

Title 19

Part 9 – Transportation Network Companies

Part 9, Chapter 1: Transportation Network Company Law

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Rule 1.01: Promulgation and Purpose

These Rules and Regulations for Transportation Network Companies are promulgated by the Commissioner of Insurance of the State of Mississippi in accordance with the Transportation Network Company Act, *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, to be codified in *Title 77, Chapter 8 of the Mississippi Code of 1972, as Amended*, and the Mississippi Administrative Procedures Act, *Miss. Code § 25-43-1, et seq.*, and shall become effective after adopted and promulgated in accordance with the provisions of the Mississippi Administrative Procedures Act. This Regulation is being filed as a regulation pursuant to the provisions of *H. B. No. 1381, 2016 Regular Legislative Session*.

The purpose of these Rules and Regulations is to provide consistent regulation of Transportation Network Companies, and their operation, throughout the State of Mississippi, and to promote the

safe and responsible operation of such companies with respect to their dealings with the public, as well as to ensure that drivers and companies are adequately insured to provide consumers with a means to recoup losses or damages incurred.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.02: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*, as well as the provisions of *19 Miss. Admin. Code, Part 1, Chapter 15 (Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department, As Amended).*

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.03: Scope

This Regulation shall apply to all Transportation Network Companies and Transportation Network Drivers, as defined in *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, operating in the State of Mississippi.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.04: Definitions

As used in these regulations:

(a) "Personal vehicle" means a vehicle that is used by a transportation network company driver and is:

(i) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(ii) Not a common carrier by motor vehicle, contract carrier by motor vehicle, or restricted motor carrier under *Chapter 7, Title 77, Mississippi Code of 1972.*

(b) "Commissioner" means the Commissioner of Insurance.

(c) "Department" means the Mississippi Department of Insurance.

(d) "Digital network" means any online-enabled technology application service, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(e) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that is licensed under this act and operating in Mississippi that uses

a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company 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.

(f) "Transportation network company driver" or "driver" means an individual who:

(i) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(ii) Uses a Personal Vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

(g) "Transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(h) "Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a common carrier by motor vehicle, contract carrier by motor vehicle, or restricted motor carrier under *Chapter 7, Title 77, Mississippi Code of 1972*. A prearranged ride does not include shared expense carpool arrangements or vanpooling as defined in *Section 77-7-7*, or any other type of arrangement or service in which the driver receives a fee that does not exceed the driver's costs associated with providing the ride.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.05: Distinguished from Common Carriers, Taxicab and Limousine

Transportation network companies or transportation network company drivers are not common carriers by motor vehicle, contract carriers by motor vehicle, or restricted motor carriers under *Chapter 7, Title 77, Mississippi Code of 1972*, nor do they provide taxicab or limousine services. A transportation network company driver shall not be required to register the vehicle the driver uses to provide prearranged rides as a commercial vehicle.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.06: License Required

(1) A person shall not operate a transportation network company in Mississippi without first having obtained a license from the department.

(2) The Department shall issue a license to each applicant that meets the requirements for a transportation network company as provided for in the Transportation Network Company Act and these regulations, and pays an annual license fee of Five Thousand Dollars (\$5,000.00) to the department.

(3) License applicants are to use the application prescribed and furnished by the Mississippi Insurance Department. License applicants may obtain licensing information and instructions at the Department's website at the following link: <http://www.mid.ms.gov>.

(4) Licenses issued shall authorize the applicant to operate within the State of Mississippi, and shall be effective on the date of issue for a period beginning on October 1 through September 30 of the following year (the "License Period"). The license fee shall not be prorated in the event an applicant holds the license for only a portion of the License Period. License applications and renewals will be processed electronically via SIRCON or by paper. The license issued shall expire on September 30 unless properly renewed by obtaining a license for the subsequent License Period. License renewal notices will be mailed approximately 60 days prior to the license expiration.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.07: Agent for Service of Process

Each transportation network company shall maintain an agent for service of process in the State of Mississippi.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.08: Fare Disclosure Requirements

On behalf of a transportation network company driver, a transportation network company may charge a fare for the services provided to riders; however, if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare or fare calculation method on its website or within the online-enabled technology application service. The transportation network company shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the transportation network company driver's vehicle.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.09: Driver Identification Process

The transportation network company's online-enabled technology application or website shall display a picture of the transportation network company driver, and the license plate number of the motor vehicle utilized for providing the prearranged ride before the rider enters the transportation network company driver's vehicle.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.10: Electronic Receipt

Within a reasonable period of time following the completion of a trip, a transportation network company shall transmit an electronic receipt to the rider on behalf of the transportation network company driver that lists:

- (a) The origin and destination of the trip;
- (b) The total time and distance of the trip; and
- (c) An itemization of the total fare paid, if any.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.11: Automobile Insurance Requirements

(1) On or before the effective date of this act and thereafter, a transportation network company driver or transportation network company on the driver's behalf shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:

- (a) While the driver is logged on to the transportation network company's digital network;
- or
- (b) While the driver is engaged in a prearranged ride.

(2) A participating transportation network company driver who is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride shall be covered by primary automobile liability insurance in the amount of at least Fifty Thousand Dollars (\$50,000.00) for death and bodily injury per person, One Hundred Thousand Dollar (\$100,000.00) for death and bodily injury per incident and Twenty-five Thousand Dollars (\$25,000.00) for property damage and uninsured motorist to the extent required by Section 83-11-101.

(3) The coverage requirements of subsection (2) of this section may be satisfied by any of the following:

- (a) Automobile insurance maintained by the transportation network company driver; or
- (b) Automobile insurance maintained by the transportation network company; or
- (c) Any combination of paragraphs (a) and (b) of this subsection.

(4) (a) While a transportation network company driver is engaged in a prearranged ride he must be covered by a primary automobile liability insurance that provides at least One Million Dollars

(\$1,000,000.00) for death, bodily injury and property damage and uninsured motorist to the extent required by Section 83-11-101.

(b) The coverage requirements of this subsection may be satisfied by any of the following:

- (i) Automobile insurance maintained by the transportation network company driver; or
- (ii) Automobile insurance maintained by the transportation network company; or
- (iii) Any combination of paragraphs (a) and (b) of this subsection.

(5) If insurance maintained by driver in subsections (3) or (4) of this section has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim and the insurer shall have the duty to defend such claim.

(6) Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(7) Insurance required by this section may be placed with an insurer licensed to do business in Mississippi or with a surplus lines insurer eligible under *Miss. Code § 83-21-17 et seq.*

(8) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under the Mississippi Motor Vehicle Safety Responsibility Law, *Miss. Code § 63-15-1 et seq.*

(9) A transportation network company driver shall carry proof of coverage satisfying this section with him or her at all times during his or her use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers, upon request. Upon a request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.12: Required Notifications to Drivers

The transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a prearranged ride on the transportation network company's digital network:

(a) The insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network; and

(b) That the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.13: Insurers' Authority to Exclude TNC Activity from Coverage

(1) Insurers that write automobile insurance in Mississippi may exclude any and all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:

- (a) Liability coverage for bodily injury and property damage;
- (b) Uninsured and underinsured motorist coverage;
- (c) Medical payments coverage;
- (d) Comprehensive physical damage coverage; and
- (e) Collision physical damage coverage.

(2) The exclusions provided for in subsection (1) of this section shall apply notwithstanding any requirement under the Mississippi Motor Vehicle Safety Responsibility Law Section, *Miss. Code § 63-15-1 et seq.* Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation. Nothing shall preclude an insurer from providing coverage for the transportation network company driver's vehicle, if it chooses to do so by contract or endorsement.

(3) Automobile insurers that exclude the coverage described in *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, shall have no duty to defend or indemnify any claim expressly excluded. Nothing in this act shall invalidate or limit an exclusion contained in a policy including any policy in use or approved for use in Mississippi prior to the effective date of this act that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy, shall have a right of contribution against other

insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, at the time of loss.

(4) In a claims coverage investigation, transportation network companies and any insurer providing coverage under *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver if applicable, including 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 and in the twelve-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under *Mississippi House Bill No. 1381, 2016 Regular Legislative Session* and Rule 1.11 of these regulations.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*.

Rule 1.14: Driver Status as Independent Contractors

Drivers shall be independent contractors and not employees of the transportation network company if all of the following conditions are met:

(a) The transportation network company does not prescribe specific hours during which a transportation network company driver must be logged into the transportation network company's digital platform;

(b) The transportation network company imposes no restrictions on the transportation network company driver's ability to utilize digital platforms from other transportation network companies;

(c) The transportation network company does not assign a transportation network company driver a particular territory in which to operate;

(d) The transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

(e) The transportation network company and transportation network company driver agree in writing that the driver is an independent contractor of the transportation network company.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*.

Rule 1.15: Zero Tolerance Policy

(1) The transportation network company shall implement a zero tolerance policy regarding a transportation network company driver's activities while accessing the transportation network company's digital platform. The zero tolerance policy shall address the use of drugs or alcohol

while a transportation network company driver is providing prearranged rides or is logged into the transportation network company's digital network but is not providing prearranged rides, and the transportation network company shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(2) Upon receipt of such rider complaint alleging a violation of the zero tolerance policy, the transportation network company shall suspend such transportation network company driver's access to the transportation network company's digital platform as soon as possible, and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(3) The transportation network company shall maintain records relevant to the enforcement of this requirement for a period of at least two (2) years from the date that a rider complaint is received by the transportation network company.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.16: Driver Certification Requirements

(1) Before allowing an individual to accept trip requests through a transportation network company's digital platform as a transportation network company driver:

(a) The individual shall submit an application to the transportation network company, which includes information regarding his or her address, age, driver's license, motor vehicle registration, automobile liability insurance, and other information required by the transportation network company;

(b) The transportation network company shall conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include:

(i) Multistate/multijurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search); and

(ii) United States Department of Justice National Sex Offender Public Website;

(2) The transportation network company shall review, or have a third party review, a driving history research report for such individual.

(3) The transportation network company shall not permit an individual to act as a transportation network company driver on its digital platform who:

(a) Has had more than three (3) moving violations in the prior three-year period, or one (1) of the following major violations in the prior three-year period:

- (i) Attempting to evade the police;
- (ii) Reckless driving; or
- (iii) Driving on a suspended or revoked license;
- (b) Has been convicted, within the past seven years, of
 - (i) Any felony; or
 - (ii) Misdemeanor driving under the influence, reckless driving, hit and run, or any other driving-related offense or any misdemeanor violent offense or sexual offense;
- (c) Is a match in the U.S. Department of Justice National Sex Offender Public Website;
- (d) Does not possess a valid driver's license;
- (e) Does not possess proof of registration for the motor vehicle used to provide prearranged rides;
- (f) Does not possess proof of automobile liability insurance for the motor vehicle used to provide prearranged rides; or
- (g) Is not at least nineteen (19) years of age.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.17: Solicitation and Street Hails Prohibited

A transportation network company driver shall not solicit or accept street hails.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.18: Cash Payments Prohibited

The transportation network company shall adopt a policy prohibiting solicitation or acceptance of cash payments for the fares charged to riders for prearranged rides and notify transportation network company drivers of the policy. Transportation network company drivers shall not solicit or accept cash payments from riders.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.19: Nondiscrimination and Service Animal Policy

(1) The transportation network company shall adopt a policy of nondiscrimination with respect to riders and potential riders and notify transportation network company drivers of the policy.

(2) Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against riders or potential riders.

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

(4) A transportation network company shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.20: Customer Records Requirement

A transportation network company shall maintain the following customer records:

(a) Individual trip records for at least one (1) year from the date each trip was provided; and

(b) Individual records of transportation network company driver customers at least until the one-year anniversary of the date on which a transportation network company driver's customer relationship with the transportation network company has ended.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.21: Inspection and Audit Provisions

(1) For the sole purpose of verifying that a transportation network company is in compliance with the requirements of this act and not more than annually, the commissioner shall have the right to visually inspect a sample of records that the transportation network company is required to maintain. The sample shall include required records pertaining to up to fifty (50) transportation network drivers, provided that the transportation network company shall undertake best efforts not to share records about the same transportation network company driver during consecutive reporting periods. If, after this initial review, the commissioner has a reasonable basis to conclude that the transportation network company is not in compliance with the requirements of this act, the commissioner may, upon reasonable notice, conduct a supplemental audit of records for an additional selection of transportation network company drivers. The audit shall take place at a mutually agreed location in Mississippi. The expenses of the examination shall be borne and paid by the transportation network company that is under examination.

(2) Documents, materials or other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the commissioner or any other person in the course of an examination made under this act shall be confidential by law and privileged, and shall not be subject to the Mississippi Public Records Act. The commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential and privileged documents, materials or other information, with other state, federal and international regulatory agencies, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication or other information. The commissioner may enter into agreements governing the sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(5) In response to a specific complaint against any transportation network company driver or transportation network company, the commissioner is authorized to inspect records held by the transportation network company that are necessary to investigate and resolve the complaint.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.22: Prohibition Against Competing Regulation; Airport Exceptions

(1) Transportation network companies and transportation network company drivers are governed exclusively by the Transportation Network Company Act, *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, and these rules promulgated by the commissioner consistent with said act. A county, municipality or other local entity may not:

(a) 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 the tax or licenses relate to providing prearranged rides;

(b) Require a transportation network company or a transportation network company driver to obtain a business license or any other type of similar authorization to operate within the jurisdiction; or

(c) Subject a transportation network company or a transportation network company driver to any type of rate, entry, operational or other requirements.

(2) Notwithstanding subsection (1) of this section, a county, municipality or other local entity that owns or operates an airport, may adopt reasonable regulations relating to the duties and responsibilities on airport property of a transportation network company or transportation network company driver, including its ability to impose reasonable fees and vehicle tracking requirements on a transportation network company or its affiliated transportation network company drivers, but excluding its ability to impose other fees, taxes, registration, licensing or special insurance requirements on transportation network company drivers, and excluding its ability to impose requirements with respect to special markings or identification other than that provided for in *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, and Rule 1.09 of these regulations, and excluding its ability to impose requirements for equipment.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.23: Violations, Hearings, and Appeals

(1) Failure of an applicant or licensee to comply with a material provision of the Transportation Network Company Act or this regulation is considered a violation of applicable laws. The Commissioner of Insurance may deny a license application or suspend or revoke a license, after giving notice of hearing to the applicant or licensee by serving a written statement of charges on the licensee or its registered agent at least twenty (20) days prior to a hearing, for any violation of the Transportation Network Company Act, *Mississippi House Bill No. 1381, 2016 Regular Legislative Session*, or this Regulation. Service shall be deemed accomplished three (3) days after the date of mailing, via certified mail, of the notice of hearing by the Mississippi Insurance Department, addressed to the licensee or its registered agent. In the case of personal delivery, service shall be deemed accomplished on the date of personal delivery to the licensee or its registered agent. The Mississippi Insurance Department is not required to provide a court reporter to make a record of the testimony given at the hearing, and the record of testimony may be taken through audio recording or other appropriate means, which may be transcribed by employees of the Mississippi Insurance Department, and will constitute the record of testimony in the event of an appeal. Any respondent may provide its own method of recording testimony, including retaining a court reporter, at the respondent's own expense.

(2) The rules of order and procedure for any hearing held pursuant to subpart 1 of this Rule shall be in accordance with *19 Miss. Admin. Code, Part 1, Chapter 15 (Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department)*, unless in conflict with the specific provisions of this regulation.

(3) Any Transportation Network Company who is a party to any hearing before the Commissioner and who is aggrieved by any decision of the Commissioner with respect to any hearing before him, shall have the right of appeal to the Circuit Court of Hinds County, Mississippi, pursuant to the provisions of the Mississippi Uniform Circuit and County Court Rules. All such appeals shall be appeals on the record, including a transcript of pleadings and evidence, both oral and documentary, heard and filed before the commissioner.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.24: Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*

Rule 1.25: Effective Date

The Effective Date of this Regulation shall be October 1, 2016.

Source: *Mississippi House Bill No. 1381, 2016 Regular Legislative Session.*