Regulation in the New Economy
FACILITATOR: Jean Shiomoto,
Director,
California Department of Motor Vehicles,
Secretary,
AAMVA Board, and Board Advisor,
AAMVA Vehicle Standing Committee
PRESENTERS:

Richard D. Holcomb,
Commissioner, Virginia Department of Motor Vehicles,
Vice Chair, AAMVA Board, and
Board Advisor, AAMVA Vehicle Standing Committee

Chris Ziance,
Assistant General Counsel, Progressive Insurance

Brad Nail,
Insurance Policy Manager, Uber Technologies, Inc.
Regulation in the New Economy
Background

- Transportation Network Companies (TNC) connect drivers and riders through smartphone apps
- No street hails
- Not full-time professional drivers; use personal vehicles
The Beginning

• Drivers were operating for-hire with no government oversight

• TNC position
  – “Technology” not “transportation” companies
  – Existing regulations didn’t apply

• Rather than seek legislative authority, TNCs moved into Virginia with the expectation that laws would be adapted for their business models
Finding a Solution

• Short-term
  – Attempted dialogue with TNCs
  – Issued cease-and-desist letters
  – TNCs engaged
  – Granted temporary operating authority

• Long-term
  – Conducted 10-month legislative study
  – Brought together over 100 stakeholders
  – Researched other jurisdictions
The Legislative Process

• Key stakeholders came together for negotiations
  – Legislators
  – TNCs
  – Taxis
  – Insurance lobby
  – DMV

• Result - a bill on which all could agree and model legislation for the nation
Success Story

McAuliffe signs Uber, Lyft bill

Law makes rules on background checks, liability insurance

BY JACOB GEIGER
Richmond Times-Dispatch

Gov. Terry McAuliffe signed new rules for Uber and Lyft into law Tuesday and called the legislation a national example as cities and states decide how to regulate the ride-hailing services.

"With so many diverse interests involved, we would have ended up in some of those wars," McAuliffe said. "However, we worked together and reached a mutual agreement that advances entrepreneurship, benefits the environment, and serves the public desire for transportation options." 

Regulations, which were passed by the House and state Senate, are the subject of negotiation by companies, including the Virginia Department of Motor Vehicles and the Virginia Department of Business and Professional Regulation. 

Gov. McAuliffe and the companies that operate in the state have said they would work with regulators to make sure that companies are regulated fairly and that consumers are protected from unfair or dangerous practices.

"So we had to find a way to ensure Virginia’s consumers are protected and these new and innovative businesses could operate legally in the Commonwealth," McAuliffe said.

The regulations include background checks for drivers that would review felony histories and disqualify drivers who had a history of driving while under the influence or other serious moving violations. Drivers must submit to zero-tolerance policies regarding the use of drugs or alcohol, and the companies agreed to hire only licensed drivers 21 and older.

Another key regulation governs insurance. Drivers now are required to provide proof of insurance, and the state has established a safety record policy that requires the insurance policy be in place from the moment a driver accepts a trip request until the passenger is dropped off at the final destination. The insurance policy also recovers drivers when they are using their cars for personal use and are they driving for the ride-sharing companies, said Othello Powell, director of commercial lines at Geico.

After signing a bill Tuesday allowing such companies as Uber and Lyft to operate in the state, Gov. Terry McAuliffe shook hands with DMV Commissioner Rick Holcomb as Attorney General Mark R. Herring (right) looked on.

The insurance policy recovers drivers when they are using their cars for personal use and are they driving for the ride-sharing companies, said Othello Powell, director of Geico commercial lines.
Law Highlights

• TNCs licensed by DMV
• Driver screening the responsibility of each company
  – Drivers must be at least age 21 with valid driver’s license
  – Criminal and sex offender background checks required prior to hire and every other year
  – Driver’s license record checks required prior to hire and annually thereafter
Law Highlights

• Driver’s personal vehicles must:
  – Meet standards, i.e. registration and safety inspections
  – Seat no more than seven passengers, excluding the driver
  – Have insurance coverage for commercial operations
  – Register with DMV for TNC use
Law Highlights

• Vehicle markings required:
  – Trade dress
  – DMV decals
    • In-state – color-designated registration year decal for plates
    • Out-of-state – sticker for back window display
Law Highlights

• Insurance liability minimums during a pre-arranged ride:
  – $1 million in primary liability coverage
  – $1 million in uninsured motorist and underinsured motorist coverage
Law Highlights

• Insurance liability minimums at all other times a TNC driver is on the app
  – Anticipate insurance industry introducing new products so requirements established for 2015 and 2016
  – 7/1/15 – 12/31/15: TNC insurance provides secondary liability coverage of $125,000 per person/$250,000 per incident for death and bodily injury, and at least $50,000 per incident for property damage
Law Highlights

- 1/1/16 and on: TNC insurance must provide primary liability coverage of at least $50,000 per person/ $100,000 per incident for death and bodily injury/ and at least $25,000 per incident for property damage
Law Highlights

• TNC must disclose insurance requirements provided to TNC partners
• TNC must credential each driver; may be displayed through the app
• App must provide passenger with driver name, photo, and license plate
• E-receipts required
• Zero-tolerance policy
• No discrimination
Law Highlights

- Street hails prohibited; drivers may only accept riders through the app
- If a driver engages in off-app rides, the TNC is required to remove the driver from the app for at least 12 months
- No airport operations unless pre-approved by the airport authority
Law Highlights

- DMV to conduct periodic compliance reviews
- TNCs to maintain records for three years
- Records must be made available to law enforcement
Implementation planning began in February

More than 180 employees, 14,000 hours

Estimated cost
  – Year 1 - $640,000
  – Annual recurring - $430,000

Six additional employees hired
Licensed TNCs

- Rasier, a subsidiary of Uber, and Lyft applied for and were granted permanent operating authority under the new law
- No other TNCs applied; Sidecar has expressed interest
TNC Vehicle Registrations

• Registration began June 4
• Registration options include:
  – Customer service centers
  – dmvNOW.com
  – Mail
  – Fax
  – TNC-initiated registration through a new secure portal
TNC Vehicle Registrations

• Most registrations received through the secure portal
• More than 23,000 TNC vehicles by July 1
  ▪ 13,000 in-state
  ▪ 10,000 out-of-state
• Most registrations from Virginia population centers
Planning Ahead

• The technology of transporting passengers and property continues to evolve

• Next trend – property/goods transport arranged via apps
Autonomous Vehicles

- Partnership to research and develop automated-vehicle technology
- Industry wants no proactive legislation
- Governor issued proclamation of support
Unmanned Aircraft Systems

• Better known as drones
• Virginia is part of the Mid-Atlantic Aviation Partnership
• Will DMVs have a role in registering drones or licensing operators?
Richard.Holcomb@dmv.virginia.gov
(804) 367-6606
Transportation Network Companies (TNCs)

Chris Ziance
Assistant General Counsel
Progressive
What are TNCs?

- Companies that allow individuals to use their personal vehicles to provide transportation services to third parties for compensation.
- Uber, Lyft, Sidecar, etc.

The TNC utilizes emerging technology to:

- Connect passengers and drivers
- Collect the fare
TNCs

**Benefits:**
- Innovative
- Serves a need/Competition to taxis
- Consumer appeal
- Driver flexibility
TNCs

• Concerns:
  – Insurance perspective – Personal autos are being used for a commercial purpose
    • Gaps in coverage
      – Personal policy exclusion for use of an insured vehicle to transport persons or property for compensation or a fee
      – While liability coverage may be provided by the TNC, there is potentially no coverage for med pay, PIP, UM/UIM and Comp/Coll. (depending on the state)
        » Driver is uninsured for these exposures – often to his/her surprise.
TNCs

• Concerns:
  – Insurance perspective – Personal autos are being used for a commercial purpose
  • Rating / Underwriting is a challenge
    – Rating
      » Pricing is very tricky
      » Sufficient data is not available
    – Underwriting
      » Do companies even want to accept these risks?
      » If so, do you accept under a personal or commercial policy?
TNCs

• Concerns:
  – Insurance perspective – Personal autos are being used for a commercial purpose
  • Legislative concerns
    – Coordination of coverage between TNC and driver’s insurer (use of the word “excess” in some legislation)
    – Gaps for non-liability coverage = very poor customer experience from the insurance perspective
      » Some TNCs have announced an expansion of coverage that we don’t know the details of that could potentially solve this issue
TNCs

• Concerns:
  – Insurance perspective – Personal autos are being used for a commercial purpose
  • Commercial vs. Personal Use
    – TNCs – Commercial use begins when the driver is matched to a customer until the driver discharges the customer at the desired location
    – Insurers – Commercial use begins when the driver logs into the TNC app and ends when the driver logs out of the TNC app
TNCs

• Concerns:
  – Insurance perspective – Personal autos are being used for a commercial purpose
  • Duty to Defend
    – Litigation is inevitable and the auto insurance carrier will be expected to tender a defense for the driver
  • Disclosure
    – TNC drivers are often unaware of the insurance implications of their TNC activities
    – Database of drivers/vehicles participating in TNC activities?
• Concerns:
  – Insurance perspective – Personal autos are being used for a commercial purpose

• Cooperation
  – Claims investigation challenges
  – Should TNCs be obligated to provide personal lines carrier with basic claim and vehicle use (whether or not logged in to the app) data?
  – Information sharing could help determine if the loss was a personal or commercial exposure
TNCs

• Current landscape
  – TNCs are here to stay
  – Legislation is developing
  – Case law precedent will develop next

• Potential for market solutions
  – TNC – potential insurance solutions
  – Insurance companies – new products
# How Ride-Sharing Works: Uber

## UBER PRODUCT CATEGORIES

<table>
<thead>
<tr>
<th>Category</th>
<th>2010</th>
<th>2011</th>
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<tbody>
<tr>
<td><strong>Limo / Livery</strong></td>
<td>Traditional licensed livery / black car operators</td>
<td>Traditional taxis</td>
<td>Part-time operators using their personal vehicles</td>
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<td><strong>Taxi</strong></td>
<td>Traditional commercial auto for livery</td>
<td>Traditional commercial auto for taxi</td>
<td>Personal auto + non-owned commercial auto</td>
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<tr>
<td><strong>Rideshare / TNC/ P2P</strong></td>
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</table>
How Ride-Sharing Works: Uber

DETAILED FLOW - REQUESTING A CAR

1. User sets pickup location
2. User confirms request and method of payment
3. Request is sent to closest available driver
How Ride-Sharing Works: Uber

DETAILED FLOW - DRIVER ARRIVING AND BEGIN TRIP

User can track driver progress in real-time

User is notified when driver is close to pickup location

ETA displayed to user during trip
Fare is displayed and user is prompted to rate ride experience.

If rating <= 3 star, user prompted to give reason.

User receives detailed receipt by email.
How Ride-Sharing Works: Uber
SAFETY AND RISK MANAGEMENT

• Rider Safety
  – Background checks
  – Ratings / Feedback
  – No anonymous hailing
  – Driver profiles in app
  – Insurance standards
  – Vehicle standards

• Driver Safety
  – Cashless
  – Ratings / Feedback
  – No anonymous pickups
For-Hire Vehicle Regulations

HISTORICAL ELEMENTS

Operating Classifications
  o Taxi
  o Limousine
  o Jitney, Pedi-cab, Other

Level of regulation
  o State
  o County
  o City

Components
  o Insurance
  o Vehicle standards
  o Driver qualifications
  o Rates
  o Limitations to competition
For-Hire Vehicle Regulations
HISTORICAL ELEMENTS

Artificial barriers inherent in existing systems
  o Geographic
  o Barriers to entry
  o Limited business models
Results:
  o Localized taxi service
  o Concentrated ownership of limited operating rights
  o Limited flexibility for taxi drivers
  o Little to no focus on quality of service
  o Inability to respond to changing market conditions

Are existing regulations safeguarding the public and promoting a high-quality industry, or are they protecting incumbent interests?
For-Hire Vehicle Regulations
TRANSPORTATION NETWORK COMPANIES

Problems fitting into existing regulatory schemes
- Operate across multiple jurisdictions within a state – no need for artificial geographic barriers
- Drivers tend to be part-time
- Technology makes some existing regulations unnecessary or redundant
- Use of personal vehicles rather than full-time commercial vehicles
- Insurance implications

*Existing taxi regulations do not work with the TNC business model.*
For-Hire Vehicle Regulations
TRANSPORTATION NETWORK COMPANIES

Solution:
State-level TNC regulations that address the following areas:
  o Insurance
  o Background checks
  o Vehicle inspections
  o Fees/licensing

Recoginition that TNCs should be regulated, but are different from traditional taxi and limo.

Impetus to revisit existing taxi and limo regulations, also.
TNC Legislative Activity

2014
• 3 states plus DC passed TNC laws
• Included common elements, but not consistent details

2015
• 23 additional states have passed TNC laws
  • 18 comprehensive
  • 5 insurance-only
TNC Legislation - State by State

Last updated: Aug 15, 2015

Map showing the status of TNC legislation in states. The states are color-coded:
- Green for 27 states with passed TNC legislation.
- Blue for 18 states with no bill passed or no bill considered.
- Gray for 6 states with TNC framework legislation pending.

Legend:
- 27 states passed TNC legislation.
- 18 states no bill passed or no bill considered.
- 6 states TNC framework legislation pending.
TNC Legislative Activity

Insurance
- Was the source of the most friction and confrontation and was a barrier to successfully passing TNC laws
- Insurance industry had one model for how to regulate, and TNCs had another
- In March, the two sides agreed on a model to introduce in each state

Elements of the compromise model:
- $1M in third party liability coverage during a pre-arranged ride
- 50/100/25 coverage during “available” period
- Other state-specific compulsory coverage
- Guarantees coverage at all times
- Permits either TNC or TNC driver to provide coverage
- Permits insurers to offer or exclude coverage
INSURANCE FOR RIDESHARE DRIVERS WITH UBER

APP OFF  ➤  GO ONLINE ➤  ACCEPT TRIP ➤  BEGIN TRIP RIDER ENTERS ➤  END TRIP RIDER EXITS

OFFLINE

AVAILABLE (PERIOD 1)

INSURANCE PROVIDED FOR YOU:
Liability (When Necessary)*
$50K Injury/$100K Total/$25K Property

EN ROUTE (PERIOD 2)

INSURANCE PROVIDED FOR YOU:
$1M Liability

ON TRIP (PERIOD 3)

INSURANCE PROVIDED FOR YOU:
$1M Uninsured/Underinsured Motorist Injury
Contingent Collision and Comprehensive**
Up to actual cash value ($1K deductible)

* We maintain automobile liability insurance on your behalf if you do not maintain applicable insurance of at least this amount.

** Pays for damage to your vehicle if you maintain auto insurance that includes collision coverage for that vehicle.

Note: Additional coverage will be provided where required by state and local laws. At least this much coverage is provided in all US states for drivers while operating personal vehicles under the transportation network company model.
## Insurance Companies with Rideshare Products

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*Companies that offer **commercial policies** or policies that provide coverage for all driving activities.

**Limited Coverage.

✓ = currently available  ✔ = available soon (approved)
TNC Legislative Activity

Background Checks
• TNC required to complete background check prior to approving partner-driver to access the digital platform
• Elements:
  o Conducted by third-party vendor
  o Multi-level criminal history within defined time parameters
  o Sex offender registry
  o MVR with disqualifying parameters

Vehicle Inspections – many jurisdictions
• Conducted by qualified personnel
• Required components
• Re-inspection (varies)
Fees and Licensing

- TNC is licensed, not drivers
- Any licensing fee is assessed to the TNC, not drivers
- Licensing fee often reflects the approximate cost to the state agency of administering and enforcing the new regulations

*The TNC is the regulated entity, not the individual TNC drivers.*

*Most of the state laws preempt local ordinances.*
Results and Current Status

Developing consensus among states on approach to regulating TNCs.

Modern, effective regulations result in improved transportation options for the public.

The paramount concern among regulators is protecting public safety, which these regulations accomplish.
Regulation in the New Economy
Up Next:
Safely Moving Freight Across North America
Rooms 312–314
One Driver-One License: The Future of Credentialing
Rooms 315–317
Impaired Driving: Under the Influence
Rooms 318–320