Transportation Network Companies in Virginia
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1 Executive Summary

This report documents the research, analysis, findings and recommendations of a study of transportation network companies (TNCs) that was requested by the chairs of the Senate Transportation Committee and the House Transportation Committee and that was led by the Department of Motor Vehicles (DMV). TNCs, which include companies such as Uber, Lyft, and Sidecar, employ smart phones and related technology to connect riders with drivers who use their personal vehicles to transport passengers.\(^1\) The objective of DMV’s study was to determine whether current Virginia law regarding for-hire passenger carriers provided an adequate framework to ensure that TNCs would provide a safe and reliable service to the public, or whether the law needed to be amended.

In carrying out the study DMV undertook a comprehensive review and analysis of current Virginia law regarding taxicabs, limousines, and other types of passenger carriers. The agency also researched and analyzed the regulatory approaches other jurisdictions had taken to TNCs, particularly the states of California and Colorado and the cities of Seattle and Chicago. In addition, DMV’s study team met regularly with and solicited input from a broad range of stakeholders, including representatives from the TNCs; from the taxicab, limousine, and motorcoach industry (both owners and drivers); from the Virginia Municipal League, the Virginia Association of Counties, and several individual localities; from airport authorities; from the insurance industry and the State Corporation Commission’s Bureau of Insurance; from the Virginia State Police and local law enforcement; from advocates for the disabled; from trial lawyers; and from other affected state agencies, including the Department of Taxation, the Department of Aviation, and the Department of Rail and Public Transportation. As a result of all these efforts, DMV concluded that Virginia law should be amended to address a number of specific features of TNC operations that raised concerns about consumer protection and public safety.

Detailed recommendations are presented in the fifth chapter of this report, but in summary the highlights of the recommended regulatory framework are as follows:

- **Licensing of TNCs.** TNCs are to be licensed by DMV, provided they meet certain minimum standards, identical to the standards that apply under current law to other types of passenger carriers, that demonstrate the TNC’s fitness to operate and its compliance with the requirements for licensure (proof of insurance, payment of fees, appointment of agent for service of process, etc.).

- **Screening of drivers.** TNCs must ensure that all their drivers are at least 21 years old and are properly licensed to drive. TNCs must conduct comprehensive criminal background checks and driving record checks on every individual applying to work as a TNC driver, and at regular intervals after the individual has begun working as a TNC driver. The background checks must include checking the individual’s status in the Virginia’s Sex Offender and

\(^1\) Some companies operating as TNCs also offer other services, such as Uber’s “Uber Black,” which brokers passenger transportation in professionally chauffeured commercial vehicles. Such services—which are discussed in sections 2.2 and 3.1 of this report—already fall within the scope of current Virginia law and thus lay outside the scope of the study.
Crimes Against Minors Registry and the U.S. Department of Justice’s National Sex Offenders Public Website.

A criminal record that includes a conviction, guilty plea, or plea of *nolo contendere* to any of the following offenses will bar the individual from operating as a TNC driver:

- an offense involving fraud, as described in Chapter 6 of Title 18.2 or Chapter 5, Article 4 of Title 18.2 of the *Code of Virginia*
- a sexual offense as described under Chapter 4, Article 7 of Title 18.2, § 18.2-346, or § 18.2-370 of the *Code of Virginia*
- an act of violence under Va. Code § 19.2-297.1
- commission of any crime that is punishable as a felony in Virginia, in the commission of which a motor vehicle was used
- conspiracy or attempt to commit any of the crimes listed above

Anyone required to register as a sex offender will also be barred from operating as a TNC driver, as will anyone with a conviction for any felony (beyond those included in the above list) in the preceding five years.

A driving history record that includes a conviction, guilty plea, or plea of *nolo contendere* to any of the following offenses in the preceding seven years will bar the individual from operating as a TNC driver:

- underage drinking and driving
- DUI
- DUI maiming
- license revocation resulting from repeated DUI offenses

In addition, a record of any of the following within the preceding three years will bar the individual from operating as a TNC driver:

- refusal to submit to a chemical test to determine the alcohol or drug content of the person’s blood or breath
- failure of the driver whose vehicle is involved in an accident to stop and disclose his identity at the scene of the accident
- escaping or eluding a law-enforcement officer

**Standards for vehicles.** Only personal vehicles may be used, and they must meet the following standards:

- must be validly titled and registered either in Virginia or in another jurisdiction
- must have a current Virginia state safety inspection (even if not registered in Virginia)
must have a maximum seating capacity of no more than seven persons, excluding the driver

must be insured by a policy providing coverage for commercial use of the vehicle

must be registered with DMV for TNC use

must display both (a) an identification marker issued by DMV identifying the vehicle as registered for TNC use and (b) an identification marker issued by the TNC that clearly identifies the TNC with which the vehicle is associated

- **Insurance.** TNC drivers must be covered by a liability insurance policy that specifically covers liabilities arising from a driver’s use of a vehicle to provide TNC services. The liability coverage must meet the following minimums:

  o From the moment a TNC driver accepts a ride request until the driver completes the transaction on the TNC’s platform or until the ride is complete, whichever is later, the insurance must provide at least $1 million in primary liability coverage, and the same amount in uninsured and underinsured motorists coverage.

  o At all other times when a TNC driver is logged on to the TNC’s online-enabled application or platform, the TNC insurance must provide primary liability coverage of at least $50,000 per person/$100,000 per incident for bodily injury, and at least $30,000 per incident for property damage. In addition, the TNC must maintain insurance that provides excess coverage insuring the TNC and the driver for at least $200,000 per occurrence for any liability arising from the driver using a vehicle in connection with a TNC’s online-enabled application or platform.

  The insurance must provide primary rather than contingent coverage; in other words, the coverage may not be dependent on a driver’s personal automobile insurance policy first denying a claim. Although the insurance requirements may be met with a commercial insurance policy, it may also be satisfied by a personal automobile insurance policy, amendment, or endorsement covering the use of a vehicle in connection with TNC operations, or by a combination of commercial and personal insurance policies.

- **Other operating requirements.** The following are some of the key additional requirements for TNC operations:

  o The TNC must provide a credential to each driver, which may be displayed on the TNC’s mobile app, that includes information identifying the driver, the vehicle, and the TNC with which the driver is affiliated.

  o Before a passenger enters a TNC driver’s vehicle, the TNC’s app must provide the passenger with the name and a photograph of the driver who will provide transportation and with the vehicle’s license plate number.

  o At the end of the trip, the customer must be given an electronic receipt that includes the date and time of the trip, the fare charged, a map of the route taken, and information identifying the TNC, the driver, and the vehicle.
A TNC must make available immediately upon request to authorized representatives of DMV, law enforcement agencies, and airport authorities information about individual trips arranged through the TNC, including information identifying the driver, vehicle, origin and destination points of the trip, and passenger pick-up and drop-off times.

The TNC must disclose to passengers, via its app and website, information regarding its screening criteria for drivers, its zero-tolerance policy regarding drugs and alcohol, its method for calculating fares, its means of reporting driver misconduct, and other matters.

The TNC must disclose to its drivers the nature and limits of its insurance coverage, the possible limits of the driver’s personal automobile insurance coverage with respect to TNC operations, and the possible concerns of lienholders regarding commercial use of a personal vehicle, among other things.

TNCs and their drivers must provide services to the general public without discrimination on the basis of age, race, sex, disability, origin or destination of the trip, or on any other basis prohibited by law. Among other things, this means that they may not impose additional charges for providing services to persons with physical or mental disabilities because of those disabilities, and that they may not refuse passengers with service animals. DMV may deny, suspend or revoke the operating authority or levy civil penalties against a TNC for failure to comply with the Americans with Disabilities Act or the Virginians with Disabilities Act.

A TNC may provide service on a prearranged basis only. Street hails are prohibited.

TNC drivers may only accept riders through the TNC’s mobile app or digital platform. A TNC driver may not otherwise arrange or accept any fares for for-hire transportation services.

TNCs may not conduct any operations on the property of or into any airport, unless such operations are authorized by the airport authority involved.

- **Record keeping and reporting.** DMV will have the authority to conduct periodic reviews of TNCs to confirm compliance with the above requirements. TNCs must therefore keep and maintain records necessary to demonstrate such compliance, including the results of criminal history and driving record reports on TNC drivers, proof of insurance, vehicle safety inspection records, and any other information DMV identifies as necessary to confirm compliance. For purposes of compliance review, such records must be kept and retained for three years in a manner that permits systematic retrieval. TNCs must also maintain records that may be needed by law enforcement authorities, including ride-specific data. Any of the information obtained by DMV, law enforcement, or airport officials will be considered privileged information and will not be subject to disclosure except to other law enforcement authorities as needed.

- **Fees.** Fees adequate to cover DMV’s costs of administering the laws regarding TNCs include (a) an annual per-vehicle fee of $50 for each vehicle that provides TNC services, (b) an initial
TNC license fee of $70,000 to be paid by the TNC, and (c) an annual fee of $3,000 for renewal of the TNC’s license. It is recommended that this fee structure be reviewed one year after implementation to determine if costs are fully recovered or if these fees should be adjusted to achieve that objective.
2 Introduction

During the 2014 Session of the General Assembly, the chairs of the House and Senate transportation committees called upon the Department of Motor Vehicles (DMV) to undertake a study of businesses that employ smartphones and related technology to connect riders with drivers who use their personal vehicles to transport passengers. These businesses, which include companies such as Uber, Lyft, and Sidecar, are commonly known as transportation network companies (TNCs). The objective of DMV’s study was to determine whether current Virginia law regarding for-hire passenger carriers provided an adequate framework to ensure that TNCs would provide a safe and reliable service to the public, or whether the law needed to be amended. This report documents the research, analysis, findings and recommendations of the TNC study.

2.1 Events Giving Rise to this Study

TNCs are a fairly new phenomenon; the first ones began operating in early 2012 in San Francisco. Three companies launched competing TNC services within a few months of each other:

- **Sidecar.** The company was formed in January 2012 by Sunil Paul and Jahan Khanna. After several months of beta testing, Sidecar formally launched its “personal vehicle sharing program” in June 2012. The program allowed individuals to use an iOS or Android app to request rides from people operating their personal vehicles, and to make a payment (or “donation,” as Sidecar called them) for the service.

- **Lyft.** Logan Green and John Zimmer founded Zimride in 2007 to provide a way for Facebook users to find people offering or needing to share a ride, as well as a way to facilitate payment of the driver’s costs (Zimride itself did not set any fares). The focus of the service

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2 The letters charging DMV with leading this study are reproduced as Appendix B to this report.

3 The California Public Utilities Commission (PUC) coined the term “transportation network company” in a 2013 rulemaking that established the operational requirements for companies arranging passenger transportation using drivers’ personal vehicles. The PUC defined a TNC as “an organization . . . that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their personal vehicles.” California Public Utilities Commission R.12-12-011, Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry, D.13-09-045 (September 19, 2013), p. 2. The term has since been widely adopted outside California, as the TNCs—most of whom also originated in California—have begun operating in other states and cities.

It should be noted that the PUC’s definition of a TNC—which is followed throughout this report—does not include services such as Uber’s “Uber Black” and other types of passenger transportation involving professionally chauffeured commercial vehicles. At least in Virginia, such services clearly fall within the existing regulatory framework for motor carriers of passengers, and thus lay beyond the scope of this study’s inquiry.

4 Sarah Mitroff, “Sidecar Brings the Airbnb Approach to Your Car,” Wired, http://www.wired.com/2012/06/sidecar/ (June 26, 2012). Two years earlier, Sunil Paul had successfully lobbied the California legislature to amend the state’s insurance code to provide that the use of a vehicle in a “personal vehicle sharing program” is not subject to any livery exclusion contained in the vehicle owner’s personal automobile insurance policy. See 2010 Cal. Stat. ch. 454.
was on long trips, such as to or from a college campus, a ski resort, or some other
destination that the driver and rider had in common. In May 2012 the company
announced
the launch of a new service, Lyft, which would allow riders and drivers to use mobile devices
to arrange on-demand transportation over shorter distances. In July 2013 Zimride changed
its name to Lyft and sold its original ride-matching service to Enterprise Holdings, parent of
Enterprise Rent-a-Car.

- **Uber.** Founded by Travis Kalanick and Garrett Camp in 2009 as UberCab, the company
  launched a service in San Francisco in May 2010 whereby individuals could use a mobile app
  or SMS text message to hail a black sedan or luxury vehicle operated by a licensed
  chauffeur. Rebranding its original operations “Uber Black,” the company launched a new
  service in July 2012: Uber X, which expanded the range of vehicles available for hire to
  include SUVs and hybrid electric cars. The following February, Uber opened its Uber X
  platform to drivers without a chauffeur’s license, and allowed them to use their own
  personal vehicles to transport passengers.

From their origins in San Francisco these companies’ operations quickly spread across the United States,
including metro Washington, DC. By fall 2013 DMV had evidence that Lyft and Uber X drivers were
operating in northern Virginia; however, it was unclear initially whether they were transporting
passengers point-to-point within the Commonwealth, or only on trips that crossed the Potomac.

In January 2014 two companion bills were introduced in the Virginia General Assembly that
sought to facilitate TNC operations within the Commonwealth. Senator John Watkins’s Senate Bill 531
and Delegate Ronald Villanueva’s House Bill 908 proposed eliminating two requirements that apply to
the services offered by contract passenger carriers: the minimum trip duration of one hour, and the
mandate that each vehicle carry a trip sheet showing passenger destinations. After discussing the

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5 Andrea Koskey, “Website Hooks Up Bay Area Drivers, Riders for Runs to Tahoe,” *San Francisco Examiner*,
http://www.sfexaminer.com/sanfrancisco/website-hooks-up-bay-area-drivers-riders-for-runs-to-tahoe/
Content?oid=2188987 (December 29, 2011).

http://techcrunch.com/2012/05/22/zimrides-lyft-is-going-to-give-uber-some-lower-priced-competition/ (May 22,
2012).

7 Ken Yeung, “Lyft Founders Sell Zimride, Their Carpooling Startup, to Enterprise Rent-a-Car’s Parent
startup-to-enterprise-rent-a-cars-parent-company/ (July 12, 2013).


9 Alexia Tsotis, “Uber Opens up Platform to Non-Limo Vehicles with ‘Uber X,’ Service Will Be 35% Less
Expensive,” *TechCrunch*, http://techcrunch.com/2012/07/01/uber-opens-up-platform-to-non-limo-vehicles-with-
uber-x-service-will-be-35-less-expensive/ (July 1, 2012).


11 For a description of contract passenger carriers and the requirements they must meet under Virginia
law, see section 3.1.3 of this report.
legislation further with industry representatives and with DMV, the patrons agreed to have their bills continued to the 2015 legislative session, pending the outcome of the DMV-led study of TNCs called for by the chairs of the transportation committees.

It should be noted that in late June and early July 2014, DMV received requests from Uber (through its subsidiary Rasier LLC) and Lyft for temporary authorization to provide TNC services in Virginia. These requests were made pursuant to § 46.2-2011.1 of the Code, which authorizes DMV to temporarily authorize a passenger transportation service that is immediately and urgently needed and that existing carriers are unable to provide. After reviewing the companies’ applications and consulting the Governor’s office and the Office of the Attorney General, DMV determined that both Uber and Lyft had met the statutory threshold for issuance of temporary authority. As a result of this decision and the issuance of temporary authority, both Uber and Lyft currently are able to provide TNC services legally in Virginia, so long as they adhere to the operating guidelines set forth in the authorizing letters and documents that DMV issued to each company. The companies’ temporary operating authority is effective for 180 days: from August 6, 2014, until February 2, 2015. If conditions warrant, then in February 2014 DMV may issue temporary authority for a second 180-day period. Neither Uber nor Lyft will be able to continue operations, at least not as TNCs, beyond the end of that second authorization without legislative action.

2.2 Study Objectives, Participants, and Methods

As indicated above, the principal objective of this study was to determine whether current Virginia law provides an adequate framework for TNCs to provide safe, reliable services to consumers. However, DMV determined—in part on the basis of comments from industry stakeholders indicating an interest in establishing a “level playing field” for all types of carriers—that study participants not only should evaluate the appropriate regulatory response to TNCs, but also should take a fresh look at the regulatory requirements currently imposed on other passenger transportation services in the Commonwealth, to determine whether any of those requirements were either inadequate or unnecessary. Evaluating opportunities for the reform of existing passenger carrier laws thus became a secondary objective of the study.

DMV identified a broad range of stakeholders with an interest in this study, including representatives from the TNCs; from the taxicab, limousine, and motorcoach industries; from the Virginia Municipal League, the Virginia Association of Counties, and several individual localities; from airport authorities (which have local rules on passenger transportation); from the insurance industry and the State Corporation Commission’s Bureau of Insurance; from the Virginia State Police and local law enforcement; and from other affected state agencies, including the Department of Taxation, the Department of Aviation, and the Department of Rail and Public Transportation. In April, DMV began meeting with these groups individually, to seek their help in identifying issues relevant to the study’s objectives. At the same time, the agency solicited written comments and proposals from stakeholders. Among other things, in February DMV sent an email to passenger carriers having an email address on file with the agency—approximately 1300 businesses—alerting them to the study, asking for their input, and asking them to share this request with their drivers, their passengers, and any others who might

12 For a complete list of stakeholders participating in the study see Appendix D.
have an interest in the study. Many of the companies responded, as did over 100 drivers and a number of individual passengers. Over the course of the study, DMV maintained an open door to any other stakeholders, beyond those the agency had initially identified, who wished to provide comments and suggestions. Representatives of trial lawyers, of the disabled community, and of an organization of taxicab drivers all stepped forward at various times while the study was underway, and were welcomed to share their input with the study team.

In addition to evaluating stakeholder comments, the study team undertook a comprehensive review and analysis of current Virginia law regarding passenger carriers, and researched and analyzed the regulatory approaches other jurisdictions had taken to TNCs. Drawing upon this research and the feedback and recommendations received from stakeholders, DMV convened a second series of meetings with individual stakeholder groups in July and August. Discussion focused on three different approaches to achieving the study’s objectives: (1) a proposal that had been submitted by the taxicab industry, (2) legislation recently enacted in Colorado to regulate TNCs, and (3) a concept prepared by the DMV study team that incorporated elements of the Colorado law but that also included rules modeled on other states’ laws and regulations and drawn from Virginia motor carrier laws, and that proposed a substantial deregulation (state and local) of existing for-hire carriers. On the basis of the feedback received at this second round of meetings, the study team drafted a revised regulatory framework, which was then submitted for review to a stakeholder leadership team, consisting of representatives selected by the members of each of the stakeholder groups. The stakeholder leadership team met with DMV’s study working group in September to discuss the revised proposal and to make further recommendations.

Following the September meeting, DMV made its final revisions to the proposed regulatory framework, drafted implementing legislation, and prepared this report documenting its work. Drafts of the legislation and of this report were submitted to stakeholders for comment. All stakeholder comments DMV received are included in Appendix F to this report.

2.3 Structure of this Report

The remaining chapters in this report summarize the bases for the recommended legislation. Chapter 3 digests current Virginia law on for-hire passenger carriers and not-for-profit ridesharing arrangements, and compares TNCs to these other types of passenger transportation. Chapter 4 sets forth the approaches taken by the four jurisdictions that, as of this writing, have enacted or promulgated rules regarding TNC operations: the states of California and Colorado and the cities of Chicago and San Francisco.¹³ Chapter 5 presents a summary and explanation of the agency’s final recommendations. The recommended legislation itself is contained in Appendix A.

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¹³ As of this writing, the Council of the District of Columbia had passed a bill (Legislation # 20-753 (engrossed October 28, 2014)) regarding the operation of TNCs, but the legislation had not yet been signed by the mayor or reviewed by Congress.
3 Types of Passenger Transportation Services Currently Offered in Virginia

Many different types of passenger transportation services operate in the Commonwealth. This chapter provides an overview of two established types of services recognized in Virginia law—services provided through commercial motor carriers and through noncommercial ridesharing arrangements—as well as the services offered by TNCs.

3.1 Motor Carriers

A “motor carrier” is defined in Va. Code § 46.2-2000 as “any person who undertakes, whether directly or by lease, to transport passengers for compensation over the highways of the Commonwealth.” In general, anyone who either provides or arranges the transportation of passengers by motor carrier on an intrastate basis is subject to state regulation in Virginia. Taxicabs are also subject to any requirements established by the localities in which they operate. The statewide requirements that apply to different types of motor carriers, which are set forth in Chapter 20 of Title 46.2 of the Code of Virginia, are summarized below.

3.1.1 Irregular Route Common Carriers

An irregular route common carrier transports the general public for individual fees over any routes within specified areas of Virginia. (Airport shuttles are one example of this type of motor carrier.) Irregular route common carriers operate pursuant to a certificate of public convenience and necessity, which DMV will issue only upon satisfactory review of the applicant’s experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law, as well as of the need for the proposed service. The carrier’s certificate lists the service areas within which it may operate.

Other operating requirements and restrictions that apply to irregular route common carriers include:

- filing a tariff with DMV that includes all of the carrier’s rates and any rules, policies or guidelines the carrier will impose on its customers (e.g., cancellation policy)
- charging no more for services than the tariff rates on file with DMV
- providing both the public and DMV 30 days advance notice of any proposed changes to tariff rates, and receiving DMV’s approval before actually changing the rates
- operating only vehicles that are designed to carry 15 persons or less, including the driver
- displaying for-hire license plates on the vehicle

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14 For exceptions, see Va. Code § 46.2-2000.1.
• not picking up or delivering passengers to their residence in the City of Norfolk, unless the vehicle is specially equipped to transport disabled persons
• obtaining written approval from DMV prior to discontinuing operations in any or all of the service areas
• not refusing service without good cause
• providing services to the general public without discrimination

Irregular route common carriers must carry liability insurance that offers bodily injury and property damage coverage of at least $350,000, if operating a vehicle designed to carry up to six passengers (including the driver); if operating a vehicle with a seating capacity of seven to fifteen passengers, the insurance must cover losses of at least $1,500,000. Carriers are also required to keep a $25,000 surety bond or letter of credit on file with DMV for three years from the date the carrier’s operating authority certificate is issued.

There is a $50 filing fee for a certificate of public convenience and necessity, and an annual operating authority registration fee of $3 per vehicle.

3.1.2 Regular Route Common Carriers

A regular route common carrier transports the general public for individual fees over specific routes. A commuter bus is an example of this type of carrier. Like irregular route common carriers, regular route carriers operate pursuant to a certificate of public convenience and necessity, which DMV will issue only upon satisfactory review of the applicant’s experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law, as well as of the need for the proposed service. The carrier’s certificate lists the routes over which it may operate.

The operational requirements and restrictions are generally the same as for irregular route common carriers, but with these differences:

• regular route common carriers may operate vehicles with seating capacities, including the driver, of 16 or more (requiring the driver to have a commercial driver’s license)
• before the carrier can change its time schedules (which are filed with DMV, along with fares and other information, as part of the tariff) it must provide 10 days’ notice to the public and to DMV, and must receive written approval of the change from DMV
• the carrier must notify DMV of all interruptions of service that may last more than 24 hours; interruptions due to an act of God need not be reported unless the interruption continues for more than 72 hours; all interruptions must be promptly reported to the carrier’s agents on the affected routes

Insurance coverage and surety bond requirements are the same as for irregular route common carriers, although carriers who operate vehicles that can carry 16 or more passengers must have bodily injury and property damage limits of $5 million.

Fees are the same as for irregular route common carriers.
3.1.3 Contract Passenger Carriers

A contract passenger carrier contracts to transport groups of passengers and charges a group fee. Carriers operate pursuant to a certificate of fitness, which DMV will issue only upon satisfactory review of the applicant’s experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law.

Other operating requirements and restrictions applicable to contract passenger carriers include the following:

- the trip must be prearranged under a contract made with a group through a representative of the group
- even if the trip lasts less than one hour, the contract cannot be for less than a one-hour period, and no other group may be transported during the time frame of the contract
- a copy of the contract or of a trip sheet must be carried in the vehicle during the trip
- the contract or trip sheet must contain the name of the group being transported, the origin and destination of the trip, and the date and approximate time of pickup
- the contract or trip sheet must be maintained at the carrier’s place of business for three years, and made immediately available upon request to DMV, law enforcement, or an airport authority
- the carrier may not station its vehicle in front of or across the street from a hotel or motel, or within 100 feet of a taxicab stand, without a completed trip sheet or contract order in the vehicle, or a written agreement with an airport authority or the hotel or motel owner providing office space for the carrier’s business at the airport, hotel, or motel
- the vehicle must display for-hire license plates

Insurance and surety bond requirements are the same as for regular route common carriers.

Fees are the same as for irregular route and regular route common carriers.

3.1.4 Employee Hauler Carriers

An employee hauler carrier transports employees of a business to and from their place of work. Carriers operate pursuant to a permit issued by DMV. DMV does not assess the applicant’s experience, qualifications, character, fitness, financial responsibility, or compliance with the requirements of Virginia law.

Additional operational requirements and restrictions for this carrier type include the following:

- in order to transport the employees of any business not listed on the permit, the carrier must apply for and receive an amended permit
employees may only be transported from a predetermined location (home, bus stop, park and ride, etc.) to their place of business and from their place of business back to the pick-up location

- carriers may not transport employees from one work location to another
- the vehicle must display for-hire license plates

Insurance requirements are the same as for common carriers and contract passenger carriers, but a surety bond is not required.

Permit application fees are the same as certificate application fees for common carriers and contract passenger carriers. There is also an annual operating authority registration fee of $3 per vehicle, as for the other carrier types.

3.1.5 Nonprofit/Tax-Exempt Passenger Carriers

A nonprofit/tax-exempt passenger carrier is a non-profit corporation that uses only minibuses to transport its own members or the elderly, disabled, or economically disadvantaged members of a community. A minibus is any motor vehicle having a seating capacity of not less than seven nor more than 31 passengers, including the driver, and used in the transportation of passengers. Carriers operate pursuant to a permit issued by DMV. DMV does not assess the applicant’s experience, qualifications, character, fitness, financial responsibility, or compliance with the requirements of Virginia law.

Other operational requirements and restrictions for this carrier include the following:

- the carrier is limited to transporting members of its organization, if the organization is a membership corporation
- the carrier is limited to transporting elderly, handicapped, or economically disadvantaged members of the community it serves, if the carrier’s organization is not a membership corporation
- a carrier may not operate over the same route or on an adjacent route with a similar schedule as a regular route common carrier or as a public transportation authority
- the vehicle must display for-hire license plates

Insurance and bond requirements are the same as for employee hauler carriers.

There is no permit fee for these carriers, just the annual operating authority registration fee of $3 per vehicle.

3.1.6 Sight-Seeing Carriers

A sight-seeing carrier transports the general public to and from points of interest in Virginia primarily for the passengers’ experience and enjoyment and/or to promote tourism. Carriers operate pursuant to a certificate of fitness, which DMV will issue only upon satisfactory review of the applicant’s
experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law.

Other operating requirements and restrictions include:

- providing services to the general public without discrimination
- not refusing service without good cause
- operating only on a round-trip basis
- notifying DMV prior to discontinuing operation on any or all of the service routes
- issuing a ticket that must display the points of interest and the round-trip fare
- displaying for-hire license plates

Insurance and surety bond requirements are the same as for common carriers and contract passenger carriers.

Fees are the same as for common carriers and contract passenger carriers.

3.1.7 Nonemergency Medical Transportation Carriers

This type of motor carrier exclusively provides nonemergency medical transportation and provides such transportation only through the Department of Medical Assistance Services (DMAS), through a broker operating under a contract with DMAS, or as a Medicaid Managed Care organization contracted with DMAS to provide such transportation. Carriers operate pursuant to a certificate of fitness, which DMV will issue only upon satisfactory review of the applicant’s experience, qualifications, character, fitness, financial responsibility, and compliance with the requirements of Virginia law.

Insurance and surety bond requirements are the same as for common carriers, contract passenger carriers, and sight-seeing carriers.

Fees are also the same as for those carriers.

3.1.8 Taxicabs

A taxicab transports passengers in vehicles that are designed to carry no more than six passengers, excluding the driver. Taxicabs operate pursuant to a permit issued by DMV. DMV does not assess the applicant’s experience, qualifications, character, fitness, financial responsibility, or compliance with the requirements of Virginia law.

Other operating requirements and restrictions include:

- not operating on a predetermined route
- not picking up passengers at a public transportation terminal (such as a bus station, airport, train station, etc.) and delivering them to another public transportation terminal on a regular basis
- equipping each vehicle with a roof sign and marking the exterior of the vehicle with the word or words “taxicab,” “taxi,” or “cab,” permanently attached in letters at least three inches high, such that the roof sign and markings, taken together, clearly reflect that the vehicle is operating as a taxicab or performing a taxicab service.

- complying with the ordinances of all cities and counties in which the taxicab operates.

It bears repeating that taxicabs differ from other types of passenger carriers in that they are subject to local regulation, and thus must meet local requirements in addition to those set forth in state law. Specific requirements vary in number, scope, and rigor depending on the jurisdiction.

At the state level, taxicabs are required to carry liability insurance covering $125,000 in bodily injury and property damage per incident. There is no surety bond requirement.

In line with most other carriers, taxicabs must pay a $50 permit fee and an annual operating authority registration fee of $3 per vehicle.

### 3.1.9 Brokers

A broker arranges for the transportation of passengers by motor carriers authorized by DMV, but is not itself a motor carrier or an employee or agent of a motor carrier.

Brokers are required to obtain a license from DMV, which authorizes the broker to arrange transportation of passengers for trips within Virginia. There is a $50 filing fee for the license.

Brokers may only arrange for the transportation of passengers with motor carriers that have been authorized by DMV to conduct such operations. A broker must obtain and maintain a copy of the certificate of public convenience and necessity issued to those carriers.

Each broker is required to keep a surety bond or letter of credit in the amount of $25,000 on file with DMV.

### 3.2 Ridesharing Arrangements

Although some TNCs have occasionally referred to their business as “ridesharing,” this term has a specific meaning in Virginia law, one that excludes for-profit transportation services. Section 46.2-1400 of the Code of Virginia defines a ridesharing arrangement as “the transportation of persons in a motor vehicle when such transportation is incidental to the principal purpose of the driver, which is to reach a destination and not to transport persons for profit. The term includes ridesharing arrangements known as carpools, vanpools, and bus pools.” Participants in a ridesharing arrangement may pay for the service, but payments cannot exceed the expenses of operating the vehicle; otherwise, the service is subject to commercial motor carrier laws.\(^{15}\)

Ridesharing arrangements often originate in casual agreements among friends or acquaintances, but they also take other forms. For instance, in northern Virginia many drivers commuting to and from work will pick up and drop off anonymous riders at designated locations, so that their vehicles will be

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\(^{15}\) Va. Code § 46.2-2000.1(5).
eligible to use HOV lanes. This practice, known as “slugging,” generally does not involve any payment for service; drivers provide riders with transportation, and in exchange the riders enable the drivers to use travel lanes that will shorten their commuting times. A number of local and regional transportation authorities also facilitate ridesharing arrangements by offering services that help to match up drivers with riders. The Department of Rail and Public Transit maintains an online database of these commuter services in localities across Virginia.  

### 3.3 Transportation Network Companies

For purposes of its study and this report, DMV has followed the substance of the California PUC’s definition of a TNC: “an organization . . . that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their personal vehicles.” As reflected in this definition, TNCs differ from other types of passenger transportation providers in their unique combination of four characteristics:

- **TNCs provide prearranged transportation.** Riders use apps on smart phones and other mobile devices to summon drivers either to their current location—identified, in many cases, via GPS technology in the mobile device—or to another pick-up point. This is similar to arranging a limousine or taxicab ride through a dispatch service; however, TNCs differ from most taxicabs in that TNCs only authorize rides that are arranged through the mobile app, which precludes street hails and solicitation of rides at taxi stands and other fixed points.

- **TNCs provide transportation for compensation.** In this respect they more closely resemble taxicabs, limousines, and other for-hire passenger carriers than they do carpools or other not-for-profit ridesharing arrangements.

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Note that the PUC’s definition is at odds with how TNCs have often represented themselves. In particular, TNCs have frequently contended that they are not transportation companies and do not provide transportation, but instead are merely technology companies that have developed a solution that is used by those who provide transportation. See, for example, California Public Utilities Commission R.12-12-011, Application of Uber Technologies, Inc. for Rehearing of Decision 13-09-045 (Oct. 23, 2013), p. 4 (Uber “operates no vehicles, and does not hold itself out or advertise itself as a transportation service provider. . . . On the contrary, Uber is a technology company that licenses the Uber App to transportation service providers). Similar language is contained in the terms of service for Uber (https://www.uber.com/legal/usa/terms (last updated May 17, 2013)), Lyft (https://www.lyft.com/terms (last updated May 22, 2014)) and Sidecar (http://www.side.cr/terms (last updated April 22, 2014)).

18 A driver who had no scruples about violating the TNC’s terms of service could of course solicit and accept riders “off the app.” TNCs prohibit such practices because they receive no portion of the fare for rides that are arranged off the app, without their knowledge.

19 It should be noted however that not all rides offered by all TNCs are for compensation. Lyft, for example, collects discretionary “donations” in some localities—generally new markets where it is trying to
• **TNCs use mobile apps and other online platforms to connect riders and drivers.** Although TNCs have been innovative in the use of mobile apps and GPS to arrange transportation quickly and efficiently, there are similar mobile apps for dispatching taxis and limousines (such as Curb and Hailo) and for arranging carpools (e.g., Carma, Zimride). Moreover, Uber and Lyft, the two leading TNCs, also offer services for transportation in licensed for-hire carriers (Uber Black, Uber Taxi, Lyft’s service in New York City) and for carpooling (Uber Pool, Lyft Line).

• **TNC drivers use personal vehicles.** Like carpools and other ridesharing arrangements, TNCs use personal vehicles belonging, in most instances, to drivers who do not have a chauffeur’s license or other professional training or experience. The fact that these personal vehicles are not dedicated to commercial activity, but are also used—perhaps a majority of the time—for personal transportation complicates their status for insurance purposes, as Virginia personal auto policies’ livery exclusion generally will rule out coverage for incidents arising while the vehicle is used commercially, while the commercial insurance currently available to TNC drivers generally will not cover incidents arising from personal use of the vehicle. It may also create issues if the vehicle was financed by a lender who was not informed that the vehicle would be used for commercial purposes.

Although the transportation services arranged through TNCs are not dissimilar to the services offered by some types of motor carriers—particularly irregular route common carriers and taxicabs—the differences are such that subjecting TNCs to the same requirements and restrictions as those of other carriers would probably destroy TNCs’ ability to operate under their current business model. One important feature of that business model is its dependence upon the TNC attracting a “critical mass” of drivers in order to be able to provide timely service to riders. This is especially important since, in contrast to most other for-hire passenger transportation, TNC drivers generally are free to set their own hours and to work as infrequently as they wish. TNCs depend upon a robust supply of part-time and occasional drivers using their personal vehicles to transport passengers. Rules that create additional regulatory hurdles and costs for potential drivers, or that encumber drivers’ personal use of their vehicles, impair TNCs’ ability to recruit workers. Nevertheless, public safety and consumer protection require TNCs and their drivers to adhere to at least some of the same standards for fitness and financial responsibility that other commercial operators must meet. The challenge is thus to develop a set of rules that adequately protects passengers and promotes safety, but that does not effectively regulate TNCs’ business model out of existence.

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establish a user base. On its web site Lyft states that in cities where drivers collect donations, “there is not a set amount for what a ride should cost, but rather a suggestion of what the ride should be. It is at the passengers [sic] discretion to leave the donation amount of their choosing.” “Donations vs. Charges,” https://www.lyft.com/help/article/1415358. If a passenger chooses not to make a donation, then obviously the ride is not for compensation. A Lyft representative explained to the study team, however, that drivers are able to view the payment history of every customer who solicits a ride, and may choose not to pick up someone who has repeatedly declined to make a donation.
4 Regulation of Transportation Network Companies in Other Jurisdictions

Over the past four years TNCs have established operations in cities across the United States and around the world. Like Virginia, many of these other jurisdictions have compared the services offered by TNCs to those offered by other types of passenger carriers, and have tried to determine how TNCs ought to be regulated. The study team’s research discovered only one jurisdiction that had evidently concluded no regulation at all was the best approach: North Carolina. All the others either had established or had proposed establishing standards for TNC services.

This chapter details the rules in the four jurisdictions that have, as of this writing, promulgated regulations or enacted laws governing TNCs: California, Colorado, Seattle, and Chicago. The rules adopted in each of these jurisdictions have much in common; all require, among other things, TNCs to be licensed or permitted, drivers to have criminal background and driving record checks, vehicles to be inspected for safety and to fall within certain size and seating capacity limits, customers to be served in a nondiscriminatory manner, and insurance to cover incidents that arise during operations. Even so, as the following summaries reveal, there are significant differences in the number and rigor of the rules from one jurisdiction to the next.

4.1 California

Rules adopted pursuant to Decision 13-09-045 of the California Public Utilities Commission (PUC) were the first to use the term “transportation network company” to refer to Uber, Lyft, and those offering similar services. The rules establish the PUC’s jurisdiction over TNCs, require TNCs (but not their drivers) to obtain a permit from the PUC before operating, and set forth standards that TNCs must meet regarding driver and vehicle safety, insurance, nondiscrimination, and other operational matters. Additional insurance rules were later set forth in statute. A TNC that fails to adhere to the state’s requirements may have its permit revoked or otherwise be subject to sanctions by the PUC.

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20 Session Law 2013-413 amended N.C.G.S. § 160A-194 to prohibit local regulation of “digital dispatching services for prearranged transportation services for hire.” The act did not provide for the regulation of such services by the state.

21 As of this writing, the Council of the District of Columbia had passed a bill (Legislation # 20-753 (engrossed October 28, 2014)) regarding the operation of TNCs, but the legislation had not yet been signed by the mayor or reviewed by Congress.


23 The PUC classifies TNCs as a type of “passenger charter-party carrier,” which are subject to the agency’s regulatory authority pursuant to Chapter 8 of the California Public Utilities Code.

4.1.1  Drivers

TNCs must conduct criminal background checks for each applicant before the applicant may become a driver. The background check must be a national criminal background check, including the national sex offender database, and be based on the applicant’s name and social security number. Convictions within seven years for violent crimes, DUI, fraud, use of a motor vehicle to commit a felony, sexual offenses, acts of terror, or crimes involving property damage or theft will bar applicants from becoming TNC drivers.

TNCs must implement and disclose a zero-tolerance policy with respect to drivers’ use of intoxicating substances. TNCs must disclose to riders how to report a driver suspected of being under the influence of intoxicating substances, and must suspend a driver promptly after a zero-tolerance complaint is filed.

TNC drivers must possess a valid California driver’s license, must be at least 21 years of age, and must provide at least one year of driving history before providing TNC services. TNCs must check each driver’s driving record prior to allowing a driver on the platform, and quarterly thereafter. Drivers with convictions for reckless driving, driving under the influence, hit and run, or driving with a suspended or revoked license may not be permitted to work as TNC drivers. Drivers may have a maximum of two points on their driving records for lesser offenses, e.g., equipment problems, speeding, or child safety seat violations.

TNCs are required to establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer service. This program is to be filed with the PUC, and TNCs must report to the agency on an annual basis the number of drivers that became eligible and completed the course.

TNCs are required to file an annual report with the PUC’s Safety and Enforcement Division showing the number of drivers who were found to have committed a violation and/or suspended, including a list of zero-tolerance complaints and the outcome of the investigation into those complaints. TNCs must also submit an annual report that shows the average and mean number of hours and miles each TNC driver spent driving for the TNC.

4.1.2  Vehicles

Prior to operating, and annually thereafter, vehicles used to provide TNC services must pass a 19-point safety inspection.

TNCs may only use street-legal coupes, sedans, or light-duty vehicles including vans, minivans, sport utility vehicles (SUVs) and pickup trucks. Hatchbacks and convertibles are acceptable. However, vehicles may not be significantly modified from factory specifications (hence no “stretch” vehicles, etc.). TNC drivers are prohibited from transporting more than 7 passengers on any given ride.

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25 The PUC regulations contemplate that California law may be amended to allow TNCs to enroll in the California Department of Motor Vehicles’ “Employer Pull Notice” (EPN) program, under which motor carriers receive automatic notice of adverse entries or actions on an employee driver’s driving record. In that event, enrollment in EPN would take the place of the quarterly record check.
4.1.3 Insurance

Under the regulations currently in effect in California, TNCs must provide commercial liability insurance coverage of at least $1 million per incident for incidents involving vehicles and drivers while providing TNC services. This coverage must be available to cover claims regardless of whether the driver maintains insurance adequate to cover any portion of the claim. TNC drivers must provide proof of both their personal insurance and the commercial insurance in case of an accident.

In July 2014 the PUC issued a proposed decision seeking to clarify the meaning of “TNC services” and the levels of insurance coverage that apply under various circumstances.26 However, legislation enacted in September 2014 addressed these matters in statutory rules that will become effective July 1, 2015.27 The legislation requires TNC drivers to be covered by “transportation network company insurance” ("TNC insurance") defined as “a liability insurance policy that specifically covers liabilities arising from a driver’s use of a vehicle in connection with a transportation network company’s online-enabled application or platform.” In particular, the legislation provides for two levels of coverage under TNC insurance:

- From the moment a TNC driver accepts a ride request until the driver completes the transaction on the TNC’s platform or until the ride is complete, whichever is later, the TNC insurance must provide at least $1 million in primary liability coverage, as well as at least $1 million in uninsured and underinsured motorists coverage. Either the TNC or the driver may provide the policy, but if the driver provides the insurance then the TNC must verify coverage, and must provide coverage on a first-dollar basis in the event the driver’s policy has lapsed or ceased to exist. The TNC insurer has the duty to defend and indemnify the insured.

- At all other times when a TNC driver is logged on to the TNC’s online-enabled application or platform, the TNC insurance must provide primary liability coverage of at least $50,000/$100,000 per incident for personal injury, and at least $30,000 per incident for property damage. The policy may be maintained either by the TNC or by the driver (subject to the same conditions that apply to insurance coverage during the period the driver is engaged). If it is maintained by the TNC then the insurance need only provide coverage in the event the driver’s TNC insurance has ceased to exist or has been canceled, or if the driver does not otherwise maintain TNC insurance. In addition to this TNC insurance, the TNC must maintain insurance that provides excess coverage insuring the TNC and the driver for at least $200,000 per occurrence for any liability arising from the driver using a vehicle in connection with a TNC’s online-enabled application or platform. The legislation further stipulates that the insurer providing insurance coverage under these laws is solely responsible for defending any liability claim arising from an accident occurring within the period the coverage is in effect.


As noted, coverage under TNC insurance is primary under all circumstances while the driver is logged on; the new law underscores this point by providing that coverage under the TNC policy is “not . . . dependent on a personal automobile insurance policy first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.”

California’s legislation addresses a number of issues regarding drivers’ personal auto insurance policies. The new law authorizes personal automobile insurers, at their discretion, to offer policies, amendments, or endorsements covering the use of a vehicle in connection with TNC operations. However, the law expressly provides that private passenger automobile insurance policies are not required to provide primary or excess coverage while a driver is engaged in TNC operations. The law also explicitly states that the personal insurance shall not provide any coverage while the driver is on the TNC’s network, unless the policy (or an endorsement or amendment to the policy) expressly provides for such coverage, nor shall the personal insurer have a duty to defend or indemnify for the driver’s activities while working for the TNC, absent express policy terms to the contrary.

TNCs are required under the new law to disclose in writing to their drivers, as part of their agreement with those drivers, the insurance coverage and limits of liability that the TNC provides. In addition, TNCs must advise drivers in writing that their personal automobile insurance policies “will not provide coverage because the driver uses a vehicle in connection with a transportation network company’s online-enabled application or platform,” and will not provide collision or comprehensive coverage for damage to the vehicle that occurs while the driver is on the TNC’s network.

4.1.4 Nondiscrimination

TNCs must allow passengers to indicate whether they require a wheelchair-accessible vehicle or a vehicle otherwise accessible to individuals with disabilities. TNCs are required to file an annual report with the PUC’s Safety and Enforcement Division that details the number and percentage of customers who requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles. They are also required to file an accessibility plan with the PUC, which must include the following:

- a timeline for modifying apps so that they allow passengers to indicate their access needs, including the need for a wheelchair accessible vehicle
- a plan for how the TNC will provide appropriate vehicles for passengers who specify access needs, including a plan to provide incentives for individuals who own accessible vehicles to become TNC drivers
- a timeline for modifying apps and TNC websites so that they meet accessibility standards
- a timeline for modifying apps so that they allow passengers to indicate that they are accompanied by a service animal, and for adopting a policy that service animals will be accommodated
- a plan for ensuring that drivers’ review of customers will not be used in a manner that results in discrimination, including any policies that will be adopted and any monitoring that will take place by the TNC to enforce this requirement
Although TNCs are allowed to provide platforms that enable drivers and passengers to “rate” each other, TNCs must ensure that such ratings are not based on unlawful discrimination, and that drivers do not discriminate against passengers or potential passengers on the basis of geographic endpoints of the ride, race, color, national origin, religion, sex, disability, age, or sexual orientation/identity. TNCs are required to file an annual report with the PUC’s Safety and Enforcement Division that details, among other things, the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates, and the number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates.

4.1.5 Other Operating Requirements

TNCs must clearly disclose, on their app and website, that TNCs facilitate rides between passengers and private drivers using their own personal vehicles. Additionally, the disclosure must state that each TNC is required to maintain insurance policies providing a minimum of $1,000,000 per incident coverage for incidents involving vehicles and drivers while they are providing TNC services.

TNC drivers may only transport passengers on a prearranged basis. For the purpose of TNC services, a ride is considered prearranged if the ride is solicited and accepted via a TNC digital platform before the ride commences. Upon request of law enforcement or other officials a driver must produce a physical or electronic record of a ride in progress sufficient to establish that it was prearranged. TNC drivers are strictly prohibited from accepting street hails. They also are prohibited from conducting any operations at airports unless such operations are authorized by the airport authority.

The app used by a TNC to connect drivers and passengers must show the passenger a picture of the driver and a picture of the vehicle the driver is approved to use, including the license plate number identifying the vehicle. In addition, TNC vehicles must display consistent “trade dress” (i.e., distinctive signage or displays on the vehicle) when providing TNC services. The trade dress should allow a passenger, government official, or member of the public to readily associate a vehicle with a particular TNC. Magnetic or removable trade dress is acceptable. TNCs are required to file a photograph of their trade dress with the PUC’s Safety and Enforcement Division.

On a quarterly basis, the PUC may collect, “as part of overall fees,” one-third of one percent of the total revenues from TNC services in California.

Each TNC must keep records of all trips made by its drivers, and must make those records available to the PUC on demand.

4.2 Colorado

Legislation enacted in 2014 amended Colorado law to establish specific operational requirements for TNCs and to exempt them from the rules governing other types of commercial passenger transportation. Pursuant to this legislation, TNCs are subject to the regulatory authority of

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28 2014 Colo. Sess. Laws, Chap. 323. Although the legislation excludes TNCs from state rules applicable to other passenger carriers, it is unclear whether local regulation is precluded.
the Colorado Public Utilities Commission (PUC), which issues permits to TNCs (not drivers) authorizing them to provide service, for an annual fee of $111,250.  

4.2.1 Drivers

A TNC must confirm that every person applying to work as a TNC driver is at least 21 years old and has a valid driver’s license, proof of automobile insurance, proof of vehicle registration in Colorado, and proof (pursuant to PUC rules) that he or she is medically fit to drive.

Before beginning work as a TNC driver, and every five years after beginning such work, an individual must obtain a criminal history record check, either through a law enforcement agency as provided under Colorado law or through a privately administered national criminal history record check, including the national sex offender database. The individual must then provide a copy of the criminal history record check to the TNC.

An individual will be disqualified from driving for the TNC if the criminal history record check reveals that the person has ever been convicted of or pled guilty or *nolo contendere* to certain felony offenses involving fraud, violence against a person, or crimes involving property. Those who have been convicted of or pled guilty or *nolo contendere* to any other felony within the previous five years are also ineligible, as are those who have been convicted of or pled guilty or *nolo contendere* to driving under the influence of drugs or alcohol in the past seven years.

Before permitting an individual to act as a driver, a TNC must obtain and review a driving history research report for the individual. Anyone with the following moving violations is disqualified from serving as a driver:

- more than three moving violations in the three-year period preceding the individual’s application to serve as a driver; or
- a major moving violation in the three-year period preceding the individual’s application to serve as a driver, including eluding a law enforcement officer, reckless driving, and operating a motor vehicle in violation of the terms of a restricted license.

Each TNC must implement an intoxicating substance policy for a driver that disallows any amount of intoxication while the driver is providing services. The TNC must include on its web site and mobile applications a notice concerning this policy.

Drivers are prohibited from offering or providing TNC services for more than twelve consecutive hours.

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29 It is the study team’s understanding that Colorado authorities expected only two TNCs—Uber and Lyft—to be issued permits, and that the annual fee was priced so that each company would pay half of the estimated annual costs of regulating TNCs.
4.2.2 Vehicles

Personal vehicles must have at least four doors and be designed to carry no more than eight passengers, including the driver. They must have initial and annual safety inspections, performed either by the TNC or by a certified mechanic.

Each TNC must require that each personal vehicle providing TNC services display an exterior marking that identifies it as a vehicle for hire.

4.2.3 Insurance

TNCs are required to file with the PUC evidence that either the TNC or the driver has secured primary liability insurance coverage of at least $1 million per occurrence for incidents involving the driver during a prearranged ride.

For the period of time when a driver is logged into a TNC’s platform but is not engaged in a prearranged ride, the Colorado legislation put in place both an interim standard (effective through January 15, 2015) and a long-term standard (effective thereafter). The interim standard requires either the TNC or the driver to maintain contingent liability insurance—i.e., coverage that applies only if “the driver’s insurer for personal automobile insurance validly denies coverage . . . or the driver otherwise does not have personal automobile insurance coverage”—that meets Colorado’s statutory minimums for a personal auto liability policy: $25,000 per person and $50,000 per incident for bodily injury and $15,000 per incident for property damage. The long-term standard doubles these limits—to $50,000/$100,000 for bodily injury and $30,000 for property damage—and makes the coverage primary rather than contingent. However, the legislation also directs the Colorado Division of Insurance to study whether the levels of coverage provided for under the long-term standard “are appropriate for the risk involved with transportation network company services,” and to present its findings and recommendations to the legislature by January 15, 2015. The long-term standard set forth in the legislation may thus prove short-lived.

If the TNC provides the insurance required for TNC operations, then it must submit documentary evidence of coverage to the PUC. If responsibility is placed on a driver to purchase the insurance, then the TNC must verify that the driver has purchased the policy.

TNCs must make the following disclosure to prospective drivers in the terms of service: “While operating on the transportation network company’s digital network, your personal automobile insurance policy might not afford liability coverage, depending on the policy’s terms.”

While the Colorado law authorizes coverage for TNC-related activities under a rider or endorsement to the driver’s personal liability policy, the law also stipulates that nothing in statute requires a personal automobile insurance policy to provide coverage for the period of time in which a driver is logged into a TNC’s network.

If more than one insurance policy provides valid and collectible coverage for a loss arising out of an occurrence involving a motor vehicle operated by a driver, Colorado rules require responsibility for the claim to be divided on a pro rata basis among all of the applicable policies. This equal division of
responsibility may only be modified by the written agreement of all of the insurers and the owners of the policies.

4.2.4 Nondiscrimination

TNCs must provide services to the public in a nondiscriminatory manner, consistent with the provisions of Colorado human rights laws and without regard to the geographic location of the departure point or destination, once the driver and rider have been matched. A driver may not refuse to transport a passenger unless:

- the passenger is acting in an unlawful, disorderly, or endangering manner;
- the passenger is unable to care for himself or herself and is not in the charge of a responsible companion; or
- the driver has already committed to providing a ride for another rider.

TNCs may not impose additional charges for providing services to persons with physical or mental disabilities because of those disabilities.

TNC drivers must permit a service animal to accompany a rider on a prearranged ride.

If a rider with physical or mental disabilities requires the use of the rider’s mobility equipment, the driver must store the mobility equipment in the vehicle during a prearranged ride if the vehicle is reasonably capable of storing the equipment. If the driver is unable to store the rider’s mobility equipment, the driver must refer the rider to another driver or transportation service with a vehicle that is equipped to meet the rider’s needs.

Violations of the nondiscrimination rules are subject to a civil penalty up to one thousand dollars. TNCs are not liable for a driver’s violation of the rules unless the driver’s violation has been previously reported to the TNC in writing, and the TNC has failed to reasonably address the alleged violation.

4.2.5 Other Operating Requirements

TNC drivers may not provide services unless the TNC has matched the driver to a rider through its digital network. Street hails are prohibited.

TNCs must make available to prospective riders and drivers the method by which the company calculates fares or the applicable rates being charged and an option to receive an estimated fare. The passenger must then be given a detailed receipt upon completion of the prearranged ride.

TNCs must make the following disclosure to prospective drivers in the terms of service: “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 the terms of your contract with the lienholder.”

TNCs are required to make a customer support telephone number available on its digital network or web site for rider inquiries.
TNCs are prohibited from disclosing to a third party any personally identifiable information concerning a user of the TNC’s services, unless:

- the TNC obtains the user’s consent to disclose personally identifiable information;
- disclosure is necessary to comply with a legal obligation; or
- disclosure is necessary to protect or defend the terms and conditions for use of the service or to investigate violations of the terms and conditions.

This limitation on disclosure does not apply to the disclosure of aggregated user data and other information about the user that is not personally identifiable.

The PUC is authorized to promulgate regulations requiring proof of TNCs’ financial responsibility.

The Colorado Division of Workers’ Compensation is to determine whether TNCs have an obligation to provide or offer for purchase workers’ compensation insurance coverage to TNC drivers.

4.3 Seattle

Seattle first enacted an ordinance regulating TNCs in March 2014, but implementation and enforcement were suspended shortly thereafter pending the outcome of stakeholder meetings to develop new rules. Those new rules for TNCs were approved by City Council on July 14, 2014, and signed by Mayor Murray the following day. Although the new rules depart from the old ones in a number of respects, perhaps the most significant difference is that they abolish any cap on the number of TNC drivers that may operate in Seattle.

Seattle’s set of rules is far more detailed and extensive than California’s or Colorado’s, and includes numerous important changes to the laws governing taxis and other for-hire passenger carriers as well. Many of these changes create a uniform set of standards—or at least substantively similar sets of requirements—for all passenger carrier types on matters such as insurance, vehicle inspections, driver background checks, recordkeeping, and reporting. Other changes—such as creating a medallion system for Seattle’s taxicabs, and allowing other for-hire carriers (except TNCs) to accept street hails—alter the competitive landscape in other ways.

Given the scope and scale of Seattle’s TNC ordinance, even a selective survey of its main provisions requires more space than the summaries of other jurisdictions’ rules.

4.3.1 Drivers

Drivers must be affiliated with a TNC that has been licensed by the city, and must themselves hold a for-hire driver’s license issued by the city. The initial and annual renewal application for the for-hire driver’s license must include the following:

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30 City of Seattle Ordinance No. 124441 (March 19, 2014).

31 City of Seattle Ordinance No. 124524 (July 15, 2014).
• driver’s name, aliases, residence and business address, residence and business telephone numbers

• driver’s place and date of birth (must be at least 21 years old), height, weight, color of hair and eyes

• driver’s Washington State driver’s license number (Social Security number is optional)

• proof that the driver is authorized to work in the United States

• driver’s consent to a fingerprint-based criminal background check through Washington State Patrol and Federal Bureau of Investigation criminal databases conducted by the city, or to have a copy of a criminal background check provided directly from a city-approved third-party vendor (approved vendors must, at a minimum, include local, state, and national databases; access at least five years of database history; and demonstrate competency in providing accurate information)

• information indicating whether or not the driver has ever had a for-hire or driver’s license suspended, revoked, or denied and for what cause

• a copy of the driver’s driving abstract from the Washington State Department of Licensing or a signed statement authorizing the Director to obtain a current copy of the driver’s driving abstract from the Washington State Department of Licensing

• a statement listing all reportable accidents and all moving violations the driver was involved in during the previous three years

• completion of a driver education course and associated tests, which driver training program must include completion of the National Safety Council’s Defensive Driving Course, and completion of at least one additional driving training program approved by the city (a refresher course may be required if requested by the TNC or if the city has reasonable grounds, based on documented complaints and/or violations, to believe that such a course is necessary)

• a statement under penalty of perjury of the driver’s physical and mental fitness to act as a for-hire driver (the city may at any time require any licensee or applicant to be medically examined if it appears that the licensee is or has become physically or mentally unfit to be a for-hire driver)

TNCs must notify the city within two working days of the TNC having knowledge of any of the following (among other things):

• a conviction, bail forfeiture or other adverse finding received by a TNC driver for any criminal offense or traffic violation that occurs during or arises out of the driver’s operation of the vehicle while active on any TNC dispatch

• a conviction, bail forfeiture or other adverse finding received by a TNC driver for any other criminal offense directly bearing on the driver’s fitness to operate a vehicle or the affiliated
driver’s fitness to be licensed, including but not limited to theft, fraud, robbery, burglary, assault, sex crimes, alcohol, drugs, or prostitution

- a vehicle accident required to be reported to the State of Washington involving any TNC driver
- any restriction, suspension or revocation of a State of Washington driver’s license issued to a TNC driver

In addition, TNCs must notify the city within five working days of any revocation of a TNC driver’s access to the TNC dispatch application, for-hire license or TNC vehicle endorsement.

TNCs must employ a zero-tolerance drug and alcohol policy with respect to TNC drivers. The TNC must include a notice on its website, dispatch system application, and passenger trip confirmations of its zero-tolerance policy and the methods to report a driver the passenger reasonably suspects was under the influence of drugs or alcohol during the trip. The website and application dispatch system must include contact information for reporting a complaint, including reporting it to city officials.

TNCs must review criminal background checks and driving records on every driver and maintain records thereof. Drivers convicted of any traffic and/or criminal offense directly bearing on the driver’s fitness including but not limited to theft, fraud, robbery, burglary, assault, sex crimes, alcohol, drugs, or prostitution may not be permitted to provide TNC services. Drivers with convictions within the last 7 years for any alcohol or drug related offense, reckless driving, hit and run, or driving with a suspended or revoked license may not be permitted to provide TNC services.

Knowledge examinations may be administered to drivers by the City of Seattle and/or King County or by an approved TNC or third-party vendor. Examination procedures and content must be approved by the city and must test the applicant’s knowledge of applicable codes and regulations; ability to speak and understand oral and written English sufficient for fulfilling the minimum acceptable standards for a for-hire driver; knowledge of vehicle safety requirements; knowledge of local geography and of local public and tourist destinations and attractions; and knowledge of risk factors for crimes against for-hire drivers, emergency procedures, and equipment for drivers’ personal safety.

Drivers may not be in control of a for-hire vehicle for more than 12 hours spread over a total of 15 hours in any 24-hour period. Thereafter, the driver may not drive any for-hire vehicle until ten consecutive hours have elapsed.

Drivers must use mobile phones in hands-free mode, consistent with state law.

The city will revoke a driver’s for-hire license for any of the following offenses committed while active on the TNC dispatch system:

- the driver receives a bail forfeiture, conviction, or other final adverse finding for crimes pertaining to hit-and-run, or for crimes pertaining to DUI while operating a TNC endorsed vehicle
- the driver’s Washington State driver’s license expires or is revoked
- the driver has committed a serious (“Class C”) violation in any one-year period
the driver, while driving a TNC endorsed vehicle, picks up a street hail, cruises, or otherwise solicits trips whether active on the TNC dispatch system or not

the driver, while driving a TNC endorsed vehicle, provides a ride that is not booked through the TNC application dispatch system

the driver drives a vehicle while on the TNC application that is not affiliated with the TNC

the driver drives a vehicle while on the TNC application that is neither a for-hire vehicle nor a taxicab licensed under this city ordinance nor a vehicle with a TNC vehicle endorsement

In addition, the city may revoke the driver’s for-hire license if:

the driver is found to be in possession of illegal drugs or an open container of alcohol while in control of or while operating any taxicab or for-hire vehicle

the driver has received a conviction, bail forfeiture, or other final adverse finding involving crimes pertaining to prostitution, gambling, physical violence, Uniform Controlled Substances Act, fraud, theft, robbery, larceny, burglary, extortion and/or crimes directly related to the driver’s ability to operate a for-hire vehicle

4.3.2 Vehicles

Prior to providing TNC services and annually thereafter, a TNC must require every affiliated vehicle to undergo a uniform vehicle safety inspection, approved by the city, that utilizes an approved mechanic who certifies in writing that the vehicle is mechanically sound and fit for driving. The approved mechanic must also certify in writing that the plates, decals, and customer notices required and supplied by the city are legible and properly displayed. TNCs must maintain vehicle inspection records.

A vehicle that is used to provide service through a TNC must:

either be a taxicab or other for-hire vehicle licensed by the city, or a personal vehicle with a TNC vehicle endorsement issued by the city

be affiliated with a TNC licensed by the city

be affiliated with a driver who holds a for-hire driver’s license issued by the city

have passed the vehicle safety inspection described above

be no more than 10 years old

Either the driver or the TNC, acting on the driver’s behalf, may apply for the required vehicle endorsement. In either case, the application must include the following:

the driver’s name, aliases, residence and business address, residence and business telephone numbers

the driver’s place and date of birth (must be at least 21 years old), height, weight, color of hair and eyes
- the driver’s Washington State driver’s license number (providing a Social Security number is optional)
- proof that the driver is authorized to work in the United States
- evidence of vehicle insurance as required by ordinance
- evidence that the driver has a for-hire driver’s license
- proof that the driver’s vehicle has passed the uniform vehicle safety inspection
- proof that the driver’s vehicle is no more than 10 years old

The endorsement application must be completed and the above information provided during any annual license renewal. Upon approval of the application, the city issues a TNC vehicle endorsement, which takes the form of a certificate that includes the vehicle identification number, the registered owner’s full legal name, the vehicle’s license plate number, the endorsement’s expiration date, and a unique certificate number that corresponds to the number on a TNC vehicle endorsement sticker affixed to the for-hire driver’s license and to the number on a decal affixed to the affiliated vehicle.

The city will deny a TNC vehicle endorsement application if it determines that:
- the applicant has failed to submit a complete, satisfactory application
- the applicant has failed to affiliate with a licensed TNC
- the applicant has made any material misstatement or omission in the application for an endorsement
- the applicant fails to meet certain vehicle requirements set forth in the municipal code
- within three years of the date of application, the applicant has had a conviction, bail forfeiture or other final adverse finding of criminal fraud, larceny, theft, prostitution, extortion, racketeering, robbery, or violation of the Uniform Controlled Substances Act where such crime involved the use of the endorsed vehicle

In addition, the city may deny any TNC vehicle endorsement application if it determines that:
- within five years of the date of application, the applicant has had a conviction, bail forfeiture, or other final adverse finding involving crimes reasonably related to the applicant’s ability to operate a for-hire business, including but not limited to prostitution, gambling, fraud, larceny, extortion, income tax evasion
- within two years of the date of application, the applicant has been found, either through a criminal conviction, bail forfeiture or other final adverse finding (including in a civil suit or administrative proceeding) to have exhibited past conduct in driving or operating a for-hire vehicle which would lead the city to reasonably conclude that the applicant will not comply with the city’s provisions related to vehicle requirements and the safe operation of the vehicle
- within two years of the date of application, the applicant has engaged in the business of operating any taxicab or for-hire vehicle within the city without a current valid license from the city

- within 12 months of the date of application, the applicant has violated King County or Port of Seattle ordinance or regulation pertaining to the operation of taxicabs while in those jurisdictions, if such violation would constitute grounds for license revocation or denial if occurring within the city

- within 12 months of the date of application, the applicant has had its Seattle for-hire vehicle license revoked

Before beginning a shift, a driver must check the lights, brakes, tires, steering, seat belts, and other vehicle equipment listed on the vehicle safety checklist as prescribed by rule to see that they are working properly. The driver must also ensure that the vehicle license, vehicle registration and proof of insurance card are in the vehicle.

Although signage or other “trade dress” may be placed on the vehicle body, it cannot exceed four square feet, or be put on the roof, or cover any windows or vehicle lights, or obscure the view of any mirrors.

4.3.3 Insurance

Seattle requires TNC drivers to maintain a personal auto insurance policy. In the event the insurance policy lapses or is canceled, or a vehicle is deleted from the policy, proof of a new policy including the vehicle must be filed with the city before the vehicle is canceled or deleted from the previous policy.

The situation with commercial insurance is more complicated. After some debate, the City Council concluded that state law would have to be amended in order to effect fundamental changes to insurance coverage requirements for for-hire vehicles. Accordingly, the ordinance establishes rules that will apply during a “provisional period,” which will last either until the effective date of changes to State insurance requirements for for-hire transportation services, or until two weeks after the end of the 2015 Washington State legislative session, whichever comes first. During the provisional period, either the registered owner of a vehicle with a TNC endorsement, or the TNC on behalf of the registered owner, must file with the city evidence that each vehicle has liability insurance in an amount no less than the minimum required by state law ($100,000 per person and $300,000 per incident for personal injury and $25,000 per incident for property damage) and underinsured motorist coverage of at least $100,000 per person and $300,000 per incident for personal injury at any time the driver is active on the TNC dispatch system. “Active on the TNC dispatch system,” as explained in the ordinance, “includes but is not limited to: when the driver is logged onto the transportation network company (TNC) application showing that the driver is available to pick up passengers; when a passenger is in the vehicle; when TNC


33 RCW 46.72.050.
records show the vehicle has been connected with a passenger; or when the driver has been connected with a passenger and is en route to provide transportation services to the passenger.” The policy must also:

- be issued by either an admitted carrier in the State of Washington with an A.M. Best Rating of at least B VII, or a surplus line insurer with an A.M. Best Rating of at least B+ VII
- name The City of Seattle as an additional insured
- provide that the insurer will notify the city, in writing, of any cancellation and/or nonrenewal at least 30 days before that cancellation and/or nonrenewal takes effect

By the first business day immediately following the end of the provisional period, the driver or the TNC must have on file with the city evidence that the vehicle has an insurance policy that complies with state insurance requirements effective at that time. If there is no change to state insurance requirements by the conclusion of the provisional period, then the insurance requirements for TNCs will be the same as in the provisional period, except for the following:

- If the policy is not issued by an admitted carrier, there must be evidence that an exemption has been met allowing for the use of a surplus line insurer. The city may, however, temporarily suspend this requirement if no other viable insurance options are available to the industry.
- The policy may not include any aggregate limits, or named driver requirements or exclusions. Other limitations or restrictions beyond the standard insurance services office (ISO) business auto policy form are subject to approval by the city.

**4.3.4 Nondiscrimination**

Drivers are required to provide customers with professional and courteous service at all times. They may not refuse to transport any person except when:

- the driver has already been dispatched on another call
- the driver arrives at the place of pick-up and upon arrival the passenger is acting in a disorderly or threatening manner, or otherwise is acting in a manner that would cause a reasonable person to believe that the for-hire driver’s health or safety, or that of others, may be endangered
- the passenger cannot, upon request, show ability to pay the fare

Drivers are prohibited from making any “discriminatory charges” to any person, or make any rebate or in any manner reduce the charge to any person, except in conformity with the discounts or surcharges contained in the filed rates.

TNCs must allow passengers to indicate whether they require a wheelchair-accessible vehicle and connect passengers to those services via a web link, application, or phone number.

TNCs (along with taxicab and for-hire vehicle licensees) are assessed a $0.10 per ride surcharge for all rides originating in the city, which is to be used to offset the higher operational costs of
wheelchair accessible taxi (WAT) services for owners and operators. Funds are to be distributed by reimbursement for documented, itemized costs. Following the first year of collecting the surcharge, the city may adjust the rate, depending upon reimbursed costs for purchasing and retrofitting accessible vehicles, the actual need for purchasing and retrofitting accessible vehicles in the upcoming year, total number of WAT rides, and other factors. Within two years of the effective date of the ordinance, the Director of Finance and Administrative Services, with input from the Seattle Commission for People with Disabilities, will promulgate rules to determine the need for additional wheelchair accessible taxicabs or for-hire vehicles and how to fund potential new retrofits from the wheelchair accessible services fund.

4.3.5 Other Operating Requirements

TNCs may only operate under a license issued by the city. The TNC’s initial and annual renewal application for a license must include, among other things:

- the TNC’s name and contact information
- the form of business entity under which the TNC will operate (e.g., corporation, partnership)
- verification that the TNC uses only one application dispatch system, as approved by the city
- the “trade dress,” if any that the TNC intends to use to help passengers and others identify its vehicles
- the name and contact information of the TNC’s representative
- evidence that all vehicles affiliated with the TNC are covered by insurance as required by law
- vehicle registration for each vehicle affiliated with the TNC
- certification of a uniform vehicle safety inspection for each vehicle affiliated with the TNC
- any other information required by regulations adopted pursuant to this chapter
- the above application and information must be completed for each annual license renewal

The TNC must inform the city in writing within seven days if any of this information changes, ceases to be true or is superseded in any way by new information.

The city will revoke a TNC’s license under any of the following circumstances (among others):

- the TNC, or any person employed to manage Seattle operations, receives a bail forfeiture, conviction or other final adverse finding for crimes of fraud, theft, larceny, extortion, embezzlement, racketeering, Uniform Controlled Substances Act, prostitution, alcohol and/or narcotics where the commission of such crimes involved or used a TNC or for-hire vehicle; however, the license may be reinstated if the employee is removed immediately from all operational or management duties or authority and is divested of all ownership in the TNC as soon as possible
- the TNC, or any person employed to manage Seattle operations, receives a bail forfeiture, conviction or other final adverse finding involving crimes directly related to the applicant’s
ability to operate a TNC, including but not limited to prostitution, gambling, fraud, larceny, extortion, income tax evasion; however, the license may be reinstated if the employee is removed immediately from all operational or management duties or authority and is divested of all ownership in the TNC as soon as possible

- the TNC knowingly permits an affiliated vehicle to be active on the TNC dispatch system that has not undergone the required vehicle safety inspection
- the TNC has failed to meet the insurance requirements imposed upon it
- an affiliated driver is active on the TNC dispatch system without the required vehicle insurance
- the TNC fails to pay all penalties imposed by the city that are either not contested or are upheld after review

In addition, the city may revoke a TNC’s license if the TNC:

- dispatches to an unlicensed or unaffiliated driver
- dispatches to an unaffiliated vehicle
- dispatches to a vehicle that is neither a for-hire vehicle or taxicab, nor a vehicle with a TNC vehicle endorsement
- knowingly permits a third party to use the TNC dispatch system
- knowingly permits a TNC endorsed driver driving a TNC endorsed vehicle to pick up hails, cruise, or otherwise solicit trips
- knowingly allows a TNC driver driving a TNC endorsed vehicle to take trips not dispatched by the TNC
- fails to review driving records of TNC drivers and maintain records as required
- knowingly permits TNC drivers with a disqualifying conviction to continue affiliating with a TNC and/or operating as a TNC driver

TNCs are assessed a fee of $0.10 per ride for all trips originating in Seattle to cover the estimated enforcement and regulatory costs of TNC licensing, vehicle endorsements and driver licensing. After six months or any time thereafter, the city may adjust this based on the number of new TNC licenses, for-hire driver’s licenses and vehicle endorsements issued, and total TNC trips originating in Seattle. The purpose of any adjustment is to ensure that the per-ride fee covers the estimated enforcement and regulatory costs of TNC licensing, vehicle endorsements and driver licensing. Total TNC industry fees may not exceed $525,000 in year one.

TNCs must provide the city with documentation explaining or demonstrating that their rate structure is transparent to the rider prior to confirming the ride.

TNC drivers are prohibited from accepting cash payment for fares. Payment may only be made electronically via the TNC application dispatch system.
Drivers must provide each passenger an electronic or paper receipt.

Drivers must use the most direct available route on all trips unless the passenger specifically requests to change the route.

While active on a TNC’s dispatch system, a driver may not operate a vehicle that is unaffiliated with a TNC to transport passengers. Failure to abide by this requirement will result in revocation of the driver’s for-hire license.

TNC drivers driving with a TNC endorsed vehicle may not pick up, cruise or otherwise solicit trips. Violation of this rule will result in revocation of the for-hire license.

TNCs are required to maintain accurate and complete operational records for the trailing two years, including, but not limited to:

- total number of rides provided
- percentage or number of rides picked up in each zip code
- pick up and drop off zip codes of each ride
- percentage by zip code of rides that are requested but unfulfilled
- number of collisions, including the name and number of the affiliated TNC driver, collision fault, injuries, and estimated damage
- number of requested rides for an accessible vehicle
- crimes against driver reports
- passenger complaints
- any other data identified by the city to ensure compliance

Drivers are required to report the required information to TNCs on a weekly basis, and TNCs must submit complete data to the city electronically on a quarterly basis.

4.4 Chicago

Chicago’s ordinance regarding TNCs was enacted May 28, 2014, and became effective August 26, 2014.34 The city’s rules include some interesting approaches to addressing differences between TNCs and taxicab services—such as the imposition of less stringent requirements for companies whose drivers average no more than 20 hours per week (“Class A”) than for those with a higher average among drivers (“Class B”)—although some details may be preempted by state legislation.35 For instance, the legislation that is pending in the Illinois legislature would require every individual driver who works for a TNC more than 18 hours per week to obtain a chauffeur’s license. Under Chicago’s ordinance, whether

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35 98th General Assembly, House Bill 4075 (enrolled July 14, 2014). The bill was vetoed by the Governor on August 25, 2014. As of this writing, the Illinois General Assembly has not taken a vote to override the veto.
a chauffeur’s license is required depends only on which class of TNC the driver works for, not on how many hours the individual driver actually works (all drivers for Class B TNCs must possess a chauffeur’s license). Also, the state legislation requires localities to impose the same requirements on TNCs as they do on other locally licensed passenger carriers with respect to providing wheelchair-accessible vehicles. Chicago’s ordinance, which places primary responsibility on taxicabs to provide wheelchair-accessible vehicles (and establishes a source of funds to help them meet that responsibility), conflicts with this requirement.

4.4.1 Drivers

Class A TNCs must follow a process approved by the city for determining that a prospective driver meets the following qualifications:

- has had a valid driver’s license for at least one year prior to applying to become a TNC driver
- is at least 21 years old
- has not been convicted of reckless driving, hit and run, or driving with a suspended or revoked license
- has not been convicted of or placed on supervision for two or more moving violations
- within the preceding five years, has not been found guilty, been held in custody, or been on parole for the commission of a felony, a crime involving moral turpitude, the illegal sale or possession of a controlled substance, the indecent solicitation of a child or any criminal sexual abuse or similar crime, or driving under the influences
- has not had an Illinois driver’s license suspended or revoked within the preceding 12 months
- has not had a public chauffeur license or restricted public chauffeur license suspended, revoked or non-renewed by the city within the preceding 5 years
- has successfully completed a TNC driver’s training program that has been approved by the city, that has been conducted by the TNC or other authorities approved by the city, and that, among other things, has covered topics related to services for people with disabilities
- has not been listed by the city (due to a complaint filed with city authorities) as ineligible to be a transportation network driver

Class A TNCs must perform a criminal background check on each applicant to be a TNC driver, obtain each applicant’s driving record, and ascertain that all the above requirements are met before engaging the applicant as a driver. The TNC must repeat this process annually for each driver, and keep records of its determinations for three years.

TNCs must maintain and enforce a zero-tolerance policy, approved by the city, for intoxicating substances. Information concerning the policy, and the methods for reporting violations, must be included on the TNC’s web site, mobile application, and passenger receipts. Promptly after a complaint is filed, the TNC must suspend the driver pending further investigation. Those who knowingly make a false zero-tolerance complaint are subject to penalties under the city’s law prohibiting false statements.
No alcoholic beverage may be transported in a TNC vehicle unless it is in its original package with an unbroken seal.

TNCs must provide drivers with identification cards showing each driver’s name and photograph. The driver must display this identification card at all times while logged on to the TNC network, and must also display a copy of the city’s ground transportation tax registration emblem for the vehicle, and the distinctive emblem that has been issued to the vehicle (see the section on vehicles, below). The driver must carry proof of insurance in the vehicle at all times, as well as an electronic or paper copy of the agreement or terms of service between the driver and the TNC.

TNCs must implement processes to ensure that no driver operates a TNC vehicle for more than 10 hours within a 24-hour period. No driver, and no vehicle, may operate for more than 10 hours within a 24-hour period.

The ordinance voids as contrary to public policy any terms or conditions in the agreement between the TNC and the driver that would prohibit the driver from working for another TNC.

4.4.2 Vehicles

TNC vehicles must be kept clean at all times they are used to provide service.

Vehicles must:

- be rated by the manufacturer to carry fewer than 10 persons, including the driver
- not be used to transport more than seven passengers
- have at least two doors
- be a coupe, sedan, or light-duty vehicle, including a van, minivan, sport utility vehicle, pickup truck, hatchback or convertible
- meet applicable Federal Motor Vehicle Safety Standards for vehicles of its size, type and proposed use
- not have been issued the title class of “salvage,” “rebuilt,” “junk,” “total loss,” or any equivalent classification in any jurisdiction
- not be licensed as a taxi or public transportation vehicle in any jurisdiction
- not have any commercial advertisements displayed on the exterior or in the interior

Vehicles used in Class A networks must be inspected according to standards approved by the commissioner, and must pass such inspection.

Vehicles used in Class B networks must be no more than six years old (although the city may by regulation authorize an older vehicle for up to two years if the vehicle passes inspection by the city). All Class B vehicles must pass a comprehensive annual inspection at a city-licensed motor vehicle repair shop or at a facility designated by the city. If the vehicle is wheelchair-accessible, it must also be inspected for compliance with legally required safety standards.
TNC vehicles must display “consistent and distinctive signage” while providing services. The signage must be readable at a distance of at least 50 feet in daylight, and must identify the particular vehicle as associated with a particular TNC. TNCs are required to file an illustration of their distinctive signage with the city.

In addition, TNC vehicles must display a “consistent and distinctive emblem” while providing services. The city may regulate the manner of display, method of issuance, design and contents of this emblem. Emblems displayed on wheelchair-accessible transportation network vehicles must specify or mark that such vehicles are wheelchair-accessible.

### 4.4.3 Insurance

TNCs must provide the city with proof that they possess both of the following:

- Commercial general liability insurance to cover claims up to $1 million against the TNC or its employees. The insurance must be primary and noncontributory, must name the city as an additional insured; and must include a provision requiring 30 days’ advance notice to the city prior to cancellation, lapse, or any change to the policy.

- Commercial automobile liability insurance to cover claims against the TNC or its drivers. Minimum coverage must be $1 million for incidents occurring from the time the TNC driver has accepted a ride until the completion of the ride. At any other time the driver is logged onto the TNCs app and is available to pick up passengers, the coverage must meet the minimum required under Illinois law for passenger vehicle liability insurance ($20,000/$40,000 bodily injury, $15,000 property damage). The TNC must provide 30 days’ advance notice to the city prior to cancellation, lapse, or any change to the policy.

These insurance policies must cover claims regardless of whether the TNC driver maintains insurance adequate to cover any portion of the claim.

TNCs must disclose on their apps and websites that they are required to maintain insurance policies as provided above. They must also provide drivers with proof of the insurance.

### 4.4.4 Nondiscrimination

TNCs and their drivers must comply with all federal, state and city non-discrimination laws, and may not discriminate against any potential or existing employee, driver, or passenger on account of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income.

TNCs have an “affirmative duty” to respond to requests for service in underserved areas and to insure drivers’ compliance with this duty. TNCs must immediately report to the city any driver who fails to comply.

All TNC drivers must accept, without extra charge, riders with service animals. By January 1, 2015, TNCs’ apps must be accessible to customers who are blind, visually impaired, deaf and hard of hearing. Apps must also provide customers with an opportunity to indicate whether they need a wheelchair-accessible vehicle. TNCs must accommodate these passengers either by connecting them
with TNC drivers who operate wheelchair-accessible vehicles, or by entering into a service agreement with other parties who will then dispatch wheelchair-accessible vehicles through the TNC’s app.

In addition to other fees, Class A TNCs are required to pay $0.10 per vehicle per ride accepted to the city’s accessibility fund for each vehicle in the TNC’s network that is not wheelchair-accessible. Class B TNCs pay $100.00 per vehicle per year to the fund for each vehicle that is not wheelchair-accessible. The accessibility fund is used to improve the services of both taxicabs and TNCs for people with disabilities. Chicago’s ordinance requires taxicab services with 10 or more vehicles to make at least 10% of their fleets wheelchair-accessible by January 1, 2018, if sufficient revenue has been collected in the accessibility fund.

The ordinance authorizes the mayor to form a “ground transportation vehicles underserved areas task force,” to consider which areas of the city are underserved and the role new technologies may play in providing efficient services, and to recommend measures to improve service delivery.

4.4.5 Other Operating Requirements

TNCs must be licensed by the city, and no driver may operate as a TNC driver unless affiliated with a TNC that has been licensed by the city. Any vehicle used to provide TNC services in violation of this requirement may be impounded.

Initially, a TNC may choose to apply for either a Class A or a Class B license; however, after six months of operations, those issued a Class A license must present satisfactory evidence to the city that its drivers work, on average, no more than 20 hours per week. The TNC must also present such evidence when applying for renewal of a Class A license.

As part of the application for an original license or a renewal, a TNC also must provide the following information:

- the full name, driver’s license number and address of drivers registered with the TNC
- the license plate number, registered owner and the vehicle identification numbers of the vehicles registered with the TNC, with a document attesting that each vehicle meets the inspection and vehicle standard requirements
- a list of wheelchair-accessible vehicles registered with the TNC
- evidence of the insurance policies required under the city ordinance

In addition, sole proprietors and the authorized agents of TNCs organized as corporations, limited liability companies, and partnerships must submit to fingerprinting and provide their photographs.

Chicago’s ordinance voids as contrary to public policy any terms or conditions in the agreement between the TNC and the driver, or between the TNC and any customer, that would act as a waiver of the TNC’s liability to the driver, the customer, or the public, or that would prohibit the driver from engaging as a transportation network driver with other licensees.

TNCs and their drivers are prohibited from soliciting potential passengers, and from accepting street hails. TNC vehicles may only be used to provide prearranged transportation service. TNC drivers
are prohibited from picking up passengers at designated taxicab stands or loading zones. Pending review by the city, they are also prohibited from taking on passengers at O’Hare International Airport, Midway International Airport and the McCormick Place convention center. TNC vehicles may not be parked on any public way for longer than is reasonably necessary to accept passengers who have prearranged transportation services.

A TNC’s mobile app or other platform must show the passenger the driver’s identification card, as well as a picture of the TNC vehicle the driver is approved to use (including the license plate number). If the app allows drivers to rate their passengers, it must have a feature that allows passengers to opt out from being rated by drivers.

TNCs may charge fares based on distance travelled or time elapsed, or based on distance travelled and time elapsed, or a flat prearranged fare, or a suggested donation. In any case, the TNC must display its fare rate on the digital platform that it uses to connect drivers and passengers. The platform must include a button for displaying a fare quote for any requested trip.

Not only TNCs but also taxicabs and other passenger carriers licensed by the city are authorized under the ordinance to charge rates that are higher than the standard rates displayed on a digital platform, but only if the following conditions are met:

- customers are notified, either through the website, app, other digital platform, or email, of the time period when the higher fare rate will apply
- customers requesting a trip have the option of obtaining, via the digital platform, a reasonable fare estimate (expressed as a price range), in addition to any applicable rate multiplier
- the fare charged does not exceed the estimate by more than 20%, unless the customer changes the destination or route from the one initially requested
- the customer requesting the ride expressly agrees to the fare estimate

The city may adopt regulations regarding the allowable amounts of fare increases.

TNCs are required to keep records for a minimum of three years and make them available to the city for inspection. TNCs must also provide periodic reports to the city that include the following information:

- the number and percentage of customers who requested wheelchair accessible vehicles and the number of filled requests
- the number and percentage of rides requested and accepted, and the number of rides requested and not accepted, by the TNC’s drivers, organized according to the geographic parameters and time frames specified by the city
- information on any of the TNC’s drivers who were alleged to have committed a violation of the ordinance or their terms of service or who have been suspended or banned from driving for the TNC, including any zero-tolerance complaints and the outcome of the investigation into those complaints
• Detailed information on any accident or other incident that involved the TNC’s driver and that was reported to the TNC, including the cause of the incident, and any amount paid as compensation to any party in the incident.

• The average and mean number of hours and miles each of the TNC’s drivers spent driving for the TNC.

In addition, for law enforcement and emergency response purposes, TNCs must provide at the city’s request access to real-time tracking of drivers and vehicles, including access to the driver’s identifying information, GPS location data, and whether the driver is engaged with a passenger. If specialized hardware or software is required for real-time tracking, the TNC must provide it to the city.

The city may seek all applicable penalties against TNCs that violate the city’s rules, including fines, license suspension, license revocation, and restitution or other equitable relief. Specific penalties are to be set forth in regulations.

If the city is informed by a law enforcement agency or a court that a TNC has been charged with a felony arising in connection with the TNC’s business, the TNC’s license will be suspended until final adjudication is made with respect to the charges.

In addition to license application fees ($10,000 for Class A, $25,000 for Class B) and the $0.10 per ride collected for the accessibility fund, the city levies a TNC tax of $0.20 per ride. TNCs are responsible for collecting the tax from vehicle owners and remitting it to the city. If the TNC fails to do so, then the driver is responsible for paying the tax directly.
5 Recommendations for the Regulation of TNCs in Virginia

In preparing the recommendations set forth in this chapter, the study team considered the applicability and adaptability of existing rules regarding other types of passenger transportation in the Commonwealth (described in third chapter of this report), as well as regulators’ responses to TNCs in other jurisdictions (described in the fourth chapter). The team also consulted stakeholders and solicited their suggestions as to how best to regulate TNCs in Virginia. As described above in section 2.2, stakeholder involvement in the study was ongoing and involved vigorous exchanges of ideas, drafts, suggestions, and revisions, all the way through the publication of this report. It would overtax the reader to relate a full history of these dialogues; the back and forth compelled all sides to retreat from some of the more radical regulatory and deregulatory proposals that were initially put forward, and to agree for the most part on the basic issues that the Commonwealth needed to tackle, if not on the details of particular solutions to address them. In particular, there was a consensus, or at least a concession, that TNCs should not be forced into the same regulatory mold as taxicabs, and a recognition that local deregulation of taxis would be a thankless task, even if such deregulation would level the playing field between taxis and TNCs. Above all, there was a general agreement that the protection of consumers and the promotion of public safety dictated a need for proper rules, as well as a role for government oversight of TNC operations.

What follows is a description of the DMV study team’s final recommendations for the regulation of TNCs in Virginia, along with an explanation of the reasoning behind specific provisions. While the study team believes that nearly all the recommendations have some stakeholder support, the team also recognizes that few are supported unanimously. Legislation implementing the following recommendations is attached as Appendix A to this report. Stakeholders’ responses to the recommendations and draft legislation have been collected in Appendix E.

5.1 Summary of Regulatory Framework; Definitions

In brief, the recommendation is to amend the Code of Virginia to establish transportation network companies as a distinctive type of passenger transportation service that is issued its own type of operating authority and that is subject, like other providers of for-hire passenger transportation, to its own particular requirements and restrictions. As with contract passenger carriers, non-profit tax exempt passenger carriers, sight seeing carriers, and nonemergency medical transportation carriers, DMV would authorize a TNC’s operations by issuing a certificate of fitness, rather than a certificate of public convenience and necessity. The TNC’s operating authority will be valid throughout the Commonwealth. Current law authorizing local regulation of existing types of passenger carriers (in particular, Va. Code § 46.2-2063) would remain unchanged. However, localities would be precluded from regulating TNCs, as well as the drivers and vehicles providing transportation through TNCs.

The proposed new laws would define a number of new terms related to TNC operations. Some of the key terms, which will be used in the following pages, would be defined as follows:

• “Operation of a TNC partner vehicle” means offering, making available, or using a TNC partner vehicle to provide prearranged rides, including (i) any time a TNC partner is logged
into a TNC platform showing that the TNC partner is available to pick up passengers; (ii) any time a passenger is in the TNC partner vehicle; (iii) any time the transportation network company’s dispatch records show that the TNC partner vehicle has been dispatched; and (iv) any time the TNC partner has accepted a ride request through the TNC platform and is en route to a passenger.

- “Personal vehicle” means a motor vehicle that is not used to transport passengers for compensation except as a TNC partner vehicle.

- “Prearranged ride” means passenger transportation for compensation in a TNC partner vehicle arranged through a TNC platform. The term includes the period of time that begins when a TNC partner accepts a ride requested through a TNC platform, continues while the TNC partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits the TNC partner vehicle.

- “TNC insurance” means a liability insurance policy that specifically covers liabilities arising from a TNC partner’s use of a vehicle in connection with a transportation network company’s TNC platform.

- “TNC partner” means a person authorized by a transportation network company to use a personal vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

- “TNC partner vehicle” means a personal vehicle authorized by a transportation network company and used by a TNC partner to provide prearranged rides on an intrastate basis in the Commonwealth.

- “TNC platform” means any online-enabled application or digital platform offered or utilized by a transportation network company that enables prearrangement of rides with TNC partners.

- “Transportation network company” means a person who provides prearranged rides using a TNC platform that connects passengers with TNC partners.

Note that these definitions do not encompass any operation involving professionally chauffeured commercial vehicles (e.g., Uber Black), which will remain subject to current motor carrier laws.

### 5.2 Licensing of TNCs

Like existing types of passenger carriers, TNCs should have to:

- Maintain a registered agent in the Commonwealth for service of process.

- File a $25,000 performance bond or letter of credit for the first three years of operation. These bonds are intended to help cover losses incurred by TNC customers as a result of fraud, breach of contract, or other violations of law in the conduct of the business. In addition, DMV has found that the performance bond requirement helps to ensure the financial fitness of a company applying to operate as a motor carrier.
• File a standardized form with DMV to demonstrate compliance with insurance requirements.

• Pay the fees associated with granting and renewing authority (see section 5.10, below).

As with others to whom DMV issues a certificate of fitness, TNCs should have to complete a fitness examination, which would include a criminal background check and driver record check of company principals, and a review of the company’s records with the Better Business Bureau, the Consumer Protection section of the Office of the Attorney General, and DMV Motor Carrier Services. DMV would also review any protests related to the applicant’s fitness that had been filed with the agency regarding the TNC’s application for operating authority.

5.3 Screening of Drivers

Although TNCs already conduct background checks on prospective TNC partners, it is recommended that Virginia follow other jurisdictions in statutorily requiring the TNCs to conduct these background checks, in specifying how the checks are to be performed, and in codifying which offenses will disqualify an individual from working as a TNC partner in Virginia. Specifically, TNCs should be required to apply the following standards to TNC partners:

• **Criminal history.** Prior to authorizing an individual to act as a TNC partner in Virginia, and every two years after such authorization, the TNC must review that individual’s criminal history. The criminal history record check must be performed in one of two ways:
  
  o In cases where the TNC meets the individual in person and verifies the individual’s identity, the TNC may select a vendor to perform the criminal history record check. (Some TNCs, in at least some cases, follow an online “onboarding” process, in which the TNC does not meet the prospective TNC partner in person.)
  
  o In cases where the TNC does not meet the individual in person, the TNC must use a fingerprint-based criminal history record check performed by a law enforcement agency.

The study team arrived at this particular approach after reviewing TNCs’ current practices with representatives from Virginia State Police. Although the criminal history record checks TNCs were performing were generally satisfactory, it was discovered that not every TNC reviewed individuals’ identity documents in person. Law enforcement strongly recommended a fingerprint-based criminal history record check in such cases, as a means of verifying identity and ensuring that the criminal history records were matched to the correct individual. The study team noted that the requirement should not be unduly burdensome, since LiveScan fingerprinting technology enables fingerprints to be taken at most DMV locations and forwarded to law enforcement.

Along with each criminal history record check, the TNC must check an individual’s status in the Virginia’s Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice’s National Sex Offenders Public Website.
• **Driving history.** TNCs may not allow anyone to act as a TNC partner in Virginia unless that individual is at least 21 years old and holds a valid driver’s license.

Prior to permitting an individual to act as a TNC partner, and every six months after an individual has become a TNC partner, the TNC must check the individual’s driver’s license records in his or her state of licensure. The six-month review requirement is waived for any TNC partner the TNC elects to have monitored through Driver Alert, DMV’s driver record monitoring program, or a similar program offered by another state.

• **Barrier offenses.** A transportation network company shall not authorize an individual to act as a TNC partner in Virginia if that individual:

  o is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required under Virginia law, or is listed on the U.S. Department of Justice’s National Sex Offenders Public Website;

  o has ever been convicted of or has ever pleaded guilty or *nolo contendere* to any of the following offenses under Virginia law or under the comparable law of another jurisdiction: (i) a crime involving fraud, as described in Chapter 6 of Title 18.2 or Chapter 5, Article 4 of Title 18.2; (ii) a sexual offense under Chapter 4, Article 7 of Title 18.2, § 18.2-346, or § 18.2-370; (iii) an act of violence under § 19.2-297.1; (iv) any crime punishable as a felony in Virginia in the commission of which a motor vehicle was used; or (v) conspiracy or attempt to commit any of the foregoing offenses;

  o within the preceding seven years has been convicted of or has pleaded guilty or *nolo contendere* to an offense involving DUI or underage drinking and driving;

  o within the preceding five years has been convicted of or has pleaded guilty or *nolo contendere* to any felony involving an offense other than those enumerated in the second bullet; or

  o within the preceding three years has been convicted of or has pleaded guilty or *nolo contendere* to any of the following offenses under Virginia law or the comparable law of another jurisdiction: (i) three or more moving violations; (ii) eluding a law-enforcement officer; (iii) reckless driving; (iv) operating a motor vehicle in violation of the terms of a restricted license; (v) refusal to submit to a chemical test to determine the alcohol or drug content of the person’s blood or breath; or (v) failure to stop and disclose identity at the scene of an accident.

In addition to following these statutory screening requirements, it is recommended that TNCs be required to publish on their websites and digital platforms all of the barrier offenses listed in the *Code of Virginia*, as well as any other disqualifying offenses and screening criteria that the TNC may have for TNC partners.
5.4 Requirements for Vehicles

TNCs should be required to associate each TNC partner with a TNC partner vehicle that meets the following criteria:

- The vehicle must be a personal vehicle.
- The vehicle must not have been issued a certificate of title, either in Virginia or in any other jurisdiction, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification.
- The vehicle must be legally registered in the state where it is titled.
- The vehicle must have a seating capacity of no more than seven passengers, excluding the TNC partner. This maximum seating capacity is slightly higher than the maximum allowed for taxicabs (six passengers, excluding the driver), but would allow for the operation of some minivans and SUVs that might otherwise be excluded.
- The vehicle must be insured by a policy or policies providing coverage for commercial use of the vehicle.
- All vehicles registered for TNC purposes and operating in the Commonwealth must have valid Virginia safety inspection and display a valid Virginia safety inspection decal. This includes any vehicles that are titled and registered in another jurisdiction.
- The vehicle must be registered for TNC use with DMV, regardless of whether or not the vehicle is plated in Virginia or another jurisdiction, and must display a uniquely numbered identification marker issued by DMV specifically for that vehicle. The vehicle owner or lessee is responsible for this registration, and must complete the registration process online if and when DMV makes online registration available. If at any time DMV receives notice that the TNC insurance covering the vehicle has been canceled, the agency will revoke the identification marker. In addition, DMV may deny, suspend or revoke an identification marker for any of the following reasons:
  - the vehicle is not properly registered
  - the vehicle is sold
  - the TNC partner is using the vehicle for invalid operations (e.g., transporting passengers for cash fares).

The DMV registration and identification marker requirements provide a way for law enforcement to verify that a vehicle has been authorized to operate as a TNC partner vehicle, and for DMV to collect and disclose information for local governments and insurance companies, consistent with the provisions of § 46.2-208 of the Code of Virginia. The identification marker also serves as another indicator for the consumer that a vehicle is a legitimate TNC partner vehicle.
• In addition to the DMV-issued identification marker, the vehicle must display a TNC-issued identification marker while operating as a TNC partner vehicle. This identification marker must identify the TNC with which the vehicle is associated and must be displayed in a manner that complies with Virginia law (i.e., its size and location must not interfere with the safe operation of the vehicle). The identification marker must be of such size, shape and color as to be readily visible during daylight hours from a distance of 50 feet while the vehicle is stationary. Although the identification marker may be removable, it must remain visible at all times while the vehicle is operating as a TNC partner vehicle.

5.5 Insurance Requirements

Recognizing that California has had the most experience with regulating TNCs generally, and has labored long and hard in particular to craft a comprehensive solution on the matter of insurance, the recommended insurance requirements are largely the same as those enacted in 2014 Cal. Stat. ch. 389 (summarized above in section 4.1.3), with only the following modifications:

• Some clarifying language has been added to make it consistently clear that TNC insurance may be provided either through a commercial policy or through provisions in, or amendments or endorsements to, a personal automobile liability policy. The primary effect of this clarification is to add a caveat to the disclosures TNCs must make to TNC partners about what their personal insurance will not cover: coverage for certain losses occurring during the operation of a TNC partner vehicle may not be covered by the TNC partner’s personal insurance policy, unless that personal insurance policy expressly provides such coverage. It should be noted that, at the present time, TNC insurance is not available through any personal automobile liability insurance policy; however, the introduction of such policies in the near term does appear likely.

• A provision has been added in response to concerns that several stakeholders raised about waivers of liability contained in several TNCs’ terms of service and other contracts of adhesion with TNC partners and passengers. That provision, modeled on Va. Code § 56-119, stipulates that no contract, receipt, rule, or regulation shall exempt any TNC from the liability which would exist had no contract been made or entered into and no such contract, receipt, rule, or regulation for exemption from liability for injury or loss occasioned by the neglect or misconduct of such TNC shall be valid. The law further stipulates that “liability” here means the liability imposed by law upon a TNC for any loss, damage, or injury to passengers in its custody and care as a TNC.

While representatives from the TNC industry accepted the basic liability limits for TNC insurance ($1 million during a prearranged ride; at all other times during a prearranged ride, $50,000 per person and $100,000 per incident bodily injury and $30,000 property damage, with corresponding limits for uninsured and underinsured motorists), they strongly urged Virginia not to follow California in requiring TNCs to provide an additional $200,000 in excess liability insurance. The study team nevertheless was moved by the following considerations to recommend that Virginia also require TNCs to provide excess liability insurance coverage of at least $200,000 during those times when only the lower limits of the TNC insurance policy ($50,000/$100,000 bodily injury and $30,000 property damage) are in effect:
A 2012 study by the U.S. Department of Transportation’s John A. Volpe Transportation Systems Center assessed the adequacy and effectiveness of the current levels of financial responsibility in meeting carrier liabilities. The study weighed the benefits of improved compensation for crash victims, internalization of freight and passenger transportation costs, and reduction in crashes involving trucks and buses, against the costs imposed on commercial vehicle operations, the insurance industry, and other relevant considerations. The study found:

- that catastrophic motor carrier related crashes are relatively rare, but costs for severe and critical injury crashes can easily exceed $1 million;
- that insurance premiums have declined in real terms since the 1980s; and
- that current insurance limits do not adequately cover catastrophic crashes, mainly due to increased medical costs.

These findings have provided preliminary support for increasing minimum insurance requirements from their current levels.

As required under the most recent federal surface transportation reauthorization, MAP-21, FMCSA is currently evaluating the appropriate level of financial responsibility for motor carriers and has placed this rulemaking among their top priorities. The cost benefit evaluation that FMCSA will undertake in determining whether to increase the financial responsibility requirements will include an examination of the following impacts:

- Reduction in the exporting of crash costs onto the general public.
- Removal of unsafe carriers from the industry.
- Improve the behavior of motor carriers that continue to operate.
- Reduce industry wide crash costs by removing unsafe carriers and encouraging safer behavior among remaining carriers.
- Improve efficiency of insurance market by screening out carriers at risk for high-cost crashes and improving industry’s ability to match cost to risk.
- Loss of beneficial service if safe carriers are driven out by higher insurance rates.

5.6 Operational Requirements and Restrictions for TNCs

To promote public safety, protect consumers from fraud, and ensure that passenger transportation services are provided in a nondiscriminatory manner to all Virginians, TNCs should be required to observe the following additional operational requirements and restrictions:

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A TNC platform must include the following information:

- the TNC’s screening criteria for TNC partners as well as the barrier crimes described above under section 5.3;
- the TNC’s zero-tolerance drug/alcohol policy;
- the method by which the TNC calculates fares or the applicable rates being charged and an option for the customer to receive an estimated fare;
- the standards and maintenance policies that apply to TNC partner vehicles;
- the training and testing policies that apply to TNC partners;
- the method for reporting a TNC partner the passenger reasonably suspects was under the influence of drugs or alcohol while operating the TNC partner vehicle; and
- contact information and methods for reporting complaints.

A TNC must notify its TNC partner of the possibility that commercial use of the TNC partner vehicle may violate the terms of a vehicle financing agreement.

A TNC must provide (via the TNC platform or otherwise) its TNC partners with proof of any applicable insurance policy and must require each TNC partner to carry evidence of any company policy. The TNC must require the TNC partner to present such proof to law enforcement or an airport authority upon request.

A TNC must provide a credential to each TNC partner, which may be displayed as part of the TNC platform, that includes the following:

- the TNC’s name or logo;
- the name and a photograph of the TNC partner;
- the identifying number issued by the TNC to the TNC partner; and
- the make, model and license plate number of the TNC partner vehicle.

A TNC must require the TNC partner to present this credential to law enforcement, an airport authority, or a rider upon request.

A TNC platform must provide a person prearranging a ride with the following information, before the passenger enters the TNC partner vehicle:

- a photograph of the TNC partner who will provide transportation;
- the TNC partner’s name; and
- the TNC partner vehicle’s license plate number.

A TNC must provide markings for each TNC partner vehicle that meet the criteria outlined above in section 5.4, and must require each TNC partner to display the marking at all times while operating a TNC partner vehicle.
A TNC must make the following information available through the TNC platform at all times that a TNC partner vehicle is in operation:

- the name of the TNC;
- the name and TNC-issued identifying number of the TNC partner;
- the TNC partner vehicle’s license plate number; and
- the date, approximate time, and location where the passenger will be picked up.

This information must be made available immediately upon request to authorized representatives of DMV, law enforcement agencies, and airport authorities. The TNC must retain the information and make it available for inspection as provided by law.

A TNC platform must provide the person prearranging a ride with an electronic receipt that includes the following:

- a map of the route taken;
- the total fare;
- the date and time of trip;
- the TNC partner’s photo, name, and TNC-issued identifying number; and
- TNC partner vehicle information, including the vehicle’s make, model, year, and license plate number.

A TNC’s service policy must not discriminate on the basis of age, race, sex, disability, origin or destination of the trip, or on any other basis prohibited by state or federal law. DMV may deny, suspend or revoke the operating authority or levy civil penalties against a TNC for failure to comply with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. or the Virginians with Disabilities Act, Va. Code § 51.5-1 et seq.

A TNC may not impose additional charges for providing services to persons with physical or mental disabilities because of those disabilities.

A TNC platform must not allow a TNC partner to refuse service without good cause and in accordance with the requirements described below in section 5.7.

A TNC may only dispatch rides to a TNC partner/TNC partner vehicle combination that has been approved by the TNC as part of the TNC partner’s application process with the TNC.

TNCs may provide service on a prearranged basis only and only through a TNC platform. Street hails and all other arrangements for services are prohibited.

TNCs may not conduct any operations on the property of or into any airport, unless such operations are authorized by the airport authority involved.

In addition, DMV should be authorized to treat a TNC’s failure to abide by any of the provisions listed above as grounds for suspension or revocation of the TNC’s operating authority, and as grounds
for the imposition of criminal or civil penalties as provided in Va. Code §§ 46.2-2011.22 and 46.2-2011.23.

5.7 Operational Requirements and Restrictions for TNC Partners

The following recommendations regarding TNC partner operations mirror and complement the recommendations set forth above in other sections.

- A TNC partner must carry proof of all insurance policies that may apply and present that proof to law enforcement, an airport authority, or a passenger upon request.

- A TNC partner must carry proof of the vehicle’s registration for use as a TNC partner vehicle and of a valid Virginia safety inspection and present that proof to law enforcement or an airport authority upon request.

- A TNC partner must carry the TNC-provided identification credential described above in section 5.6 and display the credential to law enforcement, an airport authority, or a passenger upon request.

- A TNC partner must display the TNC-issued vehicle marking described above in section 5.4 at all times while operating a TNC partner vehicle.

- A TNC partner must make the following information available through the TNC’s online-enabled application or platform at all times that a TNC partner vehicle is in operation:
  - the name of the TNC;
  - the name and TNC-issued identifying number of the TNC partner;
  - the TNC partner vehicle’s license plate number; and
  - the date, approximate time, and location where the passenger will be picked up.

This information must be made available immediately upon request to authorized representatives of DMV, law enforcement agencies, and airport authorities. The TNC must retain the information and make it available for inspection as provided by law.

- A TNC partner must provide services to the general public without discrimination on the basis of age, race, sex, disability, origin or destination of the trip, or on any other basis prohibited by state or federal law.

- A TNC platform must allow passengers to indicate whether they require a wheelchair-accessible vehicle or a vehicle otherwise accessible to individuals with disabilities. (This requirement must be met no later than July 1, 2016.)

- A TNC partner must permit a service animal to accompany a rider on a prearranged ride.

- A TNC partner may not refuse to provide service to a passenger unless:
  - the individual is acting in an unlawful, disorderly, or endangering manner;
the individual is unable to care for himself or herself and is not in the charge of a responsible companion; or

- the TNC partner has already committed to providing a ride for another passenger.

- A TNC partner may only operate a TNC partner vehicle authorized by DMV and only in a TNC partner/TNC partner vehicle combination that has been approved by the TNC.

- TNC partners may provide service on a prearranged basis only and may only accept arrangements for services with TNC riders through a TNC platform. A TNC partner may not otherwise arrange or accept any compensation for for-hire transportation services.

- TNC partners are prohibited from accepting payment for fares. Payments may only be made electronically via the TNC platform.

- A TNC partner must access the TNC platform in a manner consistent with Virginia traffic laws.

- A TNC partner may not operate a motor vehicle more than 13 hours in any 24-hour period, as provided in Va. Code § 46.2-812.

- A TNC partner must inform the TNC of any of the following:
  - a change in the TNC partner vehicle’s registration;
  - a change in the status of the TNC partner’s driver’s license;
  - a change in the insurance covering the TNC partner vehicle; or
  - any motor vehicle moving violations, or arrests or convictions for criminal offenses, that could bar the TNC partner from acting as a TNC partner.

DMV should be authorized to treat a TNC partner’s failure to abide by any of the above provisions as grounds for the revocation or suspension of the TNC partner vehicle registration, and as possible grounds for criminal or civil penalties as provided in Va. Code §§ 46.2-2011.22 and 46.2-2011.23.

### 5.8 Nondiscrimination and Access to Service

Apart from the operational requirements and restrictions described above in sections 5.6 and 5.7, no other steps regarding nondiscrimination and access to service are recommended at the present time. It should be noted however that none of the recommendations set forth in this chapter affects localities’ authority to regulate the taxicab industry, or their authority to establish local requirements for vehicles that service those with disabilities or to subsidize such services. If evidence emerges over time that the availability of wheelchair-accessible or other transportation options has decreased, a fee could be levied on TNCs, TNC partner vehicles and/or TNC rides and distributed to localities to help fund alternatives for providing transportation services to underserved populations.
5.9 TNC Record Keeping and Reporting Requirements

Much of the regulatory apparatus recommended above involves TNCs actively screening and monitoring drivers and ensuring that vehicle, insurance, and other requirements are met. To ensure that the TNCs meet their responsibilities under the proposed new laws, the following recordkeeping and reporting requirements should be enacted:

- DMV should be authorized to conduct periodic reviews of TNCs to confirm compliance with:
  - partner screening requirements and operational regulations;
  - vehicle screening requirements and operational regulations;
  - requirements to disclose certain information to partners; and
  - other operational requirements.

- TNCs must be required to keep and maintain the following records to demonstrate such compliance:
  - TNC partner criminal history reports;
  - TNC partner sex offender registry checks;
  - TNC partner driving record checks, including any records associated with participation in an ongoing TNC partner monitoring program such as DMV’s Driver Alert Program;
  - proof of required primary insurance coverage as provided above under section 5.5;
  - proof that TNC partners’ age and driving status were checked and confirmed;
  - proof that TNC partner vehicles are validly registered and have a current Virginia safety inspection;
  - proof that TNC partners were notified of potential lien interest violations and of TNC insurance coverage and limits; and
  - any other data identified by DMV as necessary to confirm compliance.

For purposes of compliance review, such records must be kept and retained for three years in a manner that permits systematic retrieval. Such records must be made available to DMV representatives upon request for the purpose of evaluating compliance, and must be presented to DMV in a format acceptable to the Commissioner.

DMV, together with local, state, and federal law enforcement and airport authorities, is charged with upholding the law. TNCs should be required to cooperate with law enforcement officials in the performance of their official duties, and to keep and maintain the following records for that purpose:

- data on TNC partner activity while logged into the TNC platform, including ride-specific data regarding the origin, destination, date, and time of travel;
• any actions taken against a TNC partner;
• any contracts or agreements between the TNC and TNC partners;
• data identifying TNC partners (name, date of birth, driver’s license number and issuing jurisdiction);
• data identifying TNC partner vehicles (make, model, model year, vehicle identification number (VIN), license plate number and issuing jurisdiction); and
• summary data regarding the number of TNC partners and TNC partner vehicles.

Any of the above information obtained by DMV, law enforcement, or airport officials should be considered privileged information and should not be subject to disclosure except as follows:

• On written request of a DMV, law enforcement or airport official, such information may be released to the requesting official if the information is required to carry out official functions and the information will only be used by such official for the performance of their official duties.

• Information obtained by DMV in the course of periodic compliance reviews will not be subject to disclosure through a court order. However, this will not prevent a party from seeking such information directly from a TNC.

Failure to abide by any of the recordkeeping provisions described above should be grounds for DMV to suspend or revoke a TNC’s operating authority.

In addition to compliance review and law enforcement, there are valid insurance reasons for TNCs to meet certain record-keeping standards. Like California, Virginia should require TNCs and their insurers, in a claims coverage investigation, to cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times of an accident involving a TNC partner and the precise times that the TNC partner logged on and off the TNC platform.

5.10 Fees

The study team estimated the first year costs of implementing the above recommendations at approximately $632,000 and the annual recurring costs at $310,000. Nearly two thirds of the annual recurring costs ($192,000) reflects the expense of hiring an additional three full-time employees in DMV’s law enforcement division to review TNCs’ compliance with the law. Additional licensing, complaint-handling, insurance monitoring, and other expenses account for the balance of the total annual cost.

The following schedule of fees is designed to allow the costs of the TNC program to be fully covered:

• An annual fee of $50 for each vehicle registered as a TNC partner vehicle. The fee may be paid either by the TNC partner or by the TNC on the TNC partner’s behalf.
• An initial license fee of $70,000 to be paid by the TNC. The fee for renewal of the TNC’s certificate will be $3,000.

The adequacy of these fees is based on the study team’s estimates that five TNCs would apply for a certificate to operate in Virginia (generating $350,000 in initial license fee revenue and $15,000 in annual revenue from annual renewals) and that 5,900 vehicles\(^{38}\) would be registered for use as TNC partner vehicles (generating $295,000 in registration fees).

It is recommended that this fee structure be reviewed one year after implementation to determine if costs are fully recovered or if these fees should be adjusted to achieve that objective.

\(^{38}\) The estimate was based on adding 500 to the approximate number of taxicabs currently operating in Virginia: 5,400.
Appendix A. Legislation Implementing the Study Recommendations
Appendix B. Letters Charging DMV with Leading the Study
Appendix C. Legislation from the 2014 Session of the General Assembly
Appendix D. Study Participants
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Appendix E. Stakeholder Comments on the Draft Report and Legislation