Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES	**:** **:** **:** **:** **:**	**REPORT TO THE LEGISLATURE** **CR 15-071**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA document is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

Pursuant to the enactment of 2015 Wisconsin Act 16, the Department of Safety and Professional Services is authorized to execute and enforce a statewide uniform licensure program for transportation network companies. Currently, the Wisconsin Administrative Code does not address transportation network companies. The proposed rule will implement and delineate the requirements enacted under 2015 Wisconsin Act 16 for the regulation of transportation network companies.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Department of Safety and Professional Services held a public hearing on October 14, 2015. The following people either testified at the hearing, or submitted written comments:

Jason Glomp, President, Union Cab of Madison Cooperative
Paul Bittorf, Business Manager, Union Cab of Madison Cooperative

The Department of Safety and Professional Services summarizes the comments received either by hearing testimony or by written submission as follows:

Jason Glomp and Paul Bittorf submitted written testimony on behalf of the Union Cab of Madison Cooperative (the Cooperative). The testimony expressed concern with regards to underinsured transportation network company (TNC) drivers. The Cooperative emphasized the necessity to ensure that TNC drivers hold proper insurance in accordance with 2015 Wisconsin Act 16. The Cooperative suggested that the TNC driver licensure process should include annual verification of meeting the requirements of s. 440.48 (1) (a), Stats.

The Cooperative contended that revenues and wages for existing taxi companies and drivers would reduce resulting in lower state income tax revenue and a worse state economy overall. They argue that TNCs provide net wages that are significantly below the minimum wage after accounting for the cost of driving.

The Cooperative also asserted that TNC companies provide limited service for people with disabilities. They argue that this is not only a disservice to individuals with disabilities but also costly to taxi companies since a greater proportion of their rides are provided to persons with disabilities.

The Cooperative indicated that the rules did not provide for a clear and concise way for consumers to file complaints against TNCs.

The Cooperative emphasized the importance of verifying that background checks are conducted in accordance with s. 440.445, Stats. The Cooperative asked that the Department require all background checks to be performed by a statewide law enforcement agency. The Cooperative also asked that the background checks be frequently updated to ensure that TNC drivers are fit to serve the public.

The Department of Safety and Professional Services explains modifications to its rule-making proposal prompted by public comments as follows:

The Department did not make any modifications to the rulemaking proposal as a result of public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 5. c. In s. SPS 210.30 (4) (b), does the agency intend to refer to "this paragraph" instead of "this section" as that reference is used in the last sentence of the paragraph? It would appear so, because par. (c) appears to apply to licensed companies with unmet disciplinary requirements and licensed companies whose licenses have been surrendered or revoked. Additionally, should a similar clause be added to par. (a)? Presently, the absence of a non-applicability clause in par. (a) and the language of s. SPS 210.30 (c) (intro.) and 1. make it unclear whether par. (c) is intended to apply to all surrendered or revoked licenses or just those surrendered or revoked licenses that have not been renewed within five years of the renewal date. Relatedly, what procedures apply to the reinstatement of a license with unmet disciplinary needs when that application is made less than five years after expiration of the license?

Response: Yes, the Department intended to refer to "this paragraph" in s. SPS 210.30 (4) (b). A similar clause has been added in par. (a) that reads: "This paragraph does not apply to licensed companies whose licenses have been surrendered or revoked." In accordance with s. 440.08 (3) (b), all applicants seeking the renewal of a license less than five years after the expiration of that license must pay the applicable renewal fee under s. 440.03 (9) (a) and the late renewal fee. If applicants have unmet disciplinary requirements and it is within 5 years, the applicants are able to renew their licenses while they adhere to the requirements of the disciplinary order. It is after the 5 years that an applicant does not have an automatic right to renew.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

N/A