



Oregon

Kate Brown, Governor

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DATE: April 3, 2017

TO: House Committee on Business and Labor

FROM: Amy Joyce, Legislative Liaison
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SUBJECT: Regulating Transportation Network Companies, taxis, limousines
and for-hire vehicles (HB 3043, HB 3093 and HB 3157)

INTRODUCTION

House Bill 3043, House Bill 3093 and House Bill 3157 all require the department to regulate either transportation network companies (TNCs), such as Uber and Lyft, or taxis, limousines and for-hire vehicles.

Uber and Lyft both operate in Oregon and can be regulated at the local level. Currently, taxi, limousine and for-hire vehicles services are also regulated at the local level.

Oregon statute has provided local jurisdictions the authority to regulate taxi, limousine and for-hire vehicle services locally since 1985. Local authority includes, but is not limited to, regulating entry into the business of providing these services, requiring licenses or permits for operation, controlling rates, regulating routes, and establishing safety, equipment and insurance requirements and other requirements deemed necessary for safe and reliable service.

DISCUSSION

HB 3043, HB 3093 and HB 3157 would require ODOT to receive criminal and sex offender information about potential drivers and to assess civil penalties for TNC's that engage such drivers, set standards for drug testing and assess civil penalties for TNC's that do not drug test every time a driver connects to the digital network, and completely oversee the taxi, limousine and for-hire vehicle business (and potentially the TNC business) with standards for entry to the marketplace, setting rates, regulating routes, and setting safety, equipment and insurance standards. Fundamentally, these bills would have ODOT engage in work that is outside our scope and expertise as an agency. Any of the individual bill's provisions or any combination of provisions would require the department to stand up a new regulatory arm that does not currently exist and would have significant financial implications.

Also, because this regulatory activity is not in support of the construction or maintenance of the highway system, the proposed regulation is not a constitutional use of the State Highway Fund. A separate funding source must be identified.

HB 3043. This bill would require individuals to submit to ODOT a copy of their application to become a driver with a TNC at the time they apply with a TNC. It also requires TNCs to conduct criminal records checks on potential drivers and provide copies of the results to the department. The bill restricts TNCs from permitting individuals from becoming drivers in specific circumstances. The bill permits, but does not require, ODOT to use the information it receives from applications, criminal records checks, driving records from every U.S. jurisdiction, and the US-DOJ sex offender web site, to determine whether a TNC or other employer engaged someone in violation of the restrictions in the bill. It also allows ODOT to impose civil penalties on TNCs or other employers for each violation of the requirements of the bill.

Other than DMV having access to Oregon driving records, ODOT currently does not collect any of the information required by HB 3043 and the bill would represent a significant new workload for the department. It is unclear how the department would monitor and enforce compliance for “other employers” of TNC drivers as “other employers” are undefined in the bill. Additionally there are no provisions for penalties for non-compliance by individuals applying to become TNC drivers. HB 3043 would require a new unit at ODOT to collect and track applications, criminal records, 56 U.S. jurisdictions’ driving history, and a sex offender web site for every potential driver. ODOT would also need to create additional administrative touchpoints with TNCs or the drivers’ other employers to monitor and enforce compliance with the hiring restrictions in the bill and impose civil penalties for violations. This would represent a significant new body of work for the department. And while the bill says ODOT “may” do certain things, the agency understands this to almost certainly be a mandate for action.

HB 3093. This bill requires ODOT to specify standards for TNCs to conduct and interpret controlled substance tests. The bill requires TNCs to conduct controlled substance tests on potential drivers – those it “intends to engage” - to determine if the individual has used or is using controlled substances. If the TNC fails to conduct a controlled substance test or permits an individual to become a driver who has used or is using controlled substances the TNC is in violation of HB 3093 and ODOT may impose civil penalties on the TNC for each violation. ODOT is unclear on the intent. The direction to TNCs seems to be testing prior to bringing on a new driver. Yet the sanction ODOT imposes seems to be for failure to test prior to each time driving.

Controlled substances, as defined by HB 3093, do not include intoxicating liquor or inhalants, the other two categories of substances in Oregon’s impaired driving statute. Additionally, controlled substances, in and of themselves, are not always illegal and simply having used them in the past would not necessarily preclude a person from driving. HB 3093 would require ODOT to write rules with standards for TNCs to conduct and interpret results of controlled substance tests on individuals who apply to or drive with the TNC. The bill would require a new unit at ODOT to monitor TNC controlled substance tests and enforce compliance, potentially, every time a driver applies to a TNC, provides a ride or connects to the TNCs digital network. This would represent a significant new body of work for the department.

HB 3157. This bill repeals and preempts local regulation of taxis, limousines and for-hire vehicles and moves their regulation to ODOT. This regulation includes regulating entry into the business of providing taxi, limousine or for-hire vehicle services, requiring a valid permit for operation, controlling rate setting, calculation and collection, regulating routes, and establishing requirements to assure safety and reliable service including safety, equipment and insurance requirements. The bill allows the department to adopt rules and charge a fee for issuance and renewal of permits. It also removes local jurisdictions ability to collect taxes or fees from vehicles for hire.

HB 3157 would require a new unit at ODOT to permit and oversee taxi, limousine and for-hire vehicle businesses. This would represent a major policy shift in Oregon and a significant new body of work for the department. Additionally, requiring ODOT to regulate these businesses' local routes in Oregon cities and counties is likely not as effective and efficient as the current regulatory framework. Local jurisdictions are likely much better suited to ensure safe and reliable service on their local routes than the department.

SUMMARY

House Bill 3043, House Bill 3093 and House Bill 3157 require ODOT to regulate businesses the department does not currently regulate. Any of the individual bill's provisions or any combination of provisions would require the department to create a new unit within ODOT that does not currently exist and would have significant financial implications to the agency.

Additionally, the provisions of HB 3043, HB 3093 and HB 3157 are not a constitutional use of the State Highway Fund and a separate funding source must be identified.