



RIDE FOR HIRE TASK FORCE INTERIM REPORT

From: Ride for Hire Task Force

To: James Eldridge, Chair, Senate Committee on Financial Services
Eric Lesser, Vice Chair, Senate Committee on Financial Services
Aaron Michlewitz, Chair, House Committee on Financial Services
Michael Finn, Vice Chair, House Committee on Financial Services
Thomas McGee, Chair, Senate Committee on Transportation
Joseph Boncore, Vice Chair, Senate Committee on Transportation
William Straus, Chair, House Committee on Transportation
Carolyn Dykema, Vice Chair, House Committee on Transportation
Michael Moore, Vice Chair, Senate Committee on Public Safety and Homeland Security
Harold Naughton, Jr., Chair, House Committee on Public Safety and Homeland Security
Alan Silvia, Vice Chair, House Committee on Public Safety and Homeland Security

Date: June 30, 2017

RE: Ride for Hire Task Force Interim Report

The following letter provides an update on the implementation of the main components of Chapter 187 of the Laws of 2016, *An Act Regulating Transportation Network Companies*.

The Ride-for-Hire Task Force, established in Section 7 of Chapter 187 and described on page 7 this update, is required to file a report, including findings, recommendations, and accompanying proposed legislation, by July 1, 2017. With the passage of Chapter 187, the Administration prioritized the implementation of critical components of the law, including those within the newly established Chapter 159A½, requiring regulation of Transportation Network Companies (TNCs). **The Task Force is herein submitting an interim update for the July 1 deadline, with the intention of providing a full report to the legislature by the end of the year.**

The Department of Public Utilities (DPU), the Massachusetts Port Authority (Massport), the Division of Insurance (DOI), and the Department of Transportation (MassDOT) have contributed to the following:

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UPDATE FROM THE DEPARTMENT OF PUBLIC UTILITIES ON THE IMPLEMENTATION OF CHAPTER 159A½ - ESTABLISHMENT OF THE DPU TNC DIVISION

On August 5, 2016, Governor Baker signed into law Chapter 187 of the Acts of 2016, An Act regulating transportation network companies (“Act”), creating a statewide regulatory framework for transportation network companies (“TNCs”). The Act created a new division (“Division”) within the Department of Public Utilities (“Department”) to oversee TNCs, transportation network services, and transportation network drivers in the Commonwealth. Certain provisions of the Act became effective on November 3, 2016.

Among other things, the Act directs the Department to consult with several state entities to implement its various provisions and to promulgate regulations by November 3, 2017 in numerous areas, including: a permitting process for TNCs; driver suitability and background checks, suspensions and revocations; records retention; mandatory auditing; enforcement provisions; and an appeals process for TNCs and drivers aggrieved by a Division decision. The Act also requires the Division to levy a surcharge and an assessment on TNCs on an annual basis.

To fulfill its statutory obligations, the Division has consulted with secretariats, agencies, and departments, including: Executive Office of Administration and Finance; Executive Office of Energy and Environmental Affairs; Executive Office of Public Safety; Department of Criminal Justice Information Services; Division of Insurance; Massachusetts Development Finance Agency; Massachusetts Port Authority; Massachusetts Convention Center Authority; Massachusetts Department of Transportation; Registry of Motor Vehicles; and Sex Offender Registry Board.

In addition, recognizing the Act’s public safety impetus, the Division, along with several agency stakeholders, negotiated Memoranda of Understanding (“MOU”) with six TNCs operating in the Commonwealth. The agreements are public safety oriented and primarily address driver background checks. TNCs subject to the agreements include Uber, Lyft, Fasten, Embarque, Wuleeb, and SAFR. Additionally, the Department anticipates executing three more MOUs within the next 30 days. The Department executed the agreements with Uber and Lyft on November 18, 2016, and committed the Division to beginning background checks on January 6, 2017, and completing background checks for all of their approximately 80,000 drivers by April 3, 2017.

The accelerated pace at which the Division would implement the background checks – approximately one year ahead of schedule – necessitated an immediate creation of Division infrastructure. The Department prioritized the hiring of staff, creation of work space, purchasing of hardware, and a host of other tasks to ensure that the new Division would be operational on January 6, 2017. To prepare for the voluminous amount of driver background checks, the Department worked hand in hand and around the clock with the Executive Office of Information Technology, Energy and Environmental Affairs Information Technology, Department of Criminal Justice Information Services, Registry of Motor Vehicles, and the Sex Offender Registry Board to design and create an interconnected platform to extract, synthesize, and disseminate driver

background information to the Division. The Division continues to work with various stakeholders to adjust the database for efficiency and foresight.

Recently, the Department began the regulatory process with the development of draft regulations. On March 23, 2017, the Department published its draft regulations, issued its Order opening rulemaking, and began accepting public comments on the regulations. On May 23, 2017, the Department held a public hearing at the State Transportation Building in Boston. The Chairman of the Department, TNC Division Director, and Department legal counsel conducted the hearing, which lasted approximately six hours and where over 160 members of the public spoke to various aspects of the proposed regulations. The Division is now in the process of reviewing hundreds of pages of written testimony and hundreds of pages from the hearing transcript.

As of June 28, 2017, the Department has processed 130,715 applications and 100,811 drivers (drivers can apply through several TNCs). The Division continues to receive and process hundreds of new driver applications daily and processes most applications within 24 hours of receipt. In addition, the Division has processed 2,073 driver appeals and allowed 680. Excluding appeals that require a hearing, appeals are typically processed within 24-48 hours.

The Division continues to serve the public on a daily basis. From January to present, the Division has assisted thousands of members of the public who came into the Department's office in Boston. The Division has also responded to thousands of emails and thousands of phone calls from members of the public.

The Division's work over the past several months has been immense, but a great deal remains. The Division will continue to review the public comments and move toward final regulations. Once final regulations are promulgated, the Division will commence the TNC permit process, which involves an in-depth review of business operations and compliance performance. The Act and the draft regulations set out requirements that all TNCs must meet in order to be permitted in the Commonwealth. Once permitted, the Division will audit TNC practices and initiate enforcement protocols when necessary.

Under the MOUs, drivers must be at least 21 years of age, have access to a validly registered and inspected vehicle, and have Background Check Clearance Certificate issued to him/her by the Department of Public Utilities' Division of Transportation Network Companies. Driver background checks include a lifetime look back for violent felonies, sex abuse convictions, and multiple serious driving offenses. In addition, there are other specific disqualifying conditions, such as a failure to have a valid driver's license.

The background check is a two-step process:

- Step one: The TNC will perform a multi-state commercial criminal and driving background check. Additionally, the TNC will conduct a check of the United States National Sex Offender Public website. The TNC must then disqualify any driver based on the suitability standard set forth in the MOU.
- Step two: If a driver passes the TNC's check, the TNC will forward the driver information to the Division. The Division will then check the driver's information through the Massachusetts CORI and SORI systems, Registry of Motor Vehicles' driving record, and Warrant Management System.

In addition, the MOU contains a "catch all" provision that allows TNCs and/or the Division to deny a driver from providing services if the background information demonstrates a risk to public safety to allow the driver to provide services.

Moving forward, the DPU's TNC Division must promulgate regulations by November 3, 2017.

The draft regulations and additional information can be found at: www.mass.gov/eea/grants-and-tech-assistance/guidance-technical-assistance/agencies-and-divisions/dpu/dpu-divisions/transportation-network-company-division/

UPDATE FROM THE MASSACHUSETTS PORT AUTHORITY ON TNC IMPLEMENTATION

The new TNC legislation provided that Massport promulgate rules for the safety of passengers and the efficient operation of TNCs prior to allowing TNC pick-ups at Logan Airport. In anticipation of and immediately following its passage, Massport developed an implementation plan and draft Rules for the operation of TNCs at Logan:

- Engaged with other Airport stakeholders and the TNC industry to determine Airport TNC operations best practices.
- Developed comprehensive TNC operations plan for Logan Airport, including identification of TNC pool areas, training of dedicated TNC ground transportation personnel, and development of passenger way-finding signage plans.
- Developed and adopted rules governing TNC operations at Logan Airport.
- Negotiated a template for a Logan TNC Memorandum of Agreement (MOA) conditioned upon prior execution of an MOU with the Department of Public Utilities (DPU).
- Terms of Massport MOA require that the TNC drivers picking up at Logan Airport have a valid and current Background Check Certificate as issued by DPU, check-in at the geo-fenced TNC pool so that Massport can monitor TNC activity; follow a designated TNC route while on the Airport and pick-up passengers in TNC designated areas.
- Massport entered into MOUs with three TNC companies, Lyft, Inc; Raiser, LCC (Uber's parent company), and Uber USA (Uber Black's parent company).
- TNC operations commenced on February 1, 2017. Massport continues to work with other TNC entities who desire to operate at the Airport.
- For the first four month of operations TNC pick-ups averaged 4,177 pick-ups per day.
- TNCs picking up at Logan Airport are subject to continued compliance with the state DPU Memorandum of Understanding, Massport's Memorandum of Agreement, and the forthcoming DPU regulations.

GAP INSURANCE MARKETPLACE

There are three phases to a TNC transaction. Phase one is when the driver is logged onto the TNC digital network but has not been matched with a rider. Phase two is when the driver has accepted a match with a rider and is en route to pick up the rider. Phase three is when the rider is in the car until the termination of the ride. TNCs are required by statute to provide coverage for 1) Bodily Injury to Others, 2) Damage to Someone Else’s Property, 3) Personal Injury Protection and 4) Bodily Injury Caused by Uninsured Auto with varying minimums depending on the phase. Most TNCs also provide Collision and Comprehensive coverage¹ during phase two and three for drivers with such coverage on their personal policies, but are not required to provide this coverage by statute. However, TNCs do not provide collision or comprehensive during phase one in any circumstance.

Most personal auto policies do not currently cover drivers during any phases without an endorsement. There are currently four companies offering endorsements to cover collision and comprehensive during phase one in Massachusetts, with at least one other pending. Most of these endorsements are secondary to TNC insurance or offer excess coverage only, but they do cover collision and comprehensive up to purchased limits.

¹ Comprehensive covers one’s own auto from damage due to “acts of God” or other non-collision damage, including damage to vehicle glass. Collision and limited collision cover one’s own auto from damage caused while you were or a permitted driver was operating the vehicle.

UPDATE ON THE ESTABLISHMENT OF THE RIDE FOR HIRE TASK FORCE

The Ride-for-Hire Task Force was established by Chapter 187, Section 7 of the Laws of 2016, *An Act Regulating Transportation Network Companies*. The stated mission of the Task Force is, “to review the current laws, regulations and local ordinances governing licensed hackneys, taxis, livery and transportation network companies in the commonwealth and to make recommendations concerning public safety, consumer protection and the economic fairness and equity of the regulatory structure governing the ride for hire industry.”

The Ride for Hire Task Force convened its first meeting on June 21, 2017, with plans to meet on at least three additional occasions through the end of the calendar year.

The following members comprise the Task Force:

Appointee/Candidate	Seat	Appointed By
Chris Henry	Director of the DPU’s TNC Division	Ex Officio
Gary Anderson	Commissioner of Insurance	Ex Officio
Stephanie Pollack	Secretary of Transportation	Ex Officio
Rep. Aaron Michlewitz	Member of the House of Representatives	House Speaker
Rep. Shawn Dooley	Member of the House of Representatives	House Minority Leader
Senator James Eldridge	Member of the Senate	Senate President
Senator Don Humason	Member of the Senate	Senate Minority Leader
Atty. Thomas Murphy	Representative of Disability Law Center Inc.	Governor
Christopher English	Representative of the Massachusetts Municipal Association	Governor
Chief Robert Ferullo, Jr.	Representative of the Massachusetts Chiefs of Police Assoc. Inc.	Governor
Funsho Owolabi (Lyft)	Representative of a TNC	Governor
Jennifer Pinkham	Representative of Hackney & Taxi Industry	Governor
Gina Walker	Member of Livery Industry	Governor
Joel A. Barrera	Deputy Chief for Cabinet Affairs	Facilitator

The legislation describes 16 topics for the Task Force to review. At the first meeting, the Task Force members reviewed the topic items and expressed initial considerations of the relevant history. It was determined that some fundamental background information must be provided to understand the municipal and state laws, policies, and regulations that impact each type of ride for hire service.

A further investigation into the topic areas will be conducted by various stakeholders of the Task Force, as applicable. The Task Force recognizes that the end goal may not be to develop a consensus on all items, but to lay out a trajectory for further discussion and review of critical topics by the appropriate bodies.

The 16 topic items as identified in the legislation are as follows:

1. The feasibility of establishing a Massachusetts Accessible Transportation Fund credited with annual surcharges from ride for hire companies that do not, as determined by the task force, provide sufficient wheelchair-accessible service;
2. Potential methods for allowing ride for hire vehicles to engage in “surge pricing” based on supply and demand that conform to the practice of “surge pricing” that is currently utilized by transportation network companies;
3. Expanding the oversight of ride for hire companies’ compliance during insurance claims investigations arising from traffic accidents, including an examination of whether there is a need for greater involvement of the division of insurance or attorney general’s office in order to ensure that ride for hire companies are not unnecessarily furtive in providing information during discovery;
4. Whether the practice of depositing funds with the state treasurer’s office in lieu of procuring a motor vehicle liability policy or bond, as permitted by section 34D of chapter 90 of the General Laws, should be abolished for ride for hire vehicles or abolished for vehicles altogether;
5. Whether there should be a limit on the number of transportation network company digital networks that a transportation network driver may be connected to at a time to protect rider and public safety;
6. The potential impact of autonomous cars in the ride for hire industry, including the possible effect that autonomous cars may have on vehicle safety and fairness to existing drivers;
7. The environmental impacts that the provision of transportation network services may have and the feasibility of incentivizing the use of zero emission vehicles in the ride for hire industry;
8. An examination of the automobile financing programs offered by transportation network companies to transportation network drivers in order to determine whether the programs are predatory in nature;
9. The feasibility of transportation network companies providing within their user interface an emergency safety alert feature, which may include an option to connect a call to the police, the sending of alerts about trip and driver to local authorities, contact information for the company’s incident response team and the sending of automated messages to preselected emergency contacts that details the trip and allows for real time global positioning system monitoring;
10. The establishment of municipal licensing commissions to regulate development and oversight of the local ride for hire industry;
11. Any other matters which the task force finds may improve public safety, consumer protection and economic fairness in the ride for hire industry;

12. The sufficiency of current motor vehicle liability policy minimums for licensed hackneys, taxis and livery;
13. An examination of transportation networks’ policies on fees charged to riders for cancelled rides and occasions when the rider is late to meet a transportation network driver at the pre-arranged pick-up location;
14. Easing regional restrictions on taxi service by allowing taxi medallion owners to pick up non-hail customers via smart phone application outside of the borders of the licensing municipality;
15. Allowing medallion owners to set meter rates lower than rates established by the licensing municipality as long as the rates are clearly disclosed in advance to the customer; and
16. Examining and making recommendations on ways in which the division established under section 23 of chapter 25 can make statistical reports relative to the number and type of incidents reported to transportation network companies relating to drivers and riders.

The Task Force would like to express its appreciation for the legislature’s pragmatic approach to addressing the challenges and opportunities where new technologies intersect with existing laws, policies and regulations. The 16 topics identified by the legislature in Chapter 187 present an exciting chance to seek improvements to transportation services for customers and service providers alike. The Task Force will meet on at least three additional occasions through the end of this year with the goal of developing a detailed understanding of the current laws, regulations and local ordinances governing ride for hire vehicles, and making recommendations concerning public safety, consumer protection and the economic fairness and equity of the regulatory structure governing the ride for hire industry.

For inquiries or additional information, please contact Daniel Sullivan, MassDOT Policy Analyst, at Daniel.A.Sullivan@dot.state.ma.us or by phone at (857) 368-8982.