

**2015 DRAFTING REQUEST**

**Bill**

Received: 2/12/2015 Received By: mgallagh  
Wanted: As time permits Same as LRB: -2098  
For: Tyler August (608) 266-1190 By/Representing: Luke  
May Contact: Drafter: mgallagh  
Subject: Occupational Reg. - prof lic Addl. Drafters: pkahler  
Transportation - other

Extra Copies:

Submit via email: YES  
Requester's email: Rep.August@legis.wisconsin.gov  
Carbon copy (CC) to: michael.gallagher@legis.wisconsin.gov  
eric.mueller@legis.wisconsin.gov  
michael.duchek@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Transportation network companies

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mgallagh 2/18/2015	kfollett 2/19/2015	jfrantze 2/19/2015	_____			
/P1	pkahler 3/19/2015	kfollett 3/19/2015		_____	lparisi 2/19/2015		
/P2	mgallagh	kfollett	rschluet	_____	mbarman		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	3/25/2015	3/26/2015	3/20/2015	_____	3/20/2015		
/1	pkahler 3/27/2015		jfrantze 3/26/2015	_____	mbarman 3/26/2015		State S&L
/2		kfollett 3/30/2015		_____	sbasford 3/30/2015	sbasford 3/31/2015	State S&L

FE Sent For:



At  
Intro.

<END>

## Mueller, Eric

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**From:** Bacher, Luke  
**Sent:** Thursday, February 12, 2015 2:16 PM  
**To:** Mueller, Eric  
**Subject:** RE: Drafting Request - Regulating TNCs/Rideshare Legislation

Let's do DSPS.

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**From:** Mueller, Eric  
**Sent:** Thursday, February 12, 2015 1:43 PM  
**To:** Bacher, Luke  
**Subject:** RE: Drafting Request - Regulating TNCs/Rideshare Legislation

Luke,

This draft doesn't appear to fit neatly into any existing regulatory area. Do you have a strong opinion regarding who should handle the oversight? DOT? DATCP? DSPS? Something else?

Eric Mueller  
Attorney, Legislative Reference Bureau  
Phone: (608)261-7032  
[eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

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**From:** Bacher, Luke  
**Sent:** Thursday, February 12, 2015 10:07 AM  
**To:** Mueller, Eric  
**Subject:** Drafting Request - Regulating TNCs/Rideshare Legislation

Eric –

Attached is our draft request.

The blank sections 1 and 8 have changed so they are blank but the correct language is include at the very end of the document.

This is somewhat urgent and we are hoping to move fast on this legislation.

-Luke

**Luke Bacher**  
*Chief of Staff*  
*Representative Tyler August*  
*Speaker Pro Tempore*  
[luke.bacher@legis.wi.gov](mailto:luke.bacher@legis.wi.gov)  
608-266-1190  
<http://repaugust.com>

<< File: TNC Draft.pdf >>

*Note: Definitions will have been included in the beginning of the comprehensive bill, as follows:*

(a) *"Transportation Network Company" or "TNC"* shall mean an entity licensed pursuant to this Chapter and operating in Wisconsin that uses a digital network or software application service to connect passengers to Transportation Network Company Services provided by Transportation Network Company Drivers. A TNC is not deemed to own, control, operate or manage the vehicles used by TNC Drivers, and is not a taxicab association or a for-hire vehicle owner.

(b) *"Transportation Network Company (TNC) Driver"* shall mean an individual who operates a motor vehicle that is:

- (1) Owned, leased or otherwise authorized for use by the individual;
- (2) Not a taxicab or for-hire vehicle; and
- (3) Used to provide Transportation Network Company Services.

(c) *"Transportation Network Company (TNC) Services"* shall mean transportation of a passenger between points chosen by the passenger and prearranged with a TNC Driver through the use of a TNC digital network or software application. TNC Services shall begin when a TNC Driver accepts a request for transportation received through the TNC's digital network or software application service, continue while the TNC Driver transports the passenger in the TNC Driver's vehicle, and end when the passenger exits the TNC Driver's vehicle. TNC Service is not taxicab, for-hire vehicle or street hall service.

(d) *"Transportation Network Company (TNC) Insurance"* is an insurance policy that covers a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

#### **SECTION 8. TNC AND TNC DRIVER INSURANCE REQUIREMENTS**

1. On or before [MONTH, DAY, YEAR] and thereafter, TNCs and TNC Drivers shall comply with the automobile liability insurance requirements of this section.

2. A transportation network company shall disclose in writing to TNC drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform, and shall advise a TNC driver that the driver's personal automobile insurance policy may not provide required or optional coverage because the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform.

3. (a) A transportation network company or any TNC driver shall maintain transportation network company insurance as provided in this section.

(b) The following requirements shall apply to transportation network company insurance while a TNC driver is providing TNC services:

## **TRANSPORTATION NETWORK COMPANY SERVICES WISCONSIN LEGISLATION**

The purpose of this Chapter is to ensure the safety, reliability and cost-effectiveness of Transportation Network Company (TNC) Services within the State of Wisconsin and to preserve and enhance access to these important transportation options for residents and visitors to the State.

**SECTION 1. DEFINITIONS.** As used in this Chapter:

defined in [STATE STATUTE]), contract carriers or motor carriers, nor do they provide taxicab or for-hire vehicle service.

**SECTION 3. TNC PERMIT REQUIRED.** (a) A person shall not operate a TNC in Wisconsin without first having obtained a permit from the [STATE REGULATORY ENTITY].

(b) The [STATE REGULATORY ENTITY] shall issue a permit to each applicant that meets the requirements for a TNC set forth in this Chapter, and pays an annual permit fee of \$5,000 to the [STATE REGULATORY ENTITY].

**SECTION 4. AGENT.** The TNC must maintain an agent for service of process in the State of Wisconsin.

**SECTION 5. FARE CHARGED FOR SERVICES.** A TNC may charge a fare for the services provided to passengers; provided that, if a fare is charged, the TNC shall disclose to passengers the fare calculation method on its website or within the software application service. The TNC shall also provide passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC Driver's vehicle.

**SECTION 6. IDENTIFICATION OF TNC VEHICLES AND DRIVERS.** The TNC's software application or website shall display a picture of the TNC Driver, and the license plate number of the motor vehicle utilized for providing the TNC Service before the passenger enters the TNC Driver's vehicle.

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**SECTION 7. ELECTRONIC RECEIPT.** Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the passenger that lists:

- (a) The origin and destination of the trip;
- (b) The total time and distance of the trip; and
- (c) An itemization of the total fare paid, if any.

**SECTION 8. TNC AND TNC DRIVE INSURANCE REQUIREMENTS.**

- (a) On or before MONTH

*Note: Definitions will have been included in the beginning of the comprehensive bill, as follows:*

(a) *"Transportation Network Company" or "TNC"* shall mean an entity licensed pursuant to this Chapter and operating in Wisconsin that uses a digital network or software application service to connect passengers to Transportation Network Company Services provided by Transportation Network Company Drivers. A TNC is not deemed to own, control, operate or manage the vehicles used by TNC Drivers, and is not a taxicab association or a for-hire vehicle owner.

(b) *"Transportation Network Company (TNC) Driver"* shall mean an individual who operates a motor vehicle that is:

- (1) Owned, leased or otherwise authorized for use by the individual;
- (2) Not a taxicab or for-hire vehicle; and
- (3) Used to provide Transportation Network Company Services.

(c) *"Transportation Network Company (TNC) Services"* shall mean transportation of a passenger between points chosen by the passenger and prearranged with a TNC Driver through the use of a TNC digital network or software application. TNC Services shall begin when a TNC Driver accepts a request for transportation received through the TNC's digital network or software application service, continue while the TNC Driver transports the passenger in the TNC Driver's vehicle, and end when the passenger exits the TNC Driver's vehicle. TNC Service is not taxicab, for-hire vehicle or street hail service.

(d) *"Transportation Network Company (TNC) Insurance"* is an insurance policy that covers a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

## **SECTION 8. TNC AND TNC DRIVER INSURANCE REQUIREMENTS**

1. On or before [MONTH, DAY, YEAR] and thereafter, TNCs and TNC Drivers shall comply with the automobile liability insurance requirements of this section.

2. A transportation network company shall disclose in writing to TNC drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform, and shall advise a TNC driver that the driver's personal automobile insurance policy may not provide required or optional coverage because the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform.

3. (a) A transportation network company or any TNC driver shall maintain transportation network company insurance as provided in this section.

(b) The following requirements shall apply to transportation network company insurance while a TNC driver is providing TNC services:



(1) Transportation network company insurance shall provide primary liability coverage and in the amount of XXXX (\$XXXX) for death, bodily injury, and property damage.

(2) Transportation network company insurance provided under this subdivision shall also provide uninsured motorist coverage as required by Wis. Stat. § 632.32(4).

(3) The insurance coverage required by this paragraph may be satisfied by any of the following:

(A) Transportation network company insurance maintained by a transportation network company driver that does not exclude coverage under its policy terms while a TNC driver is providing TNC services.

(B) Transportation network company insurance maintained by a transportation network company.

(C) Any combination of subparagraphs (A) and (B).

(4) The insurer providing transportation network company insurance under this subdivision shall have the duty to defend and indemnify the insured.

(c) The following requirements shall apply to transportation network company insurance from the moment a TNC driver logs on to the transportation network company's online-enabled application or platform until the driver accepts a request to transport a passenger, and from the moment the driver completes the transaction on the online-enabled application or platform or the ride is complete, whichever is later, until the driver either accepts another ride request on the online-enabled application or platform or logs off the online-enabled application or platform:

(1) Transportation network company insurance shall provide primary liability coverage that meets at least the minimum coverage requirements per Wis. Stat. § 344.01 (2)(d).

(2) Transportation network company insurance provided under this subdivision shall also provide uninsured motorist coverage as required by Wis. Stat. § 632.32(4).

(3) The insurance coverage required by this paragraph may be satisfied by any of the following:

(A) Transportation network company insurance maintained by a transportation network company driver that does not exclude coverage under its policy terms while a TNC driver is operating a vehicle as described under subsection 3(c).

(B) Transportation network company insurance maintained by a transportation network company that provides coverage in the event a TNC driver's insurance policy under subparagraph (A) has ceased to exist or has been canceled, or the TNC driver does not otherwise

maintain transportation network company insurance pursuant to this subdivision.

(C) Any combination of subparagraphs (A) and (B).

(4) The insurer providing transportation network company insurance under this subdivision shall have the duty to defend and indemnify the insured.

(d) Coverage under a transportation network company insurance policy shall not be dependent on a personal automobile insurance policy first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

(e) In every instance where transportation network company insurance maintained by a TNC driver to fulfill the insurance obligations of this section has lapsed or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

4. Nothing in this section shall be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a TNC driver in a transportation network company logs on to the transportation network company's online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the vehicle, whichever is later.

5. In a claims coverage investigation, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involved a TNC driver and the precise times that the TNC driver logged on and off the transportation network company's online-enabled application or platform in the twenty-four hour period immediately preceding the accident.

6. A TNC driver shall carry proof of transportation network company insurance coverage with him or her at all times during his or her use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver shall provide this insurance coverage information to any other party involved in the accident, and to a police officer, upon request.

7. Insurance required by this Section 8 may be placed with an insurer authorized to do business in the state or with an eligible surplus lines insurer under Wis. Stat. §618.41.

8. Insurance required by this Section 8 shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under Chapter 344 of the Wisconsin Vehicle Code, Wis. Stat. § 344.01 et seq.

**SECTION 9. TNC AND INSURER DISCLOSURE REQUIREMENTS.**

- (a) The TNC shall disclose in writing to TNC Drivers the following before they are allowed to accept a request for TNC Services on the TNC's digital network:
  - (1) The insurance coverage and limits of liability that the TNC provides while the TNC Driver uses a personal vehicle in connection with a TNC's digital network; and
  - (2) That the TNC Driver's own insurance policy may not provide coverage while the TNC Driver uses a vehicle in connection with a TNC's digital network depending on its terms.
  
- (b) Insurers that write automobile liability insurance in Wisconsin may:
  - (1) Exclude any and all coverage and the duty to defend afforded under the owner's insurance policy for any loss or injury that occurs while an insured vehicle provides or is available to provide TNC Services, provided such exclusion is expressly set forth in the policy and approved for sale in West Virginia. This right to exclude coverage and the

duty to indemnify and defend may apply to any coverage included in an automobile liability insurance policy including, but not limited to:

- (A) Liability coverage for bodily injury and property damage;
- (B) Uninsured and underinsured motorist coverage;
- (C) Medical payments coverage;
- (D) Comprehensive physical damage coverage; and
- (E) Collision physical damage coverage.

(2) Provided the insurer notifies an insured after a loss, and within the time required by Wis. Admin. Code Ins. § 6.11(3)(7) that the insurer has no duty to defend or indemnify any person or organization for liability for a loss that is properly excluded pursuant to the terms of the applicable primary or excess insurance policy.

(c) Insurers that write automobile liability insurance in Wisconsin must disclose on its application for insurance, in a prominent place, whether or not the insurance policy provides coverage while an insured vehicle provides or is available to provide TNC Services. If an automobile liability insurance policy contains an exclusion for TNC Services, the insurer or its agent must disclose in writing the exact language of such exclusion to the applicant during the application process.

(d) In a claims coverage investigation, TNCs and any insurer providing coverage under Section 9 shall cooperate to facilitate the exchange of information, including the precise times that a TNC Driver logged on and off of the TNC's digital network in the twenty-four hour period immediately preceding the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any insurance policy each party issued or maintained.

**SECTION 10. ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.** (a) The TNC shall implement a zero tolerance policy on the use of drugs or alcohol while a TNC Driver is providing TNC Services or is logged into the TNC's digital network but is not providing TNC Services, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(b) Upon receipt of such passenger complaint alleging a violation of the zero tolerance policy, the TNC shall immediately suspend such TNC Driver's access to the TNC's digital platform, and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(c) The TNC shall maintain records relevant to the enforcement of this requirement for a period of at least two (2) years from the date that a passenger complaint is received by the TNC.

**SECTION 11. TNC DRIVER REQUIREMENTS.** (a) Prior to permitting an individual to act as a TNC Driver on its digital platform, the TNC shall:

- (1) Require the individual to submit an application to the TNC, which includes information regarding his or her address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC;
- (2) Conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include:
  - (A) Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search); and
  - (B) National Sex Offender Registry database;
- (3) Obtain and review a driving history research report for such individual.

(b) The TNC shall not permit an individual to act as a TNC Driver on its digital platform who:

- (1) Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period (including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license);
- (2) Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror;
- (3) Is a match in the National Sex Offender Registry database;
- (4) Does not possess a valid driver's license;
- (5) Does not possess proof of registration for the motor vehicle(s) used to provide TNC Services;
- (6) Does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide TNC Services; or
- (7) Is not at least 19 years of age.

**SECTION 12. VEHICLE SAFETY AND EMISSIONS.** The TNC shall require that any motor vehicle(s) that a TNC Driver will use to provide TNC Services meets [WISCONSIN'S VEHICLE SAFETY AND/OR EMISSIONS REQUIREMENTS FOR A PRIVATE MOTOR VEHICLE.]

**SECTION 13. NO STREET HAILS.** A TNC Driver shall exclusively accept rides booked through a TNC's digital network or software application service and shall not solicit or accept street hails.

**SECTION 14. NO CASH TRIPS.** The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments from passengers and notify TNC Drivers of such policy. TNC Drivers shall not solicit or accept cash payments from passengers. Any payment for TNC Services shall be made only electronically using the TNC's digital network or software application.

**SECTION 15. NO DISCRIMINATION; ACCESSIBILITY.** (a) The TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age or sexual orientation/identity with respect to passengers and potential passengers and notify TNC Drivers of such policy.

(b) TNC Drivers shall comply with all applicable laws regarding non-discrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.

(c) TNC Drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(e) A TNC shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC Service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

**SECTION 16. ACCESSIBLE TRANSPORTATION FUND.** (a) There is hereby created the [STATE] Accessible Transportation Fund (the "Fund") into which shall be deposited an annual surcharge fee of no more than \$10,000 per year by any TNC, [TAXI FLEET] or [BLACK CAR COMPANY] that does not provide wheelchair-accessible service. The Fund shall be administered by the [STATE REGULATORY ENTITY].

(b) The [STATE REGULATORY ENTITY] shall use funds in the Fund to provide grants in the amount of \$15,000 to any TNC Driver, [TAXI FLEET] or [BLACK CAR COMPANY] that shall provide wheelchair-accessible service and that shall meet certain minimum service thresholds established by the [STATE REGULATORY ENTITY].

**SECTION 17. RECORDS.** A TNC shall maintain:

(a) individual trip records for at least one (1) year from the date each trip was provided; and

(b) TNC Driver records at least until the one year anniversary of the date on which a TNC Driver's activation on the TNC digital network has ended.

**SECTION 18. PERSONALLY IDENTIFIABLE INFORMATION.** A TNC shall not disclose a passenger's personally identifiable information to a third party unless: the passenger consents, disclosure is required by a legal obligation, or disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms. In addition to the foregoing, a TNC shall be permitted to share a passenger's name and/or telephone number with the TNC Driver providing TNC Services to such passenger in order to facilitate correct identification of the passenger by the TNC Driver, or to facilitate communication between the passenger and the TNC Driver.

**SECTION 19. CONTROLLING AUTHORITY.** Notwithstanding any other provision of law, TNCs and TNC Drivers are governed exclusively by this Chapter and any rules promulgated by the [STATE REGULATORY ENTITY] consistent with this Chapter. No municipality or other local entity may impose a tax on, or require a license for, a TNC or a TNC Driver or subject a TNC to the municipality or other local entity's rate, entry, operational or other requirements.



LRB-1723?  
MPG&PJH...  
PSK  
15F  
PI

Request sheet updated ✓

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Gen

1 **AN ACT ...; relating to:** regulation of transportation network companies,  
2 granting rule-making authority, making an appropriation, and providing a  
3 penalty.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4 **SECTION 1.** 20.165 (1) (gh) of the statutes is created to read:  
5 20.165 (1) (gh) *Transportation network company accessibility grants.* All  
6 moneys received from fees collected under s. 440.45 (6) (a), for the grants under s.  
7 440.45 (6) (b).

\*\*\*\*NOTE: Please note that I did not create a new appropriation for the moneys from initial and renewal licensure fees for transportation network company licenses. Those moneys would, therefore, be covered under s. 20.165 (1) (g), stats. Please let me know if that is not consistent with your intent. MPG





1 (3) "Passenger" means a customer of a licensed company.

2 (4) "Transportation network company" means an entity that uses an  
3 online-enabled application or platform to connect passengers and participating  
4 drivers for the purpose of providing transportation network services to passengers.

5 "Transportation network company" does not include a taxicab or limousine service.

6 (5) "Transportation network insurance" means the insurance that satisfies the  
7 requirements under s. 440.48 (2).

8 (6) "Transportation network services" means transportation of a passenger  
9 between points chosen by the passenger and prearranged with a participating driver  
10 by means of an online-enabled application or platform.

\*\*\*\*NOTE: See my changes to the definitions. Okay? Should the fact that the services are prepaid be included as an element in the definition of "transportation network services" or "transportation network company"? MPG

\*\*\*\*NOTE: I did not include the statement of legislative intent from the drafting instructions. We normally do not include a statement of legislative intent or findings unless the findings or intent statement could help sustain a provision for which there is a reasonable probability of a constitutional challenge, or if the bill is intended to be a recodification bill that makes no substantive changes. Neither exception applies to this draft. A statement of legislative intent is disfavored for a number of reasons, including redundancy, unforeseen effects, inconsistent use of standards for statutory interpretation, and conflicts with the substance of the statutory language. Please let me know if you'd like to discuss the issue further. MPG

11 **440.41 License required.** No person may operate a transportation network  
12 company in this state unless the transportation network company is a licensed  
13 company.

*Proof in charge margins to justify incl apply to all*

14 → **440.415 Licensure of transportation network companies.** (1) INITIAL  
15 LICENSE. The department shall grant a license to operate a transportation  
16 network company in this state to an applicant for licensure if the department  
17 determines that all of the following requirements are met:

18 (a) The applicant submits an application to the department on a form  
19 prescribed by the department. The application shall include the applicant's

1 name, address, tax identification number, and any other information required by  
2 the department by rule.

3 (b) The applicant is a transportation network company.

4 (c) The applicant demonstrates to the satisfaction of the department that it  
5 satisfies all applicable requirements under ss. 440.42, 440.44, 440.45, and 440.48.

6 (d) The applicant pays the initial credential fee determined by the  
7 department under s. 440.03 (9) (a).

\*\*\*\*NOTE: Please let me know if, like the renewal fee in the draft, you wish to specify  
an initial licensure fee as opposed to having DSPS establish the fee according to its usual  
process? MPG

\*\*\*\*NOTE: Do you want to authorize DSPS to establish other application  
requirements by rule? Also, do you want to have a general rules promulgation  
requirement requiring DSPS to promulgate rules to implement the subchapter? MPG

8 (2) RENEWAL. (a) The renewal date for a license granted under sub. (1) is  
9 specified in s. 440.08 (2) (a) 69m. A renewal application shall be submitted to the  
10 department on a form prescribed by the department and shall include any  
11 information required by the department by rule.

12 (b) Notwithstanding s. 440.03 (9), the renewal application for a licensed  
13 company shall include a renewal fee of \$5,000.

\*\*\*\*NOTE: Based on the drafting instructions, unlike other occupations regulated  
by DSPS, under this draft, the renewal date is annual instead of biennial, and, therefore,  
the renewal fee must be paid annually, consistent with the drafting instructions. MPG

14 **440.42 Agent.** Each licensed company shall maintain an agent for service  
15 of process in this state.

16 **440.425 Fare disclosures.** If a licensed company charges a fare for the  
17 transportation network services provided to passengers, the licensed company  
18 shall do all of the following:

19 (1) Disclose its fare calculation method on its Internet site.

20 (2) Inform each passenger of all applicable fare rates.

1           **(3)** Give each passenger the option to receive an estimated fare before the  
2 passenger enters a participating driver’s vehicle to receive transportation  
3 network services.

      \*\*\*\*NOTE: It is my understanding that transportation network companies operate on a bid basis. The passenger enters the trip coordinates, and receives bids from participating drivers. If this is the reality, it seems somewhat inconsistent with this fare disclosures provision. Also, if all services for a trip arranged through a transportation network company are prepaid using the company’s online-enabled application or platform, that fact is inconsistent with the language under sub. (3), above, requiring only an estimated fare (as opposed to actual prepayment) before the passenger enters the participating driver’s vehicle. Please let me know how you would like to proceed. Thanks.  
MPG

4           **440.43 Identification of participating drivers and their vehicles.**

5 Each licensed company shall make available to each passenger, on the licensed  
6 company’s Internet site or on line-enabled application or platform, a photograph  
7 of the participating driver and the license plate number of the participating  
8 driver’s motor vehicle before the passenger enters the participating driver’s motor  
9 vehicle for transportation network services.

10           **440.435 Electronic receipt.** Within a reasonable time after  
11 transportation network services have been provided to a passenger, the licensed  
12 company facilitating the services shall transmit an electronic receipt for the  
13 services to the passenger that contains all of the following:

14           **(1)** The origin and destination of the transportation network services  
15 provided to the passenger.

16           **(2)** The total time and distance of the transportation network services  
17 provided to the passenger.

18           **(3)** An itemization of the total fare paid, if any.

19           **440.44 Zero tolerance for use of drugs or alcohol. (1) POLICY.** Each  
20 licensed company shall develop, implement, and make available on its Internet

1 site a policy prohibiting any participating driver from using alcohol, or any other  
2 intoxicant that may render the participating driver incapable of safely driving,  
3 while the participating driver is providing or is available to provide  
4 transportation network services.

\*\*\*\*NOTE: See my changes. Okay? I used “intoxicant” instead of “drug” because it  
is less ambiguous, and I included an implicit reference to the standard under s. 346.63  
(1) (a). Also, I assume that by “zero tolerance” we mean prohibiting any use of alcohol or  
intoxicating drugs and drafted the provision accordingly. MPG

5 (2) COMPLAINTS. (a) Each licensed company shall develop, implement, and  
6 make available on its Internet site, complaint procedures for passengers to report  
7 suspected violations of the policy under sub. (1).

8 (b) Upon receipt of a passenger complaint concerning a violation of a  
9 licensed company’s policy under sub. (1), the licensed company shall immediately  
10 suspend the participating driver and investigate the complaint. The suspension  
11 shall continue until the complaint is resolved.

12 (c) Each licensed company shall maintain all records of any investigation  
13 under par. (b), including the results of that investigation and any action taken  
14 based on that investigation, for at least 2 years after the date the passenger  
15 complaint was received by the licensed company.

16 **440.445 Certain requirements for participating drivers and their**  
17 **vehicles.** (1) APPLICATION. Before a licensed company allows an individual to be  
18 a participating driver for the licensed company, the licensed company shall do all  
19 of the following:

20 (a) Require the individual to submit an application to the licensed company  
21 that includes all of the following, in addition to any other information the licensed  
22 company requires:

23 1. The individual’s name, address, and age.

- 1           2. A copy of the individual's driver's license.
- 2           3. The individual's driving history.
- 3           4. Proof of motor vehicle registration for each motor vehicle the individual
- 4 will use to provide transportation network services through the licensed company.
- 5           5. A copy of the individual's automobile liability insurance policy for each
- 6 motor vehicle the individual will use to provide transportation network services
- 7 through the licensed company.

8           (2) INDIVIDUALS WHO MAY NOT BE PARTICIPATING DRIVERS. A licensed company  
9 may not allow any of the following individuals to be a participating driver for the  
10 licensed company:

- 11           (a) An individual who has had more than <sup>3</sup> three moving violations, as  
12 defined in s. 343.01 (2) (cg), in the past 3 years, or one major violation, specified  
13 by the department by rule, in the past 3 years, including fleeing or attempting to  
14 elude an officer under s. 346.04 (3), reckless driving under s. 346.62, or driving  
15 with a suspended or revoked license under s. 343.44 (1) (a) or (b).

\*\*\*NOTE: Because it is not clear what may or may not constitute a major violation, I included rules promulgation language for DSPTS to define the term. Okay? Also, let me know if you want to include a specific requirement for a criminal background check for participating drivers or a requirement that a participating driver report any conviction to the licensed company for which the participating driver drives. MPG

- 16           (b) An individual who has been convicted in the last 7 years of driving under  
17 the influence of an intoxicant or other drug in violation of s. 346.63, of a sex  
18 offense, or of any crime involving fraud, theft, damage to property, violence, acts  
19 of terror, or the use of a motor vehicle in the commission of a felony.

\*\*\*NOTE: See also the list under s. 351.02. Also, do you want to define "sex offense"?  
MPG

- 20           (c) An individual whose information is contained in the sex offender registry  
21 under s. 301.45 or on the National Sex Offender Public Website.

1 (d) An individual who does not possess a valid driver's license.

2 (e) An individual who does not possess proof of motor vehicle registration for  
3 each motor vehicle the individual uses to provide transportation network services.

4 (f) An individual who is not at least 19 years of age.

\*\*\*\*NOTE: I did not include the proof of auto insurance requirement because  
extensive insurance requirements already exist under s. 440.48 in the draft. Okay? MPG

5 **(3) VEHICLE SAFETY AND EMISSIONS.** Each licensed company shall ensure that  
6 any motor vehicle a participating driver uses to provide transportation network  
7 services satisfies all state and federal vehicle safety and emissions standards for  
8 private motor vehicles.

\*\*\*\*NOTE: I added federal because many vehicle safety and emissions standards are  
federal standards. Okay?

9 **(4) NO STREET HAILS.** A participating driver may not solicit or accept street  
10 hails or otherwise provide rides for compensation that are not prearranged  
11 through a licensed company.

12 **(5) NO CASH TRIPS.** (a) A participating driver may not solicit or accept any  
13 cash payment from a passenger.

14 (b) All payments for transportation network services shall be made  
15 electronically using the licensed company's on line-enabled application or  
16 platform.

\*\*\*\*NOTE: Again, do the services have to be prepaid? MPG

17 **440.45 Nondiscrimination; accessibility. (1) NONDISCRIMINATION POLICY.**  
18 Each licensed company shall adopt a policy of nondiscrimination on the basis of  
19 destination, race, color, national origin, religious belief or affiliation, sex,  
20 disability, age, sexual orientation, or gender identity with respect to passengers

1 and potential passengers and notify all participating drivers of the  
2 nondiscrimination policy.

3 (2) Participating drivers shall comply with all applicable laws regarding  
4 nondiscrimination against passengers or potential passengers on the basis of  
5 destination, race, color, national origin, religious belief or affiliation, sex,  
6 disability, age, sexual orientation, or gender identity.

\*\*\*\*NOTE: I don't see anything in the statutes concerning discrimination on the basis of gender identity, which is included in the drafting instructions, but there may be local laws. Also, with respect to nondiscrimination on the basis of "destination," is the intent to prohibit a participating driver to turn down a passenger on the basis of the passenger's desired destination? Currently, I am not aware of any law that would require a participating driver to take a passenger regardless of the choice of destination. Also, is this a non-issue given the bidding structure employed by transportation network companies? It is my understanding a driver would be free to bid or not bid with full knowledge of the passenger's desired destination. MPG

7 (3) Participating drivers shall comply with all applicable laws relating to  
8 accommodation of service animals.

9 (4) A licensed company may not impose additional charges for providing  
10 transportation network services to persons with disabilities because of those  
11 disabilities.

12 (5) Each licensed company shall provide each passenger an opportunity to  
13 indicate whether the passenger requires a wheelchair-accessible vehicle. If a  
14 licensed company cannot arrange wheelchair-accessible transportation network  
15 services for a passenger that requires wheelchair-accessible services, the licensed  
16 company shall direct the passenger to an alternate provider of  
17 wheelchair-accessible transportation, if available.

\*\*\*\*NOTE: Should the language be: "requires a wheelchair-accessible vehicle or other accommodation"? Also, it is not clear to me what the second sentence here actually requires a licensed company to do. Do you mean just give the passenger a referral? MPG

18 (6) ACCESSIBILITY GRANTS. (a) Each licensed company shall pay a fee of  
19 \$10,000 to the department for each year for which the licensed company does not



1 make any wheelchair-accessible transportation network services available to  
2 passengers, as determined by the department.

3 (b) The department shall use all moneys received under par. (a) to provide  
4 grants of up to \$15,000 per driver to participating drivers to pay for vehicle  
5 modifications to provide wheelchair-accessible transportation network services to  
6 passengers.

\*\*\*\*NOTE: See my changes. Okay? Note that, to minimize confusion, we generally  
try to avoid using the term "fund" unless we are creating a ch. 25 fund. MPG

7 **440.455 Records.** Each licensed company shall do all of the following:

8 (1) Maintain passenger trip records for at least <sup>one</sup> 1 year from the date of each  
9 trip.

10 (2) Maintain all records concerning each participating driver for at least <sup>one</sup> 1  
11 year after the date on which the ~~the~~ participating driver ceases to be a  
12 participating driver for the licensed company.

13 **440.46 Personally identifiable information.** A licensed company may  
14 not disclose a passenger's personally identifiable information to any other person,  
15 unless one of the following is true:

16 (1) The passenger consents to the disclosure.

17 (2) The disclosure is required by law.

18 (3) The disclosure is necessary to protect or defend the terms of use of the  
19 licensed company's transportation network services or to investigate a violation of  
20 those terms.

21 (4) The disclosure is to the participating driver, is limited to the passenger's  
22 name and telephone number, and is for the sole purpose of facilitating the

1 participating driver's provision of transportation network services to the  
2 passenger.

3 **440.465 No local regulation.** Section 349.24 does not apply to a licensed  
4 company or a participating driver providing transportation network services  
5 under this subchapter. No city, village, town, or county may enact an ordinance  
6 or adopt a resolution that regulates the provision of transportation network  
7 services to passengers by a licensed company or its participating drivers.

Insert 1-2

8 **440.49 Disciplinary proceedings and actions.** (1) INVESTIGATIONS AND  
9 HEARINGS. Subject to the rules promulgated under s. 440.03 (1), the department  
10 may conduct investigations and hold hearings to determine whether a violation of  
11 this subchapter or any rule promulgated under this subchapter or a violation of  
12 any other law that substantially relates to the operation of a transportation  
13 network company or the provision of transportation network services to  
14 passengers has occurred.

15 (2) DISCIPLINE. Subject to the rules promulgated under s. 440.03 (1), the  
16 department may reprimand a licensed company or deny, limit, suspend, or revoke  
17 a license granted under s. 440.415 if the department finds that an applicant for  
18 licensure or a licensed company has done any of the following:

19 (a) Intentionally made a material misstatement in an application for a  
20 license or license renewal.

21 (b) Advertised in a manner that is false or misleading.

22 (c) Obtained or attempted to obtain compensation through fraud or deceit.

23 (d) Violated this subchapter or any rule promulgated under this subchapter  
24 or violated any other law that substantially relates to the operation of a

1 transportation network company or the provision of transportation network  
2 services to passengers.

\*\*\*NOTE: Do you want to include any other specific bases for discipline?

3 (3) FORFEITURES. In addition to or in lieu of a reprimand or other action  
4 under sub. (2), the department may assess against a licensed company, for the  
5 violations enumerated under sub. (2), a forfeiture of not more than \$5,000 for  
6 each separate offense. Each day of continued violation constitutes a separate  
7 offense.

8 **440.495 Penalties.** Any person who violates this <sup>sub</sup>chapter or any rule  
9 promulgated under this <sup>sub</sup>chapter may be fined not more than \$1,000 or imprisoned  
10 for not more than 6 months or both.

\*\*\*NOTE: This penalty provision and the forfeiture provision above are  
placeholders. Please let me know what penalties you want to include. MPG

11 **SECTION 6. Effective date.**

12 (1) This act takes effect on the first day of the 4th month beginning after  
13 publication.

\*\*\*NOTE: This delayed effective date gives currently practicing transportation  
network companies three months to obtain a license before the licensing requirement  
becomes effective. Okay? MPG

14 (END)

Insert 12-10

2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1723/?ins  
PJK:.....

INSERT 11-7

1           **440.48 Insurance requirements.** (1) DISCLOSURES REQUIRED REGARDING  
2 INSURANCE COVERAGE. A licensed company shall in writing disclose to each of its  
3 participating drivers, in the written agreement with the driver or, if there is no  
4 written agreement, at any time before the driver is allowed to accept a request for  
5 transportation network services on the licensed company's digital network, all of the  
6 following:

*e online-enabled application  
or platform*

7           (a) The motor vehicle liability insurance coverage, including the limits, that the  
8 licensed company provides for the participating driver while the participating driver  
9 is using a personal vehicle to provide transportation network services.

10           (b) That the participating driver's own motor vehicle liability insurance policy  
11 covering the participating driver's personal vehicle may not provide coverage for the  
12 participating driver while the participating driver is using the personal vehicle to  
13 provide transportation network services.

14           **(2) COVERAGE REQUIREMENTS.** A participating driver shall at all times while the  
15 participating driver is providing transportation network services have in force  
16 transportation network insurance. All of the following requirements apply to the  
17 transportation network insurance:

18           (a) The insurance must provide primary liability coverage with limits of at least  
19 the amounts required for providing proof of financial responsibility under s. 344.01

20 (2) (d).

21           (b) The insurance must include uninsured motorist coverage with limits of at  
22 least the amounts required under s. 632.32 (4) (a) 1.

1 (c) The insurance must be issued by an insurer authorized to do business in this  
2 state in one or more lines of insurance that includes motor vehicle liability insurance  
3 or must be surplus lines insurance, as defined in s. 618.40 (10).

4 (d) The insurance must provide the coverage specified in pars. (a) and (b) from  
5 the moment the participating driver logs on to the licensed company's  
6 online-enabled application or platform until the participating driver logs off the  
7 licensed company's online-enabled application or platform or the passenger exits the  
8 vehicle, whichever is later.

9 (e) The insurer issuing the coverage must agree to defend the insured against  
10 any claim against the insured that is covered under the policy.

11 (3) HOW INSURANCE MAY BE PROVIDED. (a) The requirement under sub. (2) for a  
12 participating driver to have transportation network insurance may be satisfied in  
13 any of the following ways:

14 1. By the participating driver's own motor vehicle liability insurance policy that  
15 covers the participating driver's personal vehicle and that does not exclude coverage  
16 under the policy terms for injury or loss occurring while the driver is operating the  
17 vehicle to provide transportation network services.

18 2. By a transportation network insurance policy maintained by the licensed  
19 company.

20 3. By any combination of the insurance policies specified in subds. 1. and 2.

21 (b) Notwithstanding par. (a), if the participating driver's own motor vehicle  
22 liability insurance policy is the transportation network insurance, or any part of it,  
23 and the participating driver's policy lapses, terminates, is canceled, or ceases to exist  
24 for any other reason, the licensed company shall provide the coverage required under  
25 sub. (2) beginning with the first dollar of a covered claim.

1 (c) Nothing in this section requires a private motor vehicle insurance policy to  
2 provide primary or excess coverage during the period from the moment a  
3 participating driver for a licensed company logs on to the licensed company's  
4 online-enabled application or platform until the participating driver logs off the  
5 licensed company's online-enabled application or platform or the passenger exits the  
6 vehicle, whichever is later.

7 (4) PROOF OF INSURANCE. A participating driver must carry proof of  
8 transportation network insurance coverage with him or her at all times during his  
9 or her use of a vehicle in connection with a licensed company's online-enabled  
10 application or platform. In the event of an accident during his or her use of a vehicle  
11 in connection with a licensed company's online-enabled application or platform, a  
12 participating driver shall provide this insurance coverage information to any other  
13 party involved in the accident, and to a law enforcement officer, upon request.

*the transportation network*

14 (5) COOPERATION WITH CLAIMS INVESTIGATIONS. In the investigation of any claim  
15 made under a transportation network insurance policy, a licensed company and the  
16 insurer providing the transportation network insurance shall cooperate with other  
17 insurers involved in the investigation to facilitate the exchange of information,  
18 including providing the dates and times at which an accident occurred that involved  
19 a participating driver and the precise times at which the participating driver logged  
20 on and off the licensed company's online-enabled application or platform in the  
21 24-hour period immediately preceding the accident.

(END OF INSERT 11-7)

INSERT 12-10

22 SECTION 1. 632.355 of the statutes is created to read:

1           **632.355 Insurance coverage of vehicles used to provide transportation**

2           **network services. (1) DEFINITIONS.** In this section, *“transportation”*

3           (a) *“Transportation network company”* has the meaning given in s. 440.40 (4).

4           (b) *“Transportation network services”* has the meaning given in s. 440.40 (5). 6

5           **(2) COVERAGE AND DUTY TO DEFEND MAY BE EXCLUDED.** (a) An insurer that issues  
6           a motor vehicle insurance policy is not required to provide coverage under the policy,  
7           or to defend against any claims made under the policy, for injury or loss that occurs  
8           while a vehicle that is insured under the policy is being used to provide, or is available  
9           to provide, transportation network services if all of the following are satisfied:

10           1. The coverage and duty to defend are excluded under the terms of the policy  
11           and the exclusion is expressly set forth in the policy.

12           2. The insurer notifies the insured within a reasonable time after proof of loss  
13           is submitted that the insurer has no duty to defend or indemnify any person for  
14           liability for any loss that is properly excluded under the terms of the policy.

15           **(3) DISCLOSURE OF COVERAGE; EXCLUSION.** (a) An insurer that issues a motor  
16           vehicle insurance policy must disclose on its application for insurance, in a  
17           prominent place, whether the policy provides any coverage for injury or loss that  
18           occurs while a vehicle that is insured under the policy is being used to provide, or is  
19           available to provide, transportation network services.

20           (b) If a motor vehicle insurance policy excludes coverage of an insured vehicle  
21           while the vehicle is being used to provide, or is available to provide, transportation  
22           network services, the insurer or its agent must disclose in writing the exact language  
23           of the exclusion to an applicant for insurance during the application process.

## Gallagher, Michael

---

**From:** Bacher, Luke  
**Sent:** Thursday, March 12, 2015 5:39 PM  
**To:** Gallagher, Michael  
**Cc:** Bacher, Luke  
**Subject:** RE: Drafting Request - Regulating TNCs/Rideshare Legislation

Michael –

I've attached a word doc with answers to your drafting questions.

-Luke

**Luke Bacher**  
*Chief of Staff*  
*Representative Tyler August*  
*Speaker Pro Tempore*  
*luke.bacher@legis.wi.gov*  
*608-266-1190*  
*http://repaugust.com*



TNC  
comments.docx

---

**From:** Gallagher, Michael  
**Sent:** Thursday, February 19, 2015 3:55 PM  
**To:** Bacher, Luke  
**Subject:** RE: Drafting Request - Regulating TNCs/Rideshare Legislation

No problem. Let me know when you have redraft instructions, or if you want to have a meeting.

Mike

**Michael Gallagher**  
**Legislative Attorney**  
**Wisconsin Legislative Reference Bureau**  
**(608) 267-7511**

---

**From:** Bacher, Luke  
**Sent:** Thursday, February 19, 2015 3:49 PM  
**To:** Gallagher, Michael  
**Subject:** RE: Drafting Request - Regulating TNCs/Rideshare Legislation



1) ✓

Page 2

\*\*\*\*NOTE: Please note that I did not create a new appropriation for the moneys from initial and renewal licensure fees for transportation network company licenses. Those moneys would, therefore, be covered under s. 20.165 (1) (g), stats. Please let me know if that is not consistent with your intent. MPG

Yes that is fine.

2) ✓

SECTION 2. 194.01 (1) of the statutes is amended to read:

194.01 (1) "Common motor carrier" means any person who holds himself or herself out to the public as willing to undertake for hire to transport passengers or property by motor vehicle upon the public highways. The transportation of passengers in taxicab service or in commuter car pool or van pool vehicles that are designed to carry less than 8 passengers, including the driver, or in a school bus under s. 120.13 (27) or in a motor vehicle being operated to provide to the passenger transportation network services, as defined in s. 440.40 (6), is not transportation by a common motor carrier.

Rep August would prefer also expressly exempting TNC drivers from the definitions of "contract motor carrier" and "private motor carrier" in section 194.01. The intent is to make clear that TNCs and TNC drivers are subject only to the requirements set forth in this bill and the regulations promulgated by the Department are consistent with these requirements.

3) ✓

Page 3, Line 3

(3) "Passenger" means a customer of a licensed company.

We would prefer not to define passenger in this way. This term is fairly self-explanatory and most bills in other states do not define it. Please advise if there is a specific reason that we need to define it in this bill. If not, we would prefer deleting it.

4) ✓

Page 3 ✓

\*\*NOTE: See my changes to the definitions. Okay? Should the fact that the services are prepaid be included as an element in the definition of "transportation network services" or "transportation network company"? MPG

We prefer the following definitions:

"Transportation Network Company" or "TNC" shall mean an entity licensed pursuant to this Chapter and operating in Wisconsin that uses a digital network or software application service to connect passengers to Transportation Network Company Services provided by Transportation

x

*- see ch. 227*  
*[Handwritten signature]*

Network Company Drivers. A TNC is not deemed to own, control, operate or manage the vehicles used by TNC drivers, and is not a taxicab association or a for-hire vehicle owner.

"Transportation Network Company (TNC) Driver" shall mean an individual who operates a motor vehicle that is:

- (a) Owned, leased, or otherwise authorized for use by the individual;
- (b) Not a taxicab or for-hire vehicle; and
- (c) Used to provide Transportation Network Company Services

"Transportation Network Company (TNC) Services" shall mean transportation of a passenger between points chosen by the passenger and prearranged with a TNC Driver through the use of a TNC digital network or software application. TNC Services shall begin when a TNC Driver accepts a request for transportation received through the TNC's digital network or software application service, continue while the TNC Driver transports the passenger in the TNC Driver's vehicle, and end when the passenger exits the TNC Drivers vehicle. TNC Service is not a taxicab, for-hire vehicle or street hail service.

5) ✓  
Page 4

\*\*\*\*NOTE: Please let me know if, like the renewal fee in the draft, you wish to specify an initial licensure fee as opposed to having DSPS establish the fee according to its usual process? MPG

Can we do a \$5,000 fee as well.

6) ✓  
Page 4

\*\*\*\*NOTE: Do you want to authorize DSPS to establish other application requirements by rule?

No.

7) ✓  
Page 4

Also, do you want to have a general rules promulgation requirement requiring DSPS to promulgate rules to implement the subchapter? MPG

Yes, the bill should contain language authorizing DSPS to promulgate rules consistent with this chapter.

8) ✓  
Page 4

*- see ch. 227*

\*\*\*\*NOTE: Based on the drafting instructions, unlike other occupations regulated by DSPS, under this draft, the renewal date is annual instead of biennial, and, therefore, the renewal fee must be paid annually, consistent with the drafting instructions. MPG

If other occupational license fees are collected on a biennial basis, this should be changed to biennial for TNCs.

9) ✓

Page 5

\*\*\*NOTE: It is my understanding that transportation network companies operate on a bid basis. The passenger enters the trip coordinates, and receives bids from participating drivers. If this is the reality, it seems somewhat inconsistent with this fare disclosures provision. Also, if all services for a trip arranged through a transportation network company are prepaid using the company's online-enabled application or platform, that fact is inconsistent with the language under sub. (3), above, requiring only an estimated fare (as opposed to actual prepayment) before the passenger enters the participating driver's vehicle. Please let me know how you would like to proceed. Thanks. MPG

Passengers do not receive bids from participating drivers and trips are not prepaid. Please leave the fare disclosure language.

10) ✓

Page 6

\*\*\*NOTE: See my changes. Okay? I used "intoxicant" instead of "drug" because it is less ambiguous, and I included an implicit reference to the standard under s. 346.63 (1) (a). Also, I assume that by "zero tolerance" we mean prohibiting any use of alcohol or intoxicating drugs and drafted the provision accordingly. MPG

These changes are fine.

11) ✓

Page 7

\*\*\*NOTE: Because it is not clear what may or may not constitute a major violation, I included rules promulgation language for DSPS to define the term. Okay?

We would prefer not to specify this here. DSPS should have this authority per language added consistent with comment 6 above.

12) ✓

Page 7

Also, let me know if you want to include a specific requirement for a criminal background check for participating drivers or a requirement that a participating driver report any conviction to the licensed company for which the participating driver drives. MPG

On background checks, please add the following language:

- (a) Prior to permitting an individual to act as a TNC Driver on its digital platform, the TNC shall:
1. Require the individual to submit an application to the TNC, which includes information regarding his or her address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC.
  2. Conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include:
    - a. Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation (primary source search); and
    - b. National Sex Offender Registry database;
  3. Obtain and review a driving history research report for such individual.

Regarding the last comment, please add language requiring drivers to report convictions to the licensed company for which the driver drives.

13) ✓

Page 8

\*\*\*NOTE: See also the list under s. 351.02. Also, do you want to define "sex offense"?

MPG

No need to anything re: s. 351.02. RE: sex offense, please revise to "sex offense as defined in Wis. Stat. s. 301.45."

14) ✓

Page 8 ✓

\*\*\*NOTE: I did not include the proof of auto insurance requirement because extensive insurance requirements already exist under s. 440.48 in the draft. Okay? MPG

We prefer to keep the proof of auto insurance language.

15) ✓

Page 8 ✓

\*\*\*NOTE: I added federal because many vehicle safety and emissions standards are federal standards. Okay?

We prefer to stick with state. Omitting federal shouldn't have any substantive impact here because drivers are required to comply with federal law regardless of whether this bill contains language to that effect.

16) ✓

Page 8 ✓

\*\*\*NOTE: Again, do the services have to be prepaid? MPG

No.

17) ✓

Page 9 ✓

\*\*\*NOTE: I don't see anything in the statutes concerning discrimination on the basis of gender identity, which is included in the drafting instructions, but there may be local laws. Also, with respect to nondiscrimination on the basis of "destination," is the intent to prohibit a participating driver to turn down a passenger on the basis of the passenger's desired destination? Currently, I am not aware of any law that would require a participating driver to take a passenger regardless of the choice of destination. Also, is this a nonissue given the bidding structure employed by transportation network companies? It is my understanding a driver would be free to bid or not bid with full knowledge of the passenger's desired destination. MPG

Please revise these sections to: ✓

- (a) The TNC shall adopt a policy of non-discrimination with respect to passengers and potential passengers and notify TNC Drivers of such policy.
- (b) TNC Drivers shall comply with all applicable laws regarding non-discrimination against passengers or potential passengers.

yes

18) ✓

Page 10

\*\*\*NOTE: Should the language be: "requires a wheelchair-accessible vehicle or other accommodation"? Also, it is not clear to me what the second sentence here actually requires a licensed company to do. Do you mean just give the passenger a referral? MPG

Please leave the language as is. Regarding the second sentence, the intent is to require the TNC to give the passenger a referral.

19) ✓

Page 10

\*\*\*NOTE: See my changes. Okay? Note that, to minimize confusion, we generally try to avoid using the term "fund" unless we are creating a ch. 25 fund. MPG

This is fine.

20) ✓

Page 11

**440.465 No local regulation.** Section 349.24 does not apply to a licensed company **or a participating driver** providing transportation network services under this subchapter.

Can you please revise to: "a licensed company, a participating driver, or a participating driver's vehicle..."

21) ✓

Page 14

\*\*\*NOTE: Do you want to include any other specific bases for discipline?

No.

22) ✓

Page 14

**(3) FORFEITURES.** In addition to or in lieu of a reprimand or other action under sub. (2), the department may assess against a licensed company, for the violations enumerated under sub. (2), a forfeiture of not more than \$5,000 for each separate offense. Each day of continued violation constitutes a separate offense.

Is this section needed in light of the penalty provisions in section 440.495?

23) ✓

Page 15

\*\*\*NOTE: This penalty provision and the forfeiture provision above are placeholders. Please let me know what penalties you want to include. MPG

Please delete "or imprisoned for not more than 6 months or both."

24) ✓

Page 16

\*\*\*\*NOTE: This delayed effective date gives currently practicing transportation network companies three months to obtain a license before the licensing requirement becomes effective. Okay? MPG

We want the bill to become effective immediately. Please add a delayed implementation period (4 months) for section 440.41 (license required) only.

25) ✓

We would like to add the following clarifying language: "A TNC driver shall not be required to register the vehicle such driver uses for TNC services as a commercial or for-hire vehicle."  
(I am not sure where we should place this language.)

## Gallagher, Michael

---

**From:** Bacher, Luke  
**Sent:** Wednesday, March 18, 2015 2:11 PM  
**To:** Gallagher, Michael  
**Subject:** RE: fees

Ok...I will see what DSPS says.

Also, I spoke with Rep. August and he would like to keep that definition on page 3 that starts "TNC Services shall begin when a TNC Driver accepts a request..."

-Luke

**Luke Bacher**  
*Chief of Staff*  
*Representative Tyler August*  
*Speaker Pro Tempore*  
*luke.bacher@legis.wi.gov*  
*608-266-1190*  
*<http://repaugust.com>*

---

**From:** Gallagher, Michael  
**Sent:** Wednesday, March 18, 2015 2:03 PM  
**To:** Bacher, Luke  
**Subject:** fees

I mentioned the fees in the commercial bail bond bill. It was 2011 AB 567, and the initial and renewal fees were \$1,000. The bill never made it to the floor.

**Michael P. Gallagher**  
**Legislative Attorney**  
**Wisconsin Legislative Reference Bureau**  
**(608) 267-7511**