

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on) RULE AND REGULATION NO. 194
its own motion, seeking to amend)
Title 291, Chapter 3, Motor Carrier)
Rules and Regulations, to adopt) ORDER ISSUING CERTIFICATE OF
rules in accordance with Nebraska) ADOPTION AND ADOPTING SECOND
Legislative Bill 629 [2015]) SET OF PROPOSED RULES
regarding regulation of)
Transportation Network Companies)
(TNC)) ENTERED: April 19, 2016

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

On June 16, 2015, the Nebraska Public Service Commission (Commission), on its own motion, opened this proceeding to amend Title 291, Chapter 3, Motor Carrier Rules and Regulations to adopt rules in accordance with Nebraska Legislative Bill 629 [2015], by adding Section 016 regarding the regulation of Transportation Network Companies (TNC).

The Commission released the first set of proposed rules requesting comments from interested parties and scheduling a workshop. Comments were received from Lyft, Inc. (Lyft); Rasier, LLC (Uber); Nebraska Bankers Association (NBA); Greater Omaha Chamber of Commerce (GOCC); Lincoln Chamber of Commerce (LCC); and Checker Cab Company d/b/a Checker Cab Company, Happy Cab Company, and Yellow Cab Company, DonMark Inc. d/b/a Cornhusker Cab Company, Valor Transportation Company d/b/a Safeway Cab Company, and Airport Transportation Company (collectively, Happy Cab).

A workshop was held August 5, 2015 to discuss the comments and gather additional input. Changes were made to the rules based upon written comments and workshop discussions, with specific emphasis on the submission of lienholder notifications to the Commission. Section 016 was also renumbered as Section 012.

A second set of proposed rules were released for comment on October 20, 2015. Comments were received from Happy Cab, the NBA, and Mueller Robak on behalf of Uber. Happy Cab proposed that the Commission consider amending proposed rule 012.06, prearranged ride, to make clear that TNCs are prohibited from directly soliciting or initiating contact with prospective passengers. Happy Cab also suggested a change to proposed rule 012.12 to require TNCs to file, as proprietary and confidential, the results of criminal background checks with the Commission. In the alternative, Happy Cab proposed that background check information should be made available upon Commission request.

A hearing was held on the second set of proposed rules on December 1, 2015. Notice of the hearing was published in The Daily Record and Lincoln Journal Star on October 23, 2015. Mr. Andy Pollock appeared on behalf of Happy Cab; Mr. Scott Binnings appeared on behalf of Uber; and Mr. Mark Breiner and Ms. Jamie Reyes appeared on behalf of the Commission.

Mr. Breiner addressed Happy Cab's second round of comments, stating that no change to proposed rule 012.12 was necessary as the statutes grant the Commission the authority to inspect background check information of TNC drivers upon request and through the audit process. In regards to Happy Cab's comments on proposed rule 012.06, Mr. Breiner stated that the definition of prearranged ride under proposed rule 012.02I did not include the ability of a TNC driver to pick up a passenger on demand or by street hail, so there may be no need for additional language.

Mr. Pollock expressed support of the adoption of the second set of proposed rules in relation to Commission staff's interpretations of the proposed rules addressed in Happy Cab's comments. However, Mr. Pollock discussed his client's concerns regarding "hawking," or direct personal solicitation of passengers by a driver, by TNC drivers at the Lincoln Airport, Lincoln downtown, and Omaha downtown areas. After further discussion, Mr. Pollock agreed to work with the parties and submit proposed language to the Commission for consideration.

Mr. Binnings also expressed support of the proposed rules, and agreed with the discussion regarding background check information and proposed rule 012.12. With regards to proposed rule 012.06 and 012.02I, Mr. Binnings stated that there was no opposition to amending the rules to clarify that TNC drivers are to arrange rides through the company application platform.

As discussed at the hearing, the parties filed proposed language to amend proposed rule 12.02I on December 22, 2015 as follows:

Prearranged ride means a ride in which a participating driver is matched to a passenger through a transportation network company's online-enabled application or platform and does not include on-demand summoning of a ride or street hail. Prearranged ride does not include shared-expense carpool or vanpool arrangements. Prearranged ride does not include activity by the participating driver to personally solicit passengers or initiate contact with potential passengers.

The proposed addition to proposed rule 012.02I is reasonable and should alleviate concerns discussed at the hearing. The proposed language is not substantially different from the proposed rule that was referenced in the published notice. All interested parties were aware of Happy Cab's written comments, had opportunity to participate in discussions at the hearing, and participate in the drafting of the proposed language after the hearing's conclusion. The proposed language also puts into writing the Commission's intent of the original language. Therefore, another hearing regarding the proposed rules is not necessary and the Commission adopts the revisions as proposed. The Commission finds that the proposed rules in Appendix A should be adopted and a Certificate of Adoption issued.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that a certificate of adoption for the proposed rules set forth in Appendix A be, and is hereby, issued.

ENTERED AND MADE EFFECTIVE in Lincoln, Nebraska this 19th day of April, 2016.

COMMISSIONERS CONCURRING:



//s//Frank E. Landis
//s//Crystal Rhoades
//s//Tim Schram

NEBRASKA PUBLIC SERVICE COMMISSION



Chairman

ATTEST:



Executive Director

APPENDIX

012 TRANSPORTATION NETWORK COMPANIES:

012.01 Applicability of Rules: The rules and regulations found in Chapter 3, Sections 001 through 015 of Title 291 of the Nebraska Administrative Code shall not apply to transportation network companies. If there is a conflict between Chapter 3, Sections 001 through 015 of Title 291 of the Nebraska Administrative Code and these rules regarding the regulation of transportation network companies, these rules and regulations shall apply.

012.02 Definitions: In addition to other definitions used in this chapter, unless the context otherwise requires, the following definitions apply:

012.02A Application open stage means the time period 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 passenger exits the vehicle, 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.

012.02B Commission means the Nebraska Public Service Commission.

012.02C Engaged stage means the time period from the moment a participating driver accepts a ride request on the transportation network company online-enabled application or platform.

012.02D Insurance policy means a policy placed with an authorized Nebraska insurer or with a surplus lines insurer pursuant to Chapter 44 of the Nebraska Revised Statutes.

012.02E Participating driver or driver means any person who uses a personal vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.

012.02F Passenger means a passenger in a personal vehicle for whom a driver provides transportation and who is connected with a driver by a transportation network company's online-enabled application or platform.

012.02G Passengers on board stage means the time period when there are passengers in the vehicle pursuant to the driver's participation in a transportation network company.

012.02H Personal vehicle means a passenger car as defined in section Neb. Rev. Stat. § 60-345 that a driver owns, leases or is otherwise authorized to use to provide services on a transportation network company's online-enabled application or platform.

012.02I Prearranged ride means a ride in which a participating driver is matched to a passenger through a transportation network company's online-enabled application or platform and does not include the on-demand summoning of a ride or street hail. Prearranged ride does not include shared-expense carpool or vanpool arrangements. Prearranged ride does not include activity by the participating driver to personally solicit passengers or initiate contact with potential passengers.

012.02J Service means the provision of transportation by a driver to a passenger with whom a transportation network company matches the driver.

012.02K Transportation network company means an organization, including a corporation, a limited liability company, a partnership, a sole proprietor, or any other entity, operating in this state that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with participating drivers using a personal vehicle. Transportation network company does not include Medicaid nonemergency medical transportation brokerage services provided pursuant to a contract with the Department of Health and Human Services.

012.02L Transportation network company insurance means an insurance policy that covers loss arising from a participating driver's use of a personal vehicle in connection with a transportation network company's online-enabled application or platform.

012.03 Unauthorized Operations: Unless exempted by statute, a transportation network company no person shall not engage in intrastate operations on any public highway operate a transportation network company in Nebraska without first having obtained from the Commission a permit to operate as a transportation network company in Nebraska.

012.04 Application Requirements: The application for permit to operate as a transportation network company in Nebraska must be filed on forms provided by the Commission.

012.04A The application for a permit shall be in writing, under oath, submitted to the Commission, and accompanied by the fee required under Neb. Rev. Stat. § 75-305(2).

012.04B A duly authorized official of the applicant who possesses the full power and authority to make binding

representations on the applicant's behalf shall subscribe to the oath on the application.

012.04B1 A participating driver contracting with a transportation network company holding a valid permit from the Commission shall not be required to obtain a permit or certificate from the Commission when driving pursuant to the terms of the contract with the transportation network company.

012.04C The application shall contain the following:

012.04C1 The legal name of the applicant;

012.04C2 Any name under which the applicant will or does conduct business in Nebraska;

012.04C3 The applicant's primary business address and telephone number;

012.04C4 A copy of the articles of organization or certificate to transact business in Nebraska;

012.04C5 The name, address, and telephone number of the applicant's registered agent in Nebraska; and

012.04C6 A statement that the applicant agrees to adhere to the statutes of Nebraska, ~~and to~~ the rules and regulations of the Commission regulating transportation network companies, and any applicable federal laws, local ordinances and regulations.

012.04D If an applicant is duly certified or permitted to operate a transportation network company in at least one other state, the Commission shall, within sixty (60) days after receiving a complete application, issue a permit to the applicant if the applicant meets the requirements set forth under statute and Commission rules and regulations.

012.04E If an applicant is not duly certified or permitted to operate a transportation network company in at least one other state, the Commission shall, within ninety (90) days after receiving a complete application, issue a permit to the applicant if the applicant meets the requirements set forth under statute and Commission rules and regulations. The applicant shall bear the burden of demonstrating that:

012.04E1 The applicant has sufficient financial resources to provide transportation network company services in the proposed service territory;

012.04E2 The applicant has sufficient technical competency to provide transportation network company

services in the proposed service territory; and

012.04E3 The applicant has sufficient managerial resources to provide transportation network company services in the proposed service territory.

012.04F If the Commission finds any information incomplete or inaccurate, the Commission shall notify the applicant and give the applicant the opportunity to complete the application.

012.05 Transportation Network Company Requirements: Every transportation network company shall:

012.05A Provide the Commission with its email address and customer service telephone number.

012.05B Display for the passenger either a picture of the driver's personal vehicle and a picture of the driver or the license plate number of the driver's personal vehicle on the online-enabled application or platform that a transportation network company uses to connect drivers and passengers.

012.05C Maintain an agent for service of process in Nebraska.

012.05D Maintain accurate and up-to-date records of all drivers providing services on behalf of the transportation network company, including the vehicle identification number for all personal vehicles to be operated in connection with the transportation network company.

012.05E Implement an anti-discrimination policy that prohibits discrimination by any driver providing service for the company on the basis of race, national origin, religion, gender, physical or mental disability, medical condition, marital status, or age and file the policy with the Commission.

012.05F Maintain a website that provides a customer service telephone number or email address of the transportation network company and that provides the telephone number and email address of the Commission.

012.05G Establish a driver training program designed to ensure that each driver safely operates his or her personal vehicle prior to the driver being able to offer services on the transportation network company's online-enabled application or platform.

012.05H Maintain records required under Neb. Rev. Stat. §§ ~~75-109.1(2)~~ through ~~(22)~~ 75-323 through 75-343 to be collected by the transportation network company, including records regarding participating drivers.

012.05I Cooperate with the Commission and any employees, investigators, or duly authorized agents of the Commission in the investigation of complaints received by the Commission from the public or in investigations initiated by the Commission.

012.05J Disclose in writing prior to permitting a person to act as a driver that a driver is responsible to know the laws, rules, and regulations that govern the service he or she provides in connection with a transportation network company.

012.06 Prearranged Ride: A participating driver shall not provide a ride unless it is a prearranged ride.

012.06A Upon completion of a prearranged ride, a transportation network company shall transmit an electronic receipt to the passenger's email address or online-enabled application documenting the following:

012.06A1 The point of origin and destination of the prearranged ride;

012.06A2 The total duration and distance of the prearranged ride;

012.06A3 The total amount paid, if any, including the base fare and any additional charges incurred for distance traveled or duration of the prearranged ride; and

012.06A4 The driver's first name.

012.07 Rates: Except as otherwise provided by statute or under these rules, a transportation network company shall not be subject to rate regulation by the Commission and shall not be subject to provisions relating to rates and charges prescribed in Neb. Rev. Stat. §§ 75-101 to 75-158.

012.07A A transportation network company may offer service for compensation, no charge, or suggested compensation.

012.07B A transportation network company shall file with the Commission the rates it uses to determine any compensation or suggested compensation on its online-enabled application or platform, including any use of dynamic pricing. The transportation network company shall keep the rate filing current and shall charge rates consistent with the rates it files with the Commission.

012.07C The following requirements apply if the transportation network company uses dynamic pricing through its online-enabled

application or platform:

012.07C1 The transportation network company's online-enabled application or platform shall provide clear visible indication that dynamic pricing is in effect prior to the passenger requesting a ride.

012.07C2 The transportation network company's online-enabled application or platform shall include a feature that requires the passenger to expressly confirm that he or she understands that dynamic pricing will be used in order for the ride request to be completed.

012.07C3 The transportation network company's online-enabled application or platform shall provide a fare estimator that enables the passenger to estimate the cost under dynamic pricing prior to requesting a ride.

012.07C42 Dynamic pricing shall not be permitted during any state of emergency declared by the Governor.

012.08 Non-compete: A transportation network company shall not require a participating driver to sign an agreement not to compete with the company in order to be matched with passengers through the company's online-enabled application or platform.

012.09 Ownership of Vehicles: A transportation network company shall not own, control, operate, or manage drivers' personal vehicles.

012.10 HHS Authorization: No transportation network company or participating driver shall provide transportation for any person under contract with the Department of Health and Human Services or any contractors of the Department of Health and Human Services without specific authorization from the Commission. In order to receive such authorization, the transportation network company or participating driver shall file an application which demonstrates that such service is or will be required by the present or future public convenience and necessity as required under Neb. Rev. Stat. § 75-371.20.

012.11 Drugs and Alcohol Policy: Every transportation network company shall implement, enforce, and maintain a zero-tolerance policy on the use of drugs or alcohol applicable to any driver providing service for the transportation network company that prohibits a driver from using any amount of drugs or alcohol while the driver is providing service.

012.11A The transportation network company must provide a copy of the policy to the Commission promptly upon adoption, and provide a copy of any revision to the policy promptly upon adoption.

012.11B A transportation network company shall not allow a driver to provide service if the company finds the driver to be

in violation of its zero-tolerance policy or if the driver has not successfully completed driver training as required under 012.05G.

012.11C The transportation network company shall provide on its website and its online-enabled application or platform notice of the zero-tolerance policy and the procedures to report a complaint about a driver with whom the passenger was matched when the passenger reasonably suspects the driver was under the influence of drugs or alcohol during the course of the prearranged ride.

016.11C1 Upon receiving a complaint, a transportation network company shall immediately suspend the driver against whom the complaint was issued and conduct an investigation of the alleged violation. The suspension shall last for the duration of the investigation.

012.11D If the Commission has reasonable cause to believe a transportation network company is not enforcing the zero-tolerance policy filed with the Commission, the Commission shall investigate and, after notice and hearing, may enter an order requiring the transportation network company to enforce such policy, which may include suspension of the participating driver.

~~012.12 Driver Training: A transportation network company shall establish a driver training program to ensure that each driver safely operates his or her personal vehicle prior to the driver being able to offer services on the transportation network company's online enabled application or platform.~~

RENUMBER THE REMAINING SECTIONS:

012.12 Driver Requirements: A participating driver must possess a valid driver's license, proof of registration, and proof of automobile liability insurance and be at least twenty-one (21) years of age.

012.12A Prior to permitting a person to act as a driver, the transportation network company shall obtain and review a national criminal history record information check.

012.12A1 The criminal disposition information retrieved by the transportation network company's national criminal history record information check shall be at least as comprehensive as the criminal disposition information retrieved by a national criminal history record information check performed by the Federal Bureau of Investigation pursuant to Neb. Rev. Stat. § 81-6120.

012.12A2 Fingerprinting is not required as part of the national criminal history record information check.

012.12B A person who has four or more moving traffic violations or one or more major traffic violations in the three (3) years prior to the date of the criminal background check shall not serve as a driver. The following offenses shall constitute major traffic violations:

012.12B1 Failure to stop and report or render aid as required under Neb. Rev. Stat. §§ 60-696 or 60-697;

012.12B2 Reckless driving in violation of any city or village ordinance or of §§ 60-6213, 60-6214, or 60-6217;

012.12B3 Speeding of more than thirty-five (35) miles per hour over the speed limit; and

012.12B4 Failure to yield to a pedestrian resulting in bodily injury to a pedestrian.

012.12C A person who has been convicted of or pled guilty or nolo contendere to driving under the influence of drugs or alcohol in the previous seven (7) years in this state or any other state or territory prior to the date of the criminal background check shall not serve as a driver.

012.12D A person who is required to register as a sex offender or who has been convicted of or pled guilty or nolo contendere to any offense involving fraud, use of a motor vehicle to commit a felony, a crime involving property damage, theft, acts of violence, or acts of terror shall not serve as a driver.

012.13 Hours of Operation: No person shall be a participating driver for a period of more than twelve (12) hours during each twenty-four (24) hour period.

012.14 Vehicle Requirement: In order for a vehicle to be used under these rules, a personal vehicle shall be in compliance with the Motor Vehicle Registration Act as required for a passenger car as defined in Neb. Rev. Stat. § 60-345.

012.15 Inspections: A transportation network company or a certified mechanic, who may be employed by a transportation network company, shall perform an initial safety inspection on each personal vehicle prior to approving it for use as a personal vehicle.

012.15A The inspection shall include inspection of at least the following components and as such components shall be in good working order:

012.15A1 Foot brakes;

012.15A2 Parking or emergency brakes;

012.15A3 Steering mechanism;

012.15A4 Windshield;

012.15A5 Rear window and other glass;

012.15A6 Windshield wipers;

012.15A7 Headlights;

012.15A8 Tail lights;

012.15A9 Turn indicator lights;

012.15A10 Stop lights;

012.15A11 Front seat adjustment mechanism;

012.15A12 The opening, closing, and locking capability of doors;

012.15A13 Horn;

012.15A14 Speedometer;

012.15A15 Bumpers;

012.15A16 Brake Lights;

RENUMBER REMAINING SECTIONS

012.15A17 Muffler and exhaust system;

012.15A18 Tire conditions, including tread depth;

012.15A19 Interior and exterior rear-view mirrors; and

012.15A20 Safety belts for driver and passengers.

012.15B A driver shall annually obtain such an inspection and approval of the driver's personal vehicle in order to continue its use as a personal vehicle. A driver shall maintain proof of the current inspection.

012.15C A transportation network company shall make the initial and annual inspection reports available to the Commission upon request.

012.16 Transportation Network Company Insurance: Beginning on September 1, 2015, a transportation network company and a participating driver shall maintain transportation network company insurance as provided.

012.16A Unless otherwise specified, the following requirements shall apply to transportation network company insurance during the engaged stage and during the passengers on board stage:

012.16A1 Primary liability coverage in the amount of at least one million dollars (\$1,000,000) for death, personal injury, and property damage; and

012.16A2 Uninsured and underinsured motorist coverage for both the driver and passengers in the amounts required by the Uninsured and Underinsured Motorist Insurance Coverage Act.

012.16B Unless otherwise specified, the following requirements shall apply to transportation network company insurance during the application open stage:

012.16B1 Transportation network company insurance shall be primary and in the amount of at least twenty-five thousand dollars (\$25,000) for death and personal injury per person, fifty thousand dollars (\$50,000) for death and personal injury per incident, and twenty-five thousand dollars (\$25,000) for property damage; and

012.16B2 Uninsured motorist coverage pursuant to the Uninsured and Underinsured Motorist Insurance Coverage Act.

012.16C The requirements for coverage may be satisfied by any of the following:

012.16C1 Transportation network company insurance maintained by a participating driver;

012.16C2 Transportation network company insurance maintained by a transportation network company; or

012.16C3 Any combination of the above.

012.16D Prior to permitting a person to act as a driver, a transportation network company shall disclose in writing to each participating driver:

012.16D1 The insurance coverage, the limits of liability, and any deductible amounts that the transportation network company maintains while the driver uses a personal vehicle in connection with a transportation network company's online-enabled application or platform;

012.16D2 That a driver's personal automobile insurance policy may potentially not provide coverage for damage to the vehicle used by the driver, uninsured and underinsured motorist coverage, and other first-party claims 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.

012.16D2a The driver should contact his or her insurer or insurance agent in order to determine coverage under his or her personal automobile insurance policy.

012.16E The insurer providing transportation network company insurance shall have the duty to defend and indemnify the insured.

012.16F An insurance policy required under Neb. Rev. Stat. §§ ~~75-109.1(2) through (22)~~ 75-323 through 75-341 shall be placed with an authorized Nebraska insurer or with a surplus-lines insurer pursuant to Chapter 44 of the Nebraska Revised Statutes.

012.16G 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, including a personal liability umbrella policy, be required to first deny a claim.

012.16H When transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of Neb. Rev. Stat. §§ ~~75-109.1(2) through (22)~~ 75-323 through 75-341 and these rules and regulations has lapsed or ceased to exist, the transportation network company shall provide the coverage required by Neb. Rev. Stat. §§ ~~75-109.1(2) through (22)~~ 75-323 through 75-341 and these rules beginning with the first dollar of a claim.

012.16I In order for transportation network company insurance maintained by a transportation network company to meet the requirements of Neb. Rev. Stat. §§ ~~75-109.1(2) through (22)~~ 75-323 through 75-341 and these rules, a certificate of insurance shall be filed with the Commission specifying that on cancellation or nonrenewal of the transportation network company insurance, the insurer must send written notice of the cancellation or nonrenewal to the Commission at least thirty (30) days before the effective date of the cancellation or nonrenewal.

012.16J Neb. Rev. Stat. §§ ~~75-109.1(2) through (22)~~ 75-323 through 75-341 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.

012.16K In the event of a loss involving a personal vehicle used in connection with a transportation network company and if such personal vehicle is subject to a lien, the transportation network company insurance carrier shall make payment for a claim covered under collision physical damage coverage or comprehensive physical damage coverage directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

012.16L The owner of any personal vehicle used in connection with a transportation network company shall have the duty to maintain collision physical damage coverage and comprehensive physical damage coverage for transportation network company activity if the vehicle is required to carry such coverage due to a contractual obligation.

012.16M A private passenger automobile insurance policy is not required to provide primary or ~~excess~~ ~~excessive~~ coverage during the period of time from the moment a participating driver logs on to a 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 personal vehicle, whichever is later.

012.16N Notwithstanding any other law, a personal automobile insurer may, at its discretion, offer an automobile insurance policy, or an amendment or endorsement to an existing policy, that covers a private passenger motor vehicle, station wagon type vehicle, sport utility vehicle, or similar type of motor vehicle with a passenger capacity of eight (8) 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 all or the defined portion of the time periods specified in Neb. Stat. §§ ~~75-109.1~~ 75-323 through 75-341, with or without separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged. The policy, amendment, or endorsement may include, but not be limited to:

012.16N1 Comprehensive physical damage coverage;

012.16N2 Collision physical damage coverage;

012.16N3 Liability coverage for bodily injury and property damage;

012.16N4 Medical payments coverage; and

012.16N5 Uninsured and underinsured motorist coverage.

012.16O 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 in the twenty-four (24) hour period preceding the accident.

012.16P All records, including electronic records, showing the time when a driver has logged in as active or logged out as inactive on the transportation network company's online-enabled application or platform, and any data or reports with information about the personal vehicle's involvement in a motor vehicle accident, that are maintained by the transportation network company shall be maintained for a minimum of five (5) years after the date the loss is reported to the transportation network company.

012.16Q A participating driver 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, upon request, provide this insurance coverage information to any other party involved in the accident and to a law enforcement officer.

016.16Q1 Proof of insurance coverage shall be in any format allowable under Nebraska law.

012.17 Liens:

012.17A A transportation network company is required to disclose in writing to any driver planning to use a vehicle which has a lien against it to provide service in connection with a transportation network company that the driver must notify the lienholder at least seven days prior to using the vehicle to provide such service that the driver intends to use the vehicle to provide service in connection with a transportation network company by complying with Neb. Rev. Stat. §§ ~~75-109.1(2) through (22)~~ 75-323 through 75-343 and these rules.

012.17A1 The transportation network company shall make the required disclosure a distinctive part of the driver's terms of service and shall require a separate acknowledgment of this disclosure by each driver by electronic or handwritten signature.

012.17B A driver planning to use a vehicle which has a lien against it to provide service in connection with a transportation network company shall notify the lienholder using a form prescribed by the Commission.

012.17B1 The form shall be signed by the driver and notarized prior to filing the form with the lienholder.

012.17B2 The driver shall file a copy of the signed and notarized lienholder notification form as well as proof of receipt of the form from the lienholder to the Commission prior to using the vehicle to provide service in connection with a transportation network company.

012.17C A driver planning to use a vehicle which has a lien against it to provide service in connection with a transportation network company shall update his or her lienholder notification form on file with the Commission within thirty (30) days should the driver acquire a lien on a vehicle or change lienholders during the course of his or her employment as a driver with a transportation network company.

012.17C1 The form shall be signed by the driver prior to filing the form with the lienholder.

012.17C2 The driver shall file a copy of the signed lienholder notification form as well as proof of receipt of the form to the Commission prior to using the vehicle to provide service in connection with a transportation network company.

012.17D The Commission shall maintain such records for a maximum of five (5) years.

012.17E The Commission shall make such records available to lienholders.

012.18 Records: The Commission or the employees or duly authorized agents of the Commission may, in a mutually agreed-upon setting, inspect any records held by a transportation network company which the Commission determines are necessary to review to ensure public safety, including information obtained pursuant to statute and these rules.

012.18A Such inspection of records shall occur no more than once each calendar quarter unless the Commission finds it necessary to inspect such records more frequently. Such inspection shall be conducted on an audit basis rather than a comprehensive basis.

012.18B In response to a specific complaint, the Commission may inspect any records held by a transportation network company which the Commission determines are necessary to investigate and resolve the complaint, including information obtained pursuant to

statute or these rules.

012.18C Any records obtained or inspected pursuant to these rules shall not be considered public records subject to Neb. Rev. Stat. §§ 84-712 to 84-712.09 and shall not be subject to disclosure by the Commission except when publicly disclosed as evidence in a civil penalty proceeding pursuant to Neb. Rev. Stat. § 75-156 or in a criminal proceeding prosecuted by the state.

012.19 Fees:

012.19A Every transportation network company shall pay an annual fee.

012.19A1 The transportation network company may choose to pay either twenty five thousand dollars (\$25,000) or a fee established by the Commission not to exceed eighty dollars (\$80) for each personal vehicle operated by a driver of the transportation network company.

012.19A2 The Commission shall establish the amount per vehicle on an annual basis so that the amount collected does not exceed the amount actually necessary to sustain the administration and enforcement of laws, rules, and regulations governing transportation network companies.

012.19B Annual fees shall be due and payable to the Commission no later than January 1. Such fees shall be paid to and collected by the Commission and remitted to the State Treasurer within thirty (30) days of receipt.

012.19B1 Annual fees shall be delinquent on March 1 of each year after such permit has been issued.

012.19B2 If the initial permit is issued to a transportation network company on or after July 1, the fee shall be fifty (50) percent of the annual fee.

~~012.20C The State Treasurer shall credit fees received pursuant to § 75-305(2) to the transportation Network Company Regulation Cash Fund for enforcement of laws, rules, and regulations governing transportation network companies.~~

012.20 Transportation Network Company Regulation Cash Fund:

012.20A This section is adopted pursuant to Neb. Rev. Stat. § 75-109.1(10) 75-331.

012.20B The Fund shall be used to regulate transportation network companies and enforce Neb. Rev. Stat. §§ 75-109.1(2) through (22) 75-321 through 75-343 and these rules and

regulations.

012.20C The Fund shall contain the fees remitted pursuant to Neb. Rev. Stat. § 75-305. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

012.21 Annual Report: The Commission shall electronically provide the Legislature with an annual report before December 31 of each year on the status of the implementation of Neb. Rev. Stat. §§ ~~75.109.1(2)~~ through ~~(22)~~ 75-321 through 75-343. The report shall describe the following:

012.21A The number of permits issued pursuant to § ~~75.109.1(3)~~ 75-324;

012.21B A description of any revocation proceedings involving permits issued under §§ ~~75.109.1(2)~~ through ~~(22)~~ 75-324;

012.21C The number of rides provided by taxicab carriers relative to historical numbers;

012.21D The number of taxicabs operated by taxicab carriers relative to historical numbers;

012.21E The number of drivers either employed or contracted by taxicab carriers relative to historical numbers;

012.21F The number of taxicab carriers authorized by the Commission relative to historical numbers;

012.21G Any other information in its possession that the Commission believes will assist the Legislature in evaluating the effectiveness of §§ ~~75.109.1~~ 75-323 through 75-343. The report shall also address the question of the need for further legislation to achieve the purposes of §§ ~~75.109.1(2)~~ through ~~(22)~~ 75-323 through 75-343.