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10 Introduced by Reps. Sandifer, Forrester and Hayes

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A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 16 TO CHAPTER 23, TITLE 58 SO AS TO PROVIDE FOR THE REGULATION OF TRANSPORTATION NETWORK COMPANIES; TO AMEND SECTION 58-4-60, RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE OFFICE OF REGULATORY STAFF, SO AS TO PROVIDE FOR THE EXPENSES OF THE TRANSPORTATION DEPARTMENT BORNE BY ASSESSMENTS TO TRANSPORTATION NETWORK COMPANIES IN ADDITION TO EXISTING SOURCES; AND TO AMEND SECTION 58-23-50, RELATING TO EXEMPTIONS FROM REGULATION OF MOTOR VEHICLE CARRIERS BY THE PUBLIC SERVICE COMMISSION, SO AS TO EXEMPT TRANSPORTATION NETWORK COMPANIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 23, Title 58 of the 1976 Code is amended by adding:

“Article 16

Transportation Network Company Act

Section 58-23-1610. For purposes of this article:

(1) ‘Transportation Network Company’ or ‘TNC’ means a person, corporation, partnership, sole proprietorship, or other entity operating in this State that uses a digital network, platform, or internet-enabled application to connect a passenger to a transportation network driver for the purpose of providing transportation for compensation using a vehicle. A transportation

1 network company does not include transportation services
2 provided pursuant to Articles 1 through 15 of Chapter 23, Title 58,
3 or arranging non-emergency medical transportation for individuals
4 qualifying for Medicaid or Medicare pursuant to a contract with
5 the State or a managed care organization.

6 (2) 'Personal vehicle' means a vehicle that is used by a
7 transportation network company driver in connection with
8 providing a prearranged ride and is:

9 (a) owned, leased, or otherwise authorized for use by the
10 transportation network company driver; and

11 (b) not a taxi, charter bus, charter limousine, or for-hire
12 vehicle.

13 (3) 'Digital network' means any online-enabled application,
14 software, website, or system offered or used by a TNC that enables
15 the prearrangement of rides with transportation network company
16 drivers.

17 (4) 'Transportation Network Company driver' or 'TNC driver'
18 means a person who uses a vehicle to provide transportation
19 service for passengers matched through a transportation network
20 company's digital network.

21 (5) 'Transportation Network Company insurance' or 'TNC
22 insurance' means an insurance policy that specifically covers a
23 driver's use of a vehicle in connection with a transportation
24 network company's digital network, platform, or internet-enabled
25 application.

26 (6) 'Transportation Network Company passenger' or 'TNC
27 passenger' means a person for whom transportation is provided
28 through a transportation network company's digital network. This
29 includes a person for whom arrangements for transportation
30 services using the transportation network company's digital
31 network was arranged by someone other than the passenger.

32 (7) 'Transportation Network Company service' or 'TNC
33 service' means a period of time when a transportation network
34 company driver accepts a request arranged through the
35 transportation network company's digital network and proceeds to
36 the passenger location, continues while the transportation network
37 company driver transports a requesting passenger in the
38 transportation network company vehicle, and ends when the last
39 requesting passenger exits the transportation network company
40 vehicle.

41 (8) 'Transportation Network Company vehicle' or 'TNC
42 vehicle' means a vehicle that is used by a TNC driver that has met
43 the requirements of this article and has been approved by the TNC

1 to provide transportation service arranged through a transportation
2 network company digital platform. It must not have a
3 manufacturer's rated seating capacity of more than eight
4 passengers, including the driver.

5 (9) 'Prearranged ride' means the provision of transportation by
6 a transportation network company driver to a transportation
7 network company rider, beginning when a driver accepts a ride
8 requested by a rider through a digital network controlled by a
9 transportation network company, continuing while the driver
10 transports a requesting rider, and ending when the last requesting
11 rider departs from the personal vehicle. A prearranged ride does
12 not include shared expense carpool or vanpool arrangements, or
13 transportation provided using a taxi, limousine, or other for-hire
14 vehicle pursuant to a Class C certificate issued by the South
15 Carolina Public Service Commission or pursuant to a license
16 issued by the governing body of a county or city. A prearranged
17 ride does not include services provided pursuant to articles 1
18 through 15 of Chapter 23, Title 58 or arranging non-emergency
19 medical transportation for individuals qualifying for Medicaid or
20 Medicare pursuant to a contract with the State or a managed care
21 organization.

22 (10) 'Transportation Network Company rider' or 'rider' means
23 an individual or individuals who use a transportation network
24 company's digital network to connect with a transportation
25 network driver who provides prearranged rides to the rider in the
26 driver's personal vehicle between points chosen by the rider.

27
28 Section 58-23-1620. (A) Before a person, corporation,
29 partnership, sole proprietorship, or other entity that uses a digital
30 network, platform or internet-enable application to provide
31 transportation for compensation using a personal vehicle
32 commences to advertise or operate in South Carolina as a TNC,
33 that entity shall comply with the requirements set forth within this
34 article and hold a valid TNC permit issued by the Office of
35 Regulatory Staff.

36 (B) That entity shall submit an application to the Office of
37 Regulatory Staff and provide information that the Office of
38 Regulatory Staff requires.

39 (C) In performing its responsibilities under this article, the
40 Office of Regulatory Staff must balance the interest of the State in
41 promoting innovative, safe, and cost-effective transportation
42 services with an appropriate level of safety protections for TNC
43 passengers and the general public.

1 (D) An application must be accompanied by information
2 required by the Office of Regulatory Staff, which may condition its
3 approval on terms that it determines to be just and reasonable to
4 advance the goals of this article.

5 (E) Upon review of the application and a finding that the
6 applicant is fit, willing, and able to conduct business pursuant to
7 the provisions of this article, the Office of Regulatory Staff shall
8 approve the application and issue the entity a TNC permit. A
9 person or entity operating a TNC in South Carolina as of the
10 effective date of this article may continue to operate for a period of
11 sixty days following the effective date of this article so as to permit
12 the person or entity to obtain a permit from the Office of
13 Regulatory Staff pursuant to this section.

14 (F) An aggrieved person with standing may file a request for a
15 contested case of a decision of the Office of Regulatory Staff with
16 the Public Service Commission within thirty days of the decision.

17

18 Section 58-23-1625. (A) Insurers that write automobile
19 insurance in the State may exclude any and all coverage afforded
20 under the owner's insurance policy for any loss or injury that
21 occurs while a TNC driver is logged on a TNC's digital network or
22 while the driver provides a prearranged ride. This right to exclude
23 all coverage may apply to any coverage included in an automobile
24 insurance policy including, but not limited to:

- 25 (1) liability coverage for bodily injury and property damage;
- 26 (2) uninsured and underinsured motorist coverage;
- 27 (3) medical payments coverage;
- 28 (4) comprehensive physical damage coverage; and
- 29 (5) collision physical damage coverage.

30 (B) The exclusions apply notwithstanding any requirement
31 under Sections 56-9-10 through 56-9-630. Nothing in this section
32 implies or requires that a personal automobile insurance policy
33 provide coverage while the transportation network driver is logged
34 on the TNC's digital network, while the driver is engaged in a
35 prearranged ride or while the driver otherwise uses a personal
36 vehicle to transport passengers for compensation. Nothing may be
37 considered to preclude an automobile insurer from providing
38 coverage for the TNC driver's personal vehicle, if it chooses to do
39 so by contract or endorsement.

40 (C) Automobile insurers that exclude coverage as permitted in
41 subsections (A) and (B) have no duty to defend or indemnify any
42 claim expressly excluded by those subsections. Nothing in this
43 article may be considered to invalidate or limit an exclusion

1 contained in a policy. An automobile insurer that defends or
2 indemnifies a claim against a driver that is excluded under the
3 terms of its policy as permitted in subsections (A) and (B) has a
4 right of contribution against other insurers that provide automobile
5 insurance to the same driver in satisfaction of the coverage
6 requirements of Section 58-23-1630 at the time of loss.

7 (D) In a claims coverage investigation, TNC's and any
8 automobile insurer potentially providing coverage under Section
9 58-23-1630 shall cooperate to facilitate the exchange of relevant
10 information with directly involved parties and any automobile
11 insurer of the TNC driver if applicable, including the precise times
12 that a driver logged on and off of the TNC's digital network in the
13 twelve-hour period immediately preceding and in the twelve-hour
14 period immediately following the accident and disclose to one
15 another a clear description of the coverage, exclusions, and limits
16 provided under any automobile insurance maintained under
17 Section 58-23-1630.

18

19 Section 58-23-1630. (A) A TNC driver or TNC on the driver's
20 behalf shall maintain primary automobile insurance that recognizes
21 that the driver is a TNC driver or otherwise uses a personal vehicle
22 to transport riders for compensation and covers the driver:

23 (1) while the driver is logged on the TNC's digital network;
24 or

25 (2) while the driver is engaged in a prearranged ride.

26 (B) The following automobile insurance requirements apply
27 while a participating TNC driver is logged on the TNC's digital
28 network and is available to receive transportation requests but is
29 not engaged in a prearranged ride:

30 (1) primary automobile liability insurance in the amount of
31 at least fifty thousand dollars for death and bodily injury per
32 person, at least one hundred thousand dollars for death and bodily
33 injury per incident, and at least fifty thousand dollars for property
34 damage;

35 (2) uninsured motorist coverage as required by Section
36 38-77-150; and

37 (3) the coverage requirements of this subsection may be
38 satisfied by automobile insurance maintained by the TNC driver,
39 automobile insurance maintained by the TNC, or both.

40 (C) The following automobile insurance requirements apply
41 while a TNC driver is engaged in a prearranged ride:

1 (1) primary automobile liability insurance that provides at
2 least one million dollars for death, bodily injury, and property
3 damage;

4 (2) uninsured motorist coverage as required by Section
5 38-77-150; and

6 (3) the coverage requirements of this subsection may be
7 satisfied by automobile insurance maintained by the TNC driver,
8 automobile insurance maintained by the TNC, or both;

9 (D) If insurance maintained by the TNC driver in subsections
10 (B) or (C) has lapsed or does not provide the required coverage,
11 insurance maintained by a TNC must provide the coverage
12 required by this section beginning with the first dollar of a claim
13 and has the duty to defend such claim.

14 (E) Coverage under an automobile insurance policy maintained
15 by the TNC may not be dependent upon a personal automobile
16 insurer first denying a claim nor may a personal automobile insurer
17 be required to first deny the claim.

18 (F) Insurance required by this section may be placed with an
19 authorized insurer or with an eligible surplus lines insurer pursuant
20 to Section 38-45-90.

21 (G) Insurance satisfying the requirements of this section may be
22 considered to satisfy the financial responsibility requirements for a
23 motor vehicle pursuant to Sections 56-9-10 through 56-9-630.

24 (H) A TNC driver shall carry proof of coverage satisfying
25 subsections (B) and (C) at all times during use of a vehicle in
26 connection with a TNC's digital network. In the event of an
27 accident, a TNC driver shall provide this insurance coverage to the
28 directly interested parties, automobile insurers, and the
29 investigating police officers, upon request, pursuant to Section
30 56-10-225. Upon such request, a TNC driver shall also disclose to
31 directly interested parties, automobile insurers, and the
32 investigating police officers, whether he was logged on the TNC's
33 digital network or on a prearranged ride at the time of an accident.

34 (I) If a TNC's insurer pays a claim covered under
35 comprehensive coverage or collision coverage, the TNC shall
36 cause its insurer to issue the payment directly to the business
37 repairing the vehicle or jointly to the owner of the vehicle and the
38 primary lienholder on the covered vehicle. The Office of
39 Regulatory Staff shall not assess any fines as a result of a violation
40 of this subsection.

41

42 Section 58-23-1635. (A) Before TNC drivers are allowed to
43 accept a request for a prearranged ride on the TNC's digital

1 network, the TNC shall disclose to the drivers, in writing, the
2 following information:

3 (1) the insurance coverage, including the types of coverage
4 and the limits for each coverage, that the TNC provides while the
5 TNC driver uses a personal vehicle in connection with a TNC's
6 digital network;

7 (2) depending on its terms, that the TNC driver's personal
8 automobile insurance policy may not provide any coverage while
9 the driver is logged onto the TNC's digital network and is
10 available to receive a transportation request or is engaged in a
11 prearranged ride; and

12 (3) if the vehicle to be used to provide TNC services has a
13 lien against it, the driver has a duty to notify the lienholder that the
14 driver will be using the vehicle for transportation services that may
15 violate the terms of the contract with the lienholder. The driver
16 must disclose to the lender all insurance coverage information
17 provided to the driver by the TNC pursuant to Section 58-23-1635.
18 The TNC must provide a standardized form for TNC drivers to use
19 for such notice to the lienholder. The form may be provided to the
20 driver by the TNC in a digital format. The TNC driver must
21 maintain evidence that notice has been sent to the lien holder as
22 well as wait seven days prior to commencing driving in connection
23 with a TNC.

24 (B) Nothing in this chapter limits the right of a lender or
25 secured party on a driver's vehicle to require a driver to maintain
26 comprehensive and collision damage coverage for a driver's
27 vehicle or to show evidence of that coverage to the lender or
28 secured party that would cover the period when the driver is
29 logged on to the transportation network carrier's digital network
30 regardless of whether the driver is engaged in a prearranged ride. If
31 the driver fails to maintain the required comprehensive and
32 collision coverage or to show evidence to the lender or secured
33 party of the coverage upon reasonable request by the lender or
34 secured party, the lender or secured party may fully enforce all
35 provisions contained in the loan agreement with the borrower.

36
37 Section 58-23-1640. (A) The TNC driver shall have a certified
38 mechanic licensed in South Carolina conduct a safety inspection of
39 a TNC vehicle within thirty days of the vehicle first providing
40 TNC services.

41 (B) The TNC shall not permit a TNC driver to provide TNC
42 services if the TNC vehicle does not pass a certified mechanics
43 inspection as identified in this article.

1 (C) The TNC driver shall have periodic safety inspections of
2 the TNC vehicle performed at intervals of at least once each year.

3 (D) The TNC shall maintain documentation of a TNC vehicle
4 inspection for a period of three years.

5 (E) The vehicle inspection shall include an inspection of:

- 6 (1) foot brakes;
- 7 (2) emergency brakes;
- 8 (3) steering mechanism;
- 9 (4) windshield;
- 10 (5) rear window and other glass;
- 11 (6) windshield wipers;
- 12 (7) headlights;
- 13 (8) tail lights;
- 14 (9) turn indicator lights;
- 15 (10) stop lights;
- 16 (11) front seat adjustment mechanism;
- 17 (12) door capability to open, close, lock, and unlock;
- 18 (13) horn;
- 19 (14) speedometer;
- 20 (15) bumpers;
- 21 (16) muffler and exhaust system;
- 22 (17) tire condition including tread depth;
- 23 (18) interior and exterior rearview mirrors; and
- 24 (19) safety belts.

25 (F) A TNC vehicle must display a consistent and distinctive
26 signage or emblem, which must be known as a trade dress, at all
27 times when the TNC driver is active on the TNC digital platform
28 or providing TNC service. The trade dress used by the TNC must
29 be approved by the Office of Regulatory Staff before its use and:

30 (1) must be readable during daylight hours at a distance of
31 fifty feet;

32 (2) must be reflective, illuminated, or otherwise patently
33 visible so as to be seen in darkness; and

34 (3) may be magnetic or removable in nature.

35 (H) The Office of Regulatory Staff may conduct inspections of
36 TNC vehicles.

37 (I) The vehicle inspection records must be provided to the
38 Office of Regulatory Staff by the TNC upon request.

39

40 Section 58-23-1650. (A) The TNC shall obtain certain
41 background and qualification information from a TNC driver
42 before the TNC driver is approved by the TNC to provide TNC
43 services.

1 (B) The TNC driver qualification information shall include:
2 (1) a valid driver's license issued by the South Carolina
3 Department of Motor Vehicles or the current state of residence for
4 the driver;
5 (2) verification that the driver is twenty-one years of age or
6 older;
7 (3) a certified copy of the driver's ten year driving record
8 issued by the South Carolina Department of Motor Vehicles and a
9 record from the department of motor vehicles or equivalent agency
10 of the state where the driver has been domiciled for that period;
11 (4) conduct, or have a third party conduct, a local and
12 national criminal background check for each applicant that must
13 include:
14 (a) a multi-state and multi-jurisdiction criminal records
15 locator or other similar commercial nationwide database with
16 validation (primary source search); and
17 (b) national sex offender registry database search; and
18 (5) proof of automobile liability insurance in the name of the
19 TNC driver which meets the requirements of Section 38-77-140.
20 (C) The TNC shall verify the TNC driver meets all of the driver
21 qualification requirements in this section at intervals of at least one
22 each year.
23 (D) The TNC shall maintain documentation of initial and
24 annual verification of TNC driver qualifications for a period of
25 three years.
26 (E) The Office of Regulatory Staff may conduct inspections of
27 TNC driver qualification records.
28 (F) The TNC shall not permit a TNC driver to provide TNC
29 services who:
30 (1) does not meet the TNC driver qualifications listed in
31 Section 58-23-1650(B) and (C);
32 (2) is registered or required to be registered as a sex offender
33 with the South Carolina Law Enforcement Division or the National
34 Sex Offender Registry;
35 (3) has been convicted within the past ten years of driving
36 under the influence of drugs or alcohol, driving with an unlawful
37 alcohol concentration, fraud, use of a motor vehicle to commit a
38 felony, a felony crime involving property damage, theft and crimes
39 as defined as violent pursuant to Section 16-1-60; or
40 (4) is under the influence of drugs or alcohol. Nothing in this
41 section may be construed to require drug testing by a TNC of a
42 TNC driver.

1 (G) Before a TNC driver is allowed to provide a TNC service,
2 the TNC must disclose to the TNC driver that the:

3 (1) automobile liability insurance that the TNC provides
4 while the TNC driver is engaged in TNC service or logged into the
5 TNC digital network;

6 (2) TNC driver's automobile liability insurance may not
7 provide coverage while the TNC driver is engaged in TNC service
8 or logged into the TNC digital network;

9 (3) provision of TNC services may violate the terms of a
10 contract or financing agreement with a lienholder; and

11 (4) provision of TNC services may have financial
12 consequences related to personal income tax and personal property
13 tax liabilities.

14

15 Section 58-23-1660. (A) A TNC operating in this State shall
16 comply with the following standards:

17 (1) A TNC driver shall not provide TNC services or
18 otherwise operate as a passenger vehicle for hire unless a TNC has
19 matched the TNC driver to the TNC passenger through the digital
20 network. A TNC driver shall not solicit or accept passenger rides
21 on-demand or through a 'street hail.' All payment for TNC
22 services must be made through the digital network and the TNC
23 driver shall not accept cash payments.

24 (2) A TNC shall make available to prospective TNC
25 passengers and TNC drivers the method by which the TNC
26 calculates fares or the applicable rates being charged and an option
27 to receive an estimated fare. If the rates vary from those identified
28 in the application to the Office of Regulatory Staff, the TNC must
29 provide the revised rates to the passenger on the digital network.

30 (3) A TNC shall provide the TNC passenger with an
31 electronic receipt upon completion of the TNC service. The
32 receipt must document the:

33 (a) point of origin;

34 (b) point of destination;

35 (c) total duration and distance;

36 (d) total fare/rate paid, including base fare and additional
37 charges incurred for distance or duration; and

38 (e) TNC driver's first name.

39 (4) A TNC driver shall display an identification badge
40 including his photograph, first name, personal vehicle make and
41 model, and personal vehicle license plate number. This
42 information may be displayed to the TNC passenger through the
43 TNC digital network.

1 (5) A TNC driver shall at all times carry in the TNC vehicle
2 proof of the automobile liability insurance required of this article.

3 (6) A TNC shall provide customer support on its digital
4 network, website, or both, for TNC passenger inquiries or
5 complaints and shall respond promptly to all TNC passenger
6 inquiries or complaints.

7 (7) A TNC shall not discriminate against TNC passengers on
8 the basis of destination, race, color, national origin, religious belief
9 or affiliation, sex, disability, or age.

10 (8) A TNC shall provide TNC services in compliance with
11 all applicable laws for providing services to persons with physical
12 and mental disabilities. Service animals and mobility equipment
13 must be permitted to accompany a TNC passenger.

14 (9) A TNC shall provide TNC passengers an opportunity to
15 indicate whether they require a wheelchair-accessible vehicle. If a
16 TNC cannot arrange wheelchair-accessible TNC service in any
17 instance, it shall direct the TNC passenger to an alternate provider
18 of wheelchair-accessible service, if available.

19 (10) A TNC driver shall take the most direct route to the
20 destination unless the TNC passenger has consented to an alternate
21 route.

22 (11) A TNC driver may refuse to transport a TNC passenger
23 if the TNC passenger is acting in an unlawful, disorderly or
24 endangering manner.

25
26 Section 58-23-1670. (A) A TNC shall maintain a record of all
27 TNC services provided in South Carolina for a period of three
28 years from the date of the TNC service. The records shall include:

29 (1) the time at which a TNC driver logs into the digital
30 network;

31 (2) the time and place of commencement of TNC service;

32 (3) the address of delivery of the TNC passenger;

33 (4) the amount of fare charged to the TNC passengers; and

34 (5) any inquiry or complaint of the TNC passenger, the date
35 of the inquiry or complaint, and the resolution of the inquiry or
36 complaint.

37 (B) A TNC shall maintain documentation of each TNC vehicle
38 inspection for a period of three years.

39 (C) The TNC shall maintain documentation of initial and
40 annual verification of TNC driver qualifications for a period of
41 three years.

42 (D) The TNC shall provide, upon the request of the Office of
43 Regulatory Staff, any factual information regarding TNC drivers,

1 TNC passengers, and TNC services so as to investigate complaints
2 arising under this article. This information must be provided to the
3 Office of Regulatory Staff within a reasonable time period.

4 (E) A TNC shall not disclose a TNC driver or passenger's
5 personally identifiable information to a third party unless the:

- 6 (1) TNC driver or TNC passenger consents;
- 7 (2) disclosure is required by legal obligation; or
- 8 (3) disclosure is required to investigate violations of the
9 TNC driver or TNC passenger terms of use.

10

11 Section 58-23-1680. (A) A certified South Carolina law
12 enforcement officer is authorized to enforce the requirements of
13 this article.

14 (B) An officer, agent, or employee of a TNC or TNC driver
15 who fails to comply with any requirement contained in this article
16 must be assessed a civil penalty of not less than one hundred
17 dollars for a first violation, not less than five hundred dollars for a
18 second violation, and not less than one thousand dollars for a third
19 violation and subsequent violations. Seventy-five percent of the
20 penalties collected under this section must be remitted to the
21 Office of Regulatory Staff to be used for enforcement operations.
22 Magistrates have jurisdiction over contested violations of this
23 section and are prohibited from suspending or reducing the
24 penalties.

25 (C) The Office of Regulatory Staff may revoke a TNC permit if
26 the TNC has made misrepresentation of a material fact in obtaining
27 the TNC permit or, in the opinion of the Office of Regulatory
28 Staff, has failed to comply with the requirements in this article.

29 (D) An aggrieved person with standing may file a request for a
30 contested case of a decision of the Office of Regulatory Staff with
31 the Public Service Commission of South Carolina within thirty
32 days of the decision.

33 (E) Concerning potential violations of this article, TNC's and
34 their officers, agents, employees, or customers is subject to the
35 investigatory powers provided in Sections 58-4-50 and 58-4-55 to
36 the Office of Regulatory Staff.

37 (F) The Office of Regulatory Staff is authorized to require
38 regular updating of information required from a TNC under this
39 article.

40

41 Section 58-23-1690. (A) The Office of Regulatory Staff may
42 assess each TNC an annual fee in an amount necessary to permit

1 the Office of Regulatory Staff to carry out the requirements of this
2 article.

3 (B) The annual assessment of fees will be pursuant to Section
4 58-4-60(B).

5
6 Section 58-23-1700. (A) For the purposes of this section:

7 (1) 'Gross trip fare' means the sum of the base fare charge,
8 distance charge, and time charge for the complete trip at rates
9 published on the TNC's website.

10 (2) 'Local assessment fee' means one percent of the gross
11 trip fare.

12 (3) 'Municipality' means a city or town issued a certificate
13 of incorporation, or township created by act of the General
14 Assembly.

15 (B) A TNC shall collect a local assessment fee on behalf of a
16 TNC driver who accepts a request for a prearranged ride made
17 through the TNC's digital network for all prearranged rides that
18 originate in the state.

19 (C) Using the Geographic Information System (GIS) data made
20 available by the Revenue and Fiscal Affairs Office pursuant to
21 subsection (I), a TNC shall determine whether each prearranged
22 trip occurred within the incorporated boundaries of a municipality,
23 or outside of the incorporated boundaries of a municipality and
24 within the boundaries of a county of this state.

25 (D) No later than thirty days after the end of a calendar quarter,
26 a TNC shall submit to the Office of Regulatory Staff:

27 (1) the total local assessment fees collected by a TNC on
28 behalf of the TNC drivers;

29 (2) for trips that originated in a municipality, a report listing
30 the percentage of the gross trip fare that originated in each
31 municipality during the reporting period; and

32 (3) for trips that originated outside a municipality, a report
33 listing the percentage of the gross trip fare that originated outside a
34 municipality during the reporting period.

35 (E) The funds collected pursuant to this section are not general
36 fund revenue of the State and must be kept by the State Treasurer
37 in a distinct and separate unbudgeted Trust & Agency fund and
38 apart from the general fund. These funds are to be administered by
39 the Office of Regulatory Staff pursuant to this section and
40 expended only for the purposes provided in this chapter.

41 (F)(1) The Office of Regulatory Staff shall retain an amount of
42 one percent of the local assessment fee collected under subsection

1 (D)(1) to cover the expenses borne by the Office of Regulatory
2 Staff derived from:

3 (a) regulation of TNCs; and
4 (b) collection, remittance, and distribution of local
5 assessment fees pursuant to this section.

6 (2) Within sixty days of the end of the calendar quarter, the
7 Office of Regulatory Staff shall distribute the remaining portion of
8 the total local assessment fees collected under subsection (D)(1),
9 minus the amount retained pursuant to subsection (F)(1), to each
10 municipality where a trip originated during the reporting period
11 and, for trips that originated outside a municipality, to each county
12 where a trip originated during the reporting period. The
13 distribution to each municipality or county must be proportionate
14 to the percentage of the gross trip fare that originated in each
15 municipality or county.

16 (G)(1) To ensure that the TNC has remitted the correct local
17 assessment fee and has accurately reported the percentages
18 attributable to municipalities and counties pursuant to subsection
19 (D), upon request of the municipality, the Office of Regulatory
20 Staff may inspect the necessary records at a TNC's place of
21 business or a mutually agreed upon location. This inspection may
22 not be conducted more than once a year.

23 (2) At least forty-five days before the Office of Regulatory
24 Staff conducts an inspection of records pursuant to subsection
25 (G)(1), the Office of Regulatory Staff shall notify the Municipal
26 Association of South Carolina (MASC) or its successor
27 organization of its intent to conduct an inspection and the date of
28 the planned inspection.

29 (3) MASC may request that a TNC that is subject to
30 inspection under subsection (G)(1) engage an independent third
31 party auditor to verify that the local assessment to municipalities
32 has been properly accounted for and distributed. At least thirty
33 days before the scheduled audit, MASC must submit this request
34 in writing to the Office of Regulatory Staff and the TNC subject to
35 the audit.

36 (a) The TNC that is subject to the audit shall engage the
37 independent third party auditor, which must be selected at the sole
38 discretion of the TNC, and bear all costs associated with the third
39 party audit. The independent third party auditor must be:

40 (i) a certified public accounting firm licensed in the
41 State; and

1 (ii) qualified to perform engagements in accordance
2 with Generally Accepted Government Auditing Standards
3 (GAGAS).

4 (b) The TNC shall provide MASC with a copy of the third
5 party audit report within fifteen days of completion, which shall in
6 no event, occur later than ninety days after receipt of MASC's
7 written request. The audit report must disclose the amount of any
8 underpayments or overpayments to municipalities and counties.

9 (c) A person employed by or formerly employed by
10 MASC who discloses to a third party any information that the
11 TNC marked in the audit report as confidential must be assessed
12 civil penalties as contained in Section 58-23-1680 unless the
13 individual obtained the TNC's written consent prior to disclosure.
14 Nothing in this section must be construed to restrict MASC from
15 disclosing any overpayment or underpayment with the impacted
16 municipalities or counties.

17 (4) In the event that a TNC submits a report to the ORS that
18 is subsequently determined to be inaccurate, thereby leading to an
19 underpayment or overpayment of a municipality or county's local
20 assessment fee, the Office of Regulatory Staff shall correct the
21 underpayment and overpayment by offsetting the amount of the
22 underpayment or overpayment in subsequent local assessment fee
23 distributions. In the event a TNC remits an assessment fee to the
24 Office of Regulatory Staff that is determined to constitute an
25 underpayment of the total assessment fee required by this article,
26 the transportation network company shall, within thirty days of
27 receiving notification of the determination, remit the balance owed
28 to the Office of Regulatory Staff. A TNC that submits a report
29 containing an inaccuracy or remits an assessment fee that
30 constitutes an underpayment that is determined by the Office of
31 Regulatory Staff to be the result of an intentional misrepresentation
32 must be assessed damages that are no less than three times the
33 amount of the underpayment or resultant underpayment to the
34 municipality or county impacted.

35 (H) Any records maintained by a TNC pursuant to this section
36 that are obtained by the Office of Regulatory Staff, a public body
37 as defined by Section 30-4-20(a), or any records that incorporate
38 information from records maintained pursuant to this section, must
39 not be subject to disclosure under the Freedom of Information Act
40 as provided for in Chapter 4, Title 30, or any other provision of
41 law.

42 (I) The Office of Regulatory Staff may not disclose records or
43 information provided by a TNC unless disclosure is required by a

1 subpoena or court order. If a disclosure is required, the Office of
2 Regulatory Staff shall promptly notify the TNC prior to the
3 disclosure. Nothing in this section may be construed to restrict the
4 Office of Regulatory Staff from disclosing any overpayment or
5 underpayment with the impacted municipalities or counties.

6 (J) To ensure proper distribution of the local assessment fee
7 pursuant to subsection (D)(2), the Revenue and Fiscal Affairs
8 Office shall prepare and make available for public use a GIS file
9 showing the state's county and municipal boundaries. This file
10 must be updated on a quarterly basis, and published on the
11 Revenue and Fiscal Affairs Office's website. In addition to the
12 requirements of Section 5-3-90, municipalities shall provide
13 annexation information to the Revenue and Fiscal Affairs Office
14 within thirty days after the annexation is complete. Such
15 information shall include a written description of the boundary,
16 along with a map or plat which clearly defines the new territory
17 added.

18 (K) This section takes effect ninety days after the effective date
19 of this article.

20

21 Section 58-23-1710. (A) Except as otherwise provided in this
22 chapter, TNCs and TNC drivers are governed exclusively by this
23 article and by any regulations promulgated by the Office of
24 Regulatory Staff consistent with this article. TNC drivers remain
25 subject to all local ordinances outside the scope of this article,
26 whether directly or indirectly impacting the delivery of TNC driver
27 services, including but not limited to parking and traffic
28 regulations that are not inconsistent with the provisions of this
29 article.

30 (B) Political subdivisions are prohibited from imposing a tax on
31 a TNC, a TNC driver, or a vehicle used by a TNC driver, including
32 a business license tax, where the tax is assessed in connection with
33 prearranged rides in the state. Nothing in this article may be
34 construed to restrict a municipality from collecting a business
35 license tax from a TNC located within its boundaries if the tax is
36 limited to receipts or revenue that is not subject to a local
37 assessment fee pursuant to Section 58-23-1700 or a business
38 license tax.

39 (C) In order for a TNC and a TNC driver to provide
40 prearranged rides on airport property, the TNC must comply with
41 Federal Aviation Administration regulations and airport
42 regulations relating to:

1 (1) payment of reasonable fee to operate at the airport,
2 agreed to by the TNC and each individual airport, not based on a
3 per-passenger, per-driver, or per-vehicle basis; and

4 (2) designating locations for staging, pick-ups, drop-offs,
5 and other similar locations.

6
7 Section 58-23-1720. The provisions contained in this article do
8 not preempt any federal regulation relating to the provision of
9 transportation services at any facility regulated by the United
10 States Federal Aviation Administration.”

11
12 SECTION 2. Section 58-4-60(B) of the 1976 Code is amended to
13 read:

14
15 “(B)(1)The expenses of the Transportation Department of the
16 Office of Regulatory Staff, with the exception of the expenses
17 incurred in its railway jurisdiction, must be borne by the revenues
18 from license fees derived pursuant to Sections 58-23-530 through
19 58-23-630, assessments to the Transportation Network Companies
20 pursuant to Sections 58-23-1690 and 58-23-1700, and assessments
21 to the carriers of household goods and hazardous waste for
22 disposal carriers. The expenses of the railway section of the Office
23 of Regulatory Staff must be borne by the railroad companies
24 subject to the commission’s jurisdiction according to their gross
25 income from operations in this State.

26 (2) All other expenses of the Office of Regulatory Staff must
27 be borne by the public utilities subject to the jurisdiction of the
28 commission. On or before the first day of July in each year, the
29 Department of Revenue must assess each public utility, railway
30 company, household goods carrier, and hazardous waste for
31 disposal carrier its proportion of the expenses in proportion to its
32 gross income from operation in this State in the year ending on the
33 thirtieth day of June preceding that on which the assessment is
34 made which is due and payable on or before July fifteenth. The
35 assessments must be charged against the companies by the
36 Department of Revenue and collected by the department in the
37 manner provided by law for the collection of taxes from the
38 companies including the enforcement and collection provisions of
39 Article 1, Chapter 54 of Title 12 and paid, less the Department of
40 Revenue actual incremental increase in the cost of administration
41 into the state treasury as other taxes collected by the Department of
42 Revenue for the State.”

43

1 SECTION 3. Section 58-23-50 of the 1976 Code is amended by
2 adding a subsection at the end to read:

3
4 “(C) Articles 1 to 11 of this chapter also do not apply to
5 Transportation Network Companies and Transportation Network
6 Company Drivers.”

7
8 SECTION 4. Except as provided in Section 58-23-1700(K), as
9 contained in Section 1, the provisions of this act take effect upon
10 approval by the Governor.

11
12 /s/Sen. Robert Wesley Hayes, Jr. /s/Rep. Bill Sandifer
13 Sen. C. Bradley Hutto /s/Rep. Paul Michael Forrester
14 /s/Sen. Sean M. Bennett /s/Rep. Leonidas E. Stavrinakis
15 On Part of the Senate. On Part of the House.

16 ----XX----

17