



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 16
[2015 Assembly Bill 143]

**Regulation of Transportation
Network Companies**

2015 Wisconsin Act 16 relates to the regulation of “transportation network companies,” defined to mean businesses that, for compensation, use digital networks to connect passengers¹ to participating drivers² for the purpose of providing transportation services in participating drivers’ personal vehicles.³

STATE LICENSE

The Act prohibits transportation network companies from operating in this state unless they are licensed by the Department of Safety and Professional Services (DPS). The Act requires DPS to grant a license to an applicant seeking to operate a transportation network company if the applicant pays an initial license fee of \$5,000 and DPS determines that all of the following criteria are satisfied:

- The applicant submits an application, which must include certain identifying information and any other information required by DPS by rule.
- The applicant is a transportation network company, as defined by the Act.

¹ The Act defines “passenger” to mean an individual who uses a transportation network company’s digital network to connect to a participating driver for transportation network services, and, unless the context requires otherwise, includes all other persons in that individual’s party who accompany that individual in the participating driver’s personal vehicle in connection with those transportation network services.

² Under the Act, a “participating driver” is an individual who: (1) pays a fee to a transportation network company to be connected to a passenger for the purpose of engaging in transportation network services; and (2) uses a personal vehicle to engage in transportation network services for compensation.

³ The Act defines “personal vehicle” to mean a motor vehicle that: (1) a participating driver owns, leases, or is otherwise authorized to use; and (2) that is not a taxicab, limousine, shuttle, or other for-hire vehicle, or a commercial motor vehicle as defined under federal regulations.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

- The applicant demonstrates to DSPS's satisfaction that it maintains an agent for service of process in this state and satisfies specified requirements under the Act, described below, relating to insurance coverage and the development of policies for drug and alcohol use and nondiscrimination.

A license issued under the Act must be renewed by March 1 of each odd-numbered year. A renewal application must contain any information required by DSPS by rule. The license renewal fee is the lesser of \$5,000 or an alternative fee amount determined by DSPS.

PREEMPTION OF LOCAL REGULATION

Generally, under the Act, no city, village, town, or county may enact or enforce an ordinance (or adopt or enforce a resolution) that regulates a transportation network company or its participating drivers and their personal vehicles in connection with transportation network services. The Act provides limited exceptions to that general preemption for certain local regulation relating to airport use. Specifically, the Act authorizes a city, village, county, or town to do either of the following with respect to a transportation network company:

- To the extent necessary to comply with conditions required under federal law for certain Federal Aviation Administration grants, impose fees or charges established for use of an airport. Such fees and charges may not exceed fees or charges imposed by the city, village, county, or town for the use of an airport by other for-hire vehicles.
- Require a transportation network company to comply with a permit developed by an airport and issued to the transportation network company regarding the manner of operation on airport property by participating drivers engaged in transportation network services.

REQUIREMENTS OF LICENSED TRANSPORTATION NETWORK COMPANIES

The Act sets forth various requirements and prohibitions applicable to transportation network companies.

Screening of Participating Drivers

The Act requires licensed transportation network companies to take certain actions before they may allow individuals to be participating drivers. Specifically, licensed companies must do all of the following with respect to an individual seeking to become a participating driver:

- Require the individual to submit an application that includes, at a minimum: the individual's name, address, and age; a copy of the individual's driver's license; the individual's driving history; proof of motor vehicle registration for each personal vehicle to be used for transportation network services; and a copy of the individual's automobile liability insurance policy for each such vehicle.
- Conduct a local and national criminal background check for the individual, or have a third party conduct such a background check. The background check must involve both of the following types of databases: (1) a multistate and multijurisdictional

criminal records locator or other similar commercial nationwide database with validation; and (2) a national sex offender registry database.

- Obtain and review a driving history research report for the individual.

In addition, the Act prohibits licensed transportation network companies from allowing the following individuals to be participating drivers:

- An individual who, during the past three years, had one “major violation,” defined to include offenses that are “major violations” under the state habitual traffic offender law (for example, reckless driving), or more than three moving violations.
- An individual who committed one of several specified criminal offenses during the last seven years.⁴
- An individual whose information is contained in the state sex offender registry or on the U.S. Department of Justice’s National Sex Offender public website.
- An individual who does not possess a valid driver’s license.
- An individual who does not possess proof of motor vehicle registration or automobile liability insurance for each personal vehicle the individual intends to use for transportation network services.
- An individual who is not at least 19 years old.

Drug and Alcohol Policy

The Act requires each licensed transportation network company to develop and implement a drug and alcohol policy that prohibits any participating driver from using alcohol, or any other intoxicant that may render the participating driver incapable of safely driving, while the participating driver is engaged in transportation network services for the company or logged on to the company’s digital network. A licensed company must also develop and implement complaint procedures for reports of suspected violations of the policy. Upon receipt of a complaint regarding a violation of the policy, the licensed company must immediately suspend the participating driver and investigate the complaint. The driver’s suspension must continue until the complaint is resolved.

Nondiscrimination Policy

The Act requires each licensed transportation network company to adopt a nondiscrimination policy. The policy must provide for nondiscrimination on the basis of trip origin or destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.⁵

⁴ Disqualifying offenses include offenses that result in a suspension, revocation, or other conviction counted under Wisconsin’s operating while intoxicated (OWI) law; specified sex offenses; and crimes involving fraud, theft, damage to property, violence, acts of terror, or the use of a motor vehicle in the commission of a felony.

⁵ A different set of nondiscrimination criteria, described below, apply to participating drivers.

Regarding persons who require wheelchair-accessible vehicles, a licensed company must provide each prospective passenger with an opportunity to indicate whether the passenger requires a wheelchair-accessible vehicle. If a licensed company cannot arrange wheelchair-accessible service for a prospective passenger, the licensed company must refer the person to an alternate provider, if available. A licensed company may not impose additional charges for providing services to persons with disabilities because of those disabilities.

Disclosures and Receipt

The Act requires licensed companies to make certain disclosures. Specifically, a licensed company must disclose its fare calculation method on its website. In addition, it must provide the following information to prospective passengers (or their authorized representatives):

- All applicable fare rates.
- An estimated fare, if the prospective passenger exercises the option to receive such an estimate.
- A photograph of the participating driver and the license plate number of the personal vehicle.

Within a reasonable time after the transportation network services have been provided, a licensed company must also transmit an electronic receipt containing certain information to a passenger (or the passenger's authorized representative).

State Safety Standards

Under the Act, each licensed transportation network company must ensure that each motor vehicle that a participating driver uses to provide transportation network services is a personal vehicle that satisfies all applicable state vehicle safety and emissions standards.

Recordkeeping

The Act requires licensed companies to maintain certain records. A licensed company must maintain passenger trip records for at least one year from the date of each trip. In addition, a licensed company must maintain all records concerning each participating driver for at least one year after the date on which the participating driver ceases to engage in services for the company. A licensed company also must maintain all records of each investigation arising from a complaint under the licensed company's drug and alcohol policy for at least two years after the date the complaint was received by the licensed company.

Treatment of Personally Identifiable Information

With some exceptions, the Act prohibits licensed companies from disclosing a passenger's or prospective passenger's personally identifiable information to any other person. Exceptions apply in the following circumstances:

- The person consents to the disclosure.
- The disclosure is required by law.

- The disclosure is necessary to protect or defend the terms of use of a licensed company's services or to investigate a violation of those terms.
- The disclosure is to the participating driver, is limited to the passenger's name and telephone number, and is for the sole purpose of facilitating the participating driver's transportation network services for the passenger.

REQUIREMENTS OF PARTICIPATING DRIVERS

Under the Act, no person may engage in "transportation network services," defined to mean transportation provided to a passenger in the participating driver's personal vehicle, in this state unless the person is a participating driver for a licensed company. The Act establishes certain requirements and prohibitions applicable to participating drivers.

Notification of Convictions

The Act requires a participating driver who is convicted of any moving violation or any felony or misdemeanor to notify the relevant licensed transportation network company of the conviction immediately.

No Street Hails or Cash Trips

Under the Act, a participating driver may not solicit or accept cash payments or street hails. All payments for transportation network services must be made electronically using the licensed company's digital network.

Nondiscrimination

The Act prohibits participating drivers from discriminating 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. In addition, a participating driver must permit service animals to accompany passengers in connection with transportation network services.

INSURANCE REQUIREMENTS

The Act provides various requirements relating to insurance coverage for vehicles used for transportation network services.

Coverage

The Act requires participating drivers (or licensed transportation network companies on their behalf) to maintain primary automobile insurance that recognizes that a driver is a participating driver for a licensed transportation network company. A participating driver must carry proof of the required insurance at all times while using a vehicle in connection with a transportation network company's digital network.

Different coverage requirements apply depending on what service is being provided. The following minimum coverage requirements apply while a participating driver is logged on to

the transportation network company's digital network but not currently engaged in transportation network services:

- \$50,000 for death and bodily injury per person.
- \$100,000 for death and bodily injury per incident.
- \$25,000 for property damage.

While a participating driver is engaged in transportation network services, the primary automobile liability insurance must provide coverage in an amount of at least \$1 million for death, bodily injury, and property damage.

In either circumstance, the insurance must also satisfy certain requirements under state law for uninsured motorist coverage.

If insurance that is maintained by a participating driver to comply with the Act has lapsed or does not provide the required coverage, then the Act requires the insurance maintained by a transportation network company to provide the required coverage, beginning with the first dollar of a claim. Coverage maintained by a transportation network company must not be dependent on a personal automobile insurer first denying a claim.

Insurers

The Act authorizes insurers to exclude any and all coverage afforded under a policy owner's insurance policy for any loss or injury that occurs while a participating driver is logged on to a transportation network company's digital network or engaged in transportation network services.

Under the Act, if a transportation network company's insurer covers an insurance claim under a policy's comprehensive or collision coverage, then the insurer must issue the payment for the claim to either of the following, as directed by the relevant transportation network company:

- Jointly, to the owner of the personal vehicle and the primary lienholder.
- Directly to the person repairing the personal vehicle in satisfaction of completion of repairs as payment in full.

LIABILITY

The Act specifies that a licensed transportation network company is not considered to control, direct, or manage a participating driver or that participating driver's personal vehicle, except as provided under the Act or pursuant to a written agreement between the licensed company and the participating driver.

PENALTIES AND ENFORCEMENT

The Act authorizes DSPS to conduct investigations and hold hearings to determine whether violations of the Act (or a related rule or law) have occurred. Subject to rules promulgated by the department, DSPS may also reprimand a licensed transportation network

company or deny, limit, suspend, or revoke a company's license, if the department finds that a licensed company (or an applicant for licensure) has done any of the following:

- Intentionally made a material misstatement in an application for a license for license renewal.
- Advertised in a manner that is false or misleading.
- Obtained or attempted to obtain compensation through fraud or deceit.
- Violated the Act (or related rule or law).
- Failed to cooperate with or provide information requested as part of a DSPS investigation under the Act.

The Act provides for a criminal fine of not more than \$1,000 for any person who violates the provisions in the Act. In addition to, or in lieu of, those criminal penalties, the Act authorizes DSPS to assess a forfeiture of not more than \$1,000 against a transportation network company that violates the Act. The Act specifies that such forfeitures may be assessed for each separate offense by a transportation network company.

Effective date: The requirement to obtain a state license takes effect on September 1, 2015. The provisions relating to primary automobile insurance coverage take effect on July 1, 2015. The Act authorizes DSPS to utilize emergency rulemaking procedures rules to implement the Act, and specifies that those rules may remain in effect until June 30, 2017.

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