



By: 3/26 - Early Afternoon,  
if possible.

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

11

INSECT A

INSECTS

providing an exemption from emergency rule procedures; granting rule-making authority

1 **AN ACT to amend** 194.01 (1) and 194.01 (2); and **to create** 20.165 (1) (gh), 340.01  
2 (23g) (b) 4., 440.08 (2) (a) 69m., subchapter IV of chapter 440 [precedes 440.40]  
3 and 632.355 of the statutes; **relating to:** regulation of transportation network  
4 companies, making an appropriation, and providing a 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:**

5 **SECTION 1.** 20.165 (1) (gh) of the statutes is created to read:  
6 20.165 (1) (gh) ~~Transportation network company accessibility grants.~~ All  
7 moneys received from fees collected under s. 440.45 (6) (a), for the grants under s.  
8 440.45 (6) (b).

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

**SECTION 2**

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

9           **SECTION 3.** 194.01 (2) of the statutes is amended to read:

10           194.01 (2) "Contract motor carrier" means any person engaged in the  
 11 transportation by motor vehicle over a regular or irregular route upon the public  
 12 highways of property for hire, including the transportation of buildings, as defined  
 13 in s. 348.27 (12m) (a) 1. The transportation of property in a motor vehicle being used  
 14 subject to subch. IV of ch. 440 is not transportation by a contract motor carrier.

\*\*\*\*NOTE: Note that subch IV of ch. 440 only applies to the transportation of passengers, not property. Also, I did not include an exclusion from the definition of "private motor carrier" because that definition already excludes automobiles. Please let me know if you still want to include such an exclusion. MPG

15           **SECTION 4.** 340.01 (23g) (b) 4. of the statutes is created to read:

16           340.01 (23g) (b) 4. A motor vehicle being used to provide transportation  
 17 network services, as defined in s. 440.40 (b).

18           **SECTION 5.** 440.08 (2) (a) 69m. of the statutes is created to read:

19           440.08 (2) (a) 69m. Transportation network company: March 1 of each  
 20 odd-numbered year.

21           **SECTION 6.** Subchapter IV of chapter 440 [precedes 440.40] of the statutes is  
 22 created to read:

INSERT 3-3

1 SUBCHAPTER IV

2 TRANSPORTATION NETWORK COMPANIES

3 **440.40 Definitions.** In this subchapter:

4 (1) "Licensed company" means a transportation network company that is  
5 licensed under s. 440.415.

6 (2) "Participating driver" means an individual who provides transportation  
7 network services through a licensed company using a motor vehicle that the  
8 individual owns, leases, or is otherwise authorized to use and that is not a taxicab,  
9 limousine, or similar for-hire vehicle.

10 (3) "Transportation network company" means an entity that uses a digital  
11 network or software application to connect passengers and participating drivers for  
12 the purpose of providing transportation network services to those passengers.  
13 "Transportation network company" does not include a taxicab, limousine, or similar  
14 for-hire vehicle service.

15 (4) "Transportation network insurance" means insurance that satisfies the  
16 requirements under s. 440.48 (2).

17 (5) "Transportation network services" means transportation of a passenger  
18 between points chosen by the passenger and prearranged with a participating driver  
19 by means of a digital network or software application. Transportation network  
20 services begin when a participating driver accepts a request for transportation  
21 received through a licensed company's digital network or software application,  
22 continue while the participating driver transports the passenger in the participating  
23 driver's motor vehicle, and end when the passenger exits the participating driver's  
24 vehicle. "Transportation network services" do not include transportation in a  
25 taxicab, limousine, or similar for-hire vehicle.

INSERT 4-3

(17) (3)

1 **440.41 License required.** No person may operate a transportation network  
2 company in this state unless the transportation network company is a licensed  
3 company.

4 **440.415 Licensure of transportation network companies. (1) INITIAL**  
5 **LICENSE.** The department shall grant a license to operate a transportation network  
6 company in this state to an applicant for licensure if the department determines that  
7 all of the following requirements are met:

8 (a) The applicant submits an application to the department on a form  
9 prescribed by the department. The application shall include the applicant's name,  
10 address, tax identification number, and any other information required by the  
11 department by rule.

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

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

15 (d) Notwithstanding s. 440.03 (9) (a), the applicant pays an initial licensure fee  
16 of \$5,000.

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

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

23 **440.42 Agent.** Each licensed company shall maintain an agent for service of  
24 process in this state.

Each

1

**440.425 Fare disclosures.** If a licensed company charges a fare for the

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transportation network services, the licensed company shall do all of the following:

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

4

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

OR THE PROSPECTIVE PASSENGER'S AUTHORIZED REPRESENTATIVE

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(3) Give each prospective passenger the option to receive an estimated fare

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before the passenger enters a participating driver's vehicle for transportation network services.

PERSONAL

8

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

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licensed company shall make available to each prospective passenger or the prospective passenger's authorized representative, on the licensed company's

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Internet site or digital network or software application, a photograph of the

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participating driver and the license plate number of the participating driver's motor

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vehicle before the passenger enters the participating driver's motor vehicle for

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transportation network services.

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**440.435 Electronic receipt.** Within a reasonable time after transportation

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network services have been provided to a passenger, the licensed company

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facilitating the services shall transmit an electronic receipt for the services to the

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passenger or the passenger's authorized representative that contains all of the

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following:

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(1) The origin and destination of the trip.

21

(2) The total time and distance of the trip.

22

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

23

**440.44 Zero tolerance for use of drugs or alcohol.** (1) POLICY. Each

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licensed company shall develop, implement, and make available on its Internet site

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a policy prohibiting any participating driver from using alcohol, or any other

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for the licensed company

1 intoxicant that may render the participating driver incapable of safely driving, while  
2 the participating driver is providing transportation network services or is logged on  
3 to the licensed company's digital network or software application.

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

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

\*\*\*\*NOTE: I altered the language slightly to allow procedures for and complaints by persons other than passengers as well. Okay?

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

each

15 **440.445 Certain requirements for participating drivers and their**  
16 **vehicles.** (1) APPLICATION. Before a licensed company allows an individual to be a  
17 participating driver for the licensed company, the licensed company shall do all of the  
18 following: at least

(B) personal

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

- 22 1. The individual's name, address, and age.
- 23 2. A copy of the individual's driver's license.

engage in

personal

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

7 (b) Conduct, or have a 3rd party conduct, a local and national criminal  
 8 background check for the individual that includes all of the following:

- 9 1. A multistate and multijurisdictional criminal records locator or other similar
- 10 commercial nationwide database with validation.
- 11 2. A national sex offender registry database.

12 (c) Obtain and review a driving history research report for the individual.

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

16 1. An individual who has had more than 3 moving violations, as defined in s.  
 17 343.01 (2) (cg), in the past 3 years, or one major violation in the past 3 years, including  
 18 fleeing or attempting to elude an officer under s. 346.04 (3), reckless driving under  
 19 s. 346.62, or driving with a suspended or revoked license under s. 343.44 (1) (a) or (b).

20 2. An individual who has been convicted in the last 7 years of driving under the  
 21 influence of an intoxicant or other drug in violation of s. 346.63, of a sex offense, as  
 22 defined in s. 301.45 (1d) (b), or of any crime involving fraud, theft, damage to  
 23 property, violence, acts of terror, or the use of a motor vehicle in the commission of  
 24 a felony.

1 3. An individual whose information is contained in the sex offender registry  
2 under s. 301.45 or on the National Sex Offender Public Website.

3 4. An individual who does not possess a valid driver's license.

4 5. An individual who does not possess proof of motor vehicle registration for  
5 each motor vehicle the individual would use to provide transportation network  
6 services. *engage in*  
*personal* *intends to*

7 6. An individual who does not possess proof of automobile liability insurance  
8 for each motor vehicle the individual would use to provide transportation network  
9 services. *engage in*

10 7. An individual who is not at least 19 years of age.

11 (b) A participating driver who is convicted of any moving violation or of any  
12 felony or misdemeanor anywhere shall immediately notify the licensed company of  
13 the conviction. *each* *for which the participating driver engages in transportation network services*

14 (3) VEHICLE SAFETY AND EMISSIONS. Each licensed company shall ensure that  
15 any motor vehicle a participating driver uses to provide transportation network  
16 services satisfies all state vehicle safety and emissions standards for private motor  
17 vehicles. *for the licensed company is a personal vehicle that*

18 (4) NO STREET HAILS. A participating driver may not solicit or accept street hails  
19 or otherwise provide rides for compensation that are not prearranged through a  
20 licensed company. *on the licensed company's digital network*

21 (5) NO CASH TRIPS. (a) A participating driver may not solicit or accept any cash  
22 payment for transportation network services. *to engage in*

23 (b) All payments for transportation network services shall be made  
24 electronically using the licensed company's digital network or software application.

transportation network

passenger



**440.45 Nondiscrimination; accessibility. (1) NONDISCRIMINATION POLICY.**

Each licensed company shall adopt a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to passengers and prospective passengers and notify all participating drivers of the nondiscrimination policy.

*of its*

(2) A participating driver may not discriminate against any passenger or prospective passenger on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.

(3) Each participating driver shall permit service animals to accompany passengers in connection with transportation network services.

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

(5) Each licensed company shall provide each prospective passenger an opportunity to indicate whether the passenger requires a wheelchair-accessible vehicle. If a licensed company cannot arrange wheelchair-accessible transportation network services for a prospective passenger who requires wheelchair-accessible services, the licensed company shall refer the prospective passenger to an alternate provider of wheelchair-accessible transportation, if available.

~~(6) ACCESSIBILITY GRANTS. (a) Each licensed company shall pay a fee of \$10,000 to the department for each year for which the licensed company does not make any wheelchair-accessible transportation network services available to passengers, as determined by the department.~~

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

5 **440.455 Records.** Each licensed company shall do all of the following:

6 (1) Maintain passenger trip records for at least one year from the date of each  
 7 trip.

8 (2) Maintain all records concerning each participating driver for at least one  
 9 year after the date on which the participating driver ceases to be a participating  
 10 driver for the licensed company.

*engage in transportation network services*

11 **440.46 Personally identifiable information.** A licensed company may not  
 12 disclose a passenger's or prospective passenger's personally identifiable information  
 13 to any other person, unless any of the following is true:

14 (1) The passenger or prospective passenger consents to the disclosure.

15 (2) The disclosure is required by law.

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

19 (4) The disclosure is to the participating driver, is limited to the passenger's  
 20 name and telephone number, and is for the sole purpose of facilitating the  
 21 participating driver's provision of transportation network services to that passenger.

*transportation network*

*engaged in*

22 **440.465 Limitations on local and other regulation.** (1) Section 349.24  
 23 does not apply to a licensed company or to a participating driver providing  
 24 transportation network services under this subchapter or the participating driver's

25 motor vehicle. No city, village, town, or county may enact an ordinance or adopt a

*personal* *or enforce* *used for those services*

personal

transportation network

1 resolution that regulates a licensed company or its participating drivers and their  
2 vehicles in connection with transportation network services.

3 (2) The requirements under chs. 340 to 349 applicable specifically to  
4 commercial vehicles or for-hire vehicles do not apply to motor vehicles used by  
5 participating drivers to provide transportation network services through a licensed  
6 company.

engaged in

7 (3) The requirements under ss. 342.06 (1) (h) and (3), 342.10 (3) (a), and 342.33  
8 do not apply to motor vehicles used by participating drivers to provide transportation  
9 network services through a licensed company.

10 **440.48 Insurance requirements. (1) DISCLOSURES REQUIRED REGARDING**

11 INSURANCE COVERAGE. A licensed company shall in writing disclose to each of its  
12 participating drivers, in the written agreement with the driver or, if there is no  
13 written agreement, at any time before the driver is allowed to accept a request for  
14 transportation on the licensed company's digital network or software application, all  
15 of the following:

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

19 (b) That the participating driver's own motor vehicle liability insurance policy  
20 covering the participating driver's personal vehicle may not provide coverage for the  
21 participating driver while the participating driver is using the personal vehicle to  
22 provide transportation network services.

23 (2) COVERAGE REQUIREMENTS. A participating driver shall at all times while the  
24 participating driver is providing transportation network services, or is logged on to  
25 the licensed company's digital network or software application, have in force

1 transportation network insurance. All of the following requirements apply to the  
2 transportation network insurance:

3 (a) The insurance must provide primary liability coverage with limits of at least  
4 the amounts required for providing proof of financial responsibility under s. 344.01  
5 (2) (d).

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

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

11 (d) The insurance must provide the coverage specified in pars. (a) and (b) from  
12 the moment the participating driver logs on to the licensed company's digital  
13 network or software application until the participating driver logs off the licensed  
14 company's digital network or software application or the passenger exits the vehicle,  
15 whichever is later.

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

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

21 1. By the participating driver's own motor vehicle liability insurance policy that  
22 covers the participating driver's personal vehicle and that does not exclude coverage  
23 under the policy terms for injury or loss occurring while the driver is using the vehicle  
24 to provide transportation network services.

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

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

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

9           (c) Nothing in this section requires a private motor vehicle insurance policy to  
10 provide primary or excess coverage during the period from the moment a  
11 participating driver for a licensed company logs on to the licensed company's digital  
12 network or software application until the participating driver logs off the licensed  
13 company's digital network or software application or the passenger exits the vehicle,  
14 whichever is later.

15           (4) PROOF OF INSURANCE. A participating driver must carry proof of  
16 transportation network insurance coverage with him or her at all times during his  
17 or her use of a vehicle in connection with a licensed company's digital network or  
18 software application. In the event of an accident during his or her use of a vehicle  
19 in connection with a licensed company's digital network or software application, a  
20 participating driver shall provide the transportation network insurance coverage  
21 information to any other party involved in the accident, and to a law enforcement  
22 officer, upon request.

23           (5) COOPERATION WITH CLAIMS INVESTIGATIONS. In the investigation of any claim  
24 made under a transportation network insurance policy, a licensed company and the  
25 insurer providing the transportation network insurance shall cooperate with other

SECTION 6

1 insurers involved in the investigation to facilitate the exchange of information,  
 2 including providing the dates and times at which an accident occurred that involved  
 3 a participating driver and the precise times at which the participating driver logged  
 4 on and off the licensed company's digital network or software application in the  
 5 24-hour period immediately preceding the accident.

Insert 14-5

6 **440.49 Disciplinary proceedings and actions.** (1) INVESTIGATIONS AND  
 7 HEARINGS. Subject to the rules promulgated under s. 440.03 (1), the department may  
 8 conduct investigations and hold hearings to determine whether a violation of this  
 9 subchapter or any rule promulgated under this subchapter or a violation of any other  
 10 law that substantially relates to the operation of a transportation network company  
 11 or the provision of transportation network services has occurred.

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

- 16 (a) Intentionally made a material misstatement in an application for a license
- 17 or license renewal.
- 18 (b) Advertised in a manner that is false or misleading.
- 19 (c) Obtained or attempted to obtain compensation through fraud or deceit.
- 20 (d) Violated this subchapter or any rule promulgated under this subchapter or
- 21 violated any other law that substantially relates to the operation of a transportation
- 22 network company or the provision of transportation network services.

23 **440.495 Penalties.** Any person who violates this subchapter or any rule  
 24 promulgated under this subchapter may be fined not more than \$1,000.

25 **SECTION 7.** 632.355 of the statutes is created to read:

Insert 14-22

Insert 14-24

1           **632.355 Insurance coverage of vehicles used to provide transportation**  
2 **network services.** (1) DEFINITION. In this section, “transportation network  
3 services” has the meaning given in s. 440.40 (5).

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

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

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

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

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

23           **SECTION 8. Initial applicability.**

24           (1) INSURANCE COVERAGE.

**SECTION 8**

1 (a) The treatment of sections 440.48 (3) (a) 1. and 632.355 (2) (a) 1. of the  
2 statutes first applies to motor vehicle liability insurance policies that are newly  
3 issued or renewed on the effective date of this paragraph.

4 (b) The treatment of section 632.355 (2) (a) 2. of the statutes first applies to  
5 claims that are made under motor vehicle liability insurance policies that are newly  
6 issued or renewed on the effective date of this paragraph.

7 (c) The treatment of section 632.355 (3) of the statutes first applies to  
8 applications for motor vehicle liability insurance that are made on the effective date  
9 of this paragraph.

10 **SECTION 9. Effective dates.** This act takes effect on the day after publication,  
11 except as follows:

12 (1) The treatment section 440.41 of the statutes takes effect on the first day of  
13 the 4th month beginning after publication.

14 (END)



INSERT A

This bill creates a licensure program for transportation network companies to be administered by the Department of Safety and Professional Services (DPS). Under the bill, a "transportation network company" (TNC) is a business that, for compensation, uses a digital network to connect individuals seeking transportation via the digital network (passengers) to drivers who are logged on to the digital network and receive compensation for providing that transportation (participating drivers). The bill specifies that a TNC is not a taxicab, limousine, shuttle, or other for-hire vehicle service. The participating driver pays a fee to the TNC in order to participate in the TNC's digital network.

Under the bill, a TNC may only operate in Wisconsin if it is licensed by DPS, and a participating driver may only provide transportation network services (TNC services) through a licensed TNC. There is no licensure requirement for a participating driver under the bill.

The bill requires DPS to grant a license to an applicant for licensure as a TNC if certain application requirements are satisfied, including that the TNC pays an initial licensure fee of \$5,000. The biennial renewal fee is also \$5,000.

The bill exempts TNCs and participating drivers and their vehicles used to provide TNC services from certain requirements applicable under current law to common motor carrier and other for-hire vehicles. The bill also prohibits a city, village, town, or county from enacting or enforcing an ordinance or adopting or enforcing a resolution that regulates TNCs or their participating drivers and vehicles used to provide TNC services. Under current law, a city, town, or village is authorized to regulate and license taxicab businesses, taxicabs, and chauffeurs. That authorization does not apply to TNCs or their participating drivers and vehicles under the bill.

The bill includes a number of requirements applicable to a licensed TNC and its participating drivers, including all of the following:

1. A TNC must disclose its fare calculation method and other fare information on its Internet site and to prospective passengers, must provide certain identifying information about the participating driver to a prospective passenger before the prospective passenger receives TNC services, and must transmit an electronic receipt that contains specific information to a passenger within a reasonable time after TNC service have been provided.

2. A participating driver may not solicit or accept street hails or otherwise provide rides for compensation that are not prearranged through a TNC, and all payments for TNC services must be made electronically using the TNC's digital network.

3. A TNC may not disclose a passenger's or prospective passenger's personally identifiable information to any other person, except under certain limited circumstances.

4. A participating driver, or a TNC on the driver's behalf, is subject to certain insurance requirements; a TNC is required to make certain disclosures to its

participating drivers about insurance; and automobile insurers are permitted to exclude coverage for TNC services.

5. In addition to other nondiscrimination and accessibility requirements, a TNC must have in place a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to passengers and prospective passengers.

6. A TNC must have in place a “zero tolerance” policy prohibiting participating drivers from using alcohol, or any other intoxicant that may render the participating driver incapable of safely driving, while the participating driver is engaged in TNC services or is logged on to the TNC’s digital network.

7. Before a TNC allows an individual to be a participating driver, the TNC must require the individual to submit a driver application that includes, among other things, the individual’s driving history and proof of registration and a copy of the automobile liability insurance policy for each motor vehicle the individual will use to provide TNC services; conduct, or have a third party conduct a criminal background check for the individual; and obtain and review a driving history research report for the individual.

8. A TNC is prohibited from allowing certain individuals to be participating drivers for the TNC, including an individual who has been convicted of certain moving violations within the previous three years, who has been convicted of certain crimes within the previous seven years, or whose information appears on the state or national sex offender registry.

9. A TNC is required to maintain all records concerning a participating driver for at least one year after the participating driver ceases to engage in TNC services for the TNC, and a TNC must maintain passenger trip records for at least one year after the trip.

The bill authorizes DSPS to conduct investigations and hold hearings to determine whether a violation of the bill’s provisions, a related rule promulgated by DSPS, or any other law that substantially relates to the operation of a TNC or to TNC services has occurred. The bill further authorizes DSPS to discipline a licensed TNC, and any person who violates the bill’s provisions or a related rule promulgated by DSPS may be subject to a fine not to exceed \$1,000.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

END INSERT A

INSERT 3-3

1           (1) “Digital network” means any Internet site or online-enabled application,  
2 software, or system that permits the prearrangement of transportation network  
3 services.

1 (2) "Licensed company" means a transportation network company that is  
2 licensed under s. 440.415.

3 (3) "Participating driver" means an individual who does all of the following:

4 (a) Pays a fee to a transportation network company to be connected to a  
5 passenger for the purpose of engaging in transportation network services.

6 (b) Uses a personal vehicle to engage in transportation network services for  
7 compensation.

8 (4) "Passenger" means an individual who uses a transportation network  
9 company's digital network to connect to a participating driver for transportation  
10 network services, and, unless the context requires otherwise, includes all other  
11 persons in that individual's party who accompany that individual in the  
12 participating driver's personal vehicle in connection with those transportation  
13 network services.

14 (5) "Personal vehicle" means a motor vehicle that satisfies all of the following  
15 conditions:

16 (a) A participating driver owns, leases, or is otherwise authorized to use the  
17 motor vehicle.

18 (b) The motor vehicle is not a taxicab, limousine, shuttle, or other for-hire  
19 vehicle.

20 (6) "Transportation network company" means a business that, for  
21 compensation, uses a digital network to connect passengers to participating drivers  
22 for the purpose of providing transportation network services to those passengers.

23 "Transportation network company" does not include a taxicab, limousine, shuttle or  
24 other for-hire vehicle service.

1           (7) "Transportation network services" means transportation provided to a  
 2 passenger in the participating driver's personal vehicle. A participating driver is  
 3 considered to be engaged in transportation network services beginning when the  
 4 participating driver accepts a passenger's request for transportation received  
 5 through a transportation network company's digital network, continuing while the  
 6 participating driver transports that passenger in the participating driver's personal  
 7 vehicle, and ending when that passenger, or the last person in that passenger's party,  
 8 whichever occurs later, exits the participating driver's personal vehicle.  
 9 "Transportation network services" <sup>he does</sup> do not include transportation in a taxicab,  
 10 limousine, shuttle, or other for-hire vehicle.

END INSERT 3-3

INSERT 4-3

11           (2) No person may engage in transportation network services in this state  
 12 unless the person is a participating driver for a licensed company. A licensed  
 13 company is not considered to control, direct, or manage a participating driver or that  
 14 participating driver's personal vehicle used for engaging in transportation network  
 15 services, except as provided in this subchapter or in a written agreement between the  
 16 licensed company and the participating driver.

END INSERT 4-3

INSERT 14-22

1 (e) Failed to cooperate with the department, or failed to timely respond to a  
2 request for information by the department, in connection with an investigation  
3 under this section.

END INSERT 14-22

INSERT 14-24

4 **SECTION 1. Nonstatutory provisions.**

5 (1) EMERGENCY RULES. The department of safety and professional services may  
6 promulgate emergency rules under section 227.24 of the statutes implementing  
7 subchapter IV of chapter 440 of the statutes, as created by this act. Notwithstanding  
8 section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this  
9 subsection remain in effect until June 30, 2017, or the date on which permanent rules  
10 take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the  
11 statutes, the department is not required to provide evidence that promulgating a rule  
12 under this subsection as an emergency rule is necessary for the preservation of the  
13 public peace, health, safety, or welfare and is not required to provide a finding of  
14 emergency for a rule promulgated under this subsection.

END INSERT 14-24

2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1723/P2ins  
PJK:.....

INSERT 14-5

1085

1           **440.48 Insurance.** (1) DRIVER REQUIREMENTS. (a) A participating driver, or  
2 a transportation network company on the driver's behalf, shall maintain primary  
3 automobile insurance that does all of the following:

4           1. Recognizes that the driver is a participating driver, or otherwise uses a motor  
5 vehicle to transport passengers for compensation.

6           2. Covers the participating driver at any of the following times:

7           a. While the driver is logged on to the transportation network company's digital  
8 network.

9           b. While the driver is providing transportation network services. *engaged in*

10           (b) The following automobile insurance requirements apply while a  
11 participating driver is logged on to the transportation network company's digital  
12 network and is available to receive transportation requests but is not engaged in  
13 transportation network services:

14           1. The insurance is primary automobile liability insurance in the amount of at  
15 least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily  
16 injury per incident, and \$25,000 for property damage. *under this paragraph*

17           2. The coverage requirements may be satisfied by any of the following:

18           a. Automobile insurance maintained by the participating driver.

19           b. Automobile insurance maintained by the transportation network company.

20           c. Any combination of insurance specified in subd. 3. a. and b. *2 ✓*

21           (c) The following automobile insurance requirements apply while a  
22 participating driver is engaged in transportation network services:

↓

*Ins 14-5 contd*

*2885*

1 1. The insurance is primary automobile liability insurance in the amount of at  
2 least \$1,000,000 for death, bodily injury, and property damage. ✓

3 2. The coverage requirements *under this paragraph* may be satisfied by any of the following:

4 a. Automobile insurance maintained by the participating driver.

5 b. Automobile insurance maintained by the transportation network company.

6 c. Any combination of insurance specified in subd. *2* §. a. and b. ✓ ✓

7 (d) If insurance maintained by the participating driver under par. (b) or (c) has

8 lapsed or does not provide the required coverage, insurance maintained by a  
9 transportation network company shall provide the coverage required *under* this subsection  
10 beginning with the first dollar of a claim and have the duty to defend the claim.

11 (e) Coverage under an automobile insurance policy maintained by the  
12 transportation network company shall not be dependent on a personal automobile  
13 insurer first denying a claim nor shall a personal automobile insurance policy be  
14 required to first deny a claim.

15 (f) Insurance required under this subsection *✓* may be placed with an insurer  
16 authorized to do business in this state or with a surplus lines insurer.

17 (g) Insurance satisfying the requirements of this subsection shall be *2* considered *deemed*  
18 to satisfy the financial responsibility requirement for a motor vehicle under ch. *✓* 344.

19 (h) A participating driver shall carry proof of coverage satisfying pars. (b) and  
20 (c) with him or her at all times during his or her use of a vehicle in connection with  
21 a transportation network company's digital network. In the event of an accident, a  
22 participating driver shall provide this insurance coverage information to the directly  
23 interested parties, automobile insurers, and investigating police officers, upon  
24 request in accordance with s. 344. *✓* 62. Upon such a request, a participating driver

25 shall also disclose to directly interested parties, automobile insurers, and

*✓*

Ins 14-5 cont'd

3085

1 investigating police officers whether he or she was logged on to the transportation  
2 network company's digital network or engaged in transportation network services  
3 at the time of the accident.

4 (2) DISCLOSURES REQUIRED REGARDING INSURANCE COVERAGE. A transportation  
5 network company shall disclose in writing to participating drivers all of the following  
6 before they are allowed to accept a request for transportation network services on the  
7 transportation network company's digital network:

8 (a) The insurance coverage, including the types of coverage and the limits for  
9 each coverage, that the transportation network company provides while the  
10 participating driver uses a personal vehicle in connection with a transportation  
11 network company's digital network.

12 (b) That the participating driver's own automobile insurance policy might not  
13 provide any coverage while the participating driver is logged on to the transportation  
14 network company's digital network and is available to receive transportation  
15 requests or is engaged in transportation network services depending on its terms.

16 (3) INSURER PROVISIONS. (a) Notwithstanding any coverage requirements under  
17 s. 632.32, an insurer that writes automobile insurance in this state may exclude any  
18 and all coverage afforded under a policy owner's insurance policy for any loss or injury  
19 that occurs while a participating driver is logged on to a transportation network  
20 company's digital network or is engaged in transportation network services. This  
21 right to exclude all coverage may apply to any coverage included in a motor vehicle  
22 insurance policy, including all of the following:

- 23 1. Liability coverage for bodily injury and property damage.
- 24 2. Uninsured and underinsured motorist coverage.
- 25 3. Medical payments coverage.





Aug 14-5 cont'd

4 of 5

1 4. Comprehensive physical damage coverage.

2 5. Collision physical damage coverage.

3 (b) 1. ~~The~~ exclusions under par. (a) shall apply notwithstanding any  
4 requirement under ch. 344. Nothing in this subsection implies or requires that a  
5 personal automobile insurance policy provide coverage while the driver is logged on  
6 to the transportation network company's digital network, while the driver is engaged  
7 in transportation network services, or while the driver otherwise uses a vehicle to  
8 transport passengers for compensation.

9 2. Nothing shall be deemed to preclude an insurer from providing coverage for  
10 the participating driver's vehicle, if the insurer so chooses to do so by contract or  
11 endorsement.

12 (c) 1. Automobile insurers that exclude coverage as permitted in this subsection  
13 shall have no duty to defend or indemnify any claim expressly excluded. Nothing in  
14 this section shall be deemed to invalidate or limit an exclusion contained in a policy.

15 2. An automobile insurer that defends or indemnifies a claim against a  
16 participating driver that is excluded under the terms of its policy as permitted in this  
17 subsection, shall have a right of contribution against other insurers that provide  
18 automobile insurance to the same driver in satisfaction of the coverage requirements  
19 of sub. (1) at the time of loss.

20 (d) In a claims coverage investigation, transportation network companies and  
21 any insurer potentially providing coverage under sub. (1) shall cooperate to facilitate  
22 the exchange of relevant information with directly involved parties and any insurer  
23 of the participating driver if applicable, including the precise times that a  
24 participating driver logged on and off the transportation network company's digital  
25 network in the 12-hour period immediately preceding, and in the 12-hour period



*Ins 14-5 covered 5/8/5*

- 1 immediately following, the accident and disclose to one another a clear description
- 2 of the coverage, exclusions, and limits provided under any automobile insurance
- 3 maintained under sub (1).

(END OF INSERT 14-5)

## Kahler, Pam

---

**From:** Bacher, Luke  
**Sent:** Friday, March 27, 2015 3:33 PM  
**To:** Kahler, Pam  
**Cc:** Bacher, Luke  
**Subject:** RE: Additions to LRB 1723/1

Thank you.

Yes, let's leave it as "in use."

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

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**From:** Kahler, Pam  
**Sent:** Friday, March 27, 2015 3:27 PM  
**To:** Bacher, Luke  
**Subject:** RE: Additions to LRB 1723/1

Should be no problem getting this out before 10 – I let the editor know so that she can be in early on Monday (she's leaving early this afternoon).

I don't know if you would have the answer to this question. The only thing I wonder about is the term "in use" in number 3. Normally we would say "a policy in effect," but "in use" could be right if we're talking about a policy form that must be approved for use by OCI (as opposed to an actual policy that is in effect). I'm leaning toward leaving it "in use" because of the "or approved for use" after it.

---

**From:** Bacher, Luke  
**Sent:** Friday, March 27, 2015 2:03 PM  
**To:** Kahler, Pam  
**Cc:** Champagne, Rick; Bacher, Luke  
**Subject:** Additions to LRB 1723/1

Pam –

Could you please make the following changes? We would really like to have a /2 by Monday morning before 10am. Please advise if this is possible:

- 1) Page 13, line 24, add: 2. The insurance provides primary uninsured motorist coverage pursuant to the requirements of [Reference to the UM statute], and re-number accordingly.
- 2) Page 14, line 9, add: 2. The insurance provides primary uninsured motorist coverage pursuant to the requirements of [Reference to the UM statute], and re-number accordingly.
- 3) Line 24 on Page 16 – It should read like this (modified as needed for terminology specific to this state): Nothing in this Article shall be deemed to invalidate or limit an exclusion contained in a policy including any policy in use or approved for use in [STATE] prior to the enactment of this Article that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.
- 4) We'd like the 440.48 Insurance Driver Requirements (1) to go into effect on July 1, 2015 and thereafter.

Thank you in advance and call with any questions.

-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

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## Gallagher, Michael

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**From:** Bacher, Luke  
**Sent:** Friday, March 27, 2015 2:06 PM  
**To:** Gallagher, Michael  
**Cc:** Champagne, Rick; Bacher, Luke  
**Subject:** RE: LRB 1723

Mike –

I like the second one:

“The renewal application for a licensed company shall include a renewal fee of \$5,000 or the renewal fee determined by the department under s. 440.03 (9) (a), whichever is less.”

We got a couple small changes with insurance provisions over to Pam just now and she is going to try to get a /2 out by Monday morning. Do you think you could also add in this change, per your suggestion?

-Luke

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

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**From:** Gallagher, Michael  
**Sent:** Friday, March 27, 2015 11:52 AM  
**To:** Bacher, Luke  
**Subject:** RE: LRB 1723

Got it. I would say unless instead of until—something like: “unless the department establishes a renewal fee under s. 440.03 (9) (a) that is less than \$5,000.” Or, even better: “The renewal application for a licensed company shall include a renewal fee of \$5,000 or the renewal fee determined by the department under s. 440.03 (9) (a), whichever is less.”

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

---

**From:** Bacher, Luke  
**Sent:** Friday, March 27, 2015 11:33 AM  
**To:** Gallagher, Michael  
**Subject:** LRB 1723

Mike –

Just left you a voicemail.

Two quick things:

- 1) We give Senator Paul Farrow permission to draft an Senate companion. Scott Rausch will probably contact you.
- 2) We will want language, in amendment format that would accomplish the following. (This wouldn't be needed until the Committee Hearings late next week – so not extremely urgent.) Also, there may be a small insurance change as well, but I am waiting on that and I'm assuming it'll just go in the same amendment.

We want the \$5,000 renewal fee to have to option to be less, based on actual costs.

Here is what DSPS came up (based on the /P2 draft):

Page 4, Lines 21, 22 : Delete the words "Notwithstanding s. 440.03(9)(a),". After "\$5,000" add the words "until a renewal fee is established by the department pursuant to s. 440.03(9)(a)."

The resulting language would then read as follows: The renewal application for a licensed company shall include a renewal fee of \$5,000 until a renewal fee is established by the department pursuant to s. 440.03(9)(a).

However, is there any way to tweak that so that the fee that DSPS comes up with cannot exceed \$5,000? That is our goal.

I should be here all day/all next week if you have questions.

-Luke

**Luke Bacher**

*Chief of Staff*

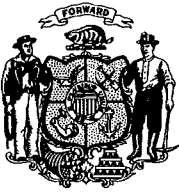
*Representative Tyler August*

*Speaker Pro Tempore*

[luke.bacher@legis.wi.gov](mailto:luke.bacher@legis.wi.gov)

608-266-1190

<http://repaugust.com>



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1723/1  
MPG&PJK:kjf:kf

2015 BILL

(in 3-27)  
Wanted before 10am  
on Monday  
3-30

1/2

Regen

1 AN ACT to amend 194.01 (1) and 194.01 (2); and to create 340.01 (23g) (b) 4.,  
2 440.08 (2) (a) 69m. and subchapter IV of chapter 440 [precedes 440.40] of the  
3 statutes; relating to: regulation of transportation network companies,  
4 providing an exemption from emergency rule procedures, granting  
5 rule-making authority, and providing a penalty.

**Analysis by the Legislative Reference Bureau**

This bill creates a licensure program for transportation network companies to be administered by the Department of Safety and Professional Services (DSPS). Under the bill, a "transportation network company" (TNC) is a business that, for compensation, uses a digital network to connect individuals seeking transportation via the digital network (passengers) to drivers who are logged on to the digital network and receive compensation for providing that transportation (participating drivers). The bill specifies that a TNC is not a taxicab, limousine, shuttle, or other for-hire vehicle service. The participating driver pays a fee to the TNC in order to participate in the TNC's digital network.

Under the bill, a TNC may only operate in Wisconsin if it is licensed by DSPS, and a participating driver may only provide transportation network services (TNC services) through a licensed TNC. There is no licensure requirement for a participating driver under the bill.

The bill requires DSPS to grant a license to an applicant for licensure as a TNC if certain application requirements are satisfied, including that the TNC pays an initial licensure fee of \$5,000. The biennial renewal fee is also \$5,000.

**BILL**

The bill exempts TNCs and participating drivers and their vehicles used to provide TNC services from certain requirements applicable under current law to common motor carrier and other for-hire vehicles. The bill also prohibits a city, village, town, or county from enacting or enforcing an ordinance or adopting or enforcing a resolution that regulates TNCs or their participating drivers and vehicles used to provide TNC services. Under current law, a city, town, or village is authorized to regulate and license taxicab businesses, taxicabs, and chauffeurs. That authorization does not apply to TNCs or their participating drivers and vehicles under the bill.

The bill includes a number of requirements applicable to a licensed TNC and its participating drivers, including all of the following:

1. A TNC must disclose its fare calculation method and other fare information on its Internet site and to prospective passengers, must provide certain identifying information about the participating driver to a prospective passenger before the prospective passenger receives TNC services, and must transmit an electronic receipt that contains specific information to a passenger within a reasonable time after TNC service have been provided.

2. A participating driver may not solicit or accept street hails or otherwise provide rides for compensation that are not prearranged through a TNC, and all payments for TNC services must be made electronically using the TNC's digital network.

3. A TNC may not disclose a passenger's or prospective passenger's personally identifiable information to any other person, except under certain limited circumstances.

4. A participating driver, or a TNC on the driver's behalf, is subject to certain insurance requirements; a TNC is required to make certain disclosures to its participating drivers about insurance; and automobile insurers are permitted to exclude coverage for TNC services.

5. In addition to other nondiscrimination and accessibility requirements, a TNC must have in place a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to passengers and prospective passengers.

6. A TNC must have in place a "zero tolerance" policy prohibiting participating drivers from using alcohol, or any other intoxicant that may render the participating driver incapable of safely driving, while the participating driver is engaged in TNC services or is logged on to the TNC's digital network.

7. Before a TNC allows an individual to be a participating driver, the TNC must require the individual to submit a driver application that includes, among other things, the individual's driving history and proof of registration and a copy of the automobile liability insurance policy for each motor vehicle the individual will use to provide TNC services; conduct, or have a third party conduct a criminal background check for the individual; and obtain and review a driving history research report for the individual.



**BILL**

8. A TNC is prohibited from allowing certain individuals to be participating drivers for the TNC, including an individual who has been convicted of certain moving violations within the previous three years, who has been convicted of certain crimes within the previous seven years, or whose information appears on the state or national sex offender registry.

9. A TNC is required to maintain all records concerning a participating driver for at least one year after the participating driver ceases to engage in TNC services for the TNC, and a TNC must maintain passenger trip records for at least one year after the trip.

The bill authorizes DSPS to conduct investigations and hold hearings to determine whether a violation of the bill's provisions, a related rule promulgated by DSPS, or any other law that substantially relates to the operation of a TNC or to TNC services has occurred. The bill further authorizes DSPS to discipline a licensed TNC, and any person who violates the bill's provisions or a related rule promulgated by DSPS may be subject to a fine not to exceed \$1,000.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

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

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

2           194.01 (1) "Common motor carrier" means any person who holds himself or  
3 herself out to the public as willing to undertake for hire to transport passengers or  
4 property by motor vehicle upon the public highways. The transportation of  
5 passengers in taxicab service or in commuter car pool or van pool vehicles that are  
6 designed to carry less than 8 passengers, including the driver, or in a school bus  
7 under s. 120.13 (27) or in a motor vehicle being used to provide transportation  
8 network services, as defined in s. 440.40 (7), is not transportation by a common motor  
9 carrier.

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

11           194.01 (2) "Contract motor carrier" means any person engaged in the  
12 transportation by motor vehicle over a regular or irregular route upon the public  
13 highways of property for hire, including the transportation of buildings, as defined

**BILL****SECTION 2**

1 in s. 348.27 (12m) (a) 1. The transportation of property in a motor vehicle being used  
2 subject to subch. IV of ch. 440 is not transportation by a contract motor carrier.

3 **SECTION 3.** 340.01 (23g) (b) 4. of the statutes is created to read:

4 340.01 (23g) (b) 4. A motor vehicle being used to provide transportation  
5 network services, as defined in s. 440.40 (7).

6 **SECTION 4.** 440.08 (2) (a) 69m. of the statutes is created to read:

7 440.08 (2) (a) 69m. Transportation network company: March 1 of each  
8 odd-numbered year.

9 **SECTION 5.** Subchapter IV of chapter 440 [precedes 440.40] of the statutes is  
10 created to read:

11 **CHAPTER 440**

12 **SUBCHAPTER IV**

13 **TRANSPORTATION NETWORK COMPANIES**

14 **440.40 Definitions.** In this subchapter:

15 (1) “Digital network” means any Internet site or online-enabled application,  
16 software, or system that permits the prearrangement of transportation network  
17 services.

18 (2) “Licensed company” means a transportation network company that is  
19 licensed under s. 440.415.

20 (3) “Participating driver” means an individual who does all of the following:

21 (a) Pays a fee to a transportation network company to be connected to a  
22 passenger for the purpose of engaging in transportation network services.

23 (b) Uses a personal vehicle to engage in transportation network services for  
24 compensation.

**BILL**

1           (4) “Passenger” means an individual who uses a transportation network  
2 company’s digital network to connect to a participating driver for transportation  
3 network services, and, unless the context requires otherwise, includes all other  
4 persons in that individual’s party who accompany that individual in the  
5 participating driver’s personal vehicle in connection with those transportation  
6 network services.

7           (5) “Personal vehicle” means a motor vehicle that satisfies all of the following  
8 conditions:

9           (a) A participating driver owns, leases, or is otherwise authorized to use the  
10 motor vehicle.

11           (b) The motor vehicle is not a taxicab, limousine, shuttle, or other for-hire  
12 vehicle.

13           (6) “Transportation network company” means a business that, for  
14 compensation, uses a digital network to connect passengers to participating drivers  
15 for the purpose of providing transportation network services to those passengers.  
16 “Transportation network company” does not include a taxicab, limousine, shuttle, or  
17 other for-hire vehicle service.

18           (7) “Transportation network services” means transportation provided to a  
19 passenger in the participating driver’s personal vehicle. A participating driver is  
20 considered to be engaged in transportation network services beginning when the  
21 participating driver accepts a passenger’s request for transportation received  
22 through a transportation network company’s digital network, continuing while the  
23 participating driver transports that passenger in the participating driver’s personal  
24 vehicle, and ending when that passenger, or the last person in that passenger’s party,  
25 whichever occurs later, exits the participating driver’s personal vehicle.

**BILL****SECTION 5**

1 “Transportation network services” does not include transportation in a taxicab,  
2 limousine, shuttle, or other for-hire vehicle.

3 **440.41 License required.** (1) No person may operate a transportation  
4 network company in this state unless the transportation network company is a  
5 licensed company.

6 (2) No person may engage in transportation network services in this state  
7 unless the person is a participating driver for a licensed company. A licensed  
8 company is not considered to control, direct, or manage a participating driver or that  
9 participating driver’s personal vehicle used for engaging in transportation network  
10 services, except as provided in this subchapter or in a written agreement between the  
11 licensed company and the participating driver.

12 **440.415 Licensure of transportation network companies.** (1) INITIAL  
13 LICENSE. The department shall grant a license to operate a transportation network  
14 company in this state to an applicant for licensure if the department determines that  
15 all of the following requirements are met:

16 (a) The applicant submits an application to the department on a form  
17 prescribed by the department. The application shall include the applicant’s name,  
18 address, tax identification number, and any other information required by the  
19 department by rule.

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

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

23 (d) Notwithstanding s. 440.03 (9) (a), the applicant pays an initial licensure fee  
24 of \$5,000.

**BILL**

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

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

7           **440.42 Agent.** Each licensed company shall maintain an agent for service of  
8 process in this state.

9           **440.425 Fare disclosures.** Each licensed company shall do all of the  
10 following:

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

12           (2) Inform each prospective passenger or the prospective passenger's  
13 authorized representative of all applicable fare rates.

14           (3) Give each prospective passenger or the prospective passenger's authorized  
15 representative the option to receive an estimated fare before the passenger enters  
16 a participating driver's personal vehicle for transportation network services.

17           **440.43 Identification of participating drivers.** Each licensed company  
18 shall make available to each prospective passenger or the prospective passenger's  
19 authorized representative, on the licensed company's digital network, a photograph  
20 of the participating driver and the license plate number of the participating driver's  
21 personal vehicle before the passenger enters the participating driver's personal  
22 vehicle for transportation network services.

23           **440.435 Electronic receipt.** Within a reasonable time after transportation  
24 network services have been provided, the licensed company facilitating the services

or the renewal fee determined by the department  
under s. 440.03 (9) (a), if any, whichever is less

**BILL****SECTION 5**

1 shall transmit an electronic receipt for the services to the passenger or the  
2 passenger's authorized representative that contains all of the following:

- 3 (1) The origin and destination of the trip.  
4 (2) The total time and distance of the trip.  
5 (3) An itemization of the total fare paid, if any.

6 **440.44 Zero tolerance for use of drugs or alcohol.** (1) **POLICY.** Each  
7 licensed company shall develop, implement, and make available on its Internet site  
8 a policy prohibiting any participating driver from using alcohol, or any other  
9 intoxicant that may render the participating driver incapable of safely driving, while  
10 the participating driver is engaged in transportation network services for the  
11 licensed company or is logged on to the licensed company's digital network.

12 (2) **COMPLAINTS.** (a) Each licensed company shall develop, implement, and  
13 make available on its Internet site, complaint procedures for reports of suspected  
14 violations of the policy under sub. (1).

15 (b) Upon receipt of a complaint concerning a violation of a licensed company's  
16 policy under sub. (1), the licensed company shall immediately suspend the  
17 participating driver and investigate the complaint. The suspension shall continue  
18 until the complaint is resolved.

19 (c) Each licensed company shall maintain all records of each investigation  
20 under par. (b), including the results of that investigation and any action taken based  
21 on that investigation, for at least 2 years after the date the complaint was received  
22 by the licensed company.

23 **440.445 Certain requirements for participating drivers and their**  
24 **personal vehicles.** (1) **APPLICATION.** Before a licensed company allows an

**BILL**

1 individual to be a participating driver for the licensed company, the licensed  
2 company shall do all of the following:

3 (a) Require the individual to submit an application to the licensed company  
4 that includes at least all of the following:

- 5 1. The individual's name, address, and age.
- 6 2. A copy of the individual's driver's license.
- 7 3. The individual's driving history.
- 8 4. Proof of motor vehicle registration for each personal vehicle the individual  
9 will use to engage in transportation network services through the licensed company.
- 10 5. A copy of the individual's automobile liability insurance policy for each  
11 personal vehicle the individual will use to provide transportation network services  
12 through the licensed company.

13 (b) Conduct, or have a 3rd party conduct, a local and national criminal  
14 background check for the individual that includes all of the following:

- 15 1. A multistate and multijurisdictional criminal records locator or other similar  
16 commercial nationwide database with validation.
- 17 2. A national sex offender registry database.

18 (c) Obtain and review a driving history research report for the individual.

19 **(2) WHO MAY NOT BE A PARTICIPATING DRIVER.** (a) A licensed company may not  
20 allow any of the following individuals to be a participating driver for the licensed  
21 company:

- 22 1. An individual who has had more than 3 moving violations, as defined in s.  
23 343.01 (2) (cg), in the past 3 years, or one major violation in the past 3 years, including  
24 fleeing or attempting to elude an officer under s. 346.04 (3), reckless driving under  
25 s. 346.62, or driving with a suspended or revoked license under s. 343.44 (1) (a) or (b).

**BILL****SECTION 5**

1           2. An individual who has been convicted in the last 7 years of driving under the  
2 influence of an intoxicant or other drug in violation of s. 346.63, of a sex offense, as  
3 defined in s. 301.45 (1d) (b), or of any crime involving fraud, theft, damage to  
4 property, violence, acts of terror, or the use of a motor vehicle in the commission of  
5 a felony.

6           3. An individual whose information is contained in the sex offender registry  
7 under s. 301.45 or on the National Sex Offender Public Website.

8           4. An individual who does not possess a valid driver's license.

9           5. An individual who does not possess proof of motor vehicle registration for  
10 each personal vehicle the individual intends to use to engage in transportation  
11 network services.

12           6. An individual who does not possess proof of automobile liability insurance  
13 for each personal vehicle the individual intends to use to engage in transportation  
14 network services.

15           7. An individual who is not at least 19 years of age.

16           (b) A participating driver who is convicted of any moving violation or of any  
17 felony or misdemeanor anywhere shall immediately notify the licensed company for  
18 which the participating driver engages in transportation network services of the  
19 conviction.

20           **(3) VEHICLE SAFETY AND EMISSIONS.** Each licensed company shall ensure that  
21 each motor vehicle a participating driver uses to provide transportation network  
22 services for the licensed company is a personal vehicle that satisfies all state vehicle  
23 safety and emissions standards for private motor vehicles.



**BILL**

1           (4) NO STREET HAILS. A participating driver may not solicit or accept street hails  
2 or otherwise provide rides for compensation that are not prearranged through a  
3 transportation network company on the company's digital network.

4           (5) NO CASH TRIPS. (a) A participating driver may not solicit or accept any cash  
5 payment to engage in transportation network services.

6           (b) All passenger payments for transportation network services shall be made  
7 electronically using the transportation network company's digital network.

8           **440.45 Nondiscrimination; accessibility.** (1) NONDISCRIMINATION POLICY.  
9 Each licensed company shall adopt a policy of nondiscrimination on the basis of  
10 destination, race, color, national origin, religious belief or affiliation, sex, disability,  
11 age, sexual orientation, or gender identity with respect to passengers and  
12 prospective passengers and notify all of its participating drivers of the  
13 nondiscrimination policy.

14           (2) A participating driver may not discriminate against any passenger or  
15 prospective passenger on the basis of destination, race, color, national origin,  
16 religious belief or affiliation, sex, disability, age, sexual orientation, or gender  
17 identity.

18           (3) Each participating driver shall permit service animals to accompany  
19 passengers in connection with transportation network services.

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

23           (5) Each licensed company shall provide each prospective passenger an  
24 opportunity to indicate whether the passenger requires a wheelchair-accessible  
25 vehicle. If a licensed company cannot arrange wheelchair-accessible transportation

**BILL****SECTION 5**

1 network services for a prospective passenger who requires wheelchair-accessible  
2 services, the licensed company shall refer the prospective passenger to an alternate  
3 provider of wheelchair-accessible transportation, if available.

4 **440.455 Records.** Each licensed company shall do all of the following:

5 (1) Maintain passenger trip records for at least one year from the date of each  
6 trip.

7 (2) Maintain all records concerning each participating driver for at least one  
8 year after the date on which the participating driver ceases to engage in  
9 transportation network services for the licensed company.

10 **440.46 Personally identifiable information.** A licensed company may not  
11 disclose a passenger's or prospective passenger's personally identifiable information  
12 to any other person, unless any of the following is true:

13 (1) The passenger or prospective passenger consents to the disclosure.

14 (2) The disclosure is required by law.

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

18 (4) The disclosure is to the participating driver, is limited to the passenger's  
19 name and telephone number, and is for the sole purpose of facilitating the  
20 participating driver's transportation network services for that passenger.

21 **440.465 Limitations on local and other regulation.** (1) Section 349.24  
22 does not apply to a transportation network company or to a participating driver  
23 engaged in transportation network services or the participating driver's personal  
24 vehicle used for those services. No city, village, town, or county may enact or enforce  
25 an ordinance or adopt or enforce a resolution that regulates a transportation network

**BILL**

1 company or its participating drivers and their personal vehicles in connection with  
2 transportation network services.

3 (2) The requirements under chs. 340 to 349 applicable specifically to  
4 commercial vehicles or for-hire vehicles do not apply to personal vehicles used by  
5 participating drivers engaged in transportation network services.

6 (3) The requirements under ss. 342.06 (1) (h) and (3), 342.10 (3) (a), and 342.33  
7 do not apply to personal vehicles used by participating drivers engaged in  
8 transportation network services.

9 **440.48 Insurance. (1) DRIVER REQUIREMENTS.** (a) A participating driver, or  
10 a transportation network company on the driver's behalf, shall maintain primary  
11 automobile insurance that does all of the following:

12 1. Recognizes that the driver is a participating driver, or otherwise uses a motor  
13 vehicle to transport passengers for compensation.

14 2. Covers the participating driver at any of the following times:

15 a. While the driver is logged on to the transportation network company's digital  
16 network.

17 b. While the driver is engaged in transportation network services.

18 (b) The following automobile insurance requirements apply while a  
19 participating driver is logged on to the transportation network company's digital  
20 network and is available to receive transportation requests but is not engaged in  
21 transportation network services:

22 1. The insurance is primary automobile liability insurance in the amount of at  
23 least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily  
24 injury per incident, and \$25,000 for property damage.

Insert 13-24 →

**BILL**

**SECTION 5**

① 3 ← The coverage requirements under this paragraph may be satisfied by any of  
2 the following:

- 3 a. Automobile insurance maintained by the participating driver.
- 4 b. Automobile insurance maintained by the transportation network company.
- 5 c. Any combination of insurance specified in subd. ~~a.~~<sup>3</sup> a. and b.

6 (c) The following automobile insurance requirements apply while a  
7 participating driver is engaged in transportation network services:

8 1. The insurance is primary automobile liability insurance in the amount of at  
9 least \$1,000,000 for death, bodily injury, and property damage.

Insert 14-9

10 3 ← The coverage requirements under this paragraph may be satisfied by any of  
11 the following:

- 12 a. Automobile insurance maintained by the participating driver.
- 13 b. Automobile insurance maintained by the transportation network company.
- 14 c. Any combination of insurance specified in subd. ~~a.~~<sup>3</sup> a. and b.

15 (d) If insurance maintained by the participating driver under par. (b) or (c) has  
16 lapsed or does not provide the required coverage, insurance maintained by a  
17 transportation network company shall provide the coverage required under this  
18 subsection beginning with the first dollar of a claim and have the duty to defend the  
19 claim.

20 (e) Coverage under an automobile insurance policy maintained by the  
21 transportation network company shall not be dependent on a personal automobile  
22 insurer first denying a claim nor shall a personal automobile insurance policy be  
23 required to first deny a claim.

24 (f) Insurance required under this subsection may be placed with an insurer  
25 authorized to do business in this state or with a surplus lines insurer.

**BILL**

1 (g) Insurance satisfying the requirements of this subsection shall be deemed  
2 to satisfy the financial responsibility requirement for a motor vehicle under ch. 344.

3 (h) A participating driver shall carry proof of coverage satisfying pars. (b) and  
4 (c) with him or her at all times during his or her use of a vehicle in connection with  
5 a transportation network company's digital network. In the event of an accident, a  
6 participating driver shall provide this insurance coverage information to the directly  
7 interested parties, automobile insurers, and investigating police officers, upon  
8 request in accordance with s. 344.62. Upon request, a participating driver shall also  
9 disclose to directly interested parties, automobile insurers, and investigating police  
10 officers whether he or she was logged on to the transportation network company's  
11 digital network or engaged in transportation network services at the time of the  
12 accident.

13 **(2) DISCLOSURES REQUIRED REGARDING INSURANCE COVERAGE.** A transportation  
14 network company shall disclose in writing to participating drivers all of the following  
15 before they are allowed to accept a request for transportation network services on the  
16 transportation network company's digital network:

17 (a) The insurance coverage, including the types of coverage and the limits for  
18 each coverage, that the transportation network company provides while the  
19 participating driver uses a personal vehicle in connection with a transportation  
20 network company's digital network.

21 (b) That the participating driver's own automobile insurance policy might not  
22 provide any coverage while the participating driver is logged on to the transportation  
23 network company's digital network and is available to receive transportation  
24 requests or is engaged in transportation network services depending on its terms.

**BILL**

1           **(3) INSURER PROVISIONS.** (a) Notwithstanding any coverage requirements under  
2 s. 632.32, an insurer that writes automobile insurance in this state may exclude any  
3 and all coverage afforded under a policy owner's insurance policy for any loss or  
4 injury that occurs while a participating driver is logged on to a transportation  
5 network company's digital network or is engaged in transportation network services.  
6 This right to exclude all coverage may apply to any coverage included in a motor  
7 vehicle insurance policy, including all of the following:

- 8           1. Liability coverage for bodily injury and property damage.
- 9           2. Uninsured and underinsured motorist coverage.
- 10          3. Medical payments coverage.
- 11          4. Comprehensive physical damage coverage.
- 12          5. Collision physical damage coverage.

13           (b) 1. Exclusions under par. (a) shall apply notwithstanding any requirement  
14 under ch. 344. Nothing in this subsection implies or requires that a personal  
15 automobile insurance policy provide coverage while the driver is logged on to the  
16 transportation network company's digital network, while the driver is engaged in  
17 transportation network services, or while the driver otherwise uses a vehicle to  
18 transport passengers for compensation.

19           2. Nothing shall be deemed to preclude an insurer from providing coverage for  
20 the participating driver's vehicle, if the insurer so chooses to do so by contract or  
21 endorsement.

22           (c) 1. Automobile insurers that exclude coverage as permitted in this subsection  
23 shall have no duty to defend or indemnify any claim expressly excluded. Nothing in  
24 this section shall be deemed to invalidate or limit an exclusion contained in a policy.

Insert 16-24

**BILL**

1           2. An automobile insurer that defends or indemnifies a claim against a  
2 participating driver that is excluded under the terms of its policy as permitted in this  
3 subsection shall have a right of contribution against other insurers that provide  
4 automobile insurance to the same driver in satisfaction of the coverage requirements  
5 of sub. (1) at the time of loss.

6           (d) In a claims coverage investigation, transportation network companies and  
7 any insurer potentially providing coverage under sub. (1) shall cooperate to facilitate  
8 the exchange of relevant information with directly involved parties and any insurer  
9 of the participating driver if applicable, including the precise times that a  
10 participating driver logged on and off the transportation network company's digital  
11 network in the 12-hour period immediately preceding, and in the 12-hour period  
12 immediately following, the accident, and disclose to one another a clear description  
13 of the coverage, exclusions, and limits provided under any automobile insurance  
14 maintained under sub (1).

15           **440.49 Disciplinary proceedings and actions.** (1) INVESTIGATIONS AND  
16 HEARINGS. Subject to the rules promulgated under s. 440.03 (1), the department may  
17 conduct investigations and hold hearings to determine whether a violation of this  
18 subchapter or any rule promulgated under this subchapter or a violation of any other  
19 law that substantially relates to the operation of a transportation network company  
20 or to transportation network services has occurred.

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

**BILL****SECTION 5**

1 (a) Intentionally made a material misstatement in an application for a license  
2 or license renewal.

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

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

5 (d) Violated this subchapter or any rule promulgated under this subchapter or  
6 violated any other law that substantially relates to the operation of a transportation  
7 network company or to transportation network services.

8 (e) Failed to cooperate with the department, or failed to timely respond to a  
9 request for information by the department, in connection with an investigation  
10 under this section.

11 **440.495 Penalties.** Any person who violates this subchapter or any rule  
12 promulgated under this subchapter may be fined not more than \$1,000.

**SECTION 6. Nonstatutory provisions.**

13  
14 (1) EMERGENCY RULES. The department of safety and professional services may  
15 promulgate emergency rules under section 227.24 of the statutes implementing  
16 subchapter IV of chapter 440 of the statutes, as created by this act. Notwithstanding  
17 section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this  
18 subsection remain in effect until June 30, 2017, or the date on which permanent rules  
19 take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the  
20 statutes, the department is not required to provide evidence that promulgating a rule  
21 under this subsection as an emergency rule is necessary for the preservation of the  
22 public peace, health, safety, or welfare and is not required to provide a finding of  
23 emergency for a rule promulgated under this subsection.

24 **SECTION 7. Effective dates.** This act takes effect on the day after publication,  
25 except as follows:



**BILL**

LICENSE requirements.  
CS of

1

(1) The treatment section 440.41 of the statutes takes effect on the first day of

2

the 4th month beginning after publication.

3

(END)

Insert 19-2

2015-2016 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1723/2ins  
PJK:.....

INSERT 13-24

1 ~~CX~~ 2. The insurance provides primary uninsured motorist coverage in accordance  
2 with the requirements under s. 632.32 (4) (a) 1.

(END OF INSERT 13-24)

INSERT 14-9

3 ~~CX~~ 2. The insurance provides primary uninsured motorist coverage in accordance  
4 with the requirements under s. 632.32 (4) (a) 1.

(END OF INSERT 14-9)

INSERT 16-24

5 ~~WGX~~, including any policy in use, or approved for use, in this state before the  
6 effective date of this subdivision ... [LRB inserts date], that excludes coverage for  
7 vehicles used to carry persons or property for a charge or available for hire by the  
8 public

(END OF INSERT 16-24)

INSERT 19-2

9 ~~CX~~ <sup>2</sup> (9) DRIVER INSURANCE REQUIREMENTS. The treatment of section <sup>g</sup> 440.48 (1) of the  
10 statutes takes effect on July 1, 2015, or on the day after publication, whichever is  
11 later.

(END OF INSERT 19-2)

**Parisi, Lori**

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**From:** Bacher, Luke  
**Sent:** Monday, March 30, 2015 4:48 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1723/2 Topic: Transportation network companies

Please Jacket LRB -1723/2 for the ASSEMBLY.