



Commissioner Chloe Eudaly
City of Portland

March 18, 2019

The Honorable Jeff Barker
House Committee on Business and Labor
900 Court Street NE
Salem, OR 97301

RE: HB 3379 & HB 3023

Dear Chair Barker and Members of the Committee:

Thank you for taking up the issue of transportation network companies and their oversight. The City of Portland appreciates the collaborative process that led to HB 3379, and is opposed to HB 3023 and the near full preemption of local regulatory authority.

For over 100 years, the City of Portland has regulated the private for-hire transportation industry with the aim of protecting consumers and promoting public safety. When corporations like Uber and Lyft entered the market a few years ago, Portland oversaw their regulation as well. The City of Portland solicited public input and created rules that align with the values of Portlanders: Ensuring public safety and consumer protections; providing access to low-income communities, communities of color, and people with disabilities; gathering data so we can understand impacts on traffic congestion and climate pollution; and creating a flexible transportation system – one that can respond to a quickly changing and growing industry.

As Transportation Commissioner for the City of Portland, one of my most important jobs is protecting our shared public spaces and ensuring that they are used for the benefit of all. Our network of streets, sidewalks and right-of-way is a precious asset that must be managed and maintained in the public interest.

We understand that other communities are interested in a statewide framework to provide greater access to the benefits of TNC service. City staff and regulatory experts have been engaged in similar discussions across the country and are more than willing to explore statewide standards for insurance, background checks, and other basic requirements for successful ride-hailing. Although the City does not back any specific TNC legislation, staff have participated in

the work group set up for HB 3379 and appreciate the collaborative process it offers Oregon communities.

HB 3023, on the other hand, doesn't set up the kind of framework that makes sense for a new and changing industry. It is an industry bill that sets minimal regulations in statute and prohibits local innovation to improve service.

There has been extensive misinformation about the extent to which HB 3023 would preempt local authorities. What is important is not the division of power between state and local governments, but the division of labor and responsibility. The City of Portland currently has the ability to manage a critical list of functions outlined below.

The industry bill moves all permitting and oversight authority to state agencies. This begs the question of who, if anyone, will be responsible for these functions in the future?

Validating driver background checks provided by the industry.

In 2017, The Portland Bureau of Transportation (PBOT) conducted an audit of 1,000 TNC driver backgrounds. PBOT found eight serious cases in which Uber and Lyft had authorized drivers who were in fact ineligible, some for some serious felony offenses. All ineligible drivers, based upon City Code, had their private for hire driving privileges revoked by PBOT. We were able to do this quickly, which was essential for maintaining public safety.

Portland City Council then directed PBOT to audit every new and recertified driver background in a process like that of King County, Washington. In the following months, PBOT has continued to discover instances where Uber and Lyft have failed to comply with City code by on-boarding unqualified drivers.

Under proposed industry legislation, the state *may* request a random sample of background checks maintained *by the companies* only once a year. If the industry is essentially self-regulating, who is going to be responsible for holding TNCs accountable and making sure that passengers are safe?

Spot checks of vehicles to make sure that drivers are who they say they are.

PBOT conducted over 3,500 undercover field audits of TNC and taxi drivers in 2018. The Bureau discovered numerous infractions. Just last week inspectors caught a driver using someone else's TNC phone app to work illegally. PBOT has revoked the certification of the permitted driver and notified the TNC – in this case Lyft. This is not uncommon and is not self-reported by the companies. Under the proposed legislation, it is unclear if anyone will be doing spot checks and further, how long it will take for the state to revoke a driver certification if a problem is identified.

Revoking permits for individuals or companies that break the law or operate in bad faith.

PBOT can revoke and suspend immediately the permits of drivers who are out of compliance based on regular and random audits. Under the industry bill, the companies would provide

background check information annually, meaning an unqualified driver could be on the road for an entire year before having a permit revoked—assuming the issue was identified in the first place.

Portland has not attempted at any point to remove TNCs from the City, but it seems reasonable to assume that Uber and Lyft may not be the only companies competing in this space in the future. If other companies were to deploy in Oregon cities with tactics similar to the early days of Uber, cities would have no ability to revoke their permits or business licenses.

Enforcing penalties significant enough to influence company behavior.

In 2016, Lyft was rolling out 50 unpermitted drivers per day on Portland streets. Portland has in place an escalating schedule of penalties depending on the seriousness and recurrence of the violation. They range from \$250 to \$5000 with potential for permit suspension or revocation. The City of Portland fined Lyft \$52,600 but could have assessed a much larger penalty if the problem had persisted.

Under the industry bill, the maximum penalty is \$100 with no increase for serious or recurring violations. A fine of \$100, less than the cost of a speeding ticket, is not much of a disincentive for a company like Uber valued at \$120 billion, or Lyft valued at \$25 billion.

Addressing the working conditions of drivers

Working with the AFL-CIO, Portland is creating the Drivers Resources Board as a venue for hearing the employment concerns of private-for-hire workers. Under the proposed industry bill, cities would be left without regulatory authority in this area and employment concerns would fall entirely to state agencies. The state would also be in the position of defending any employment action for industry litigation.

Collecting fees and delivering critical services.

The City's fifty cent ride fee has funded important programs that benefit access and safety in the Portland region. These include the Safe Ride Home program that supports private-for-hire trips on major holidays and the WAV program that ensures access for differently-abled passengers. The industry bill eliminates fees used to fund public benefits in local communities.

Requiring data-sharing to measure congestion and climate impacts.

Portland currently requires robust data-sharing from the TNCs and taxis. This trip data (without personal passenger information) is critical for evaluating trends in a rapidly-changing transportation system. At the direction of Portland City Council, PBOT is taking a careful look at the impact of new mobility services like Amazon delivery, TNCs, and bike share. We are interested to know their relationship to transit service, overall vehicle miles travelled, and net carbon emissions. Without the ability to license and permit, cities will no longer be able to require industry to share data, something the TNCs have refused to do in other markets unless explicitly required by law.

Applying specific charges or trip caps to manage congestion.

National studies suggest that TNCs are adding to traffic, particularly as drivers circle around waiting for the next ride. These added miles decrease safety and increase congestion and climate pollution. TNCs accounted for approximately 50 percent of the rise in vehicle congestion in San Francisco between 2010 and 2016. (San Francisco County Transportation Authority, October 2018)

Portland currently is host to approximately 30,000 private-for-hire trips per day. In an economic downturn, streets will likely be flooded with new drivers looking to make additional income. Under the industry bill, cities would be prohibited from developing locally appropriate tools to manage congestion. This could negate the great work the legislature has done to reduce congestion with HB 2017 and any future action on carbon reduction.

Enforcing penalties on companies and drivers that discriminate against passengers based on race, ethnicity, religion, disability, or other factors.

Portland's regulations require that TNCs provide 24/7 service to all parts of the city, regardless of who lives there. The industry bill includes provisions protecting passengers against discrimination but does not provide any indication of how that would be monitored or enforced. Local data collection requirements currently allow cities to see if TNCs really are serving the whole city. They also quantify how many rides were cancelled by drivers, which is a strong indication of whether bias or racism against passengers. With this bill, cities would rely on the good will of the companies to examine this data.

Providing service to people with disabilities.

Portland currently provides service to differently-abled people through its ride fee and WAV service. Companies are required to provide drivers within 30 minutes. The industry bill eliminates such assurances from local government. It also allows surge pricing to be applied to wheelchair rides, which is currently prohibited in Portland.

Under HB 3023, local jurisdictions would no longer be in position to provide any of these functions. Would a state agency be able to provide the same level of oversight? If so, what would be the fiscal impact? Without proper state resources, we would depend on the industry to self-report. It would be a case of the fox self-regulating the henhouse, with the public having to trust that TNCs were doing the right thing. And they have not always done the right thing, whether intentionally or by accident.

Uber and Lyft have made the case that Oregon is the last state without preemption and statewide regulation. This is misleading. Only 36 states have the kind of full preemption proposed in this bill, and the Washington and Minnesota legislators recently rejected similar industry bills in the past year. In states that have adopted full preemption, cities such as Austin and Los Angeles have expressed regret at the outcomes and feel helpless to manage their own streets.

This industry is brand new and it is having a tremendous impact on our communities—for good and for ill. It is still evolving. Better to take it slowly and get these complex policies right than to

rush sweeping legislation on behalf of the industry. Not every city has the same needs and concerns as Portland. The goal should be to create a framework that sets basic statewide minimum standards while still allowing local cities to manage their transportation system for their specific conditions. Of the bills currently under consideration, HB 3379 takes a more effective approach to address what we are hearing from cities around Oregon.

HB 3023 removes local governments' ability to regulate and collaborate with industry to set up parameters that meet the needs of its residents. We welcome the opportunity to work with the Legislature and other cities to expand transportation options across Oregon. However, this should not come at the expense of our right to protect our community and achieving transportation, equity and environmental goals.

This is an incredibly complex issue and Portland has the most the gain and the most to lose with this legislation. The timeline and regulations must be based on the best use of the public right-of-way, not based on industry interests and initial public stock offering timelines.

Sincerely,

A handwritten signature in black ink that reads "Chloe Eudaly". The signature is written in a cursive, flowing style.

Chloe Eudaly
Commissioner, City of Portland