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SENATE BILL NO. 1366

Senate Amendments in [] — January 23, 2017

A BILL to amend and reenact §§ 46.2-2000, 46.2-2001.3, 46.2-2011.20, 46.2-2011.29, and 46.2-2099.50 of the Code of Virginia, relating to transportation network company partner vehicle registration repeal; safety inspections.

Patron Prior to Engrossment—Senator Newman

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2000, 46.2-2001.3, 46.2-2011.20, 46.2-2011.29, and 46.2-2099.50 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-2000. Definitions.

Whenever used in this chapter unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Carrier by motor launch" means a common carrier, which carrier uses one or more motor launches operating on the waters within the Commonwealth to transport passengers.

"Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

"Certificate of fitness" means a certificate issued by the Department to a contract passenger carrier, a sight-seeing carrier, a transportation network company, or a nonemergency medical transportation carrier.

"Certificate of public convenience and necessity" means a certificate issued by the Department of Motor Vehicles to certain common carriers, but nothing contained in this chapter shall be construed to mean that the Department can issue any such certificate authorizing intracity transportation.

"Common carrier" means any person who undertakes, whether directly or by a lease or any other arrangement, to transport passengers for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water under this chapter. "Common carrier" does not include nonemergency medical transportation carriers, transportation network companies, or TNC partners as defined in this section.

"Contract passenger carrier" means a motor carrier that transports groups of passengers under a single contract made with one person for an agreed charge for such transportation, regardless of the number of passengers transported, and for which transportation no individual or separate fares are solicited, charged, collected, or received by the carrier. "Contract passenger carrier" does not include a transportation network company or TNC partner as defined in this section.

"Department" means the Department of Motor Vehicles.

"Digital platform" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with TNC partners.

"Employee hauler" means a motor carrier operating for compensation and exclusively transporting only bona fide employees directly to and from the factories, plants, office or other places of like nature where the employees are employed and accustomed to work.

"Excursion train" means any steam-powered train that carries passengers for which the primary purpose of the operation of such train is the passengers' experience and enjoyment of this means of transportation, and does not, in the course of operation, carry (i) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final destination solely for business or commercial purposes.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

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60 "Identification marker" means a decal or other visible identification issued ~~or required~~ by the
61 Department to show one or more of the following: (i) that the operator of the vehicle has registered with
62 the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title
63 58.1; (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 20 (§ 46.2-2000 et
64 seq.); ~~this chapter; or~~ (iii) proof that the vehicle has been registered with the Department as a TNC
65 partner vehicle under subsection B of § 46.2-2099.50; (iv) proof that the vehicle has been authorized by
66 a transportation network company to be operated as a TNC partner vehicle, in accordance with
67 subsection C of § 46.2-2099.50; ~~or~~ (v) proof of compliance with the insurance requirements of this
68 chapter.

69 "Interstate" means transportation of passengers between states.

70 "Intrastate" means transportation of passengers solely within a state.

71 "License" means a license issued by the Department to a broker.

72 "Minibus" means any motor vehicle having a seating capacity of not less than seven nor more than
73 31 passengers, including the driver, and used in the transportation of passengers.

74 "Motor carrier" means any person who undertakes, whether directly or by lease, to transport
75 passengers for compensation over the highways of the Commonwealth.

76 "Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for the
77 carriage of passengers for compensation, with a capacity of six or more passengers, but not in excess of
78 50 passengers. "Motor launch" does not include sight-seeing vessels, special or charter party vessels
79 within the provisions of this chapter. A carrier by motor launch shall not be regarded as a steamship
80 company.

81 "Nonemergency medical transportation carrier" means a motor carrier that exclusively provides
82 nonemergency medical transportation and provides such transportation only (i) through the Department
83 of Medical Assistance Services; (ii) through a broker operating under a contract with the Department of
84 Medical Assistance Services; or (iii) as a Medicaid Managed Care Organization contracted with the
85 Department of Medical Assistance Services to provide such transportation.

86 "Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or
87 existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as defined in
88 §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code, as amended, who undertakes, whether directly
89 or by lease, to control and operate minibuses exclusively in the transportation, for compensation, of
90 members of such organization if it is a membership corporation, or of elderly, disabled, or economically
91 disadvantaged members of the community if it is not a membership corporation.

92 "Operation" or "operations" includes the operation of all motor vehicles, whether loaded or empty,
93 whether for compensation or not, and whether owned by or leased to the motor carrier who operates
94 them or causes them to be operated.

95 "Operation of a TNC partner vehicle" means (i) any time a TNC partner is logged into a digital
96 platform and is available to pick up passengers; (ii) any time a passenger is in the TNC partner vehicle;
97 and (iii) any time the TNC partner has accepted a prearranged ride request through the digital platform
98 and is en route to a passenger.

99 "Operator" means the employer or person actually driving a motor vehicle or combination of
100 vehicles.

101 "Permit" means a permit issued by the Department to carriers operating as employee haulers or
102 nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing taxicab
103 service under this chapter.

104 "Person" means any individual, firm, copartnership, corporation, company, association, or joint-stock
105 association, and includes any trustee, receiver, assignee, or personal representative thereof.

106 "Personal vehicle" means a motor vehicle that is not used to transport passengers for compensation
107 except as a TNC partner vehicle.

108 "Prearranged ride" means passenger transportation for compensation in a TNC partner vehicle
109 arranged through a digital platform. "Prearranged ride" includes the period of time that begins when a
110 TNC partner accepts a ride requested through a digital platform, continues while the TNC partner
111 transports a passenger in a TNC partner vehicle, and ends when the passenger exits the TNC partner
112 vehicle.

113 "Restricted common carrier" means any person who undertakes, whether directly or by a lease or
114 other arrangement, to transport passengers for compensation, whereby such transportation service has
115 been restricted. "Restricted common carrier" does not include a transportation network company or TNC
116 partner as defined in this section.

117 "Route," when used in connection with or with respect to a certificate of public convenience and
118 necessity, means the road or highway, or segment thereof, operated over by the holder of a certificate of
119 public convenience and necessity or proposed to be operated over by an applicant therefor, whether such
120 road or highway is designated by one or more highway numbers.

121 "Services" and "transportation" include the service of, and all transportation by, all vehicles operated

by, for, or in the interest of any motor carrier irrespective of ownership or contract, expressed or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or the performance of any service in connection therewith.

"Sight-seeing carrier" means a restricted common carrier authorized to transport passengers under the provisions of this chapter, whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism.

"Sight-seeing carrier by boat" means a restricted common carrier, which restricted common carrier uses a boat or boats operating on waters within the Commonwealth to transport passengers, and whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as steamship companies.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Special or charter party carrier by boat" means a restricted common carrier which transports groups of persons under a single contract made with one person for an agreed charge for such movement regardless of the number of persons transported. Special or charter party carriers by boat shall not be regarded as steamship companies.

"Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a seating capacity of not more than six passengers, excluding the driver, not operating on a regular route or between fixed terminals used in the transportation of passengers for hire or for compensation, and not a common carrier, restricted common carrier, transportation network company, TNC partner, or nonemergency medical transportation carrier as defined in this chapter.

"TNC insurance" means a motor vehicle liability insurance policy that specifically covers liabilities arising from a TNC partner's operation of a TNC partner vehicle.

"TNC partner" means a person authorized by a transportation network company to use a TNC partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

"TNC partner vehicle" means a personal vehicle authorized by a transportation network company and used by a TNC partner to provide prearranged rides on an intrastate basis in the Commonwealth.

"Trade dress" means a logo, insignia, or emblem attached to or visible from the exterior of a TNC partner vehicle that identifies a transportation network company or digital platform with which the TNC partner vehicle is affiliated.

"Transportation network company" means a person who provides prearranged rides using a digital platform that connects passengers with TNC partners.

§ 46.2-2001.3. Application; notice requirements.

A. Applications for a license, permit, certificate, ~~or identification marker, or TNC partner vehicle registration~~ or renewal of a license, permit, certificate, ~~or identification marker, or TNC partner vehicle registration~~ under this chapter shall be made to the Department and contain such information and exhibits as the Department shall require. Such information shall include ~~except in the case of a TNC partner vehicle~~, in the application or otherwise, the matters set forth in § 46.2-2011.24 as grounds for denying licenses, permits, and certificates, and other pertinent matters requisite for the safeguarding of the public interest.

Notwithstanding any other provision of this chapter, the Commissioner may require all or certain applications for a license, permit, certificate, ~~or identification marker, or TNC partner vehicle registration~~ to be filed electronically.

~~For the purposes of this subsection, "identification marker" does not include trade dress.~~

B. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate, unless otherwise provided, shall cause a notice of such application, on the form and in the manner prescribed by the Department, on every motor carrier holding the same type of certificate issued by the Department and operating or providing service within the area proposed to be served by the applicant.

C. For any application for original certificate or license issued under this chapter, or any request for a transfer of such certificate or license, the Department shall publish a notice of such application on the Department's public website in the form and in the manner prescribed by the Department.

D. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate of public convenience and necessity, shall cause a publication of a summary of the application to be made in a newspaper having a general circulation in the proposed area to be served or area where the primary business office is located within such time as the Department may prescribe.

§ 46.2-2011.20. Unlawful use of registration and identification markers.

It shall be unlawful for any person to operate or cause to be operated on any highway in the Commonwealth any motor vehicle that (i) does not carry the proper registration and identification that

183 this chapter requires, (ii) does not display an identification marker in such manner as is prescribed by
184 the Department, or (iii) bears registration or identification markers of persons whose TNC partner
185 vehicle registration under subsection B of § 46.2-2099.50 or whose license, permit, or certificate issued
186 by the Department has been canceled, revoked, or suspended; or whose renewal thereof has been denied
187 in accordance with this chapter.

188 **§ 46.2-2011.29. Surrender of identification marker, license plate, and registration card; removal**
189 **by law enforcement; operation of vehicle denied.**

190 A. For purposes of this section, "identification marker" does not include trade dress.

191 B. It shall be unlawful for a licensee, permittee, or certificate holder; or for the registrant or operator
192 of a vehicle registered under subsection B of § 46.2-2099.50, whose license, permit, or certificate, or
193 vehicle's registration as a TNC partner vehicle, has expired or been revoked or, suspended, or canceled;
194 or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on
195 demand, to the Department license plates, identification markers, and registration cards issued under this
196 title.

197 C. B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate
198 or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or
199 refuse to surrender to the Department on demand license plates, identification markers, and registration
200 cards issued under this title.

201 D. Except as provided in subsection E, if C. If any law-enforcement officer finds that a vehicle
202 bearing Virginia license plates or temporary transport plates is in violation of subsection B A or C B,
203 such law-enforcement officer may remove the license plate, identification marker, and registration card.
204 If a law-enforcement officer removes a license plate, identification marker, or registration card, he shall
205 forward the same to the Department.

206 E. If the officer finds that a TNC partner vehicle bearing Virginia license plates is being operated in
207 violation of subsection B, such law-enforcement officer shall direct the operator of the vehicle to
208 promptly remove any identification marker and any registration card issued under subsection B of
209 § 46.2-2099.50 and return the same to the Department. If any law-enforcement officer finds that a TNC
210 partner vehicle not bearing Virginia license plates is being operated in violation of subsection B, such
211 law-enforcement officer shall remove any identification marker and any registration card issued under
212 subsection B of § 46.2-2099.50 and shall forward the same to the Department.

213 F. D. When informed that a vehicle is being operated in violation of this section, the driver shall
214 drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved
215 until the motor carrier is in compliance with all provisions of this chapter.

216 **§ 46.2-2099.50. Requirements for TNC partner vehicles; trade dress issued by transportation**
217 **network company.**

218 A. A TNC partner vehicle shall:

- 219 1. Be a personal vehicle;
- 220 2. Have a seating capacity of no more than eight persons, including the driver;
- 221 3. Be validly titled and registered in the Commonwealth or in another state;
- 222 4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the
223 vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;
- 224 5. Have a valid Virginia safety inspection or an [annual] inspection conducted in another state for
225 which the Department of State Police has determined that such motor vehicle safety inspection standards
226 adequately ensure public safety and carry proof of that inspection on or in the vehicle; and
- 227 6. Be covered under a TNC insurance policy meeting the requirements of § 46.2-2099.51 or
228 46.2-2099.52, as applicable; and

229 7. Be registered with the Department for use as a TNC partner vehicle and display an identification
230 marker issued by the Department as provided in subsection B.

231 No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of
232 this subsection.

233 B. A vehicle owner, lessee, or TNC partner shall register a personal vehicle for use as a TNC partner
234 vehicle. A TNC partner that is not the vehicle owner or lessee shall, prior to registering any TNC
235 partner vehicle with the Department, secure the consent of each owner, lessor, and lessee of the vehicle
236 as applicable for its registration as a TNC partner vehicle and for its use as a TNC partner vehicle by
237 the TNC partner. A transportation network company shall have the option of registering a TNC partner
238 vehicle on behalf of a TNC partner electronically through a secure portal maintained by the Department
239 provided the TNC partner, if the TNC partner is not the vehicle owner or lessee, certifies that it has
240 secured consent from each owner, lessor, and lessee of the vehicle for its registration as a TNC partner
241 vehicle and for its use as a TNC partner vehicle by the TNC partner.

242 Prior to registering for use as a TNC partner vehicle any vehicle that has been titled and registered in
243 another state, the vehicle owner or lessee, or a transportation network company on behalf of the owner
244 or lessee, shall provide the Department with such information as the Department requires to establish a

customer record for that person and that person's vehicle. A transportation network company shall have the option to submit this information electronically through a secure portal maintained by the Department.

For each TNC partner vehicle a transportation network company authorizes, the transportation network company or TNC partner shall provide to the Department, in a form acceptable to the Department, any information reasonably necessary for the Department to identify the vehicle and register it for use as a TNC partner vehicle.

Upon registering a vehicle for use as a TNC partner vehicle, the Department shall issue a temporary registration, an identification marker to the vehicle owner or lessee, and a registration card indicating the vehicle's registration for use as a TNC partner vehicle.

The Commissioner may deny, suspend, cancel, or revoke the TNC partner vehicle registration and identification marker for any of the following reasons: (i) the vehicle is not properly registered; (ii) the vehicle does not carry insurance as required by this article; (iii) the vehicle is sold; or (iv) the vehicle is used by a TNC partner in a manner not authorized by this chapter.

Registration of a TNC partner vehicle under this subsection shall remain valid until (a) the vehicle is no longer authorized to operate as a TNC partner vehicle by a transportation network company; (b) the TNC partner, vehicle owner, or lessee requests cancellation of the registration; (c) there is a transfer of vehicle ownership, other than a transfer from the lessor of the vehicle to the lessee; (d) the vehicle's lease terminates and ownership is not transferred to the lessee; or (e) the Department suspends, revokes, or cancels the registration of the vehicle for use as a TNC partner vehicle. The fee for the replacement of a lost, mutilated, or illegible identification marker or registration card shall be the same as the fee set forth in § 46.2-692 for the replacement of a decal or vehicle registration card. However, if the TNC partner vehicle is not titled and registered in Virginia, the replacement fee for an identification marker shall be \$40.

Any vehicle registered with the Department as a personal vehicle and subject to further registration as a TNC partner vehicle pursuant to this section shall be presumed to be used for nonbusiness purposes for the purpose of determining whether it is a qualifying vehicle under § 58.1-3523 absent clear and convincing evidence to the contrary, and any registration pursuant to this section shall not create any presumption of business or commercial use of the vehicle or of business activity on the part of the TNC partner, for purposes of any state or local requirement.

C. B. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network company shall confirm that the vehicle meets the requirements of subsection A and shall provide each TNC partner with proof of any TNC insurance policy maintained by the transportation network company.

For each TNC partner vehicle it authorizes, a transportation network company shall issue trade dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the transportation network company or digital platform with which the vehicle is affiliated and shall be displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

The transportation network company shall submit to the Department proof that the transportation network company has established the trade dress required under this subsection by filing with the Department an illustration or photograph of the trade dress.

A TNC partner shall keep the trade dress issued under this subsection visible at all times while the vehicle is being operated as a TNC partner vehicle.

No person shall operate a vehicle bearing trade dress issued under this subsection without the authorization of the transportation network company issuing the trade dress.

D. Any information provided to the Department pursuant to this section, whether held by the Department or another public entity, shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Neither the Department nor any such public entity shall disclose any such information to a nongovernmental entity absent a court order or subpoena. In the event information provided pursuant to this section is sought through a court order or subpoena, the Department or other public entity shall promptly notify the transportation network company prior to disclosure so as to afford the transportation network company the opportunity to take appropriate actions to prevent disclosure. The Department shall not disclose such information to a governmental entity other than to enable that entity to perform its governmental function.