event of an accident while providing service and that if the TNC does not provide coverage, the driver will be responsible for all repair costs and that a failure to comply with lienholder/lessor insurance requirements may result in repossession or lease revocation.
 - If a TNC insurer pays a claim covered under comprehensive and collision coverage, the payment shall go to either the business that repaired the vehicle or jointly to the registered owner of the vehicle and primary lienholder/lessor.
 - A lienholder/lessor may obtain comprehensive and collision coverage on a vehicle used to provide TNC service if the driver fails to do so, at the drivers expense and without prior notice.

Licensing:

- The PUC is charged with regulating, by regulation, order or policy, the provision of transportation network services.
- Entities seeking a license from the PUC must file an application. The application shall include proof:
 - Of registration with the Dept. of State.
 - That the applicant maintains a registered agent in PA.

Airports:

- TNC drivers are prohibited from operating in any area prohibited by law including a commercial service airport.

Driver Requirements:

- Drivers may not smoke while engaged in a prearranged ride.
- Drivers must provide written or electronic affirmation, including a written or electronic signature, to the TNC.

Vehicle Standards and Inspection:

- Personal vehicles used by a driver to provide TNC service must be equipped and licensed for use on a public highway.
- Vehicles may not transport a greater number of individuals, including the driver, than the number of factory installed seatbelts in the vehicle.
- Vehicles cannot be older than 10 model years old or have more than 350,000 miles.
- Vehicles must be marked as required by the PUC. Placards and other markings shall be clearly distinguishable to identify that a particular vehicle is associated with a particular TNC and be large and color contrasted to be visible during daylight at a distance of 50 feet.

- Personal vehicles must have a valid annual inspection certificate. Certificate must be maintained in the vehicle at all times.
- Personal vehicles registered outside PA are required to be inspected by a facility approved by PennDOT.
- TNCs must ensure that all vehicles are in compliance with inspection requirements and PUC vehicle safety regulations.
- The PUC is authorized to inspect vehicles it believes are non-compliant.

Rates:

- A TNC must send an electronic receipt to the passenger's e-mail address upon completion of the trip.
- A TNC must file and maintain a tariff with the PUC that sets forth the terms and conditions of service, or with the PPA in the city of the first class.

Nondisclosure of Passenger Information:

- A TNC shall not disclose any personal identifiable or financial information of a passenger to a third party unless:
 - The customer knowingly consents.
 - The information is disclosed under subpoena, court order or other legal obligation.
 - The disclosure is in response to an investigation by the PUC regarding a complaint that was with the PUC against the TNC or TNC driver. Any information disclosed in this manner will be treated as proprietary and confidential.
 - The disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms.
- A TNC is permitted to share a passenger's name or phone number to a TNC driver in order to facilitate correct identification of the passenger by the TNC driver or facilitate communication between the driver and the passenger.
- TNCs may not sell customer information to a third party.
- A "third party" does not include TNC vendors who must receive personally identifiable or financial information to carry out contracted for work on behalf of a TNC.

Fines and Penalties:

- The PUC may impose civil penalties pursuant to section 3301 and nonmonetary penalties including, license suspensions, revocations and other appropriate remedies for violation of this chapter, PUC regulations and orders.
- The legislation limits the penalties for a TNC that operated as a TNC prior to the effective date of this section without PUC authority. Such penalty shall not exceed \$1,000 per day or a maximum penalty not to exceed \$250,000.
- The PUC may disqualify a TNC driver, following notice and a hearing, if during any 3 year period the driver commits five or more violations of this chapter or if the driver is convicted of any disqualifying criminal offense.
- The PUC may adopt regulations to allow for reinstatement of a TNC driver.

- The PUC is authorized to confiscate, impound and sell a vehicle used to provide prearranged rides by a disqualified driver or after suspension or revocation of a TNC's license.

Assessments:

- The PUC can assess TNCs for its implementation and enforcement cost in the same manner it assesses public utilities.

Provisions Applicable throughout PA (where applicable, differences in requirements for Philadelphia and the rest of PA are noted)

Insurance:

- Required Coverage - A TNC or a TNC driver must maintain primary automobile liability insurance coverage that recognizes that transportation network service is being provided.
- If insurance carried by a TNC driver lapses or fails to provide the required coverage, the TNC shall provide the required coverage beginning with the first dollar of a claim and shall have a duty to defend.
- Coverage shall be primary and not dependent on a personal auto insurer first denying a claim.
- TNCs must file certificates of insurance with the PUC or PPA, as appropriate.
- Drivers must carry proof of required insurance while using a vehicle in connection with a digital network.
- Accident Protocol - In the event of an accident, TNC drivers shall provide proof of insurance coverage to the directly interested parties, auto insurers and police. Drivers must also disclose if they were logged into a digital network or providing a prearranged ride at the time the accident occurred.
- Insurers may exclude coverage for personal automobile insurance policies for any loss of injury that occurs while a driver is logged onto a digital network or provides a prearranged ride.
- Waiver of Liability Prohibited - A TNC or TNC driver may not request or require a passenger to sign a waiver of potential liability for a loss of personal property or injury. A TNC may not request or require a driver to sign a waiver of potential liability.

Required Disclosures:

- Specific disclosures must be provided prior to a TNC designating a person as a TNC driver. A TNC shall maintain written or electronic verification that a driver received the disclosures.

Background Checks - A TNC must do all of the following prior to permitting a person to be a TNC driver.

- Conduct, or have a third party conduct a criminal history background check for each driver applicant that includes a multistate or multijurisdictional criminal records locator or other commercial nationwide database with primary source validation and a review of the US Dept. of Justice National Sex Offender public website.
- A driving history report from PennDOT and other relevant sources.

- A person with 3 or more moving violations or a major violation within the 3-years preceding the check may not be a TNC driver
- A TNC shall recheck the criminal background and driving history of each TNC driver one year after the driver begins driving for the TNC and every second year thereafter.

Driver Training - A TNC must establish and provide driver training program materials to a TNC driver prior to permitting the driver to offer transportation network service through a digital application. The program materials shall contain information related to providing service to persons with disabilities. Drivers must acknowledge receipt of program materials.

- In Philadelphia, program materials shall include geographic information about the city unless the digital network is capable of providing GPS navigation or other similar navigation.

Vehicle Markings - A TNC shall provide drivers with an approved placard or decal that must be displayed any time a driver is logged into a digital network or providing a prearranged ride. Placards or other markings must be clearly distinguishable to identify that a particular vehicle is affiliated with a particular TNC and must be readable during daylight hours at a distance of at least 50 feet.

- TNCs shall file an illustration of the distinctive signage with PPA.
- PPA may not require different signage than that approved by the PUC. If the PUC has not approved signage, then PPA may designate the signage to be used.
- Permanently affixed emblems may not be required on TNC vehicles in Philadelphia.

Accessibility - TNCs must take reasonable steps to ensure that drivers are providing safe, reasonable and adequate service. A TNC may not unlawfully discriminate against a prospective passenger or unlawfully refuse to provide service to a certain class of passengers or certain localities.

- Within one-year of the effective date (January 1, 2017 for Philadelphia), the digital network used by a TNC shall be accessible to consumers who are blind, visually impaired, deaf and hard of hearing.
- TNCs must adopt nondiscrimination policies regarding individuals with disabilities and post the following on its website.
- Service animals accompanying passengers must be transported at no additional charge unless the driver has a documented allergy on file with the TNC.
- Additional service charges may not be imposed on individuals with disabilities.
- In Philadelphia, TNCs have an affirmative duty to respond to requests for service in underserved areas of the city.
- Wheelchair-accessible service: Required for all of Philadelphia and where wheelchair-accessible service is available in the rest of PA.
 - A digital network shall provide an opportunity for a person with physical or mental disabilities to indicate whether they require a wheelchair-accessible vehicle.
 - TNCs must facilitate transportation service for passengers who require wheelchair accessible vehicles by:

- Connecting the passenger to an available TNC driver or other driver operating a wheelchair-accessible vehicle or if this option is not available,
 - Directing the passenger to an alternative provider with the authority and ability to dispatch a wheelchair-accessible vehicle to the passenger.
- TNCs operating in Philadelphia shall make available 70 wheelchair-accessible vehicles by June 30, 2017. If the Philadelphia Parking Authority feels that TNCs are not collectively having a positive impact on the availability of wheelchair accessible transportation services, the PPA may require the combined class to add up to 10 additional wheelchair accessible vehicles per year thru December 31, 2022.

TNC Drivers:

- Drivers are not required to be separately licensed by the PUC or PPA.
- The legislation also provides for driver requirements.
- Drivers can only accept rides through a digital network.

Rates and Forms of Compensation:

- A TNC may offer rides at no charge, suggest a donation or charge a fare.
- A TNC must provide estimates upon request for the cost of a trip.
- When a state of disaster emergency is declared, the multiplier added to base prices charged by a TNC may not exceed the fourth highest daily multiplier charged within the 60 days preceding the declaration. Prices charged in excess of this amount violated the Price Gouging Act.

FISCAL IMPACT: Fiscal impacts within the legislation are as follows:

Public Utility Commission: This legislation would limit the fine revenue that would be due to the PUC to \$250,000. Uber Technologies Inc. was fined \$11.4 million by the PUC in April of 2016 which would not be collected if this legislation was enacted. The PUC has the ability to assess TNCs, similar to its assessment of utility companies, to offset the costs to regulate them.

Delaware County: In the event that TNCs were allowed to operate at an airport in Philadelphia by the city or governing authority, the legislation would impose a \$0.40 per vehicle charge on TNCs when picking up or dropping off a passenger at the airport. That fee shall be remitted to Delaware County. No revenue estimate is possible at this time.

Philadelphia Parking Authority and the School District of Philadelphia: According to the Philadelphia Parking Authority, assessment revenue from the 1% Act 85 of 2016 assessment totaled \$536,363 over an approximately 80-day period that ended on September 30th. Applying that figure to a 52-week period under a 1.4% assessment rate would generate approximately \$3.4 million, which would be split \$2.3 million to the school district and \$1.1 million to the Parking Authority. The Parking Authority would also receive \$100,000 for the \$50,000 registration fees for Uber Technologies and Lyft, Inc. to register within the city.

By limiting the amount of assessment rates on taxicab medallion owners to 1% of gross revenue within the City of Philadelphia, this would result in the projected loss of about \$2.1 million to the Philadelphia Parking Authority. The Parking Authority collected just shy of \$3.1 million in assessments in FY 2015-16. The Parking Authority has indicated that total gross revenues for medallion taxicabs during the last fiscal year was \$102.9 million. At an assessment rate of 1%, that would generate just over \$1 million.

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.