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HOUSE BILL 168

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Monica Youngblood

AN ACT

RELATING TO TRANSPORTATION; ENACTING THE TRANSPORTATION NETWORK  
COMPANY SERVICES ACT AND PROVIDING FOR ADMINISTRATION OF THE  
ACT BY THE PUBLIC REGULATION COMMISSION; CREATING A FUND;  
PROVIDING PENALTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1  
through 25 of this act may be cited as the "Transportation  
Network Company Services Act".

**SECTION 2.** ~~[NEW MATERIAL]~~ PURPOSE.--The purpose of the  
Transportation Network Company Services Act is to ensure the  
safety, reliability and cost-effectiveness of rides provided by  
transportation network company drivers within New Mexico and to  
preserve and enhance access to these important transportation  
options for residents of and visitors to the state.

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1           SECTION 3.   ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the  
2 Transportation Network Company Services Act:

3           A.   "digital network" means an online-enabled  
4 application, software, website or system offered or utilized by  
5 a transportation network company that enables the  
6 prearrangement of rides with transportation network company  
7 drivers;

8           B.   "personal vehicle" means a vehicle that is used  
9 by a transportation network company driver and is:

10                   (1) owned, leased or otherwise authorized for  
11 use by the transportation network company driver; and

12                   (2) not a taxicab or other vehicle for hire;

13           C.   "prearranged ride" means the provision of  
14 transportation by a driver to a rider, beginning when a driver  
15 accepts a ride requested by a rider through a digital network  
16 controlled by a transportation network company, continuing  
17 while the driver transports a requesting rider and ending when  
18 the last requesting rider departs from the personal vehicle. A  
19 prearranged ride does not include transportation provided using  
20 a taxicab, limousine or other vehicle for hire pursuant to the  
21 Motor Carrier Act;

22           D.   "transportation network company" means a  
23 corporation, partnership, sole proprietorship or other entity  
24 that is licensed pursuant to the Transportation Network Company  
25 Services Act and operating in New Mexico that uses a digital

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1 network to connect transportation network company riders to  
2 transportation network company drivers who provide prearranged  
3 rides. A transportation network company shall not be deemed to  
4 control, direct or manage the personal vehicles or  
5 transportation network company drivers that connect to its  
6 digital network, except where agreed to by written contract;

7 E. "transportation network company driver" or  
8 "driver" means an individual who:

9 (1) receives connections to potential  
10 passengers and related services from a transportation network  
11 company in exchange for payment of a fee to the transportation  
12 network company; and

13 (2) uses a personal vehicle to offer or  
14 provide a prearranged ride to riders upon connection through a  
15 digital network controlled by a transportation network company  
16 in return for compensation; and

17 F. "transportation network company rider" or  
18 "rider" means an individual or persons who use a transportation  
19 network company's digital network to connect with a  
20 transportation network company driver who provides prearranged  
21 rides to the rider in the driver's personal vehicle between  
22 points chosen by the rider.

23 SECTION 4. [NEW MATERIAL] NOT OTHER CARRIERS.--

24 Transportation network companies and transportation network  
25 company drivers are not motor carriers as defined in the Motor

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1 Carrier Act, nor do they provide taxicab service, limousine  
2 service, charter service, passenger service, shuttle service or  
3 other transportation service as defined in the Motor Carrier  
4 Act. A transportation network company driver shall not be  
5 required to register the vehicle that the driver uses to  
6 provide prearranged rides as a commercial vehicle or vehicle  
7 for hire.

8 SECTION 5. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY  
9 PERMIT REQUIRED.--

10 A. A person shall not operate a transportation  
11 network company in New Mexico without first having obtained a  
12 permit from the public regulation commission.

13 B. The public regulation commission shall issue a  
14 permit to an applicant that meets the requirements for a  
15 transportation network company set forth in the Transportation  
16 Network Company Services Act and any rules adopted by the  
17 commission pursuant to that act. The transportation network  
18 company shall pay an annual permit fee of ten thousand dollars  
19 (\$10,000) to the commission.

20 SECTION 6. [NEW MATERIAL] AGENT.--The transportation  
21 network company shall maintain an agent for service of process  
22 in New Mexico.

23 SECTION 7. [NEW MATERIAL] FARE COLLECTED FOR SERVICES.--  
24 On behalf of a transportation network company driver, a  
25 transportation network company may charge a fare for the

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1 services provided to riders; provided that, if a fare is  
2 collected from a rider, the transportation network company  
3 shall disclose to the rider the fare calculation method within  
4 the software application service. The transportation network  
5 company shall also provide riders with the applicable rates  
6 being charged and the option to receive an estimated fare  
7 before the rider enters the transportation network company  
8 driver's vehicle.

9 SECTION 8. [NEW MATERIAL] IDENTIFICATION OF  
10 TRANSPORTATION NETWORK COMPANY VEHICLES AND DRIVERS.--The  
11 transportation network company's software application or  
12 website shall display a picture of the transportation network  
13 company driver and the license plate number of the motor  
14 vehicle used for providing the prearranged ride before the  
15 rider enters the transportation network company driver's  
16 vehicle.

17 SECTION 9. [NEW MATERIAL] ELECTRONIC RECEIPT.--Within a  
18 reasonable period of time following the completion of a  
19 prearranged ride, a transportation network company shall  
20 transmit an electronic receipt to the rider on behalf of the  
21 transportation network company driver that lists:

- 22 A. the origin and destination of the trip;
- 23 B. the total time and distance of the trip; and
- 24 C. an itemization of the total fare paid, if any.

25 SECTION 10. [NEW MATERIAL] FINANCIAL RESPONSIBILITY OF

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1 TRANSPORTATION NETWORK COMPANIES.--

2 A. A transportation network company driver or  
3 transportation network company on the driver's behalf shall  
4 maintain primary automobile insurance that recognizes that the  
5 driver is a transportation network company driver or otherwise  
6 uses a vehicle to transport passengers for compensation and  
7 covers the driver:

8 (1) while the driver is logged on to the  
9 transportation network company's digital network; or

10 (2) while the driver is engaged in a  
11 prearranged ride.

12 B. While a participating transportation network  
13 company driver is logged on to the transportation network  
14 company's digital network and is available to receive  
15 transportation requests but is not engaged in a prearranged  
16 ride, the following automobile insurance requirements shall  
17 apply: primary automobile liability insurance in the amount of  
18 at least fifty thousand dollars (\$50,000) for death and bodily  
19 injury per person, one hundred thousand dollars (\$100,000) for  
20 death and bodily injury per incident and twenty-five thousand  
21 dollars (\$25,000) for property damage. This coverage  
22 requirement may be satisfied by any of the following:

23 (1) automobile insurance maintained by the  
24 transportation network company driver;

25 (2) automobile insurance maintained by the

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1 transportation network company; or

2 (3) a combination of Paragraphs (1) and (2) of  
3 this subsection.

4 C. While a transportation network company driver is  
5 engaged in a prearranged ride, the following automobile  
6 insurance requirements shall apply: primary automobile  
7 liability insurance of at least one million dollars  
8 (\$1,000,000) for death, bodily injury and property damage. The  
9 coverage requirements of this subsection may be satisfied by  
10 any of the following:

11 (1) automobile insurance maintained by the  
12 transportation network company driver;

13 (2) automobile insurance maintained by the  
14 transportation network company; or

15 (3) a combination of Paragraphs (1) and (2) of  
16 this subsection.

17 D. If insurance maintained by the driver has lapsed  
18 or does not provide the required coverage, insurance maintained  
19 by a transportation network company shall provide the coverage  
20 required by this section beginning with the first dollar of a  
21 claim and have the duty to defend such claim.

22 E. Coverage under an automobile insurance policy  
23 maintained by the transportation network company shall not be  
24 dependent on a personal automobile insurer first denying a  
25 claim nor shall a personal automobile insurance policy be

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1 required to first deny a claim.

2 F. Insurance required by this section may be placed  
3 with an insurer authorized to do business in the state or with  
4 a surplus lines insurer eligible pursuant to the New Mexico  
5 Insurance Code.

6 G. Insurance satisfying the requirements of this  
7 section shall be deemed to satisfy the requirements of the  
8 Mandatory Financial Responsibility Act.

9 H. A transportation network company driver shall  
10 carry digital or physical proof of coverage required by this  
11 section with the driver at all times during the driver's use of  
12 a vehicle in connection with a transportation network company's  
13 digital network. In the event of an accident, a transportation  
14 network company driver shall provide this insurance coverage  
15 information to the directly interested parties, automobile  
16 insurers and investigating police officers. Upon such request,  
17 a transportation network company driver shall also disclose to  
18 directly interested parties, automobile insurers and  
19 investigating police officers if the driver was logged on to  
20 the transportation network company's digital network or on a  
21 prearranged ride at the time of an accident.

22 SECTION 11. [NEW MATERIAL] DISCLOSURES.--The  
23 transportation network company shall disclose in writing to  
24 transportation network company drivers the following before  
25 they are allowed to accept a request for a prearranged ride on

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1 the transportation network company's digital network:

2 A. the insurance coverage, including the types of  
3 coverage and the limits for each coverage, that the  
4 transportation network company provides while the  
5 transportation network company driver uses a personal vehicle  
6 in connection with a transportation network company's digital  
7 network;

8 B. that the transportation network company driver's  
9 own automobile insurance policy might not provide any coverage  
10 while the driver is logged on to the transportation network  
11 company's digital network and is available to receive  
12 transportation requests or is engaged in a prearranged ride,  
13 depending on its terms; and

14 C. that, if the motor vehicle that the driver uses  
15 to provide transportation network company services has a lien  
16 against it, using the motor vehicle for transportation network  
17 company services without physical damage coverage may violate  
18 the terms of the contract with the lienholder.

19 SECTION 12. [NEW MATERIAL] AUTOMOBILE INSURANCE  
20 PROVISIONS.--

21 A. Insurers that write automobile insurance in New  
22 Mexico may exclude any and all coverage afforded under the  
23 policy issued to an owner or operator of a personal vehicle for  
24 any loss or injury that occurs while a driver is logged on to a  
25 transportation network company's digital network or while a

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1 driver provides a prearranged ride. This right to exclude all  
2 coverage may apply to any coverage included in an automobile  
3 insurance policy including:

4 (1) liability coverage for bodily injury and  
5 property damage;

6 (2) uninsured and underinsured motorist  
7 coverage;

8 (3) medical payments coverage;

9 (4) comprehensive physical damage coverage;

10 and

11 (5) collision physical damage coverage.

12 B. Exclusions shall apply notwithstanding any  
13 requirement pursuant to the Mandatory Financial Responsibility  
14 Act. Nothing in this section implies or requires that a  
15 personal automobile insurance policy provide coverage while the  
16 driver is logged on to the transportation network company's  
17 digital network, while the driver is engaged in a prearranged  
18 ride or while the driver otherwise uses a vehicle to transport  
19 passengers for compensation. Nothing in this section shall be  
20 deemed to preclude an insurer from providing coverage for the  
21 transportation network company driver's vehicle if the insurer  
22 chooses to do so by contract or endorsement.

23 C. Automobile insurers that exclude the coverage  
24 described in Section 10 of the Transportation Network Company  
25 Services Act shall have no duty to defend or indemnify any

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1 claim expressly excluded thereunder. Nothing in the  
2 Transportation Network Company Services Act shall be deemed to  
3 invalidate or limit an exclusion contained in a policy,  
4 including any policy in use or approved for use in New Mexico  
5 prior to the enactment of the Transportation Network Company  
6 Services Act, that excludes coverage for vehicles used to carry  
7 persons or property for a charge or available for hire by the  
8 public. An automobile insurer that defends or indemnifies a  
9 claim against a driver that is excluded under the terms of its  
10 policy shall have a right of contribution against other  
11 insurers that provide automobile insurance to the same driver  
12 in satisfaction of the coverage requirements of Section 10 of  
13 the Transportation Network Company Services Act at the time of  
14 loss.

15 D. In a claims coverage investigation,  
16 transportation network companies and any insurer potentially  
17 providing coverage under Section 10 of the Transportation  
18 Network Company Services Act shall cooperate to facilitate the  
19 exchange of relevant information with directly involved parties  
20 and any insurer of the transportation network company driver,  
21 if applicable, including the precise times that a  
22 transportation network company driver logged on and off of the  
23 transportation network company's digital network in the  
24 twelve-hour period immediately preceding and in the twelve-hour  
25 period immediately following the accident and disclose to one

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1 another a clear description of the coverage, exclusions and  
2 limits provided under any automobile insurance maintained under  
3 Section 10 of the Transportation Network Company Services Act.

4 E. If a transportation network company's insurer  
5 makes a payment for a claim covered under comprehensive  
6 coverage or collision coverage, the transportation network  
7 company shall cause its insurer to issue the payment directly  
8 to the business repairing the vehicle or jointly to the owner  
9 of the vehicle and the primary lienholder on the covered  
10 vehicle.

11 SECTION 13. [NEW MATERIAL] LIMITATION ON TRANSPORTATION  
12 NETWORK COMPANIES.--Drivers shall be independent contractors  
13 and not employees of the transportation network company if:

14 A. the transportation network company does not  
15 prescribe specific hours during which a transportation network  
16 company driver must be logged on to the transportation network  
17 company's digital network;

18 B. the transportation network company imposes no  
19 restrictions on the transportation network company driver's  
20 ability to utilize digital networks from other transportation  
21 network companies;

22 C. the transportation network company does not  
23 assign a transportation network company driver a particular  
24 territory in which prearranged rides can be provided;

25 D. the transportation network company does not

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1 restrict a transportation network company driver from engaging  
2 in any other occupation or business; and

3 E. the transportation network company and the  
4 transportation network company driver agree in writing that the  
5 driver is an independent contractor of the transportation  
6 network company.

7 SECTION 14. [NEW MATERIAL] ZERO TOLERANCE FOR DRUG OR  
8 ALCOHOL USE.--

9 A. The transportation network company shall  
10 implement a zero-tolerance policy regarding a transportation  
11 network company driver's activities while accessing the  
12 transportation network company's digital network. The zero-  
13 tolerance policy shall address the use of illegal drugs or  
14 alcohol while a transportation network company driver is  
15 providing prearranged rides or is logged on to the  
16 transportation network company's digital network but is not  
17 providing prearranged rides, and the transportation network  
18 company shall provide notice of this policy on its website, as  
19 well as procedures to report a complaint about a driver with  
20 whom a rider was matched and whom the rider reasonably suspects  
21 was under the influence of illegal drugs or alcohol during the  
22 course of the trip.

23 B. Upon receipt of a rider complaint alleging a  
24 violation of the zero-tolerance policy, the transportation  
25 network company shall immediately suspend the transportation

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1 network company driver's ability to accept trip requests  
2 through the transportation network company's digital network  
3 and shall conduct an investigation into the reported incident.  
4 The suspension shall last for the duration of the  
5 investigation.

6 C. The transportation network company shall  
7 maintain records relevant to the enforcement of the  
8 requirements of this section for a period of at least two years  
9 from the date that a rider complaint is received by the  
10 transportation network company.

11 SECTION 15. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY  
12 DRIVER REQUIREMENTS.--

13 A. Before allowing an individual to accept  
14 prearranged ride requests through a transportation network  
15 company's digital network:

16 (1) the individual shall submit an application  
17 to the transportation network company that includes information  
18 regarding the individual's address, age, driver's license,  
19 driving history, motor vehicle registration, automobile  
20 liability insurance and other information required by the  
21 transportation network company;

22 (2) the transportation network company shall  
23 conduct, or have a third party conduct, a local and national  
24 criminal background check for each applicant that shall  
25 include:

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1 (a) multistate or multi-jurisdiction  
2 criminal records locator or other similar commercial nationwide  
3 database with validation and primary source search; and

4 (b) the Dru Sjodin national sex offender  
5 public website; and

6 (3) the transportation network company shall  
7 obtain and review a driving history research report for the  
8 individual.

9 B. The transportation network company shall not  
10 permit an individual to act as a transportation network company  
11 driver on its digital network who:

12 (1) has had more than three moving violations  
13 in the prior three-year period or one major violation in the  
14 prior three-year period, including attempting to evade the  
15 police, reckless driving or driving on a suspended or revoked  
16 license;

17 (2) has been convicted within the past seven  
18 years of:

19 (a) a felony;

20 (b) misdemeanor driving under the  
21 influence, reckless driving, hit-and-run or any other  
22 driving-related offense or any misdemeanor violent offense or  
23 sexual offense; or

24 (c) more than three misdemeanors of any  
25 kind;

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1 (3) is a match on the Dru Sjodin national sex  
2 offender public website;

3 (4) does not possess a valid driver's license;

4 (5) does not possess proof of registration for  
5 the motor vehicle used to provide prearranged rides;

6 (6) does not possess proof of automobile  
7 liability insurance for the motor vehicle used to provide  
8 prearranged rides; or

9 (7) is not at least nineteen years old.

10 C. A transportation network company driver shall  
11 not provide prearranged rides for more than twelve hours out of  
12 any twenty-four-hour period.

13 SECTION 16. [NEW MATERIAL] VEHICLE SAFETY.--A  
14 transportation network company shall not allow a transportation  
15 network company driver to accept prearranged ride requests  
16 through the transportation network company's digital network  
17 unless any motor vehicle that a transportation network company  
18 driver will use to provide prearranged rides meets New Mexico's  
19 vehicle equipment standards applicable to a private motor  
20 vehicle pursuant to the Motor Vehicle Code.

21 SECTION 17. [NEW MATERIAL] NO STREET HAILS.--A  
22 transportation network company driver shall not solicit or  
23 accept street hails.

24 SECTION 18. [NEW MATERIAL] NO CASH TRIPS.--The  
25 transportation network company shall adopt a policy prohibiting

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1 solicitation or acceptance of cash payments from riders and  
2 notify transportation network company drivers of the policy.  
3 Transportation network company drivers shall not solicit or  
4 accept cash payments from riders. Any payment for prearranged  
5 rides shall be made only electronically using the  
6 transportation network company's digital network or software  
7 application.

8 SECTION 19. [NEW MATERIAL] NONDISCRIMINATION--  
9 ACCESSIBILITY.--

10 A. A transportation network company shall adopt a  
11 policy of nondiscrimination on the basis of destination, race,  
12 color, national origin, religious belief or affiliation, sex,  
13 disability, age, sexual orientation or gender identity with  
14 respect to riders and potential riders and notify  
15 transportation network company drivers of the policy.

16 B. Transportation network company drivers shall  
17 comply with all applicable laws regarding nondiscrimination  
18 against riders or potential riders on the basis of destination,  
19 race, color, national origin, religious belief or affiliation,  
20 sex, disability, age, sexual orientation or gender identity.

21 C. Transportation network company drivers shall  
22 comply with all applicable laws relating to accommodation of  
23 service animals.

24 D. A transportation network company shall not  
25 impose additional charges for providing services to persons

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1 with physical disabilities because of those disabilities.

2 E. A transportation network company shall provide  
3 riders an opportunity to indicate whether they require a  
4 wheelchair-accessible vehicle. If a transportation network  
5 company cannot arrange a wheelchair-accessible prearranged ride  
6 in any instance, it shall direct the rider to an alternate  
7 provider of wheelchair-accessible service, if available.

8 SECTION 20. [NEW MATERIAL] RECORDS.--A transportation  
9 network company shall maintain the following records:

10 A. individual prearranged ride records for at least  
11 three years from the date each trip was provided; and

12 B. individual records of transportation network  
13 company drivers at least until the one-year anniversary of the  
14 date on which a transportation network company driver's  
15 relationship with the transportation network company has ended.

16 SECTION 21. [NEW MATERIAL] CONTROLLING AUTHORITY.--

17 A. Notwithstanding any other provision of law,  
18 transportation network companies and transportation network  
19 company drivers are governed exclusively by the Transportation  
20 Network Company Services Act and any rules adopted by the  
21 public regulation commission consistent with that act. No  
22 municipality or other local entity may impose a tax on or  
23 require a license for a transportation network company, a  
24 transportation network company driver or a vehicle used by a  
25 transportation network company driver where the tax or licenses

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1 relates to providing prearranged rides or subject a  
2 transportation network company to the municipality or other  
3 local entity's rate, entry, operational or other requirements,  
4 except for generally applicable business licenses or  
5 business-related taxes imposed on transportation network  
6 company drivers at the local level.

7 B. Nothing in this section prohibits an airport  
8 with more than one million annual enplanements as reported by  
9 the federal aviation administration in the previous calendar  
10 year from requiring a transportation network company to sign a  
11 permit requiring fees and other requirements in order to  
12 operate at that airport.

13 SECTION 22. [NEW MATERIAL] TRANSPORTATION DIVISION FUND  
14 CREATED--ASSESSMENT AND COLLECTION OF FEES.--

15 A. The "transportation division fund" is created in  
16 the state treasury for the purpose of ensuring the safety and  
17 financial responsibility of transportation network companies  
18 and transportation network company drivers. The fund shall  
19 consist of fees collected pursuant to the Transportation  
20 Network Company Services Act, administrative fines collected  
21 under that act, appropriations, gifts, grants, donations and  
22 earnings on investment of the fund. Balances in the fund shall  
23 not revert to the general fund or any other fund at the end of  
24 any fiscal year.

25 B. The transportation division fund shall be

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1 administered by the public regulation commission. Money in the  
2 fund is appropriated to the commission to carry out its duties  
3 pursuant to the provisions of the Transportation Network  
4 Company Services Act. Not more than five percent of the fees  
5 collected pursuant to this section shall be used by the  
6 commission for administrative purposes.

7 C. Payments from the transportation division fund  
8 shall be made upon vouchers issued and signed by the director  
9 of the administrative services division of the public  
10 regulation commission or the director's authorized  
11 representative upon warrants drawn by the secretary of finance  
12 and administration.

13 SECTION 23. [NEW MATERIAL] RECORDS PURSUANT TO RULES OF  
14 THE PUBLIC REGULATION COMMISSION.--

15 A. A transportation network company holding a  
16 permit issued by the public regulation commission shall  
17 maintain the records required pursuant to the Transportation  
18 Network Company Services Act to be collected by the  
19 transportation network company, including records regarding  
20 transportation network company drivers.

21 B. In response to a specific complaint, the public  
22 regulation commission, its employees or its duly authorized  
23 agents may inspect those records held by a transportation  
24 network company for the investigation and resolution of the  
25 complaint.

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1           C. No more than semiannually and as determined by  
2 the public regulation commission, the commission, its employees  
3 or its duly authorized agents may, in a mutually agreed  
4 setting, inspect those records held by a transportation network  
5 company whose review is necessary to ensure public safety;  
6 provided that such review shall be on an audit rather than a  
7 comprehensive basis.

8           D. Any proprietary records obtained by the public  
9 regulation commission pursuant to this section shall not be  
10 subject to disclosure by the commission.

11           **SECTION 24. [NEW MATERIAL] ADMINISTRATIVE PENALTIES.--**

12           A. If the public regulation commission finds after  
13 investigation that a provision of the Transportation Network  
14 Company Services Act or an order or rule of the commission is  
15 being, has been or is about to be violated, it may issue an  
16 order specifying the actual or proposed acts or omissions to  
17 act that constitute a violation and require that the violation  
18 be discontinued, rectified or prevented.

19           B. Notwithstanding the existence of any other  
20 penalties, the public regulation commission may assess an  
21 administrative fine of not more than one thousand dollars  
22 (\$1,000) for each violation of a provision of the  
23 Transportation Network Company Services Act or of a lawful rule  
24 or order of the commission. In the case of a continuing  
25 violation, each day's violation shall be deemed to be a

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1 separate and distinct offense.

2 C. All penalties accruing under the Transportation  
3 Network Company Services Act shall be cumulative, and a suit  
4 for recovery of one penalty shall not be a bar to or affect the  
5 recovery of any other penalty or be a bar to any criminal  
6 prosecution.

7 SECTION 25. [NEW MATERIAL] INVOLUNTARY SUSPENSION AND  
8 REVOCATION.--

9 A. The public regulation commission shall  
10 immediately suspend, without notice or a hearing, the permit of  
11 a transportation network company that:

12 (1) does not continuously maintain the amounts  
13 of financial responsibility prescribed by the Transportation  
14 Network Company Services Act;

15 (2) does not pay the fees owed by the  
16 transportation network company and the transportation network  
17 company's drivers; or

18 (3) operates in a manner that poses an  
19 immediate or imminent threat to public safety.

20 B. Once suspended, the transportation network  
21 company may apply for reinstatement by requesting a public  
22 hearing before the public regulation commission. At the public  
23 hearing on reinstatement, the transportation network company  
24 shall have the burden of proving that the reasons for the  
25 suspension no longer pertain.

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1           SECTION 26. Section 66-5-205.3 NMSA 1978 (being Laws  
2 2003, Chapter 171, Section 1) is amended to read:

3           "66-5-205.3. MOTOR VEHICLE INSURANCE POLICY--  
4 PROCEDURES.--

5           A. A motor vehicle insurance policy shall:

6                   (1) designate by explicit description or by  
7 appropriate reference all motor vehicles to which coverage is  
8 to be granted; and

9                   (2) insure the person named in the policy and  
10 a person using any such motor vehicle with the express or  
11 implied permission of the named insured against loss from the  
12 liability imposed by law for damages arising out of the  
13 ownership, maintenance or use of the motor vehicle within a  
14 jurisdiction, subject to the requirement to provide evidence of  
15 financial responsibility pursuant to the Mandatory Financial  
16 Responsibility Act.

17           B. A motor vehicle insurance policy shall insure a  
18 person named as insured against loss from the liability imposed  
19 upon the person by law for damages arising out of the use, with  
20 the express or implied permission of the owner or person in  
21 lawful possession, of a motor vehicle that the insured person  
22 does not own. The policy shall insure the person within the  
23 same territorial limits and in compliance with the requirement  
24 of evidence of financial responsibility as set forth in the  
25 Mandatory Financial Responsibility Act with respect to a motor

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1 vehicle insurance policy. A motor vehicle liability policy in  
2 which the described vehicle is a private passenger car is not  
3 required to provide liability insurance coverage for a non-  
4 owned truck tractor designed to pull a trailer or semitrailer.

5 C. Permitted exceptions to coverage otherwise  
6 required by Subsections A and B of this section may include the  
7 following if excluded by the motor vehicle insurance policy:

8 (1) an automobile business exclusion;

9 (2) a furnished for regular use exclusion;

10 (3) a vehicle rented for business use  
11 exclusion if the exclusion is contained in the motor vehicle  
12 insurance policy and is enforceable;

13 (4) an exclusion for any liability of the  
14 United States government or its agencies when the provisions of  
15 the Federal Tort Claims Act apply;

16 (5) an exclusion for liability of the insured  
17 under any workers' compensation law;

18 (6) an exclusion for damages to property owned  
19 by, rented to, in the charge of or transported by an insured;  
20 provided, however, that this exclusion shall not apply to  
21 damages to a residence or private garage rented by an insured;  
22 and

23 (7) an exclusion to apply when a vehicle is  
24 rented to others or used to carry persons for a charge,  
25 including when a vehicle is being used while logged on to a

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1 transportation network company's digital network and available  
2 to take requests for transportation or while a driver provides  
3 a prearranged ride; provided, however, that this exclusion  
4 shall not apply to use on a shared expense basis.

5 D. The motor vehicle insurance policy shall state  
6 the name and address of the insured, the coverage afforded by  
7 the policy, the premium charged, the policy period and the  
8 limits of liability. The policy shall also contain an  
9 agreement or endorsement that states that the insurance is:

10 (1) provided in accordance with the coverage  
11 defined in the Mandatory Financial Responsibility Act regarding  
12 bodily injury and death or property damage or both; and

13 (2) subject to all the provisions of that act.

14 E. Every motor vehicle insurance policy shall be  
15 subject to the following provisions, which may be contained in  
16 the policy:

17 (1) the policy may not be canceled or annulled  
18 as to the liability of the insurance carrier with respect to  
19 the insurance required by the Mandatory Financial  
20 Responsibility Act by an agreement between the insurance  
21 carrier and the insured after the occurrence of the injury or  
22 damage;

23 (2) the satisfaction by the insured of a  
24 judgment for injury or damage shall not be a condition  
25 precedent to the right or duty of the insurance carrier to pay

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1 on account of injury or damage;

2 (3) the insurance carrier has the right to  
3 settle a claim covered by the policy. If the settlement is  
4 made in good faith, the amount of the settlement is deductible  
5 from the limits of liability specified in the Mandatory  
6 Financial Responsibility Act; and

7 (4) the policy, the declarations page, the  
8 written application and a rider or an endorsement that does not  
9 conflict with the provisions of the Mandatory Financial  
10 Responsibility Act constitute the entire contract between the  
11 parties.

12 F. A binder issued pending the issuance of a motor  
13 vehicle insurance policy is deemed to fulfill the requirements  
14 for the policy."