

FISCAL NOTE
Requested by Legislative Council
01/30/2017

Amendment to: Engrossed HB 1249

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

According to the amendment, the marked up copy, and the engrossed version, the Secretary of State no longer has any duties under this bill. Therefore, it has no impact on this agency.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

See 2A

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

See 2A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2A

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

See 2A

Name: Al Jaeger

Agency: Secretary of State

Telephone: 701-328-2900

Date Prepared: 01/30/2017

FISCAL NOTE
Requested by Legislative Council
01/10/2017

Bill/Resolution No.: HB 1249

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The agency is unable to determine a fiscal impact. The bill provides no direction as to its regulatory intent for requiring a permit to operate a transportation network company and for the adoption of rules for reasons not revealed in the bill.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

See 2A

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

See 2A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See 2A

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

See 2A

Name: Al Jaeger

Agency: Secretary of State

Telephone: 701-328-2900

Date Prepared: 01/16/2017

2017 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1249

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1249
1/19/2017
27126

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to duties of the secretary of state; relating to regulation of transportation network companies

Minutes:

Attachment 1

Chairman Kasper opened the hearing on HB 1249.

Rep. Beadle appeared in support of HB 1249. This is a bill dealing with TNCs (Transportation Network Companies). TNCs are better known as companies like Uber, Lyft, and Sidecar. These corporations deal with communicating with drivers via the internet network to connect with everything. Last session there were about 50 hours of discussion over who should be the permitting authority for the TNCs. First we had it in DOT. Then we had in Secretary of State. We took it out of there, so currently we have it in code that they need to be permitted with the state, but we don't tell them who they need to be permitted with. This bill was drafted at the request of a local city police chief, because this created some confusion with the local municipalities dealing with this. This police chief was unable to testify.

Rep. Schneider: Why the problem?

Rep. Beadle: I don't know what the issues are with the local municipalities and why they were pushing for this change. Last session's argumentation was that the Secretary of State didn't know what all they would need from a permitting entity. Their argument was they don't deal with a permitting authority. They deal with a contractor licensing authority and a registered agent authority for companies, but they don't handle permits. They said that is more of a DOT type issue. DOT said they don't have the ability to do that and don't want to do that because they don't want to deal with regulating these corporate businesses coming in here. We decided to try again and go back to the Secretary of State.

Vice Chair Louser: What is happening in the market regarding TNCs? They were just entering North Dakota. I am wondering what is happening with competition, and number of providers?

Rep. Beadle: To my knowledge Uber is still the only TNC operating within the state, only in the Fargo-Moorhead marketplace. When I pulled up my phone while in Fargo, I found 15-20 drivers on at any one time. I don't know if and when Lyft or Sidecar or any of the competing companies are going to enter this market. I believe Uber officially launched in Fargo at the end of May 2015.

Rep. Laning: Why did you line out Lines 16-17? I think a political subdivision should have the authority to say no, you can't, you don't have a permit.

Rep. Beadle: Because the TNCs operate across jurisdictional boundaries like Bismarck to Mandan, Fargo to West Fargo, it is blurred lines in that area. We wanted to remove most of the regulation requirements from the local political subdivision because everything was handled at the state level—registration, supposed to be permitted by the state level. It is unnecessary for a local political subdivision to be the one enforcing it when it is a state regulation issue.

Rep. P. Anderson: Is the Secretary of State okay with this?

Rep. Beadle: No.

Rep. P. Anderson: Do you have a suggestion of another state department?

Rep. Beadle: Last session between the House and Senate IBL Committees and House and Senate Transportation Committees, none of us could come up with an answer. I hoping the wisdom of this committee might be able to help solve that.

Rep. Vetter: Do the TNCs have the same rules as taxi companies?

Rep. Beadle: In all the legislation last time, we didn't want to create a situation where these companies to have such different regulations. Our framework is that we don't want to create all these separate little pockets where we have different issues that can inhibit the flow of passengers.

Rep. Vetter: Those same taxi companies would have to pay those things?

Rep. Beadle: I am not sure what the taxi company permitting process is like at that level.

OPPOSITION:

Al Jaeger, Secretary of State, appeared in opposition. Attachment 1 (11:09:14:30)

Chairman Kasper: You outlined the problem, and you said you would be willing to do the registration with some direction.

Al Jaeger: The registration is already in law. If you are registered here, you are allowed to do business, but what am I going to do with the permit? For what do I adopt rules?

Chairman Kasper: You would have to issue two pieces of paper, the registration and a permit?

Al Jaeger: Or else I will have to go through the administrative rules process and apparently adopt lots of rules like in California.

Chairman Kasper closed the hearing.

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1249
1/19/2017
27154

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to duties of the secretary of state; relating to regulation of transportation network companies

Minutes:

Chairman Kasper opened the meeting on HB 1249.

Vice Chair Louser: As Rep. Beadle mentioned, there were 50-60 hours put into regulation of transportation networks two years ago that revolved almost strictly around insurance coverage and who was responsible at what given time. Since then, one of these networks has entered in North Dakota and has been operating essentially for two years. I am wondering what the need would be to create what we are calling a permit and regulate this? If they are registered as a business entity in North Dakota and the main issue about bringing them into North Dakota was covered two years ago regarding insurance coverage, what further regulation is needed? The permit doesn't exist. We are giving a political subdivision the authority under current law to prohibit a business model in their market because they don't have something that doesn't exist. We don't have anybody in the state that wants to create the existence. It seems like a completely unnecessary bill other than potentially to keep Lines 16-17 struck.

Rep. Dockter: I agree. I think it is unnecessary. We are here to help business and have less regulation. I think kill the entire bill.

Vice Chair Louser: If we are killing the bill, we are leaving in code Lines 16-17 that would allow a political subdivision to prohibit based on not having a permit and that entity can't get a permit because they don't exist. I am wondering if it wouldn't be wise to keep the bill intact and eliminate Section 2?

Chairman Kasper: I would think we would keep the overstrike on 16 and 17 and just add on Section 2 that the Secretary of State would also provide a permit upon request from the company. Then there are no rules or regulations to go along with it. Now they have a permit. The cities cannot overrule because they have no authority to do so.

Rep. Olson: If we keep the language struck on 16-17, then there is no need for a state permit. We wouldn't have to ask the Secretary of State to issue one, because we are getting rid of the language that allows them to prohibit it without the permit.

Chairman Kasper: Would one of you volunteer to meet with Secretary Jaeger and ask him about that (Referring to Rep. Olson's previous statement)? Vice Chair Louser will do that.

Rep. Steiner: Inaudible...something about words permit and certificate

Chairman Kasper: I don't know. The discussion in the IBL Committee was all about insurance.

Rep. Olson: I wonder if it is already regulated like a taxi, a municipality that would require a taxi driver's license to operate?

Chairman Kasper: I think that is what Uber tries to get away from. They do not want to be regulated like a taxi. We have to be sure that the unintended consequence is not in this bill that would allow municipalities to regulate them like a taxi.

Rep. Dockter: Uber is different from local taxi companies. They are all 1099. They are independent contractors. Most taxi services in North Dakota are W-2. With 1099 you do not have workers' compensation. We do not want to be like California's. We want to be business friendly.

Rep. Vetter: Uber drivers have a different type of insurance.

Chairman Kasper: Parent companies have huge liability coverage, big policies.

Rep. C. Johnson: Uber operates as a franchise?

Chairman Kasper: I don't know if they call it a franchise or just an independent contractor relationship. They advertise and get these drivers and they enter into a contract with them. The contract spells out the responsibility of the driver for insurance coverage and what Uber will provide.

Vice Chair Louser: The many hours of discussion in IBL revolved around when you become insurable or required to insure with the application.

The meeting was adjourned.

2017 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1249
1/26/2017
27497

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to duties of the secretary of state; relating to regulation of transportation network companies

Minutes:

Attachment 1

Chairman Kasper opened the meeting on HB 1249.

Vice Chair Louser: This bill was about having the Secretary of State regulate transportation networks. It had a strike in Lines 16-17 to take out the ability for a political subdivision to prohibit a transportation network if they didn't have a permit, and the permit doesn't exist. The proposed amendment (Attachment 1) is everything in this bill that is underlined would be taken out. The strike in 16-17 would remain. The only thing that stays is on Line 12, the word adopted. Essentially, the requirements for carrying insurance for a transportation network would be within the Insurance Commissioner's rules under 26.1, and no political subdivision would be able to prohibit a transportation network for not having a nonexistent permit. This would, of course, remove the language that requires regulation through the Secretary of State.

Chairman Kasper: Please go through the amendment line for line.

Rep. Olson: Ultimately, this amendment takes away the enabling language that would have enabled them to prohibit TNCs from operating in their jurisdiction for reasons of a permit that didn't exist?

Vice Chair Louser: Correct. Two years we had reference to this state permit, and it was missed. The state permit never existed. What we are doing is striking that language prohibiting a political subdivision from prohibiting the TNC to operate.

Rep. Karls: Does this mean the only state agency having cur view will be the Insurance Commissioner?

Vice Chair Louser: No, not necessarily. The transportation network would still have to be registered as a business entity with the Secretary of State, and their regulations would be

insurance related under the Insurance Commissioner. The business entity would still have to register as a business entity, and in this case, they have done that with the Secretary of State as of May 2015.

Rep. Karls: My daughter travels a lot for business, and she used it everywhere she went while at recent meetings in Las Vegas. It was just amazing how it works. It completely changes the way transportation works.

Chairman Kasper: We are trying to make it easy for Uber to operate and still require the registration. They are currently now regulated by the Insurance Department. If we don't keep in Lines 16-17, any political subdivision could put barriers up and stop them, and I don't think we should have the ability for one city to have a rule that another city doesn't have.

Rep. Dockter: I don't think we need any registration. We try to be business friendly. They had to register as a business. The state is covered by what we did with the insurance. I don't know if we need any of this.

Chairman Kasper: This isn't going to change any of what is currently happening. We are getting rid of regulation that the cities or political subdivisions could impose on them, so when they register with the Secretary of State, they get their certificate. The IBL bill passed last session went to the matter of being sure that these transportation companies had the proper insurance to protect the consumer that was picked up, the public that might be hit by a driver, the driver himself, and the company and where the liability was.

Vice Chair Louser: This reference says without a state permit, and a state permit does not exist. Right now at any given time a political subdivision could say we are not going to let you operate in our city because you don't have a permit, and the business would react by saying there is no permit to be had. It was language that probably should have been struck two years ago, and it was missed.

Vice Chair Louser moved to adopt the amendment.

Rep. Dockter seconded the motion.

Rep. Vetter: Does Grand Forks not allow it to have Uber, or is it they don't want to be there? There isn't a business for it.

Chairman Kasper: It could be with the statute in place right now. Grand Forks city commission could say where is your permit, and there is no permit.

Vice Chair Louser: It is my understanding that Uber has yet to enter the market. Fargo is the only market that Uber has entered so far.

A voice vote was taken. Motion carried.

Vice Chair Louser made a motion for a DO PASS AS AMENDED on HB 1249.

Rep. Olson seconded the motion.

Rep. Dockter: Last session IBL passed this bill with the intent that when Uber did come into the state, they didn't have any delays and we are ready for them.

A roll call vote was taken. 12 Yeas, 0 Nays, 2 absent.

Vice Chair Louser will carry the bill.

1/26/17 DØ

17.0538.01001
Title.02000

Prepared by the Legislative Council staff for
Representative Louser
January 26, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1249

Page 1, line 1, remove "create and enact a new section to chapter 54-09 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to duties of the secretary of state; and to"

Page 1, line 10, overstrike "and" and insert immediately thereafter an underscored comma

Page 1, line 11, remove "section 2 of this Act,"

Page 1, line 11, remove ", adopted"

Page 1, line 12, remove "consistent with section 2 of this Act,"

Page 1, remove lines 18 through 24

Renumber accordingly

Date: 1-26-17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1249**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 17.0538.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Louser Seconded By Dockter

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman			Pamela Anderson		
Scott Louser-Vice Chairman			Mary Schneider		
Jason Dockter					
Craig A. Johnson					
Daniel Johnston					
Karen Karls					
Ben Koppelman					
Vernon Lanning					
Christopher D. Olson					
Karen M. Rohr					
Vicky Steiner					
Steve Vetter					

Vote motion carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-26-17
 Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1249**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Louser Seconded By Olson

Representatives	Yes	No	Representatives	Yes	No
Jim Kasper-Chairman	X		Pamela Anderson	X	
Scott Louser-Vice Chairman	X		Mary Schneider	X	
Jason Dockter	X				
Craig A. Johnson	X				
Daniel Johnston	X				
Karen Karls	X				
Ben Koppelman	Ab				
Vernon Laning	X				
Christopher D. Olson	X				
Karen M. Rohr	Ab				
Vicky Steiner	X				
Steve Vetter	X				

Total (Yes) 12 No 2

Absent 2

Floor Assignment Louser

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1249: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1249 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 54-09 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to duties of the secretary of state; and to"

Page 1, line 10, overstrike "and" and insert immediately thereafter an underscored comma

Page 1, line 11, remove "section 2 of this Act,"

Page 1, line 11, remove ", adopted"

Page 1, line 12, remove "consistent with section 2 of this Act,"

Page 1, remove lines 18 through 24

Renumber accordingly

2017 SENATE TRANSPORTATION

HB 1249

2017 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1249
3/16/2017
29305

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Munder

Explanation or reason for introduction of bill/resolution:

Relating to regulation of transportation network companies.

Minutes:

Attachments #1-2

Chairman Laffen: Opened the hearing on HB 1249. Welcome Representative Thomas Beadle.

Representative Thomas Beadle: See attachment #1. We support this bill and ask for a Do Pass.

Chairman Laffen: I see the last line where it takes out vertical sub-division and to be able to make that rule making. Where in the bill does it affect the first part?

Rep. Beadle: We had a separate section in the drafting on this that just added new language to specifically address who was handling that.

Chairman Laffen: Any questions?

Senator Clemens: What is the definition of a transportation network company?

Rep. Beadle: A company that's registered and does business in a method that utilizes internet network to connect independent contractors across the spectrum to operate on their behalf using mobile software data to connect drivers to riders.

Senator Rust: Crossing out the lines 13 and 14 in that bill, does that totally move political sub-divisions having anything to do with transportation networks?

Rep. Beadle: Yes, I believe so.

Senator Rust: So local city has issues and have no more authority than me.

Rep. Beadle: If local cities have issues they will run it through the channels through their insurance department and Secretary of State's office.

Senator Nelson: Don't taxi cab companies have controls by the city?

Rep. Beadle: Yes, I believe that would be one exception and I would support taking them out of there as well.

Senator Nelson: Do the drivers have background checks?

Rep. Beadle: Absolutely.

Senator Clemens: What about car rental companies?

Rep. Beadle: The people from the car rentals are here and they will be better able to answer that. They also have an amendment they want to put on here and clean up some code and marry the existing language.

Senator Campbell: Just to summarize the bill, this basically takes all the jurisdiction or any type of control or taxing from the local political subs and puts it on the state tax commissioner.

Rep Beadle: Correct.

Chairman Laffen: Questions? None. Thank you. Welcome the students that have joined us. Any other testimony in favor of HB 1249?

Levi Andrist, Lobbyist: I have the pleasure to introduce to you Jarrin Burke.

Jarrin Burke, Controller for Enterprise Rent a Car: See Attachment #2.

Chairman Laffen: Why did we decide to not tax Uber?

Jarrin: I don't know why.

Chairman Laffen: Generally, we do not tax services and what they are providing is a service as is yours. I am a little confused myself why there is that discrepancy.

Senator Campbell: Is it really necessary?

Jarrin: I think this just protects us from any future changes or any additional taxes that might be put on us. Having this amendment put in there would help protect our customers.

Senator Rust: When I look at your amendment I see that the last statement of political sub-division may prohibit a company from operating without a state permit. You don't cross it out, the bill does.

Jarrin: We would correct that and agree with it being crossed out.

Chairman Laffen. You are in favor with the bill and adding this clause to it?

Jarrin: That's correct.

Chairman Laffen: Any more questions? None. Thank you.

Levi Andrist: (18:17) Just a couple of quick answers, as to why Uber isn't taxed, it is a very sought after service, and imposing a tax would have a different effect. To answer the question about the effectiveness of the bill, there are no taxables in this legislative assembly to increase state taxes on rental car companies. To protect political sub-divisions from further taxation. Senator Rust, that was an oversight on my part and that should have been stricken as the Chairman indicated.

Senator Nelson: There are 2 places where Enterprise is at in Fargo and prices are different in both places. There is nothing in here that says anything about the charge put on the customer based on rental space at the airport.

Levi: Airport rental car tax is a different tax system.

Chairman Laffen: Questions? None. Thank you. Testimony in favor? Opposed? Neutral?

Ryan Taylor: I have discussed this and with the amendment it really doesn't affect the statute we already have.

Chairman Laffen: Any other neutral? We will close the hearing on HB 1259.

2017 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1249
3/23/2017
29636

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Munder

Explanation or reason for introduction of bill/resolution:

Relating to regulation of transportation network companies.

Minutes:

Chairman Laffen: Reopened the hearing on HB 1249.

Senator Nelson: I was talking to one of the lobbyists and they said they want to make sure they are not taxed out of business.

Chairman Laffen: I thought there was a total in congruency in our tax code when you think about Uber being able to provide transportation tax free and Enterprise who you would rent a car from. One could argue that you are actually getting a product when you rent and you're getting a service when somebody drives you.

Senator Campbell: In my notes, to sum it up it states that local political subs cannot be governed by state insurance commissioner, as to a rent a car company not add any additional taxes or changes to them. I think it was just those two simple things.

Chairman Laffen: Proposed amendment from Enterprise says don't tax us anymore. Original bill says political sub-division cannot be governed by the state tax commissioner.

Senator Casper: From our last session someone was supposed to come up with a permit for TNC's. They were to apply to the state, get a permit, and if a TNC is operating in a local political sub-division without a permit, then the city, example Grand Forks, could say you have no permit you cannot operate. No agency ever came up with a permit.

Chairman Laffen: Yes, I remember that now and we weren't sure who would permit these and now we are trying to figure out is it state or local.

Senator Casper: We are really saying it doesn't need a permit.

Senator Clemens: In the original bill it says that a political sub division may not impose a tax, so how are they imposing taxes on Enterprise already if it says they can't?

Senator Casper: I wasn't here for the Enterprise and I don't want to put in there that they can't tax.

Chairman Laffen: Yes, we don't want to say they can't tax. Uber is already tax free. I think the difference is that Enterprise is not a transportation network, it is a car rental. This did raise a red flag for me, as if someone needs to be dealt with it should be with a bill in Finance and Tax, if we are going to continue to tax rental cars.

Senator Casper: I would favor not passing the amendment, passing the bill as is, and I think if we want to tax transportation network companies, I think it should go before the Tax committee and not have us make the decision here today.

Chairman Laffen: We could add that to this bill as a study, but it might upset Uber too, if the heard we were doing a tax study on them.

Senator Campbell: I talked to an Enterprise person and asked him why they wanted this amendment. He explained that they did not want any more taxes added on to them. I would agree to kill the amendment and vote the bill.

Senator Casper: I think it needs to be a larger part of the process. The way this company is set up is so different than many of the others. The independent contractors pay taxes on their incomes and sharing in the profits every day that they are all making on the use of their own vehicle. When it gets to the tax year do we need to tax TNC's at a different level? Maybe that would be double taxation? I don't have the answers to these questions either.

Chairman Laffen: They sort of put it in a nutshell as Uber sees themselves as using their own vehicles and paying their expenses where Enterprise is a whole different thing. I would agree that that would be a Finance and Tax issue and we should leave that with them.

Senator Rust: In the testimony from Jarrin Burke from Enterprise, their last statement was that they were seeking our support to amend the ND law to protect the car rental customers from any additional taxes. We are not recommending the elimination of any taxes nor are we saying to tax the TNC's. It is kind of like a just in case, we don't want this to happen.

Chairman Laffen: Correct, and Senator Rust, I would be opposed to writing into our code that we would not consider taxing at any rate in the future. We want to keep our options open.

Senator Campbell: I move for a Do Pass in HB 1249.

Senator Casper: Seconded.

Chairman Laffen: Any further discussion on HB 1249?

Senator Nelson: Basically what we are doing here is saying there isn't a state permit so let's get rid of it.

Chairman Laffen: Correct and we decided we will never need it. Any other discussion?

Senate Transportation Committee

HB 1249

3/23/17

Page 3

Roll Call taken: Yeas-6, Nays-0, Absent-0.

Chairman Laffen: Motion carried. Senator Campbell will carry the bill. Closed the hearing on HB 1249

Date: 3.23.17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. "Enter Bill/Resolution No." HB 1249

Senate Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Campbell Seconded By Casper

Senators	Yes	No	Senators	Yes	No
Chairman Lonnie J. Laffen	✓		Senator Carolyn Nelson	✓	
Senator Tom Campbell	✓				
Senator David Rust	✓				
Senator David Clemens	✓				
Vice Chairman Jonathan Casper	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Campbell

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1249, as engrossed: Transportation Committee (Sen. Laffen, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1249 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

HB 1249

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
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January 19, 2017

Attachment 1
1249
1-19-17

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TO: Chairman Kasper, and members of House Government and Veterans Affairs Committee

FR: Al Jaeger, Secretary of State

RE: HB 1249 – Transportation Network Companies

As I stated in the fiscal note, this bill as written provides no direction as to its regulatory intent for requiring a permit from the Secretary of State to operate a transportation network company within the state and it does not reveal the reasons for the adoption of rules to implement this law.

Attached is a copy of Chapter 39-34, which is the current law that that governs transportation company networks.

In an effort to determine what the law might be in other states, my internet search revealed California as the first state that appeared under that category. In that state, these entities are regulated by the California Public Utilities Commission. I have attached a copy of several pages from their website. I did not copy the nine pages of instructions they provide to complete the thirty page application.

The sponsor of the bill shared with me that he had envisioned something simple to address a concern of a constituent related to transportation networks companies. At the same time, however, the sponsor was unable to tell me what that concern might have been. Therefore, without some direction as to the intent of this bill to address that concern, I cannot support a bill that mandates a new administrative duty and cost to my agency and provides for the option of adopting rules to regulate an unknown concern, which maybe could be covered by adopting the rules similar to California.

Instead, depending on the nature of the constituent's concern and the goal of simplicity, it seems as if an option would be to address it with a simple amendment to the existing law without developing a California duplicate in North Dakota.

As it is, under current law, any entity that wants to do business in North Dakota has to be first registered with the Secretary of State.

**CHAPTER 39-34
TRANSPORTATION COMPANY NETWORKS**

39-34-01. Agent.

The transportation network company must maintain a registered agent with the secretary of state for service of process in this state.

39-34-02. Fare charged for services.

The transportation network company shall provide passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the transportation network company driver's vehicle.

39-34-03. Transportation driver requirements.

1. Before permitting an individual to act as a transportation network company driver on its digital platform, the transportation network company shall:
 - a. Require the individual to submit an application to the transportation network company, which includes information regarding the individual's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the transportation network company;
 - b. Conduct, or have a third party conduct, a local and national criminal background check for each applicant that must include:
 - (1) Multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation; and
 - (2) National sex offender registry database; and
 - c. Obtain and review a driving history research report for the individual.
2. The transportation network company may not permit an individual to act as a transportation network company driver on its digital platform who:
 - a. Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including attempting to evade the police, reckless driving, or driving on a suspended or revoked license;
 - b. Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a felony, a crime involving property damage, theft, an act of violence, or an act of terror;
 - c. Is a match in the national sex offender registry database;
 - d. Does not possess a valid driver's license;
 - e. Does not possess proof of registration for the motor vehicle used to provide transportation network company services;
 - f. Does not possess proof of automobile liability insurance for the motor vehicle used to provide transportation network company services; or
 - g. Is not at least twenty-one years of age.

39-34-04. Personally identifiable information.

A transportation network company may not disclose any personally identifiable information of a transportation network company passenger, except pursuant to the publicly disclosed terms of the transportation network company's privacy policy. For any other disclosure not governed by the privacy policy, the transportation network company must obtain the passenger's consent before the company may disclose the passenger's personally identifiable information.

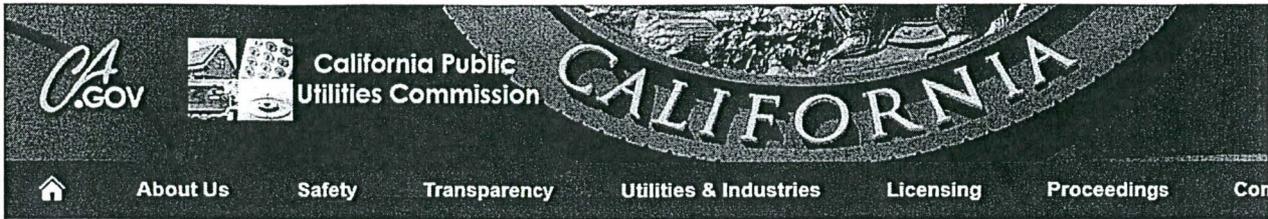
39-34-05. Transportation network company reporting requirements - Legislative management report - Penalty.

1. A transportation network company shall report the following information to the department of transportation on June fifteenth and December fifteenth of each year for the previous six calendar months:

- a. A list of political subdivisions in which the transportation network company operates;
 - b. The number of accidents that were reported to the transportation network company during the passenger on-board stage; and
 - c. The number and types of traffic violations and any other violations that were reported to the transportation network company during the passenger on-board stage.
2. The department of transportation shall report the information collected from transportation network companies during each biennium to the legislative management.
 3. The department of transportation may impose a civil penalty of up to five hundred dollars for the failure of a transportation network company to report as required under this section. A transportation network company with two or more violations of this section may be prohibited by the department of transportation from operating within the state for one hundred eighty days from the date of the department's notification to the transportation network company.
 4. All civil penalties collected under this section must be deposited in the state highway fund.

39-34-06. Controlling authority.

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter and chapter 26.1-40.1 and any rules adopted consistent with this chapter and by the insurance commissioner under chapter 26.1-40.1. A political subdivision may not impose a tax on, or require a license for, a transportation network company or a transportation network company driver or subject a transportation network company to the political subdivision's rate, entry, operational, or other requirements. A political subdivision may prohibit a transportation network company from operating without a state permit within the jurisdiction of the political subdivision.



Home Licensing Transportation Licensing Transportation Network Companies TNC Application Information and Forms

Transportation Network Company (TNC) Application Form

- [Instructions for TNC Application Form](#)
- [TNC Application Form](#)

Decisions and Statutes applicable to TNC operations

- [Decision 97-07-063](#) adopting rules regarding the specialized transportation of unaccompanied infants and children
- [CPUC Decision 13-09-045](#) Adopting Rules and Regulations on TNCs
- [Decision 14-04-022](#) granting limited rehearing of [Decision 13-09-045](#)
- [Decision 14-11-043](#) modifying [Decision 13-09-045](#)
- [Decision 16-04-041](#) Adopting Phase II Rules and Reserving Additional Issues for Phase III
 - [Decision 16-05-027](#) Correcting Error in [Decision 16-04-041](#)
- [Public Utilities Code §§5430 – 5443](#)

Code: Section: [Up^](#) [Add To My Favorites](#)**PUBLIC UTILITIES CODE - PUC****DIVISION 2. REGULATION OF RELATED BUSINESSES BY THE PUBLIC UTILITIES COMMISSION [3901 - 5513]** (*Division 2 enacted by Stats. 1951, Ch. 764.*)**CHAPTER 8. Charter-Party Carriers of Passengers [5351 - 5444]** (*Chapter 8 added by Stats. 1961, Ch. 2146.*)**ARTICLE 7. Transportation Network Companies [5430 - 5445.2]** (*Article 7 added by Stats. 2014, Ch. 389, Sec. 1.*)

5430. Notwithstanding any other provision of this chapter, this article shall apply to transportation network companies.

(*Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.*)

5431. For purposes of this article, the following terms have the following meanings:

(a) "Participating driver" or "driver" means any person who uses a vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.

(b) "Personal vehicle" means a vehicle that is used by a participating driver to provide prearranged transportation services for compensation that meets all of the following requirements:

(1) Has a passenger capacity of eight persons or less, including the driver.

(2) Is owned, leased, rented for a term that does not exceed 30 days, or otherwise authorized for use by the participating driver.

(3) Meets all inspection and other safety requirements imposed by the commission.

(4) Is not a taxicab or limousine.

(c) "Transportation network company" means an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.

(d) "Transportation network company insurance" means a liability insurance policy that specifically covers liabilities arising from a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

(*Amended by Stats. 2016, Ch. 766, Sec. 1. Effective January 1, 2017.*)

5432. (a) A transportation network company shall disclose in writing to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform, and shall advise a participating driver in writing that the driver's personal automobile insurance policy will not provide coverage because the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform.

(b) A transportation network company shall also disclose in writing to participating drivers, as part of its agreement with those drivers, that the driver's personal automobile insurance policy will not provide collision or comprehensive coverage for damage to the vehicle used by the driver from the moment the driver logs on to the transportation network company's online-enabled application or platform to the moment the driver logs off the transportation network company's online-enabled application or platform.

(c) This section shall become operative on July 1, 2015.

(*Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015. Section operative July 1, 2015, by its own provisions.*)

5433. (a) A transportation network company and any participating driver shall maintain transportation network company insurance as provided in this section.

(b) The following requirements shall apply to transportation network company insurance from the moment a participating driver accepts a ride request on the transportation network company's online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the ride is complete, whichever is later:

(1) Transportation network company insurance shall be primary and in the amount of one million dollars (\$1,000,000) for death, personal injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:

- (A) Transportation network company insurance maintained by a participating driver.
- (B) Transportation network company insurance maintained by a transportation network company.
- (C) Any combination of subparagraphs (A) and (B).

(2) Transportation network company insurance coverage provided under this subdivision shall also provide for uninsured motorist coverage and underinsured motorist coverage in the amount of one million dollars (\$1,000,000) from the moment a passenger enters the vehicle of a participating driver until the passenger exits the vehicle. The policy may also provide this coverage during any other time period, if requested by a participating driver relative to insurance maintained by the driver.

(3) The insurer, in the case of insurance coverage provided under this subdivision, shall have the duty to defend and indemnify the insured.

(4) A transportation network company may meet its obligations under this subdivision through a policy obtained by a participating driver pursuant to subparagraph (A) or (C) of paragraph (1) only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

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

(1) Transportation network company insurance shall be primary and in the amount of at least fifty thousand dollars (\$50,000) for death and personal injury per person, one hundred thousand dollars (\$100,000) for death and personal injury per incident, and thirty thousand dollars (\$30,000) for property damage. The requirements for the coverage required by this paragraph may be satisfied by any of the following:

- (A) Transportation network company insurance maintained by a participating driver.
- (B) Transportation network company insurance maintained by a transportation network company that provides coverage in the event a participating driver's insurance policy under subparagraph (A) has ceased to exist or has been canceled, or the participating driver does not otherwise maintain transportation network company insurance pursuant to this subdivision.
- (C) Any combination of subparagraphs (A) and (B).

(2) A transportation network company shall also maintain insurance coverage that provides excess coverage insuring the transportation network company and the driver in the amount of at least two hundred thousand dollars (\$200,000) per occurrence to cover any liability arising from a participating driver using a vehicle in connection with a transportation network company's online-enabled application or platform within the time periods specified in this subdivision, which liability exceeds the required coverage limits in paragraph (1).

(3) The insurer providing insurance coverage under this subdivision shall be the only insurer having the duty to defend any liability claim arising from an accident occurring within the time periods specified in this subdivision.

(4) A transportation network company may meet its obligations under this subdivision through a policy obtained by a participating driver pursuant to subparagraph (A) or (C) of paragraph (1) only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

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

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

P. 7

(f) This article shall not limit the liability of a transportation network company arising out of an automobile accident involving a participating driver in any action for damages against a transportation network company for an amount above the required insurance coverage.

(g) This section shall become operative on July 1, 2015.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015. Section operative July 1, 2015, by its own provisions.)

5434. (a) Nothing in this section shall be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a participating driver in a transportation network company logs on to the transportation network company's online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the vehicle, whichever is later.

(b) During the period of time from the moment a participating driver in a transportation network company logs on to the transportation network company's online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the vehicle, whichever is later, all of the following shall apply:

(1) The participating driver's or the vehicle owner's personal automobile insurance policy shall not provide any coverage to the participating driver, vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this subdivision is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

(2) The participating driver's or the vehicle owner's personal automobile insurance policy shall not have the duty to defend or indemnify for the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise for the period of time to which this subdivision is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

(c) Notwithstanding any other law, a personal automobile insurer may, at its discretion, offer an automobile liability insurance policy, or an amendment or endorsement to an existing policy, that covers a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform only if the policy expressly provides for the coverage during the time period specified in subdivision (b), with or without a separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged.

(d) This section shall become operative on July 1, 2015.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015. Section operative July 1, 2015, by its own provisions.)

5435. In a claims coverage investigation, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involved a participating driver and the precise times that the participating driver logged on and off the transportation network company's online-enabled application or platform.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5437. A transportation network company shall not disclose to a third party any personally identifiable information of a transportation network company passenger unless one of the following applies:

(1) The customer knowingly consents.

(2) Pursuant to a legal obligation.

(3) The disclosure is to the commission in order to investigate a complaint filed with the commission against a transportation network company or a participating driver and the commission treats the information under confidentiality protections.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5438. It is the intent of the Legislature that the Department of Insurance expedite review of any application for approval of transportation network company insurance products, and that these products become available for purchase on or before July 1, 2015.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5439.

Transportation network company insurance that meets the requirements of Section 5433 shall be deemed to satisfy the financial responsibility requirements of Sections 16054 and 16056 of the Vehicle Code.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5440. The Legislature makes the following findings:

(a) The commission has initiated regulation of transportation network companies as a new category of charter-party carriers and continues to develop appropriate regulations for this new service.

(b) Given the rapidly evolving transportation network company service, it is the intent of the Legislature to continue ongoing oversight of the commission's regulation of these services in order to enact legislation to adjust commission authority and impose specific requirements or prohibitions as deemed necessary as these services evolve.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5441. The Legislature does not intend, and nothing in this article shall be construed, to prohibit the commission from exercising its rulemaking authority in a manner consistent with this article, or to prohibit enforcement activities related to transportation network companies.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5442. A participating driver of a transportation network company shall carry proof of transportation network company insurance coverage with him or her at all times during his or her use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver shall provide this insurance coverage information to any other party involved in the accident, and to a police officer, upon request.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5443. Notwithstanding Section 11580.9 of the Insurance Code, or any other law affecting whether one or more policies of insurance that may apply with respect to an occurrence is primary or excess, this article determines the obligations under insurance policies issued to transportation network companies and, if applicable, drivers using a vehicle in connection with a transportation network company's online-enabled application or platform.

(Added by Stats. 2014, Ch. 389, Sec. 1. Effective January 1, 2015.)

5444. Notwithstanding any limitations contained in Section 1808.1 of the Vehicle Code, a transportation network company is eligible to participate and shall participate in the pull-notice system established pursuant to Section 1808.1 of the Vehicle Code to regularly check the driving records of a participating driver regardless of whether the participating driver is an employee or an independent contractor of the transportation network company.

(Added by Stats. 2015, Ch. 791, Sec. 1. Effective January 1, 2016.)

5445.2. (a) (1) A transportation network company shall conduct, or have a third party conduct, a local and national criminal background check for each participating driver that shall include both of the following:

(A) A multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation.

(B) A search of the United States Department of Justice National Sex Offender Public Web site.

(2) A transportation network company shall not contract with, employ, or retain a driver if he or she meets either of the following criteria:

(A) Is currently registered on the United States Department of Justice National Sex Offender Public Web site.

(B) Has been convicted of any of the following offenses:

(i) A violent felony, as defined in Section 667.5 of the Penal Code.

(ii) A violation of Section 11413, 11418, 11418.5, or 11419 of the Penal Code.

(3) A transportation network company shall not contract with, employ, or retain a driver if he or she has been convicted of any of the following offenses within the previous seven years.

(A) Misdemeanor assault or battery.

(B) A domestic violence offense.

(C) Driving under the influence of alcohol or drugs.

(D) A felony violation of Section 18540 of the Elections Code, or of Section 67, 68, 85, 86, 92, 93, 137, 138, 165, 518, 530, or 18500 of, subdivision (a) of Section 484 of, subdivision (a) of Section 487 of, or subdivision (b) of Section 25540 of, the Penal Code.

(4) Paragraphs (2) and (3) shall apply regarding a conviction of any offense committed in another jurisdiction that includes all of the elements of any of the offenses described or defined in those paragraphs.

(5) Nothing in this section shall be interpreted to prevent a transportation network company from imposing additional standards.

(b) A transportation network company that violates, or fails to comply with, this section is subject to a penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each offense.

(c) (1) Notwithstanding Section 1786.12 of the Civil Code, an investigative consumer reporting agency may furnish an investigative consumer report to a transportation network company about a person seeking to become a participating driver, regardless of whether the participating driver is to be an employee or an independent contractor of the transportation network company.

(2) Paragraph (7) of subdivision (a) of Section 1786.18 of the Civil Code shall not apply to an investigative consumer report furnished to a transportation network company pursuant to paragraph (1).

(Added by Stats. 2016, Ch. 740, Sec. 1. Effective January 1, 2017.)

Attachment 1
1249
-26-17

17.0538.01001
Title.

Prepared by the Legislative Council staff for
Representative Louser
January 20, 2017

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1249

Page 1, line 1, remove "create and enact a new section to chapter 54-09 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to duties of the secretary of state; and to"

Page 1, line 11, remove "section 2 of this Act."

Page 1, line 11, remove "adopted"

Page 1, line 12, remove "consistent with section 2 of this Act."

Page 1, remove lines 18 through 24

Renumber accordingly

3-16-17 HB 1249
Attachment # 1 pg 1

16 March 2017

Senate Transportation Committee

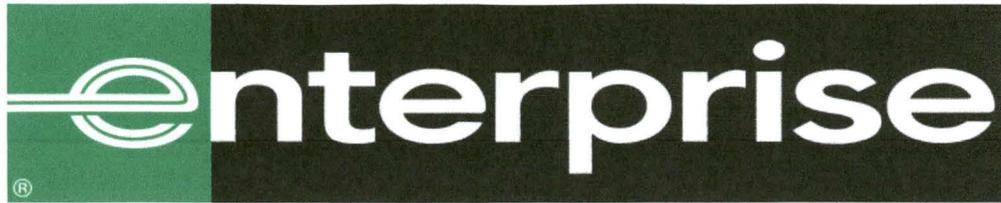
Senator Laffen - Chairman

Good morning Chairman Laffen and members of the Senate Transportation committee. For the record, my name is Thomas Beadle, State Representative from District 27 in Fargo.

I am bringing HB 1249 before you today as a cleanup bill to legislation that we passed last session regarding Transportation Network companies. Transportation Network companies are of course those companies like Uber, Lyft and Sidecar that utilize mobile technology coupled with independent contractors to connect riders and drivers together. One of the big areas of contention last legislative session was with regards to the permitting of these companies. Last session it was unclear whether these companies would be registered with the Secretary of State's office or the Department of Transportation, and in the end, we left the language silent. One thing that was clear, however, was that we wanted to have consistent language across the state so that we didn't create barriers to these companies that wanted to go from Bismarck to Mandan or Fargo to West Fargo on a fare and run into separate local ordinances. As such, we made sure that the locals were out of the process.

The now former chief of police in West Fargo brought this language that you see before you to the attention of a now former legislator, who brought it to me as they felt it needed to be addressed. Since we don't have a clear permit from the state for operation, due to our reluctance to place these companies with either of our state agencies that would be germane, currently our political subdivisions could stop these companies from operating. The Chief thought this needed to be cleared up so that there wasn't confusion, and I was happy to introduce this bill to take care of that.

This is a simple cleanup bill, and I hope the committee will give it a Do Pass. I'm happy to answer any questions, Mr. Chairman.



Good morning Chairman Laffen and members of the committee. I am Jarrin Burke, Controller for Enterprise Rent-A-Car – Frontier Group, which includes North Dakota. Thank you for the opportunity to discuss the issue of tax parity when it comes to transportation services. Our company first began operating in North Dakota in 2004 and we now have 13 branch locations managing fleet of approximately 1,600 vehicles. We service many customers every day in off-airport locations – what we refer to as “Home City” – and in the airports around the state. It’s a great state in which to do business.

As technology is quickly changing consumer demands and habits. Our industry and the broader transportation service industry is not immune to these changes. In just the last several years we have seen new ways of receiving traditional transportation services. Specifically, in the for-hire space...there are Transportation Network Companies (TNCs), which are very similar to the taxicab and livery providers.

Our car rental industry has seen so-called “car-sharing”, which is actually car rental, but on an incremental or hourly basis. While these business lines may be distinct in how they each deliver those transportation services, there is potential overlap in the consumers who are seeking to utilize these services. Public policy, therefore, should strive to ensure that there is as much parity as possible when creating regulatory regimes and tax structures governing these transportation business lines.

In 2015, the North Dakota legislature passed legislation that ultimately became law that exempts TNCs from any state and local taxes. Therefore, there are no state and local taxes upon any TNC transactions.

On the contrary, all car rental transactions – including car-sharing transactions – are subject to:

- 5% statewide sales tax;
- 3% statewide rental car surcharge;
- 1% city-imposed motor vehicle rental tax at each airport location in the cities of Minot, Bismarck, Grand Forks, which have elected to impose the local tax.

That adds up to 9% above and beyond the rental base rate in some North Dakota cities. That’s a 9% tax rate that is not placed upon a single TNC transaction in the State. This creates a huge disparity in the state and local tax treatment between certain transportation providers.

TNCs certainly provide services to local customers as well as customers coming into our state through airports – just as we do, only without the burden of these state and local taxes.

Therefore, we support – and I am here seeking your support – to amend the North Dakota law to protect car rental customers from any additional layers of state or local taxation. To be clear, we are not recommending the elimination of any existing taxes nor are we suggesting the legislature to tax TNC's. But, rather, we support prohibiting any further tax disparity upon the car rental industry and our customers. Our proposed amendment would prohibit any future discriminatory taxes upon the car rental industry and car rental customers.

We hope that you will support our effort to protect our customers from any additional state and local taxes targeting our customers and to prevent any further disparity between transportation providers.

Jarrin Burke

Controller, Frontier Group

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Creating Greater Tax Parity for Transportation Mobility

- Technology is quickly changing consumer demands and habits. This is most prevalent in the transportation services space.
- There are multiple types of business lines that often time compete for the traveling/transportation service consumer. Specifically, the for-hire space such as Transportation Network Companies (TNCs), the taxicab and livery providers are one such line. The car rental industry is another. While these business lines may be distinct in how they each deliver those transportation services, there is potential overlap in the consumers who utilize these services.
- Public policy, therefore, should strive to ensure there is as much parity as possible when creating regulatory regimes and tax structures governing these business lines. That means all regulations should ensure that any necessary regulations concerning care, custody and economics are applied equally across all delivery systems – digital, technology-enabled or traditional.
- In fact, new regulations should be coordinated to ensure consumer choice is not artificially constrained or unnecessarily limited. That, in turn, will allow innovation and responsiveness to consumer needs determine which businesses thrive going forward. Yet the North Dakota Legislature passed a law that exempts TNCs from any state and local taxes.
- Meanwhile, all car rental transactions are subject to the 5% statewide sales tax; a 3% statewide rental car surcharge; and in the cities of Minot, Bismarck, Grand Forks (city), there is an additional 1% city-imposed motor vehicle rental tax at each airport location. That adds up to 9% above and beyond the rental base rate in some North Dakota cities. That's a 9% tax rate that is not placed upon a single TNC transaction in the State.
- Keep in mind that only half of all car rental transactions occur at the airport – the other half occurs in communities of all sizes across America, through local car rental and car-sharing services. That means local consumers who are renting cars because theirs is in the shop or they don't own a car because they can't afford one. They may be single parents who are job hunting, folks moving a family member to a new apartment, children visiting an elderly relative in a nursing home or simply making a trip to the grocery store.
- Therefore, we support amending the North Dakota law to protect car rental customers from any additional layers of state or local taxation. To be clear, we are not recommending the elimination of any existing taxes. But, rather, we support prohibiting any further tax disparity upon the car rental industry and our customers.
- We propose to prohibit any future discriminatory taxes upon the car rental industry and car rental customers. Discriminatory taxes would include the 1% car rental tax that specifically target and only applied to car rental customers. **We hope that you will protect our customers from additional state and local taxes!**

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

Page 1, line 10, after "a" insert "non-generally applied" and overstrike ", or"

Page 1, line 11, overstrike "require a license for," after the first "company" insert a comma, and overstrike "or"

Page 1, line 12, insert a comma after "driver" and after "or" insert "on a car rental company or a car rental transaction. Nothing in this section shall affect any state or local tax upon car rental companies or car rental transactions set forth in 40-57.3-01.2 [1% city airport rental tax]. A political subdivision may not require a license for a transportation network company or a transportation network driver or

Renumber Accordingly

ENGROSSED VERSION:

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter ~~and~~ chapter 26.1-40.1₂ and any rules adopted consistent with this chapter and adopted by the insurance commissioner under chapter 26.1-40.1. A political subdivision may not impose a non-generally applied tax on, ~~or require a license for,~~ a transportation network company, a transportation network company driver, or on a car rental company or a car rental transaction. Nothing in this section shall affect any state or local tax upon car rental companies or car rental transactions set forth in 40-57.3-01.2. A political subdivision may not require a license for a transportation network company or a transportation network driver or subject a transportation network company to the political subdivision's rate, entry, operational, or other requirements. A political subdivision may prohibit a transportation network company from operating without a state permit within the jurisdiction of the political subdivision.