

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Public Service Commission
(DLS Control No. 15-371)**

Overview and Legal and Fiscal Impact

These regulations implement the provisions of Chapter 204 of 2015 concerning for-hire transportation, including Transportation Network Companies, and update and streamline various provisions throughout the transportation subtitle.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies. The regulations implement Chapter 204 of 2015 (Senate Bill 868). Any fiscal impact is a result of that legislation and not the regulations. Even so, the estimate associated with implementation of Chapter 204 has been updated to reflect a better understanding of the size and scope of the transportation network services industry and the resources necessary to provide effective regulatory oversight.

Regulations of COMAR Affected

Public Service Commission:

Transportation: General: COMAR 20.95.01.03, .06, .09, .11, .12, .19, and .20 - .25

Legal Analysis

Summary of Regulations

These regulations add transportation network companies (TNC) and transportation network operators (TNO) to the list of persons that are regulated as companies engaged in the business of controlling, managing, or operating motor vehicles engaged in the transport of people for hire.

The regulations authorize the submission of a vehicle inspection certificate from an adjacent jurisdiction under certain circumstances and the operation of a motor vehicle if the operator has a valid TNO license. However, the regulations prohibit operating a motor vehicle without all required permits and violating a certain regulation on accessibility and non-discrimination. Civil penalties may be assessed against owners and operators, including TNCs and TNOs that violate certain prohibited acts.

The regulations alter the procedures for owners and TNCs to change their schedules of rates and charges. An owner or TNC may not institute a change in their rates and charges without

giving the Public Service Commission and the Office of the People's Counsel (OPC) 14 days prior notice. Within 14 days after an owner or TNC gives notice of a change in rates and charges, an interested party or the OPC may file an objection with the commission and the updated schedule will take effect as provided in the schedule unless suspended by the commission within the 14 day time period. The schedule may provide for a minimum and maximum rate, including any applicable surge cap. The regulation also provides for the formatting and publishing of the schedule.

The regulations set forth certain requirements and procedures for TNCs. A TNC must disclose through the TNC platform certain information on rates, including surge pricing, and any applicable fees to a passenger before the passenger agrees to use the TNC. A passenger must acknowledge the TNCs use of surge pricing whenever the surge pricing is in effect and a passenger must be able to view a picture of the TNO and the vehicle's license plate number on their computer or mobile device prior to entering the commission approved vehicle. The regulations also state the required contents of the electronic receipt transmitted to the customer and require the TNO to publish a customer support telephone number on their digital network and website, along with an email address or hyperlink for passenger inquiries and instructions for filing a complaint with the commission.

The regulations alter the required equipment and minimum safety standards for vehicles for hire, including those used by a TNO. The requirements include an annual inspection and certification of the car by a facility licensed by the State to perform motor vehicle safety inspections or, if the commission determines that the requirements for inspections in an adjacent state or the District of Columbia is equivalent to those performed in Maryland, by a facility licensed by that jurisdiction to perform motor vehicle safety inspections. The regulations also permit the commission to order a motor carrier, vehicle operator, TNC, or TNO to present a vehicle for inspection by a commission representative in certain circumstances.

An owner or TNC must ensure that a driver of a motor vehicle is provided with information and training about the requirements of laws governing non-discrimination and accessibility, including the Americans with Disabilities Act. The requirements for maintaining reserve equipment are deleted.

The regulations subject a TNC and a TNO to the same prohibitions as that of owners of a motor vehicle used to transport a person for hire and also prohibit a TNC or TNO from: (1) picking up an individual hailing the motor vehicle from the street or any means other than the TNC's digital platform; (2) discharging an individual at random, except at the request of the individual; and (3) soliciting an individual on the street or at a public or private taxicab stand or at the Baltimore/Washington International Thurgood Marshall Airport.

The regulations set forth the permitting and registration requirements for TNCs with the commission and the State department of assessments and taxation. TNCs must also maintain a registered agent in Maryland, comply with all applicable insurance requirements and ensure that each of its TNOs comply with all applicable licensing, vehicle inspection, and insurance requirements. In addition, the regulations set forth requirements for information a TNC must maintain on its website and platform.

The regulations state the application procedures for obtaining a TNO license from the commission through a TNC. The commission may issue a temporary operator's license to a TNO after receiving an application, which must include a completed background check. On the expiration of the temporary license, if a TNO wishes to continue operating as a TNO they must submit a fingerprint supported State and FBI background investigators' record check to the commission, unless the commission has granted that individual a waiver. The commission shall then issue a TNO license for up to three years unless the record check or other background check shows that the applicant has been convicted of a crime or driving offense that bears a direct relationship to the applicant's fitness to serve as a for-hire driver. A person who holds a valid passenger-for-hire license may obtain a TNO license that expires concurrently with their passenger-for-hire license without providing a new background check if the person complies with all other applicable requirements. The regulations also provide for certain other requirements and duties for TNOs and state how a TNO may apply for a vehicle permit from the commission through a TNC and requirements for a TNO vehicle.

The regulations require that a carrier or TNC that operates five or more vehicles must ensure that the company's website and mobile applications are accessible to the blind and visually impaired and the deaf and hard of hearing and report to commission staff on how the company intends to increase access to wheelchair accessible vehicle-for-hire service to individuals with disabilities. A company that provides for-hire transportation is prohibited from imposing additional or special charges on an individual with disabilities or requiring an individual with disabilities to be accompanied by an attendant. If an owner, operator, or TNO accepts a ride request from a passenger with a disability who uses a mobility device, the operator or TNO shall stow the mobility device in the vehicle. If the mobility device will not fit in the vehicle, the operator or TNO may not charge a trip cancellation fee, or if one is charged, shall refund the fee in a timely manner. The operators or TNOs shall comply with all applicable laws governing anti-discrimination and accessibility and shall accommodate service animals. Certain carriers and TNCs are required to file a certain report on its accessibility measures with the commission and the Office of People's Counsel shall have access to it. Also, owners, operators, and TNCs may not permit drivers to rate customers in such a way as to discriminate against passengers in certain manners.

Finally, the regulations update and streamline various provisions throughout the transportation subtitle, including repealing Regulation .09, pertaining to vehicle operating schedules, and Regulation .12B, requiring owners of motor vehicles used to transport a person for hire to maintain reserves and substitute equipment.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The commission cites § 7-207(a) of the State Government Article and §§ 2-113, 2-121, 4-503, 5-101, 9-101 through 9-103, 9-201 through 9-205, 9-207, 13-101, 13-201, and 13-202 of

the Public Utilities Article as statutory authority for the regulations. Section 2-113 requires the commission to supervise and regulate the public service companies to ensure their operation in the interest of the public, promote adequate, economical, and efficient delivery of utility services in the State without unjust discrimination. Section 2-121 authorizes the commission to adopt reasonable regulations to carry out any law relating to the commission. Section 4-503 prohibits certain forms of rate discrimination. Section 5-101 authorizes the commission to adopt regulations that prescribe standards for safe, adequate, reasonable, and proper service for any class of public service company. Section 9-103 requires the commission to prescribe a form of tariff schedules for common carriers. Sections 9-201 through 9-205 sets forth provisions for the issuance, terms, conditions, and duration of permits for motor vehicles used for the transportation of persons for hire and the procedure for changing a route or schedule. Section 9-207 applies certain provisions to a motor vehicle used to transport persons for hire by or through contract with a public agency and §§ 13-101, 13-201, and 13-202 set forth penalties for the violations of certain provisions of law. The remaining cited authority is not relevant to these regulations.

Although not cited by the commission, §§ 10-401 through 10-407 of the Public Utilities Article provide additional statutory authority for the regulations. Sections 10-401 through 10-407 implement certain provisions of Chapter 204 and provide additional requirements for TNCs.

With the addition of §§ 10-401 through 10-407 of the Public Utilities Article, the relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

The Department of Legislative Services notified the commission regarding additional statutory authority that should be cited.

Fiscal Analysis

There is no fiscal impact on State or local agencies. The regulations implement Chapter 204 of 2015 (Senate Bill 868). Any fiscal impact is a result of that legislation and not the regulations. Even so, the estimate associated with implementation of Chapter 204 has been updated to reflect a better understanding of the size and scope of the transportation network services industry and the resources necessary to provide effective regulatory oversight.

Agency Estimate of Projected Fiscal Impact

The commission advises that the regulations increase special fund revenues by at least \$500,000 in fiscal 2016 and by at least \$1.0 million annually beginning in fiscal 2017. Revenues are less in fiscal 2016 due to the effective date of the regulations. For each full fiscal year (1) special fund revenues for the Public Utility Regulation Fund increase by at least \$200,000 from assessments imposed on transportation network companies and (2) special fund revenues for the For-Hire Driving Services Fund increase by at least \$800,000 from annual per-vehicle

assessments. The commission estimates that at least 20,000 transportation network operators will pay an annual \$40 assessment per vehicle used to provide transportation network services.

The commission advises that five additional staff (three administrative specialists, one field investigator, and one attorney), plus associated expenses, are necessary to regulate transportation network companies and transportation network operators. Therefore, the commission estimates that its special fund expenditures increase by at least \$227,500 in fiscal 2016 and by at least \$455,000 annually beginning in fiscal 2017.

The commission estimates that at least 6 million trips will be completed in Maryland each year. By statute, local governments may assess each trip originating within their jurisdictions – generally up to 25 cents per trip. The revenue is remitted by transportation network companies to the Comptroller and then distributed to the local governments. The Comptroller may keep up to 5% of the revenue for administrative costs. Therefore, assuming that local governments assess all of the 6 million trips, the commission estimates that special fund revenues and expenditures for the Comptroller increase by \$75,000 and local government revenues and expenditures increase by \$1.425 million annually (6 million x \$0.25 - \$75,000). The commission further notes expenditures in fiscal 2016 and 2017 for the Maryland Insurance Administration to complete a required study.

The Department of Legislative Services generally agrees with this assessment of revenues and costs but advises that they are due to implementation of Chapter 204 of 2015 (Senate Bill 868); any fiscal impact is a result of that legislation and not the regulations themselves. Nevertheless, the commission’s estimates of its revenues and expenditures are larger than those in the fiscal and policy note for Senate Bill 868. The commission advises that this is generally due to a better understanding of the size and scope of the transportation network services industry and the resources necessary to provide effective regulatory oversight.

The fiscal and policy note for Senate Bill 868 estimated that the commission needed two staff at a combined cost of approximately \$109,000 to \$119,000 annually and that special fund revenues would increase correspondingly from assessments on public service companies. The fiscal and policy note did not include the revenue generated by an annual \$40 assessment on each vehicle used to provide transportation network services, nor did it include an estimate of local government revenue from assessments imposed on trips. Further, according to the Comptroller, at this time, only a few jurisdictions have expressed interest in assessing trips.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The commission advises that the regulations have a meaningful economic impact on small businesses in the State. Specifically, the commission advises that as a result of Chapter 204 of 2015, many individuals will be employed lawfully as “independent contractors” (if they are not deemed to be “employees”) driving for transportation network companies. Existing market participants (*e.g.*, taxis) will experience greater lawful competition. The Department of Legislative

Services notes that any small business impact is a result of Chapter 204 of 2015 (Senate Bill 868) and not the regulations. However, the commission's assessment is generally consistent with the fiscal and policy note for Senate Bill 868.

Additional Comments

The \$40 assessment discussed above was established in statute prior to the regulation of transportation network services and applies to each vehicle permit issued to provide for-hire transportation services. The assessment can be *up to* \$40. Revenue from the assessment accrues to the For-Hire Driving Services Fund. Statute states that “the fund is to be used solely for statewide enforcement activities of the commission relating to taxicab services, limousine services, and sedan services.” The estimates above assume the assessment can be applied to transportation network services, the amount charged is \$40, and the fund can also be used more broadly for enforcement activities related to transportation network services as well.

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