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. SHORT TITLE.--Sections 1 through 22 of this act may be cited as the "Transportation Network Company Services Act".

SECTION 2. DEFINITIONS.--As used in the Transportation Network Company Services Act:

A. "digital network" means an internet-supported application, software, program, website or system offered or utilized by a transportation network company that enables the prearrangement of transportation by passengers with transportation network company drivers;

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

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

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

C. "prearranged ride" means transportation provided by a transportation network company driver, which shall be deemed to commence when a driver accepts a
transportation request through a digital network and continue until all passengers have exited from the personal vehicle at the destination requested by the rider. "Prearranged ride" does not include shared-expense vanpool or carpool arrangements or transportation provided using a taxicab, limousine or other vehicle for hire pursuant to the Motor Carrier Act;

D. "transportation network company" means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to the Transportation Network Company Services Act and lawfully operating in New Mexico that uses a digital network, but which shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network except where agreed to by written contract;

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

(1) accepts a prearranged ride requested through a digital network and for a fee paid by a transportation network company rider to the transportation network company; and

(2) uses a personal vehicle to provide a prearranged ride through a digital network;

F. "transportation network company insurance" means a liability insurance policy that specifically covers a
transportation network company driver's use of a
transportation network company digital network; and

G. "transportation network company rider" or
"rider" means a person who uses a digital network for a
prearranged ride.

SECTION 3. NOT OTHER CARRIERS.--Transportation network
companies and transportation network company drivers shall
not be subject to the Motor Carrier Act or deemed to provide
any transportation service as defined in the Motor Carrier
Act. A transportation network company driver shall not be
required to register a personal vehicle as a commercial
vehicle or vehicle for hire.

SECTION 4. TRANSPORTATION NETWORK COMPANY PERMIT
REQUIRED.--

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

B. A permit issued to a transportation network
company by the public regulation commission shall be
effective for one year.

C. The public regulation commission shall issue a
permit to a transportation network company that meets the
requirements set forth in the Transportation Network Company
Services Act and any rules adopted by the commission pursuant
to that act. The transportation network company shall pay an
annual permit fee of ten thousand dollars ($10,000) to the commission.

SECTION 5. FARE COLLECTED FOR SERVICES.--On behalf of a transportation network company driver, a transportation network company may charge a fare for the services provided to riders; provided that, if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare calculation method, including the applicable rates and any fees, and shall provide an estimated fare before the rider enters a personal vehicle for a prearranged ride.

SECTION 6. IDENTIFICATION OF TRANSPORTATION NETWORK COMPANY VEHICLES AND DRIVERS.--A digital network shall display a current photograph of the transportation network company driver, and the license plate number, state of vehicle registration and make and model of the personal vehicle for a prearranged ride.

SECTION 7. ELECTRONIC RECEIPT.--Within twenty-four hours after the completion of a prearranged ride, a transportation network company shall electronically transmit a receipt to the rider that includes:

A. the origin and destination addresses of the prearranged ride;

B. the total time elapsed of and distance of the prearranged ride; and
C. an itemization of the total fare paid, if any.

SECTION 8. FINANCIAL RESPONSIBILITY OF TRANSPORTATION NETWORK COMPANIES.--

A. Either the transportation network company driver, or the transportation network company on the driver's behalf, shall maintain primary automobile insurance that acknowledges that the driver is a transportation network company driver or otherwise uses a vehicle to transport riders for compensation and covers the driver:

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

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

B. While a transportation network company driver is logged on to the transportation network company's digital network, but is not engaged in a prearranged ride, the following minimum automobile insurance requirements shall apply: primary automobile liability insurance in the amount of at least fifty thousand dollars ($50,000) for death and bodily injury per person, one hundred thousand dollars ($100,000) for death and bodily injury per incident and twenty-five thousand dollars ($25,000) for property damage and uninsured and underinsured motorist coverage to the extent required by Section 66-5-301 NMSA 1978.

C. While a transportation network company driver
is engaged in a prearranged ride, the following minimum
automobile insurance requirements shall apply:

(1) insurance of at least one million
dollars ($1,000,000) primary automobile liability for death,
bodily injury and property damage; and

(2) uninsured and underinsured motorist
coverage to the extent required by Section 66-5-301
NMSA 1978.

D. If insurance maintained by a transportation
network company driver has lapsed or does not provide the
minimum coverage required by this section, insurance
maintained by a transportation network company shall provide
the coverage required as the primary coverage.

E. Insurance required by this section shall be
obtained from an insurer authorized to do business in the
state or with a surplus lines insurer eligible pursuant to
the New Mexico Insurance Code.

F. Insurance satisfying the requirements of this
section shall be deemed to satisfy the insurance requirements
of the Mandatory Financial Responsibility Act for a
transportation network company driver while engaged in a
prearranged ride or logged onto a digital network.

G. At all times while a transportation network
company driver is logged onto a digital network, the driver
shall possess digital and physical proof of coverage required
by this section.

H. In the event of a motor vehicle accident involving a transportation network company driver, which occurs while the driver is logged on to a digital network or engaged in a prearranged ride, the driver shall provide the required proof of insurance coverage to all passengers, other drivers, injured persons, automobile insurers and investigating law enforcement officers. A transportation network company driver shall also disclose whether the driver was logged on to a digital network, or on a prearranged ride, at the time of an accident.

SECTION 9. INSURANCE COVERAGE DISCLOSURES.--A transportation network company shall disclose in writing to its transportation network company drivers:

A. the insurance coverage that the transportation network company provides the transportation network company driver while the driver is logged on to a digital network, including the types of coverage and the limits for each coverage; and

B. that the transportation network company driver's insurance policy might exclude coverage while the driver is logged on to the transportation network company's digital network or while engaged in a prearranged ride.

SECTION 10. AUTOMOBILE INSURANCE PROVISIONS.--

A. Insurers that write automobile insurance in
New Mexico may exclude any part or all coverage of and the
duty to defend and indemnify an owner or operator of a
personal vehicle for any loss or injury that occurs while a
driver is logged on to a digital network or while engaged in
a prearranged ride. Such exclusions shall apply
notwithstanding requirements of the Mandatory Financial
Responsibility Act.

B. In a claims coverage investigation, a
transportation network company and any insurer providing
coverage for the transportation network company driver shall
disclose the precise times that a transportation network
company driver logged on and off of the transportation
network company's digital network in the twelve-hour period
immediately preceding an accident, and in the twelve-hour
period immediately following the accident, and disclose all
coverage, exclusions and policy limits provided for all
insurance maintained under the Transportation Network Company
Services Act.

C. If a transportation network company's insurer
makes a payment for a claim covered under comprehensive
coverage or collision coverage, and for property damage to a
vehicle subject to a finance lien, the transportation network
company shall cause its insurer to issue the payment directly
to the business repairing the vehicle or jointly to the owner
of the vehicle and any lienholder.
SECTION 11. ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.--

A. A transportation network company shall implement and enforce a zero-tolerance policy regarding drug and alcohol use by transportation network company drivers. The zero-tolerance policy shall prohibit any use or impairment due to intoxicating drugs or liquor while a transportation network company driver is providing prearranged rides or is logged on to the transportation network company's digital network.

B. A transportation network company shall publish on its website notice of its zero-tolerance policy, as well as procedures for a rider to report a complaint about a driver suspected to have been under the influence of illegal drugs or alcohol during a prearranged ride.

C. A transportation network company shall immediately conduct an investigation into every reported complaint of violation of its zero-tolerance policy, and the policy shall include procedures for suspension or termination of transportation network company drivers.

D. A transportation network company shall maintain records relevant to the enforcement of the requirements of this section for a period of at least four years from the date that a rider complaint is received by the transportation network company.

SECTION 12. TRANSPORTATION NETWORK COMPANY DRIVER
REQUIREMENTS.--

A. Before allowing a transportation network company driver to accept prearranged ride requests through a transportation network company's digital network:

(1) the prospective driver shall submit an application to the transportation network company that includes the individual's address, age, driver's license number and state, driving history, motor vehicle registration and proof of the insurance required;

(2) the transportation network company shall obtain a local and national criminal background check for the prospective driver that shall include:

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

(b) a national sex offender registry;

and

(3) the transportation network company shall obtain and review a driving history research report for the prospective driver.

B. A transportation network company shall not permit a person to act as a transportation network company driver who:

(1) has had more than three moving
violations in the preceding three-year period or one
violation in the preceding three-year period involving any
attempt to evade law enforcement, reckless driving or driving
on a suspended or revoked license;

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

(a) a felony;

(b) misdemeanor driving under the
influence, reckless driving, leaving the scene of an accident
or any other driving-related offense or any misdemeanor
violent offense or sexual offense; or

(c) more than three misdemeanors of any
kind;

(3) is identified by a national sex offender
registry;

(4) does not possess a valid license;

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

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

(7) is not at least twenty-one years old.

C. A transportation network company driver shall
not provide prearranged rides for more than twelve hours out
of any twenty-four-hour period.
SECTION 13. VEHICLE SAFETY.--

A. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the transportation network company if the motor vehicle operated by the driver to provide transportation services:

(1) is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;

(2) has fewer than four doors; or

(3) is designed to carry more than eight passengers, including the driver.

B. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide prearranged rides and not less than once each year thereafter.

C. The public regulation commission shall promulgate rules and regulations setting forth the requirements of annual inspection of a vehicle used by a transportation network company driver while logged on to a digital network or engaged in a prearranged ride.

SECTION 14. NO STREET HAILS.--A transportation network company driver shall not solicit or accept street hails.

SECTION 15. NO CASH TRIPS.--A transportation network
company shall adopt and enforce a policy prohibiting solicitation or acceptance of cash payments from riders. Any payment for prearranged rides shall be made only electronically by a digital network.

SECTION 16. NONDISCRIMINATION--ACCESSIBILITY.--

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

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

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

D. A transportation network company shall not impose additional charges for providing services to persons with physical disabilities.

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

SECTION 17. RECORDS.--

A. A transportation network company shall maintain:

(1) individual prearranged ride records for at least four years from the date each ride was provided; and

(2) individual records of transportation network company drivers for at least four years after the driver's relationship with the transportation network company has ended.

B. A transportation network company and a transportation network company driver shall not use or disclose a transportation network company rider's personal identifiable information to a third party unless the rider consents; disclosure is required by court order; or disclosure is required to investigate violations of the Transportation Network Company Services Act.

SECTION 18. CONTROLLING AUTHORITY.--

A. No municipality or other local entity may impose a tax on or require a license for a transportation
network company, a transportation network company driver or a vehicle used by a transportation network company driver where a tax or license relates to providing prearranged rides or subjects a transportation network company to the municipality's or other local entity's rate, tax, license, entry, operational or other requirements, except for generally applicable business licenses or taxes.

B. Nothing in this section prohibits an airport with more than one million annual enplanements, as reported by the federal aviation administration in the previous calendar year, from requiring a transportation network company to establish fees and other requirements to operate at that airport.

SECTION 19. TRANSPORTATION DIVISION FUND CREATED--ASSESSMENT AND COLLECTION OF FEES.--

A. The "transportation division fund" is created in the state treasury for the purpose of ensuring the safety and financial responsibility of transportation network companies and transportation network company drivers. The fund shall consist of fees collected pursuant to the Transportation Network Company Services Act, administrative fines collected under that act, appropriations, gifts, grants, donations and earnings on investment of the fund. Balances in the fund shall not revert to the general fund or any other fund at the end of any fiscal year.
B. The transportation division fund shall be administered by the public regulation commission. Money in the fund is appropriated to the commission to carry out its duties pursuant to the provisions of the Transportation Network Company Services Act. Not more than five percent of the fees collected pursuant to this section shall be used by the commission for administrative purposes.

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

SECTION 20. RECORDS PURSUANT TO RULES OF THE PUBLIC REGULATION COMMISSION.--

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

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

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

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

SECTION 21. ADMINISTRATIVE PENALTIES.--

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

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

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

SECTION 22. INVOLUNTARY SUSPENSION AND REVOCATION.--

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

(1) does not continuously maintain the insurance coverage prescribed by the Transportation Network Company Services Act;

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

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

B. Once suspended, the transportation network company may apply for reinstatement by requesting a public hearing before the public regulation commission and shall establish that the basis for the suspension has been corrected.

SECTION 23. Section 66-5-205.3 NMSA 1978 (being
Laws 2003, Chapter 171, Section 1) is amended to read:

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

A. A motor vehicle insurance policy shall:

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

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

B. A motor vehicle insurance policy shall insure a person named as insured against loss from the liability imposed upon the person by law for damages arising out of the use, with the express or implied permission of the owner or person in lawful possession, of a motor vehicle that the insured person does not own. The policy shall insure the person within the same territorial limits and in compliance with the requirement of evidence of financial responsibility as set forth in the Mandatory Financial Responsibility Act with respect to a motor vehicle insurance policy. A motor
vehicle liability policy in which the described vehicle is a private passenger car is not required to provide liability insurance coverage for a non-owned truck tractor designed to pull a trailer or semitrailer.

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

(1) an automobile business exclusion;
(2) a furnished for regular use exclusion;
(3) a vehicle rented for business use exclusion if the exclusion is contained in the motor vehicle insurance policy and is enforceable;
(4) an exclusion for any liability of the United States government or its agencies when the provisions of the Federal Tort Claims Act apply;
(5) an exclusion for liability of the insured under any workers' compensation law;
(6) an exclusion for damages to property owned by, rented to, in the charge of or transported by an insured; provided, however, that this exclusion shall not apply to damages to a residence or private garage rented by an insured; and
(7) an exclusion to apply when a vehicle is rented to others or used to carry persons for a charge,
including when a vehicle is being used while logged on to a transportation network company's digital network or while a driver provides a prearranged ride; provided, however, that this exclusion shall not apply to use on a shared expense basis.

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

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

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

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

(1) the policy may not be canceled or annulled as to the liability of the insurance carrier with respect to the insurance required by the Mandatory Financial Responsibility Act by an agreement between the insurance carrier and the insured after the occurrence of the injury or damage;
(2) the satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to pay on account of injury or damage;

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

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

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