



Massachusetts Enacts Law Regulating “Transportation Network Companies”

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On August 5, 2016, the Commonwealth of Massachusetts joined nearly 40 other states in adopting a statutory scheme regulating “transportation network companies,” such as Uber and Lyft. Under “An Act Regulating Transportation Network Companies” (the “Act”), a “transportation network company” (or “TNC”) is defined to be an entity that uses a digital network to connect riders to pre-arrange and provide transportation.

Implementation of the Act’s requirements will be overseen by a newly-created division within the Department of Public Utilities (the “TNC Division”). The Act tasks the TNC Division to promulgate, no later than August, 2017, regulations to enforce the requirements of the Act. The operations of this new regulatory agency will be funded through assessments levied on TNCs, calculated based on the companies’ Massachusetts-based revenue.

The Act calls for a number of administrative developments that will have an impact on the operations of TNCs. First, it establishes a permitting scheme to be administered and supervised by the TNC Division. Companies seeking to act as a TNC in Massachusetts must receive this permit to conduct business, although there will be a period during which entities already operating in the commonwealth may do so while the regulations and regulatory agency is stood up. Once permitted, TNCs will be responsible for having them renewed annually thereafter.

In addition to creating a vetting process for TNCs, the Act also calls for a screening process for drivers. The Act establishes a multi-level background check process for TNC drivers, including a centralized criminal background check to be administered by the TNC Division. Individuals who are under the age of 21, are registered sex offenders, have been convicted in the past seven years for various types of crimes (sex offenses, violent crimes, DUIs, robbery, fraud, or other similar infractions), or who have an excessive number of traffic violations within the most recent three years are automatically disqualified from acting as a TNC driver.

There are a number of additional requirements found within the Act, including requirements that:

- TNC vehicles undergo periodic safety inspections conducted by the Massachusetts Registry of Motor Vehicles.
- TNC vehicles bear removable decals that will be provided by the TNC Division.
- TNC drivers provide fare estimates to riders (including during standard, surge, and high volume / high demand times).

- TNC drivers display, during rides, a “driver certificate” that includes the driver’s name and picture, along with the license plate number of the vehicle.
- TNC drivers maintain adequate insurance in amounts specified under the Massachusetts insurance code.
- TNCs accommodate riders with special needs (including accommodation of service animals), and not impose additional charges for doing so.

The Act also calls for TNCs to remit payments of \$0.20 per ride to the TNC Division, with such amounts being shared with the town where such ride originated (to account for the use of the roads, bridges, and other infrastructure of the town), the Massachusetts Development Finance Agency, and the Commonwealth Transportation Fund. It also calls for the Massachusetts Port Authority to promulgate rules that will permit TNC rides to and from Logan Airport and for the Massachusetts Convention Center Authority to write similar rules to permit TNC rides to and from the Boston Convention and Exhibition Center.

It remains to be seen if the steps taken in the regulation of TNCs have struck the right balance between protecting consumers (both from pricing shock and potentially dangerous situations) on the one hand, while not over-bureaucratizing a still nascent industry on the other. Also of relevance is whether the implementation of the rules in Massachusetts will have a chilling effect and decrease the number of TNC drivers – leading to potential price increases for end-users.