

SENATE No. 2436

The Commonwealth of Massachusetts



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April 15, 2021

To the Honorable Senate and House of Representatives,

I am refiled for your consideration, “An Act Relative to Public Safety and Transparency by Transportation Network Companies” with one new proposal related to the oversight of large livery companies.

This legislation makes important improvements to the safety and enforcement provisions of the Transportation Network Companies (TNC) law enacted in 2016, which are the result of collaboration with law enforcement and the Massachusetts Port Authority. Among other changes, this proposal would provide for tougher penalties for “account renting,” a practice where one person uses the credentials of another to fraudulently provide rides. In April 2019, for example, a TNC driver with a violent criminal history was identified as having unlawfully used another person’s TNC account at Logan airport. Stricter criminal penalties for this crime are commensurate with the seriousness of the offense. The legislation would also make it a criminal offense for a driver to use the personal information of a rider to stalk, harass, or defraud the rider. This reform would ensure that there is a penalty in place to deter and penalize drivers who improperly use passenger information rather than leaving it up to the rider to pursue a protective order.

I am also including a new proposal that would clarify the TNC Division’s oversight of large livery companies. Currently, the TNC Division does not have jurisdiction over livery companies, which are regulated at the local level. While this continues to make sense for smaller, traditional livery operators, a greater degree of oversight is necessary for large livery

companies that operate on a digital network, have drivers located all over the state and, aside from having cars with livery plates, are otherwise indistinguishable from TNCs. I am therefore proposing that livery operators with over 100 drivers that operate on a digital network be regulated as TNCs, which would mean that their drivers would be subject to comprehensive background checks and state regulatory oversight.

I am also reproposing a provision that would empower the Department of Public Utilities (“DPU”) to obtain more categories of ride data from TNCs, a provision that I also included in my budget proposal. Undoubtedly, TNCs have become an important element of our state’s transportation system. 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. Transportation planners are thus left to make strategic decisions on, for example, the location of dedicated bus lanes, ways to encourage carpooling, and investments in infrastructure, without the necessary data. To address this information gap, 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. This data would assist planning agencies and other state and local entities with transportation planning, congestion management, and vehicle emissions tracking, all of which assumes greater importance as we seek to understand how road travel has changed during the pandemic.

Lastly, based on feedback from municipalities, this bill would provide municipalities that receive less than \$25,000 in TNC assessments increased budgeting flexibility, as well as provide for reduced reporting requirements.

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. 2436

Senate, April 15, 2021 -- 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-Second General Court
(2021-2022)

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:

1 SECTION 1. Section 22 of chapter 40 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out the words “section eighteen of chapter
3 ninety” in lines 1 and 2, and inserting in place thereof the following words:- section 18 of chapter
4 90 and chapter 159A½.

5 SECTION 2. Said section 22 of said chapter 40, as so appearing, is hereby further
6 amended by inserting after the third sentence the following sentence:- No such ordinance, bylaw,
7 rule or order shall require the registration or licensure of a transportation network company, as
8 defined in section 1 of chapter 159A½.

9 SECTION 3. Section 1 of chapter 159A½ of the General Laws, as so appearing, is hereby
10 amended by inserting after the definition of “division” the following two definitions:-

11 “Livery services”, the use of a digital network to connect riders to drivers of exclusively
12 livery-plated vehicles to pre-arrange and provide transportation.

13 “Non-shared ride”, a prearranged ride that is not a shared ride.

14 SECTION 4. Said section 1 of said chapter 159A½, as so appearing, is hereby further
15 amended by inserting after the definition of “prearranged ride” the following definition:-

16 “Shared ride”, a prearranged ride for which each rider requests or accepts a request to
17 share the prearranged ride with one or more riders, and for which each rider is charged a fare that
18 is calculated, in part, based on the rider’s request or acceptance of a request to share all or part of
19 the prearranged ride, regardless of whether the rider actually shares all or part of the ride with
20 one or more riders.

21 SECTION 5. Said section 1 of said chapter 159A½, as so appearing, is hereby further
22 amended by striking out the definition of “Transportation network company” and inserting in
23 place thereof the following definition:-

24 “Transportation network company”, a corporation, partnership, sole proprietorship or
25 other entity that (1) uses a digital network to connect riders to drivers to pre-arrange and provide
26 transportation or (2) alone or acting in concert with other entities provides livery services with
27 more than 100 drivers.

28 SECTION 6. Said section 1 of said chapter 159A½, as so appearing, is hereby further
29 amended by striking out the definition of “Transportation network vehicle” or “vehicle” and
30 inserting in place thereof the following definition:-

31 “Transportation network vehicle” or “vehicle”, a personal passenger vehicle, including a
32 livery-plated vehicle, that is used by a transportation network driver and has capacity to provide
33 transportation network services to not more than 9 transportation network riders at one time. A

34 transportation network vehicle shall not include a bus, streetcar, taxi or other type of vehicle as
35 determined by the division.

36 SECTION 7. Section 2 of said chapter 159A½, as so appearing, is hereby amended by
37 striking out subsection (e) and inserting in place thereof the following new subsection:-

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

43 SECTION 8. Subsection (f) of said section 2 of said chapter 159A½, as so appearing, is
44 hereby amended by adding the following 2 sentences:-

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

49 SECTION 9. Subsection (l) of said section 2 of said chapter 159A½, as so appearing, is
50 hereby amended by adding the following sentence:-

51 When providing notice under this subsection, the transportation network company shall
52 also provide the following information to the division: (i) the universal unique identifier
53 associated with the driver; (ii) if reporting a violation of a law or rule or regulation, a citation to
54 said law or rule or regulation together with all reasonably available documentation and statement

55 demonstrating a violation by the driver; and (iii) if reporting a driver's unsuitability, a statement
56 demonstrating all reasons why the driver is not suitable to provide transportation network
57 services together with all reasonably available documentation supporting said reasons.

58 SECTION 10. Subsection (a) of section 7 of said chapter 159A½, as so appearing, is
59 hereby amended by striking out, in line 2, the words "subsection (b) of section 2 or sections 4 or
60 5" and

61 inserting in place thereof the following words:- subsections (b) or (f) of section 2,
62 subsection (a) of section 4, or subsection (b) of section 5.

63 SECTION 11. Said subsection (a) of said section 7 of said chapter 159A½, as so
64 appearing, is hereby further amended by inserting after the words "chapter 90C", in line 6, the
65 following words:- to the transportation network driver and may assess a fine of not more than
66 \$500.

67 SECTION 12. Subsection (b) of said section 7 of said chapter 159A½, as so appearing, is
68 hereby amended by striking out the figure "\$500", in line 16, and inserting in place thereof the
69 following figure:- \$1,000.

70 SECTION 13. Said subsection (b) of said section 7 of said chapter 159A½, as so
71 appearing, is hereby further amended by striking out the figure "\$750", in line 17, and inserting
72 in place thereof the following figure:- \$2,500.

73 SECTION 14. Said subsection (b) of said section 7 of said chapter 159A½, as so
74 appearing, is hereby further amended by striking out the figure "\$1,000", in line 18, and inserting
75 in place thereof the following figure:- \$5,000.

76 SECTION 15. Said subsection (b) of said section 7 of said chapter 159A½, as so
77 appearing, is hereby further amended by striking out the words “6 months”, in line 19, and
78 inserting in place thereof the following words:- 2½ years.

79 SECTION 16. Said section 7 of said chapter 159A½, as so appearing, is hereby further
80 amended by striking out subsection (d) and inserting in place thereof the following 2
81 subsections:-

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

89 (e) No driver providing transportation network services shall knowingly and willfully
90 utilize rider information: (i) for any purpose that is inconsistent with the health, safety, welfare,
91 or privacy of the rider; (ii) to stalk, harass, annoy, or accost a rider in violation of sections 43 or
92 43A of chapter 265 or section 53 of chapter 272; or (iii) to defraud a rider in violation of section
93 37E of chapter 266. Any violation of this section shall be punished by imprisonment in the house
94 of correction for not more than 2 years. Each violation may be considered a separate offense.
95 Rider information as described in this subsection shall include, but not be limited to, a rider’s
96 first and last name, home and mailing address, phone number, email address, and account
97 information.

98 SECTION 17. Subsection (a) of section 8 of said chapter 159A½, as so appearing, is
99 hereby amended by striking out the third sentence and inserting in place thereof the following
100 sentence:- Transportation network companies, applicants for transportation network company
101 permits and providers of livery services shall furnish all information and documents related to
102 the condition, management and operation of such entities upon the division’s request; provided,
103 however, that any such request shall be reasonably related to the requirements set forth in this
104 chapter and the rules and regulations promulgated under this chapter.

105 SECTION 18. Said subsection (e) of said section 8 of said chapter 159A½, as so
106 appearing, is hereby further amended by inserting after the words “transportation network
107 company”, in line 45, the following words:- or a provider of livery services.

108 SECTION 19. Said subsection (e) of said section 8 of said chapter 159A½, as so
109 appearing, is hereby further amended by inserting after the words “chapter 66”, in line 48, the
110 following words:- ; provided, however, that the division may post or share anonymized and
111 aggregated data in the manner provided in section 12.

112 SECTION 20. Said chapter 159A½ of the General Laws is hereby further amended by
113 adding the following section:-

114 Section 12. (a) By the 1st of each month, each transportation network company shall
115 submit to the division, in a format approved by the division, data related to each prearranged ride
116 provided in the previous month and include the following categories of information: (1) for each
117 non-shared ride: (i) the latitude and longitude for the points of the origination and termination,
118 calculated to three decimal degrees; (ii) the date and time, calculated to the nearest minute, of the
119 origination and termination; (iii) the total cost paid by the rider for the ride; (iv) the universally

120 unique identifier associated with the transportation network driver; (v) the transportation network
121 driver's city or town of residence; and (vi) the transportation network driver's state of driver
122 licensure; (vii) whether the rider requested a shared ride but was not successfully matched with
123 another rider; (viii) whether the prearranged ride accommodated a rider with special needs and, if
124 so, whether the ride was provided by a wheelchair accessible vehicle; (ix) the total time that the
125 transportation network driver spent en route to pick up the rider; (x) the total time that the
126 transportation network driver spent providing the prearranged ride; (xi) the total mileage driven
127 by the transportation network driver while en route to pick up the rider; (xii) the total mileage
128 driven by the transportation network driver while providing the prearranged ride; (xiii) the total
129 number of riders in the vehicle; and (xiv) the transportation network vehicle license plate; (2) for
130 each shared ride: (i) the latitude and longitude for the points of the origination and termination of
131 the entire shared ride, calculated to three decimal degrees; (ii) the total number of riders in the
132 vehicle; (iii) for each prearranged ride that was part of a shared ride: (A) the latitude and
133 longitude for the points of each respective prearranged ride's origination and termination,
134 calculated to three decimal degrees; (B) the date and time, calculated to the nearest minute, of
135 each respective prearranged ride's origination and termination; (C) the total time that the
136 transportation network driver spent en route to pick up each rider; (D) the total time that the
137 transportation network driver spent providing each prearranged ride; (E) the total mileage driven
138 by the transportation network driver while en route to pick up each rider; (F) the total mileage
139 driven by the transportation network driver while providing each prearranged ride; (G) the total
140 cost paid by each rider for each prearranged ride within a shared ride; (H) the universally unique
141 identifier associated with the transportation network driver; (I) the transportation network
142 driver's city or town of residence; (J) the transportation network driver's state of driver licensure;

143 and (K) the transportation network vehicle license plate; (3) for each transportation network
144 vehicle that provided at least one prearranged ride: (i) the vehicle license plate; (ii) the vehicle
145 make, model, year, and, if available, trim; (iii) the vehicle identification number; (iv) total
146 number of minutes and miles while the vehicle was en route to pick up transportation network
147 riders; (v) total number of minutes and miles while the vehicle was engaged in prearranged rides,
148 whether shared or non-shared; and (vi) the total number of minutes and miles while the vehicle
149 was logged into the transportation network vehicle's digital network for purposes of accepting a
150 prearranged ride, but not en route to pick up riders or engaged in prearranged rides; (4) for each
151 accident or crash involving a transportation network driver while logged into the transportation
152 network company's digital network: (i) the latitude and longitude of the location of the accident
153 or crash, calculated to four decimal degrees; (ii) the date and time of the accident or crash,
154 calculated to the nearest minute; (iii) the license plate of the transportation network vehicle; and
155 (iv) the universally unique identifier associated with the transportation network driver.

156 (b) The division may obtain additional ride data from a transportation network company
157 for purposes of congestion management, including, but not limited to: (1) the total number of
158 transportation network drivers that utilized the transportation network vehicle's digital network
159 within specified geographic areas and time periods as determined by the division; (2) the total
160 time spent and total miles driven by transportation network drivers in such geographic areas or
161 time periods as determined by the division: (i) while en route to pick up a rider; (ii) while
162 engaged in a prearranged ride; and (iii) while logged into a digital network for purposes of
163 accepting a prearranged ride, but not en route to pick up a passenger or engaged in a prearranged
164 ride.

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

167 (c) On an annual basis and not later than June 30, the division shall post on its website in
168 aggregate form, the total number of rides provided by all transportation network companies that
169 originated in each city or town, the cities or towns where the rides originating in each city or
170 town terminated, and the average miles and minutes of the rides that originated in each city or
171 town and terminated in each other respective city or town.

172 (d) The division may, for purposes of congestion management, transportation planning or
173 emissions tracking, enter into confidential data sharing agreements to share anonymized and
174 aggregated data received by the division pursuant to this section with the executive office of
175 technology services and security, executive office of energy and environmental affairs,
176 Massachusetts Department of Transportation, the Massachusetts Port Authority, the
177 Massachusetts Bay Transportation Authority, the Massachusetts department of environmental
178 protection, a city or town that receives a disbursement from the Transportation Infrastructure
179 Enhancement Trust Fund established in section 8 of chapter 187 of the acts of 2016, a
180 Massachusetts regional transit authority formed pursuant to section 3 of chapter 161B, a
181 Massachusetts regional planning agency, and a Massachusetts metropolitan planning
182 organization. The division shall prescribe the form and content of a confidential data sharing
183 agreement, and the manner of transmitting the information. Any confidential data sharing
184 agreement shall specify that the information provided by the division shall be aggregated and
185 anonymized and may be used only for the purposes set forth in said agreement. Any data
186 received by an entity from the division through a confidential data sharing agreement as
187 described in this subsection shall not be considered a public record as defined in clause twenty-

188 sixth of section 7 of chapter 4, and shall not be disclosed to any person or entity other than those
189 listed or described in the confidential data sharing agreement.

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

193 (f) Any violation of the terms of a confidential data sharing agreement by any of the
194 entities listed in subsection (d) may result in the division.

195 SECTION 21. Section 8 of chapter 187 of the acts of 2016 is hereby amended by striking
196 out subsection (c) and inserting in place thereof the following subsection:-

197 (c) The division shall: (i) proportionately distribute $\frac{1}{2}$ of the amount received from the
198 fund to a city or town based on the number of rides from the previous calendar year that
199 originated within that city or town to address the impact of transportation network services on
200 municipal roads, bridges and other transportation infrastructure or any other public purpose
201 substantially related to the operation of transportation network services in the city or town
202 including, but not limited to, the complete streets program established in section 1 of chapter 90I
203 of the General Laws and other programs that support alternative modes of transportation;
204 provided that, if the amount of the distribution to a city or town is \$25,000 or less, the chief
205 executive officer as defined in section 7 of chapter 4 of the General Laws, may expend such
206 funds for these purposes without further appropriation; (ii) distribute $\frac{1}{4}$ of the amount collected
207 to the Massachusetts Development Finance Agency established in section 2 of chapter 23G of
208 the General Laws to provide financial assistance to small businesses operating in the taxicab,
209 livery or hackney industries to encourage the adoption of new technologies and advanced

210 service, safety and operational capabilities and support workforce development; and (iii)
211 distribute ¼ of the amount collected to the Commonwealth Transportation Fund established in
212 section 2ZZZ of chapter 29 of the General Laws.

213 SECTION 22. Said section 8 of said chapter 187 is hereby further amended by striking
214 out subsection (d) and inserting in place thereof the following subsection:-

215 (d) (i) By December 31 of each year in which a city or town receives a disbursement of
216 more than \$25,000 from the Transportation Infrastructure Enhancement Trust Fund, that city or
217 town shall submit a report to the director of the division that details the projects and the amount
218 used or planned to be used for transportation-related projects as described in subsection (c). (ii)
219 By December 31 of the year in which a city or town receives a cumulative total of more than
220 \$25,000 in disbursements from the Transportation Infrastructure Enhancement Trust Fund since
221 its last report to director of the division, that city or town shall submit a report to the director of
222 the division that details the projects and the amount used or planned to be used for
223 transportation-related projects as described in subsection (c) for each disbursement from
224 Transportation Infrastructure Enhancement Trust Fund since the city or town's last report to the
225 director of the division. (iii) For a city or town whose cumulative total disbursements from the
226 Transportation Infrastructure Enhancement Trust Fund have not exceeded \$25,000 in the five
227 years since its last report to the director of the division, that city or town shall submit a report to
228 the director of the division by December 31 of the fifth year since its last report to the director of
229 the division. That report shall detail the projects and the amount used or planned to be used for
230 transportation-related projects as described in subsection (c) for each annual disbursement from
231 Transportation Infrastructure Enhancement Trust Fund since the city or town's last report to the
232 director of the division. (iv) The division shall withhold future disbursements from the

233 Transportation Infrastructure Enhancement Trust Fund from any city or town that does not
234 comply with the reporting requirements of this subsection. The withheld funds shall be disbursed
235 when the city or town complies with the requirements of this subsection. (v) On an annual basis,
236 the director shall compile the reports and post the projects and amounts of money used on the
237 website of the division.

238 SECTION 23. Section 9 of said chapter 187 is hereby amended by striking out said
239 section and inserting in place thereof the following section:-

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

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