

House Bill 3424

Sponsored by Representatives GORSEK, MCLAIN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires person that engages in business as transportation network company in this state to obtain license from Department of Transportation. Requires department to establish licensing program by rule and specifies conditions for obtaining license.

Requires transportation network company to create and maintain certain records and to provide records to department each calendar quarter. Requires transportation network company to provide records without disclosing personally identifiable information of riders or participating drivers.

Establishes Transportation Network Company Driver Transition Fund. Requires transportation network company, as condition of obtaining license, to pay annually into fund amount department specifies by rule.

Requires department to establish by rule grant program for participating drivers who separate from transportation network company because of automation or because transportation network company no longer requires participating drivers' services. Requires department to establish eligibility criteria for receiving assistance from fund, amount and duration of assistance and other aspects of participation in program.

Becomes operative on January 1, 2018.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to licensing requirements for transportation network companies; and declaring an emer-
3 gency.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. As used in sections 1 to 7 of this 2017 Act:

6 (1) **"Digital network" means a method for requesting a prearranged ride from a partic-**
7 **ipating driver using a software application, a website or another Internet-based electronic**
8 **technology that a transportation network company provides.**

9 (2) **"Licensee" means a person that has applied to and obtained from the Department of**
10 **Transportation a license to engage in business as a transportation network company in this**
11 **state.**

12 (3) **"Participating driver" means an individual who:**

13 (a) **Receives a request through a digital network from a rider for a prearranged ride; and**

14 (b) **Offers or provides a prearranged ride to a rider in exchange for a fee that the rider**
15 **pays.**

16 (4) **"Personal vehicle" means a vehicle that a participating driver:**

17 (a) **Owns, leases or otherwise has authorization to use; and**

18 (b) **Actually uses to offer or provide prearranged rides to riders.**

19 (5) **"Prearranged ride" means transportation that a rider requests from a participating**
20 **driver by means of a digital network that:**

21 (a) **Begins at the time a participating driver accepts a rider's request for transportation;**

22 (b) **Continues at any time during which the participating driver transports the rider and**
23 **any other individual for whom the rider also requests transportation; and**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) Ends at a destination chosen by the rider or any other individual for whom the rider
 2 also requests transportation and at the time that the rider, or the last individual for whom
 3 the rider requests transportation, exits the participating driver’s personal vehicle.

4 (6) “Rider” means an individual who uses a digital network to request a prearranged ride
 5 from a participating driver.

6 (7) “Transportation network company” means a corporation, association, partnership,
 7 limited liability company, limited liability partnership or other legal entity that operates a
 8 digital network in this state by means of which a participating driver receives a request from
 9 a rider for a prearranged ride.

10 **SECTION 2.** (1)(a) Except as provided in paragraph (b) of this subsection, a person may
 11 not engage in business as a transportation network company in this state unless the person
 12 first obtains a license from the Department of Transportation.

13 (b) A person that operated as a transportation network company before the operative
 14 date specified in section 8 of this 2017 Act under a local government ordinance, resolution
 15 or other regulation may continue to operate under the ordinance, resolution or regulation
 16 without first obtaining a license from the department until:

17 (A) The department adopts by rule and implements a licensing program under sections
 18 1 to 7 of this 2017 Act; and

19 (B) The date that the department specifies for obtaining a license under the rules de-
 20 scribed in subparagraph (A) of this paragraph.

21 (2) The department by rule shall implement a licensing program for transportation net-
 22 work companies that complies with the provisions of sections 1 to 7 of this 2017 Act. At a
 23 minimum, an applicant for a license must:

24 (a) Submit to the department an application, on a form in the format and with the con-
 25 tents that the department specifies;

26 (b) Include with the application a copy of a certificate of existence or certificate of au-
 27 thorization from the Secretary of State that affirms that the applicant is a business entity
 28 that is registered in this state or authorized to transact business in this state;

29 (c) Identify the name and street address of the applicant’s registered agent in this state;

30 (d) Submit with the application a signed agreement on a form with terms and conditions
 31 the department specifies that require a licensee to:

32 (A) Provide to the department the records described in section 3 of this 2017 Act in the
 33 manner set forth in section 4 of this 2017 Act; and

34 (B) Stipulate over the signature of an authorized representative of the applicant that
 35 compliance with the terms of the signed writing are a condition of obtaining, possessing or
 36 renewing a license to conduct business as a transportation network company in this state;
 37 and

38 (e) Agree to pay into the Transportation Network Company Driver Transition Fund as
 39 provided in section 3 (3) of this 2017 Act.

40 (3)(a) The department shall issue a license to an applicant that:

41 (A) Meets the requirements specified in sections 1 to 7 of this 2017 Act and rules the
 42 department adopts under sections 1 to 7 of this 2017 Act; and

43 (B) Pays a fee to the department in an amount the department specifies by rule. The
 44 Director of Transportation shall specify an amount for the fee that is sufficient, when ag-
 45 gregated with all other fees collected under this section, to pay the expenses of administering

1 and enforcing the licensing program required under subsection (2) of this section.

2 (b) A license the department issues under this subsection expires at the end of the cal-
3 endar year in which the department issued or renewed the license.

4 (c) The department may renew a license to operate as a transportation network company
5 in each subsequent year after the department issues an initial license if a licensee continues
6 to meet the requirements of sections 1 to 7 of this 2017 Act and if the licensee each year pays
7 the amounts specified in this subsection and section 3 (3) of this 2017 Act.

8 **SECTION 3. (1) A licensee shall:**

9 (a) Create and maintain, for at least three years after the date of each prearranged ride
10 that a participating driver provides after receiving a request by means of the transportation
11 network company's digital network, an electronic record of the prearranged ride that in-
12 cludes:

13 (A) The origin and destination of the prearranged ride and the distance in miles and
14 fractions of a mile between the origin and destination;

15 (B) The route, based on position data from a global positioning system, that the partic-
16 ipating driver took while providing the prearranged ride;

17 (C) The time at which the prearranged ride began, the duration of the ride and the time
18 at which the ride ended;

19 (D) The cost in dollars and cents of the prearranged ride to the rider;

20 (E) The percentage of the cost described in subparagraph (D) of this paragraph that the
21 participating driver earned;

22 (F) The number of riders and other passengers who occupied the participating driver's
23 personal vehicle during the prearranged ride;

24 (G) The make, model and year of the personal vehicle the participating driver used in
25 providing the prearranged ride;

26 (H) Whether the participating driver's personal vehicle was accessible to wheelchairs or
27 other assistive devices, and whether the rider or another passenger used a wheelchair or
28 other assistive device during the prearranged ride;

29 (I) How long the participating driver waited on average after a prearranged ride ended
30 to provide another prearranged ride during any 24-hour period in which the participating
31 driver connected to the transportation network company's digital network;

32 (J) The neighborhood or equivalent geographic area within a city, town or other urban
33 or metropolitan area, as shown on an official map or by means of demographic data, in which
34 the participating driver operated during any 24-hour period in which the participating driver
35 remained connected to the transportation network company's digital network;

36 (K) The rating, review or feedback that the participating driver gave to the rider, and
37 that the rider gave to the participating driver, after the prearranged ride ended;

38 (L) The number of prearranged ride cancellations for each participating driver within
39 each 24-hour period in which the participating driver remained connected to the transporta-
40 tion network company's digital network, with a notation as to whether the rider or the
41 participating driver canceled the prearranged ride;

42 (M) The longest continuous periods within any 24-hour period in which a participating
43 driver connected to the transportation network company's digital network during which the
44 participating driver remained connected to the digital network and:

45 (i) Was available to provide a prearranged ride; or

1 (ii) Was engaged in providing a prearranged ride; and

2 (N) Other data or information the Director of Transportation requires by rule.

3 (b) Create and maintain, for at least three years after a participating driver last con-
4 nected to the transportation network company's digital network, electronic records of each
5 participating driver. The records must include:

6 (A) The name and a unique identifying number or other designation that specifically
7 identifies the participating driver in the transportation network company's records;

8 (B) The results of any background check, criminal or otherwise, that the transportation
9 network company performed on the participating driver before allowing the participating
10 driver to connect to the transportation network company's digital network;

11 (C) Performance evaluations and disciplinary measures the transportation network com-
12 pany undertook with respect to the participating driver;

13 (D) The total compensation each participating driver received:

14 (i) For each prearranged ride the participating driver provided;

15 (ii) During each hour in which the participating driver remained connected to the trans-
16 portation network company's digital network and available to provide a prearranged ride; and

17 (iii) During each week, month and year during which the participating driver continued
18 to provide prearranged rides by means of the transportation network company's digital net-
19 work;

20 (E) The type, amount and coverage limits of any automobile liability insurance the par-
21 ticipating driver maintains in force while connected to the transportation network company's
22 digital network;

23 (F) The number of accidents or traffic violations in which the participating driver was
24 involved during the calendar year while connected to the transportation network company's
25 digital network;

26 (G) The number of complaints from riders or other persons the transportation network
27 company received that involved the participating driver, and the number of complaints the
28 participating driver made to the transportation network company concerning riders; and

29 (H) Any instance in which a participating driver, while providing a prearranged ride, or
30 a rider for which a participating driver provided a prearranged ride was cited or arrested for
31 any of these criminal offenses:

32 (i) Failing to obey a police officer, as described in ORS 811.535;

33 (ii) Careless driving, as described in ORS 811.135;

34 (iii) Violation driving while suspended or revoked, as described in ORS 811.175, or crimi-
35 nal driving while suspended or revoked, as described in ORS 811.182;

36 (iv) Driving under the influence of intoxicants, as described in ORS 813.010;

37 (v) Reckless driving, as described in ORS 811.140;

38 (vi) Fleeing or attempting to elude a police officer, as described in ORS 811.540 (1)(b)(B);

39 (vii) Assault in the fourth degree, as described in ORS 163.160;

40 (viii) Strangulation, as described in ORS 163.187;

41 (ix) Menacing, as described in ORS 163.190; or

42 (x) A sex offense.

43 (2) A licensee shall create and maintain the records described in subsection (1) of this
44 section in such a manner as to enable the licensee to provide information in the records
45 without disclosing information that would personally identify a rider or a participating driver

1 except in response to duly authorized legal process.

2 (3) A licensee shall pay into the Transportation Network Company Driver Transition
3 Fund on an annual basis an amount that the Director of Transportation specifies by rule
4 after:

5 (a) Estimating the amount of cash assistance a participating driver would require on
6 average to effect a transition from work as a participating driver to work in another occu-
7 pation over a defined period of time; and

8 (b) Consulting with all transportation network companies that operate in this state.

9 **SECTION 4.** (1)(a) A licensee shall provide without charge to the Department of Trans-
10 portation, for each calendar quarter, in accordance with specifications and methods the Di-
11 rector of Transportation adopts by rule, copies of all, portions of or abstractions or
12 summaries of the electronic records for participating drivers and prearranged rides that oc-
13 cur in this state that the licensee creates and maintains under section 3 of this 2017 Act.

14 (b) The licensee shall provide the records to the department not later than 30 days after
15 the last day in each calendar quarter.

16 (2)(a) The department may perform or may contract or agree with another person to
17 perform any aggregation, abstraction or statistical, demographic, geographic or other type
18 of analysis on the records the department receives from the licensee under subsection (1)
19 of this section.

20 (b) The department shall make available to any person the records the department re-
21 ceives under subsection (1) of this section and any aggregation, abstraction or analysis the
22 department performs or has performed on the records.

23 (3) Notwithstanding any other law that governs how long the department must maintain
24 records of the type described in section 3 of this 2017 Act, the department may delete or
25 discard any record three years after the date on which the department received the record.

26 **SECTION 5.** (1) The Transportation Network Company Driver Transition Fund is estab-
27 lished in the State Treasury, separate and distinct from the General Fund. Interest, divi-
28 dends or other income earned on moneys in the Transportation Network Company Driver
29 Transition Fund must be credited to the fund.

30 (2) Except for moneys otherwise designated by law, the Department of Transportation
31 shall deposit moneys that the department receives under section 3 (3) of this 2017 Act into
32 the State Treasury to the credit of the Transportation Network Company Driver Transition
33 Fund. All moneys in the fund are continuously appropriated to the department for the pur-
34 poses set forth in section 6 of this 2017 Act.

35 (3) The State Treasurer may invest and reinvest the moneys in the fund in securities in
36 which the State of Oregon may by law invest.

37 (4) The department may establish accounts and subaccounts within the Transportation
38 Network Company Driver Transition Fund if the department determines that accounts or
39 subaccounts are necessary. The department may credit any account or subaccount within
40 the fund with interest, dividends or other income. The department shall keep a record of the
41 moneys deposited into the fund and shall indicate by separate cumulative accounts and sub-
42 accounts the activity or program against which each withdrawal is charged.

43 **SECTION 6.** (1) The Department of Transportation shall establish, fund and administer,
44 or by interagency or intergovernmental agreement shall cooperate in establishing, funding
45 and administering, a grant program to participating drivers who separate from a transpor-

1 tation network company because the transportation network company has elected to provide
 2 prearranged rides to riders by means of automated motor vehicles or other means that no
 3 longer require the services of a participating driver.

4 (2) The department by rule shall establish eligibility requirements for receiving assist-
 5 ance from the grant program described in subsection (1) of this section, specify the amount
 6 and duration of assistance for which a beneficiary of the program is eligible and regulate any
 7 other aspect of the program the department deems necessary to carry out the purposes of
 8 this section.

9 (3) The department shall fund the grant program described in subsection (1) of this sec-
 10 tion with moneys from the Transportation Network Company Driver Transition Fund.

11 **SECTION 7.** (1) If the Director of Transportation determines that a person is engaging
 12 in business as a transportation network company without obtaining a license under section
 13 2 of this 2017 Act or that a licensee has failed to make a payment required under section 3
 14 (3) of this 2017 Act or provide the records required under section 4 of this 2017 Act, the di-
 15 rector may:

16 (a) Order the person to cease and desist from any act that constitutes a violation of
 17 section 2 of this 2017 Act.

18 (b) Order a licensee to make a payment required under section 3 (3) of this 2017 Act or
 19 provide the records required under section 4 of this 2017 Act.

20 (2) The director may suspend, revoke or decline to renew a licensee's license if the
 21 licensee fails to make a payment required under section 3 (3) of this 2017 Act or provide re-
 22 cords as required under section 4 of this 2017 Act.

23 (3) The director shall issue an order or take an action under subsection (1) or (2) of this
 24 2017 Act in accordance with ORS chapter 183.

25 (4) In addition to and not in lieu of any other penalty provided by law, the director may
 26 impose a civil penalty under ORS 183.745 in an amount of not more than \$5,000 for each in-
 27 stance in which:

28 (a) A person engages in business as a transportation network company in this state in
 29 violation of section 2 of this section; or

30 (b) A licensee fails to make a payment required under section 3 (3) of this 2017 Act or
 31 to provide records as required under section 4 of this 2017 Act.

32 (5) Each instance described in subsection (4) of this section is a separate violation and
 33 each day in which a person engages in a continuous violation is a separate violation. The
 34 director may not impose a penalty that exceeds \$20,000 for a continuous violation.

35 (6) The director may assess the costs of conducting an administrative proceeding under
 36 this section against the person that is the subject of the administrative proceeding or may
 37 include the costs of the administrative proceeding in any civil penalty the director imposes
 38 under this section.

39 (7) A person that is subject to a civil penalty under this section may appeal the penalty
 40 as provided in ORS chapter 183.

41 (8) The director shall deposit any amount the director receives under this section into
 42 the Transportation Network Company Driver Transition Fund.

43 **SECTION 8.** (1) Sections 1 to 7 of this 2017 Act become operative on January 1, 2018.

44 (2) The Director of Transportation may adopt rules and take any other action before the
 45 operative date specified in subsection (1) of this section that is necessary to enable the di-

1 **rector, on and after the operative date specified in subsection (1) of this section, to exercise**
2 **all of the duties, functions and powers conferred on the director by sections 1 to 7 of this**
3 **2017 Act.**

4 **SECTION 9. This 2017 Act being necessary for the immediate preservation of the public**
5 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
6 **on its passage.**

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