

Requested by Representative LININGER

**PROPOSED AMENDMENTS TO
HOUSE BILL 3246**

1 On page 1 of the printed corrected bill, line 2, after “companies;” delete
2 the rest of the line and line 3 and insert “and declaring an emergency.”.

3 Delete lines 5 through 21 and delete pages 2 through 11 and insert:

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

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

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

12 **“(3) ‘Participating driver’ means an individual who:**

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

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

17 **“(4) ‘Personal vehicle’ means a vehicle that a participating driver:**

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

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

20 **“(5) ‘Prearranged ride’ means transportation that a rider requests**
21 **from a participating driver by means of a digital network that:**

1 “(a) Begins at the time a participating driver accepts a rider’s re-
2 quest for transportation;

3 “(b) Continues at any time during which the participating driver
4 transports the rider and any other individual for whom the rider also
5 requests transportation; and

6 “(c) Ends at a destination chosen by the rider or any other indi-
7 vidual for whom the rider also requests transportation and at the time
8 that the rider, or the last individual for whom the rider requests
9 transportation, exits the participating driver’s personal vehicle.

10 “(6) ‘Rider’ means an individual who uses a digital network to re-
11 quest a prearranged ride from a participating driver.

12 “(7) ‘Transportation network company’ means a corporation, asso-
13 ciation, partnership, limited liability company, limited liability part-
14 nership or other legal entity that operates a digital network in this
15 state by means of which a participating driver receives a request from
16 a rider for a prearranged ride.

17 “SECTION 2. (1)(a) Except as provided in paragraph (b) of this
18 subsection, a person may not engage in business as a transportation
19 network company in this state unless the person first obtains a license
20 from the Department of Transportation.

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

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

28 “(B) The date that the department specifies for obtaining a license
29 under the rules described in subparagraph (A) of this paragraph.

30 “(2) The department by rule shall implement a licensing program

1 for transportation network companies that complies with the pro-
2 visions of sections 1 to 7 of this 2017 Act. At a minimum, an applicant
3 for a license must:

4 “(a) Submit to the department an application, on a form in the
5 format and with the contents that the department specifies;

6 “(b) Include with the application a copy of a certificate of existence
7 or certificate of authorization from the Secretary of State that affirms
8 that the applicant is a business entity that is registered in this state
9 or authorized to transact business in this state;

10 “(c) Identify the name and street address of the applicant’s regis-
11 tered agent in this state;

12 “(d) Submit with the application a signed agreement on a form with
13 terms and conditions the department specifies that require a licensee
14 to:

15 “(A) Provide to the department the records described in section 3
16 of this 2017 Act in the manner set forth in section 4 of this 2017 Act;
17 and

18 “(B) Stipulate over the signature of an authorized representative
19 of the applicant that compliance with the terms of the signed writing
20 are a condition of obtaining, possessing or renewing a license to con-
21 duct business as a transportation network company in this state; and

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

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

25 “(A) Meets the requirements specified in sections 1 to 7 of this 2017
26 Act and rules the department adopts under sections 1 to 7 of this 2017
27 Act; and

28 “(B) Pays a fee to the department in an amount the department
29 specifies by rule. The Director of Transportation shall specify an
30 amount for the fee that is sufficient, when aggregated with all other

1 fees collected under this section, to pay the expenses of administering
2 and enforcing the licensing program required under subsection (2) of
3 this section.

4 “(b) A license the department issues under this subsection expires
5 at the end of the calendar year in which the department issued or re-
6 newed the license.

7 “(c) The department may renew a license to operate as a transpor-
8 tation network company in each subsequent year after the department
9 issues an initial license if a licensee continues to meet the require-
10 ments of sections 1 to 7 of this 2017 Act and if the licensee each year
11 pays the amounts specified in this subsection and section 3 (3) of this
12 2017 Act.

13 **“SECTION 3. (1) A licensee shall:**

14 “(a) Create and maintain, for at least three years after the date of
15 each prearranged ride that a participating driver provides after re-
16 ceiving a request by means of the transportation network company’s
17 digital network, an electronic record of the prearranged ride that in-
18 cludes:

19 “(A) The origin and destination of the prearranged ride and the
20 distance in miles and fractions of a mile between the origin and des-
21 tination;

22 “(B) The route, based on position data from a global positioning
23 system, that the participating driver took while providing the prear-
24 ranged ride;

25 “(C) The time at which the prearranged ride began, the duration
26 of the ride and the time at which the ride ended;

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

29 “(E) The percentage of the cost described in subparagraph (D) of
30 this paragraph that the participating driver earned;

1 **“(F) The number of riders and other passengers who occupied the**
2 **participating driver’s personal vehicle during the prearranged ride;**

3 **“(G) The make, model and year of the personal vehicle the partic-**
4 **ipating driver used in providing the prearranged ride;**

5 **“(H) Whether the participating driver’s personal vehicle was acces-**
6 **sible to wheelchairs or other assistive devices, and whether the rider**
7 **or another passenger used a wheelchair or other assistive device dur-**
8 **ing the prearranged ride;**

9 **“(I) How long the participating driver waited on average after a**
10 **prearranged ride ended to provide another prearranged ride during any**
11 **24-hour period in which the participating driver connected to the**
12 **transportation network company’s digital network;**

13 **“(J) The neighborhood or equivalent geographic area within a city,**
14 **town or other urban or metropolitan area, as shown on an official map**
15 **or by means of demographic data, in which the participating driver**
16 **operated during any 24-hour period in which the participating driver**
17 **remained connected to the transportation network company’s digital**
18 **network;**

19 **“(K) The rating, review or feedback that the participating driver**
20 **gave to the rider, and that the rider gave to the participating driver,**
21 **after the prearranged ride ended;**

22 **“(L) The number of prearranged ride cancellations for each partic-**
23 **ipating driver within each 24-hour period in which the participating**
24 **driver remained connected to the transportation network company’s**
25 **digital network, with a notation as to whether the rider or the par-**
26 **ticipating driver canceled the prearranged ride;**

27 **“(M) The longest continuous periods within any 24-hour period in**
28 **which a participating driver connected to the transportation network**
29 **company’s digital network during which the participating driver re-**
30 **mained connected to the digital network and:**

1 “(i) Was available to provide a prearranged ride; or
2 “(ii) Was engaged in providing a prearranged ride; and
3 “(N) Other data or information the Director of Transportation re-
4 quires by rule.

5 “(b) Create and maintain, for at least three years after a partic-
6 ipating driver last connected to the transportation network company’s
7 digital network, electronic records of each participating driver. The
8 records must include:

9 “(A) The name and a unique identifying number or other desig-
10 nation that specifically identifies the participating driver in the
11 transportation network company’s records;

12 “(B) The results of any background check, criminal or otherwise,
13 that the transportation network company performed on the partic-
14 ipating driver before allowing the participating driver to connect to
15 the transportation network company’s digital network;

16 “(C) Performance evaluations and disciplinary measures the trans-
17 portation network company undertook with respect to the participat-
18 ing driver;

19 “(D) The total compensation each participating driver received:

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

21 “(ii) During each hour in which the participating driver remained
22 connected to the transportation network company’s digital network
23 and available to provide a prearranged ride; and

24 “(iii) During each week, month and year during which the partic-
25 ipating driver continued to provide prearranged rides by means of the
26 transportation network company’s digital network;

27 “(E) The type, amount and coverage limits of any automobile li-
28 ability insurance the participating driver maintains in force while
29 connected to the transportation network company’s digital network;

30 “(F) The number of accidents or traffic violations in which the

1 participating driver was involved during the calendar year while con-
2 nected to the transportation network company's digital network;

3 “(G) The number of complaints from riders or other persons the
4 transportation network company received that involved the partic-
5 ipating driver, and the number of complaints the participating driver
6 made to the transportation network company concerning riders; and

7 “(H) Any instance in which a participating driver, while providing
8 a prearranged ride, or a rider for which a participating driver provided
9 a prearranged ride was cited or arrested for any of these criminal of-
10 fenses:

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

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

13 “(iii) Violation driving while suspended or revoked, as described in
14 ORS 811.175, or criminal driving while suspended or revoked, as de-
15 scribed in ORS 811.182;

16 “(iv) Driving under the influence of intoxicants, as described in ORS
17 813.010;

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

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

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

22 “(viii) Strangulation, as described in ORS 163.187;

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

24 “(x) A sex offense.

25 “(2) A licensee shall create and maintain the records described in
26 subsection (1) of this section in such a manner as to enable the
27 licensee to provide information in the records without disclosing in-
28 formation that would personally identify a rider or a participating
29 driver except in response to duly authorized legal process.

30 “(3) A licensee shall pay into the Transportation Network Company

1 **Driver Transition Fund on an annual basis an amount that the Di-**
2 **rector of Transportation specifies by rule after:**

3 **“(a) Estimating the amount of cash assistance a participating driver**
4 **would require on average to effect a transition from work as a par-**
5 **ticipating driver to work in another occupation over a defined period**
6 **of time; and**

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

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

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

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

23 **“(b) The department shall make available to any person the records**
24 **the department receives under subsection (1) of this section and any**
25 **aggregation, abstraction or analysis the department performs or has**
26 **performed on the records.**

27 **“(3) Notwithstanding any other law that governs how long the de-**
28 **partment must maintain records of the type described in section 3 of**
29 **this 2017 Act, the department may delete or discard any record three**
30 **years after the date on which the department received the record.**

1 **“SECTION 5. (1) The Transportation Network Company Driver**
2 **Transition Fund is established in the State Treasury, separate and**
3 **distinct from the General Fund. Interest, dividends or other income**
4 **earned on moneys in the Transportation Network Company Driver**
5 **Transition Fund must be credited to the fund.**

6 **“(2) Except for moneys otherwise designated by law, the Depart-**
7 **ment of Transportation shall deposit moneys that the department re-**
8 **ceives under section 3 (3) of this 2017 Act into the State Treasury to**
9 **the credit of the Transportation Network Company Driver Transition**
10 **Fund. All moneys in the fund are continuously appropriated to the**
11 **department for the purposes set forth in section 6 of this 2017 Act.**

12 **“(3) The State Treasurer may invest and reinvest the moneys in the**
13 **fund in securities in which the State of Oregon may by law invest.**

14 **“(4) The department may establish accounts and subaccounts**
15 **within the Transportation Network Company Driver Transition Fund**
16 **if the department determines that accounts or subaccounts are nec-**
17 **essary. The department may credit any account or subaccount within**
18 **the fund with interest, dividends or other income. The department**
19 **shall keep a record of the moneys deposited into the fund and shall**
20 **indicate by separate cumulative accounts and subaccounts the activity**
21 **or program against which each withdrawal is charged.**

22 **“SECTION 6. (1) The Department of Transportation shall establish,**
23 **fund and administer, or by interagency or intergovernmental agree-**
24 **ment shall cooperate in establishing, funding and administering, a**
25 **grant program to participating drivers who separate from a transpor-**
26 **tation network company because the transportation network company**
27 **has elected to provide prearranged rides to riders by means of auto-**
28 **mated motor vehicles or other means that no longer require the ser-**
29 **vices of a participating driver.**

30 **“(2) The department by rule shall establish eligibility requirements**

1 for receiving assistance from the grant program described in sub-
2 section (1) of this section, specify the amount and duration of assist-
3 ance for which a beneficiary of the program is eligible and regulate
4 any other aspect of the program the department deems necessary to
5 carry out the purposes of this section.

6 “(3) The department shall fund the grant program described in
7 subsection (1) of this section with moneys from the Transportation
8 Network Company Driver Transition Fund.

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

15 “(a) Order the person to cease and desist from any act that consti-
16 tutes a violation of section 2 of this 2017 Act.

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

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

24 “(3) The director shall issue an order or take an action under sub-
25 section (1) or (2) of this 2017 Act in accordance with ORS chapter 183.

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

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

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

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

8 “(6) The director may assess the costs of conducting an adminis-
9 trative proceeding under this section against the person that is the
10 subject of the administrative proceeding or may include the costs of
11 the administrative proceeding in any civil penalty the director imposes
12 under this section.

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

15 “(8) The director shall deposit any amount the director receives
16 under this section into the Transportation Network Company Driver
17 Transition Fund.

18 “SECTION 8. (1) Sections 1 to 7 of this 2017 Act become operative
19 on January 1, 2018.

20 “(2) The Director of Transportation may adopt rules and take any
21 other action before the operative date specified in subsection (1) of this
22 section that is necessary to enable the director, on and after the op-
23 erative date specified in subsection (1) of this section, to exercise all
24 of the duties, functions and powers conferred on the director by
25 sections 1 to 7 of this 2017 Act.

26 “SECTION 9. This 2017 Act being necessary for the immediate
27 preservation of the public peace, health and safety, an emergency is
28 declared to exist, and this 2017 Act takes effect on its passage.”.

29