Need a Lyft?
Regulating Ride-Sharing Companies
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Chief Counsel/Deputy Director, California
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TNCs in Virginia

The Road to Regulations

Richard D. Holcomb
Commissioner, Virginia DMV
March 18, 2015
Transportation Network Companies (TNC) connect drivers and riders through smartphone apps.

- No street hails
- Drivers not professionals and use personal vehicles
Chicken vs. Egg

- 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

- **Long-term**
  - Conducted 10-month legislative study
  - Brought together over 100 stakeholders
  - Researched other jurisdictions

- **Short-term**
  - Attempted dialogue with TNCs
  - Issued cease and desist letters
  - TNCs engaged
  - Granted temporary operating authority
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
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 could have ended up in some of bumper cars," McAuliffe said. "However, we worked together and reached a mutual agreement that advances entrepreneurship, benefits the environment, and fulfills the public desire for transportation options that are safe and convenient.

"Regulations, which were the House and Senate compromise, require companies to have a safety plan and background check process for drivers, in addition to the required minimum insurance. The regulations also include a financial responsibility requirement that companies are responsible for losses resulting from any claims for passengers.

"So we had to find a way to ensure Virginia's consumers were protected and that these new and innovative businesses could operate legally in the Commonwealth." The regulations include background checks for drivers that would review felony histories and disqualify drivers who had a history of driving while impaired 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 maintain minimum insurance coverage from the moment a driver accepts a trip request until the passenger leaves the vehicle, and liability insurance for drivers who are logged on to the companies' software but not providing services. This month, Geico launched an insurance policy in Virginia and five other states.

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

• TNCs to be 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
• 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 and display through the app
• App must provide passenger with driver name, photo, and license plate
• E-receipts required
• 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

• Estimated cost
  – Year 1 - $640,000
  – Annual recurring - $430,000
• Seven additional employees to be hired
• Systems changes, procedures, processes for TNC licensing, registration methods for vehicles, data exchanges, compliance and enforcement program, etc.
• Continued stakeholder engagement critical
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Transportation Network Companies (TNC’s)

Regulation vs. Impeding Innovation.

Brian G. Soublet,
Deputy Director and Chief Counsel
California Department of Motor Vehicles
TNC vs. Taxi

• “These companies are coming in and competing with me and they are unregulated and that is not fair.”

• “If you take out the smartphone app part of the discussion, everything else is a taxi. They are just using different technology to book the vehicle.”

Alan Reblos, General Manager, DeSoto Cab, San Francisco. San Jose Mercury News December 23, 2012
November 2012 the California Public Utilities Commission (CPUC) issues $20,000 citations to Lyft, SideCar, and Uber.

Violations alleged:

1. Operating Without Evidence of Insurance;
2. Not having Worker’s Comp Insurance for Employee Driver’s;
3. Failing to Enroll Drivers in DMV’s pull-notice program;
4. Failing to Enroll Drivers in Controlled Substance and Alcohol Testing Certificate Programs
CPUC Rulemaking

• The CPUC allows continued operation while completing regulations.

• “[T]he Commission is aware that TNC’s are a nascent industry. Innovation does not, however alter the Commission’s obligation to protect public safety, especially, where, as here, the core service being provided – passenger transportation on public roadways – has important safety impacts for third parties and property.” CPUC Rulemaking 12-12-011
CPUC’s Rulemaking

• Jurisdiction over “charter-party carriers
• New category – Transportation Network Companies
• Definition: an organization using an on-line enabled application (app) to connect passengers with drivers using their personal vehicles.
Requirements

- Obtain a license from the CPUC
- Require criminal background checks for drivers
- Establish a driver training program
- Implement a zero tolerance policy for drugs and alcohol
- Commercial liability policy of minimum $1 million
- Conduct a 19–point vehicle inspection
Ignoring Existing Law

• “A commercial Vehicle is a vehicle… used or maintained for the transportation of persons for hire, compensation, or profit or designed, used or maintained for the transportation of property.”

  Cal. Veh. Code section 260

• Commercial Vehicles must be registered and have commercial plates.
Unintended consequences

- Pick-ups are commercial vehicles and pay on average $150 weight fees.
- Approximately 6 million pick-ups registered in California.
- Pick-up drivers complain about the weight fee.
- $150 \times 6 \text{ million} = \$900,000,000 \text{ to the Highway Fund!}
“Nobody told us!”

  - When cars are purchased does the dealer have an obligation to report it as commercial?
- The “hassle” of registering as commercial.
- Uber instructs drivers not to change to commercial registration.
If you give an inch, what next?

“… dedicated mobile service that provides package delivery on your schedule.”

“Our drivers are driving their own cars, we just have to rent warehouse space.”
“If other companies are able to operate and there’s no enforcement of the regulations or laws, then we’re going to take that as tacit approval!”

Travis Kalanick, CEO Uber Technologies

Speaking at the U.S. Conference of Mayors
Motor Carrier of Property

- “Motor Carrier of Property” is any person who uses a motor vehicle and transports property for compensation. California Vehicle Code section 34601.
- Drivers – as independent contractors, not employees. Does that mean each driver has to get a MCP?
Beware of Other Business interrupters.

- Package delivery
- Internet based used car sellers – Beepi, Carlypso, ShiftCar.
- Impeding Innovation vs. Enforcing Existing regulation – the spill over effect.
• Brian G. Soublet
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Need a Lyft?
Regulating Ride-Sharing Companies