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SENATE . . . . . No. 2289

The Commonwealth of Massachusetts

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July 10, 2019

To the Honorable Senate and House of Representatives,

I am pleased to submit for your consideration, "An Act Relative to Public Safety and Transparency by Transportation Network Companies."

On August 5, 2016, I signed bipartisan legislation creating a cutting-edge, state-wide regulatory framework for transportation network companies ("TNCs"). The legislation, An Act Regulating Transportation Network Companies (Chapter 187 of the Acts of 2016) prioritizes public safety and further reinforces Massachusetts' role as a leader in transportation innovation. It has now been nearly three years since that law came into effect and we have experienced first-hand the impressive growth of the TNC sector, including participants such as Uber and Lyft.

The legislation I am filing today includes enhancements to the safety and enforcement provisions of the existing TNC law. It also empowers the Department of Public Utilities ("DPU") to obtain more specific categories of ride data from TNCs in order to assist planning agencies and other state and local entities with transportation planning, congestion management, and vehicle emissions tracking.

While Massachusetts is widely understood to have the most comprehensive TNC safety and enforcement laws in the country, important areas of improvement have come to light as this service has become more prolific. As such, these amendments include proposed enhancements to the safety and enforcement provisions of the TNC legislation. These enhancements are the result of collaboration with law enforcement and the Massachusetts Port Authority, and provide for tougher penalties for "account renting," a practice where a person not certified to provide

services uses the credentials of a person who is certified to fraudulently provide rides. For example, in April 2019, a TNC driver at Logan Airport was identified as having unlawfully rented another person's TNC account. That driver was later found to have a violent criminal history in two other states. Stricter criminal penalties for this crime are commensurate with the seriousness of the offense. The proposed amendments will also make it a criminal offense for a driver to exploit the personal information of a rider to stalk, harass or defraud the rider.

The goal of these changes is to ensure that any person using TNC services in the Commonwealth can feel safe and secure while doing so and so that law enforcement has the proper tools to clearly and concisely enforce the provisions of the statute. My Administration also expects to propose in the coming weeks regulatory changes that will further ensure the safety of TNC passengers.

In 2017, there were 64.8 million TNC rides that started in the Commonwealth. In 2018, use of TNCs increased by 25%, to 83.1 million rides. Around 223,000 TNC rides per day occurred across the Commonwealth in 2018 alone. Undoubtedly, TNCs have become an important thread in the fabric of our state's transportation environment. Yet, under existing law, transportation planners cannot make informed decisions about ways to harmonize the public benefit of TNCs with the significant impact that these providers have on our transportation infrastructure. This is due to the fact that some of the most critical pieces of information are unknown. Transportation planners are thus left to make strategic decisions on the location of dedicated bus lanes; ways to encourage carpooling, and investments in infrastructure, without the necessary data. Accordingly, this bill authorizes the DPU to obtain more detailed trip data from TNCs and to share that data in an anonymized and confidential manner with state agencies, municipalities, and planning organizations for planning purposes. Lastly, with feedback from municipalities across the state, this bill proposes adjustments to the requirements for municipalities that receive a per ride assessment of less than $25,000 based on the number of rides in that municipality, giving flexibility to those municipalities to spend such small sums without further appropriation.

This bill enhances public safety, provides necessary information to transportation planners while maintaining confidentiality, and reduces administrative burdens on our cities and towns. I urge your prompt enactment of this legislation.

Respectfully submitted,

Charles D. Baker,
Governor

SENATE . . . . . No. 2289

Senate, July 11, 2019 -- Message from His Excellency the Governor recommending legislation relative to public safety and transparency by transportation network companies.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to public safety and transparency by transportation network companies.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of chapter 159A½ of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by inserting after the definition of "division" the following definition:-

"Non-shared ride", a prearranged ride that is not a shared ride.

SECTION 2. Said section 1 of said chapter 159A½, as so appearing, is hereby further amended by inserting after the definition of "prearranged ride" the following definition:-

"Shared ride", a prearranged ride for which each rider requests or accepts a request to share the prearranged ride with one or more riders, and for which each rider is charged a fare that is calculated, in part, based on the rider's request or acceptance of a request to share all or part of the prearranged ride, regardless of whether the rider actually shares all or part of the ride with one or more riders.

SECTION 3. Section 2 of said chapter 159A½, as so appearing, is hereby amended by striking out subsection (e) and inserting in place thereof the following new subsection:-

(e) A transportation network company and driver shall not, unless approved to do so by the division, raise base fares, impose additional charges or otherwise increase the price that a rider is charged for transportation network services, including by imposing surge pricing or other formulas based on increased demand, during a federal or a governor-declared state of emergency.

SECTION 4. Subsection (f) of said section 2 of said chapter 159A½, as so appearing, is hereby amended by adding the following 2 sentences:-

A transportation network driver shall carry proof of the completed transportation network vehicle inspection at all times while providing transportation network services. Suitable proof under this section shall be a copy of a vehicle inspection report issued pursuant to the sixth paragraph of said section 7A of said chapter 90 and regulations promulgated thereunder.

SECTION 5. Subsection (l) of said section 2 of said chapter 159A½, as so appearing, is hereby amended by adding the following sentence:-

When providing notice under this subsection, the transportation network company shall also provide the following information to the division: (i) the universal unique identifier associated with the driver; (ii) if reporting a violation of a law or rule or regulation, a citation to said law or rule or regulation together with all reasonably available documentation and statement demonstrating a violation by the driver; and (iii) if reporting a driver's unsuitability, a statement demonstrating all reasons why the driver is not suitable to provide transportation network services together with all reasonably available documentation supporting said reasons.

SECTION 6. Subsection (a) of section 7 of said chapter 159A½, as so appearing, is hereby amended by striking out, in line 2, the words “subsection (b) of section 2 or sections 4 or 5” and inserting in place thereof the following words:- subsections (b) or (f) of section 2, subsection (a) of section 4, or subsection (b) of section 5.

SECTION 7. Said subsection (a) of said section 7 of said chapter 159A½, as so appearing, is hereby further amended by inserting after the words “chapter 90C”, in line 6, the following words:- to the transportation network driver and may assess a fine of not more than $500.

SECTION 8. Subsection (b) of said section 7 of said chapter 159A½, as so appearing, is hereby amended by striking out the figure “$500”, in line 16, and inserting in place thereof the following figure:- $1,000.

SECTION 9. Said subsection (b) of said section 7 of said chapter 159A½, as so appearing, is hereby further amended by striking out the figure “$750”, in line 17, and inserting in place thereof the following figure:- $2,500.

SECTION 10. Said subsection (b) of said section 7 of said chapter 159A½, as so appearing, is hereby further amended by striking out the figure “$1,000”, in line 18, and inserting in place thereof the following figure:- $5,000.

SECTION 11. Said subsection (b) of said section 7 of said chapter 159A½, as so appearing, is hereby further amended by striking out the words “6 months”, in line 19, and inserting in place thereof the following words:- 2½ years.

SECTION 12. Said section 7 of said chapter 159A½, as so appearing, is hereby further amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:-

(d) A driver who fails to produce a physical paper copy of a transportation network driver certificate or a physical paper copy of a background check clearance certificate upon request by law enforcement shall be deemed to have committed a civil motor vehicle infraction, as defined in section 1 of chapter 90C. State or local law enforcement officials may issue a citation for any such violation in the manner provided for in said chapter 90C to the transportation network driver and may assess a fine of not more than $100 for a first offense, not more than $500 for a second offense, and not more than $1,000 for a third or subsequent offense.

(e) No driver providing transportation network services shall knowingly and willfully utilize rider information: (i) for any purpose that is inconsistent with the health, safety, welfare, or privacy of the rider; (ii) to stalk, harass, annoy, or accost a rider in violation of sections 43 or 43A of chapter 265 or section 53 of chapter 272; or (iii) to defraud a rider in violation of section 37E of chapter 266. Any violation of this section shall be punished by imprisonment in the house of correction for not more than 2 years. Each violation may be considered a separate offense. Rider information as described in this subsection shall include, but not be limited to, a rider's first and last name, home and mailing address, phone number, email address, and account information.

SECTION 13. Subsection (e) of section 8 of said chapter 159A½, as so appearing, is hereby amended by inserting after the words "chapter 66", in line 48, the following words:- ;

provided, however, that the division may post or share anonymized and aggregated data in the manner provided in section 12.

SECTION 14. Chapter 159A½ of the General Laws is hereby further amended by adding the following section:-

Section 12. (a) By the 1st of each month, each transportation network company shall submit to the division, in a format approved by the division, data related to each prearranged ride provided in the previous month and include the following categories of information:

(1) for each non-shared ride: (i) the latitude and longitude for the points of the origination and termination, calculated to three decimal degrees; (ii) the date and time, calculated to the nearest minute, of the origination and termination; (iii) the total cost paid by the rider for the ride; (iv) the universally unique identifier associated with the transportation network driver; (v) the transportation network driver's city or town of residence; and (vi) the transportation network driver's state of driver licensure; (vii) whether the rider requested a shared ride but was not successfully matched with another rider; (viii) whether the prearranged ride accommodated a rider with special needs and, if so, whether the ride was provided by a wheelchair accessible vehicle; (ix) the total time that the transportation network driver spent en route to pick up the rider; (x) the total time that the transportation network driver spent providing the prearranged ride; (xi) the total mileage driven by the transportation network driver while en route to pick up the rider; (xii) the total mileage driven by the transportation network driver while providing the prearranged ride; (xiii) the total number of riders in the vehicle; and (xiv) the transportation network vehicle license plate;

(2) for each shared ride: (i) the latitude and longitude for the points of the origination and termination of the entire shared ride, calculated to three decimal degrees; (ii) the total number of riders in the vehicle; (iii) for each prearranged ride that was part of a shared ride:

(A) the latitude and longitude for the points of each respective prearranged ride's origination and termination, calculated to three decimal degrees; (B) the date and time, calculated to the nearest minute, of each respective prearranged ride's origination and termination; (C) the total time that the transportation network driver spent en route to pick up each rider; (D) the total time that the transportation network driver spent providing each prearranged ride; (E) the total mileage driven by the transportation network driver while en route to pick up each rider; (F) the total mileage driven by the transportation network while providing each prearranged ride; (G) the total cost paid by each rider for each prearranged ride within a shared ride; (H) the universally unique identifier associated with the transportation network driver; (I) the transportation network driver's city or town of residence; (J) the transportation network driver's state of driver licensure; and (K) the transportation network vehicle license plate;

(3) for each transportation network vehicle that provided at least one prearranged ride: (i) vehicle license plate; (ii) vehicle make, model, year, and, if available, trim; (iii) vehicle identification number; (iv) total number of minutes and miles while the vehicle was en route to pick up transportation network riders; (v) total number of minutes and miles while the vehicle was engaged in prearranged rides, whether shared or non-shared; and (vi) the total number of minutes and miles while the vehicle was logged into the transportation network vehicle's digital network for purposes of accepting a prearranged ride, but not en route to pick up riders or engaged in prearranged rides;

(4) for each accident or crash involving a transportation network driver while logged into the transportation network company's digital network: (i) the latitude and longitude of the location of the accident or crash, calculated to four decimal degrees; (ii) the date and time of the accident or crash, calculated to the nearest minute; (iii) the license plate of the transportation network vehicle; and (iv) the universally unique identifier associated with the transportation network driver.

(b) The division may obtain additional ride data from a transportation network company for purposes of congestion management, including, but not limited to:

(1) the total number of transportation network drivers that utilized the transportation network vehicle's digital network within specified geographic areas and time periods as determined by the division;

(2) the total time spent and total miles driven by transportation network drivers in such geographic areas or time periods as determined by the division: (i) while en route to pick up a rider; (ii) while engaged in a prearranged ride; and (iii) while logged into a digital network for purposes of accepting a prearranged ride, but not en route to pick up a passenger or engaged in a prearranged ride.

The division shall promulgate regulations prior to obtaining data pursuant to this subsection.

(c) On an annual basis and not later than June 30, the division shall post on its website in aggregate form, the total number of rides provided by all transportation network companies that originated in each city or town, the cities or towns where the rides originating in each city or

town terminated, and the average miles and minutes of the rides that originated in each city or town and terminated in each other respective city or town.

(d) The division may, for purposes of congestion management, transportation planning or emissions tracking, enter into confidential data sharing agreements to share anonymized and aggregated data received by the division pursuant to this section with the Executive Office of Technology Services and Security, Executive Office of Energy and Environmental Affairs, Massachusetts Department of Transportation, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Department of Environmental Protection, a city or town that receives a disbursement from the Transportation Infrastructure Enhancement Trust Fund established in section 8 of chapter 187 of the acts of 2016, a Massachusetts regional transit authority formed pursuant to section 3 of chapter 161B of the General Laws, a Massachusetts regional planning agency, and a Massachusetts metropolitan planning organization. The division shall prescribe the form and content of a confidential data sharing agreement, and the manner of transmitting the information. Any confidential data sharing agreement shall specify that the information provided by the division shall be aggregated and anonymized and may be used only for the purposes set forth in said agreement. Any data received by an entity from the division through a confidential data sharing agreement as described in this subsection shall not be considered a public record as defined in clause Twenty-sixth of section 7 of chapter 4, and shall not be disclosed to any person or entity other than those listed or described in the confidential data sharing agreement.

(e) Notwithstanding subsection (d) of section 12, a state or municipal government agency or transportation planning entity may disclose conclusions and analysis derived from the information and data received pursuant to a confidential data sharing agreement.

(f) Any violation of the terms of a confidential data sharing agreement by any of the entities listed in subsection (d) of section 12 may result in the division declining to enter into future confidential data sharing agreements with the violating entity.

SECTION 15. Section 8 of chapter 187 of the acts of 2016 is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The division shall: (i) proportionately distribute ½ of the amount received from the fund to a city or town based on the number of rides from the previous calendar year that originated within that city or town to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program established in section 1 of chapter 90I of the General Laws and other programs that support alternative modes of transportation and if the amount of the distribution to a city or town is $25,000 or less, the chief executive officer as defined in section 7 of chapter 4 of the General Laws, may expend such funds for these purposes without further appropriation; (ii) distribute ¼ of the amount collected to the Massachusetts Development Finance Agency established in section 2 of chapter 23G of the General Laws to provide financial assistance to small businesses operating in the taxicab, livery or hackney industries to encourage the adoption of new technologies and advanced service, safety and operational capabilities and support workforce development; and (iii) distribute ¼ of the amount collected to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.

SECTION 16. Said section 8 of said chapter 187 is hereby further amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) (i) By December 31 of each year in which a city or town receives a disbursement of more than $25,000 from the Transportation Infrastructure Enhancement Trust Fund, that city or town shall submit a report to the director of the division that details the projects and the amount used or planned to be used for transportation-related projects as described in subsection (c).

(ii) By December 31 of the year in which a city or town receives a cumulative total of more than $25,000 in disbursements from the Transportation Infrastructure Enhancement Trust Fund since its last report to director of the division, that city or town shall submit a report to the director of the division that details the projects and the amount used or planned to be used for transportation-related projects as described in subsection (c) for each disbursement from Transportation Infrastructure Enhancement Trust Fund since the city or town's last report to the director of the division.

(iii) For a city or town whose cumulative total disbursements from the Transportation Infrastructure Enhancement Trust Fund have not exceeded $25,000 in the five years since its last report to the director of the division, that city or town shall submit a report to the director of the division by December 31 of the fifth year since its last report to the director of the division. That report shall detail the projects and the amount used or planned to be used for transportation-related projects as described in subsection (c) for each annual disbursement from Transportation Infrastructure Enhancement Trust Fund since the city or town's last report to the director of the division.

(iv) The division shall withhold future disbursements from the Transportation Infrastructure Enhancement Trust Fund from any city or town that does not comply with the reporting requirements of this subsection (d). The withheld funds shall be disbursed when the city or town complies with the requirements of this subsection (d).

(v) On an annual basis, the director shall compile the reports and post the projects and amounts of money used on the website of the division.

SECTION 17. Section 9 of said chapter 187 is hereby amended by striking out said section and inserting in place thereof the following section:-

Section 9. Section 8 is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The division shall: (i) proportionately distribute ½ of the amount collected to a city or town based on the number of rides from the previous calendar year that originated within that city or town to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program established in section 1 of chapter 90I of the General Laws and other programs that support alternative modes of transportation and if the amount of the distribution to a city or town is $25,000 or less, the chief executive officer as defined in section 7 of chapter 4 of the General Laws, may expend such funds for these purposes without further appropriation; and (ii) distribute ½ of the amount collected to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.