

Amendments to Transportation Network Company Services Act; SB 101

SB 101 amends the Kansas Transportation Network Company (TNC) Services Act (Act), enacted in 2015 House Sub. for SB 117, which became effective on publication in the *Kansas Register* on May 14, 2015. The bill modifies the definition of a TNC; makes changes to the required actions by a TNC prior to permitting an individual to act as a driver on its digital network by removing language regarding local and national criminal background check requirements on the Kansas Bureau of Investigation (KBI) and eliminating the requirement that the individual provide proof of comprehensive and collision insurance coverage for personal vehicles subject to a lien; replaces the list of events disqualifying an individual as a TNC driver with an expanded list of disqualifying events; modifies language regarding the disclosure provided by a TNC to its TNC drivers in the prospective drivers' written terms of service with regard to lienholders' interests; requires a TNC driver to ensure the insurance coverage required by a lienholder on a vehicle used to provide TNC services is in effect; and removes obsolete language referencing an undefined Commission. Additional details are provided below.

The section addressing lienholders' interests takes effect on and after January 1, 2016. The remainder of the amendments take effect on publication in the statute book.

TNC Definition

The definition of a "transportation network company" is amended to remove language regarding licensure pursuant to the Act and the definition becomes a corporation, partnership, sole proprietorship or other entity operating in Kansas that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A TNC is not deemed to control, direct, or manage the personal vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract.

Requirements Prior to Acting as a TNC Driver

The bill amends the actions required of a TNC prior to permitting an individual to act as a driver on its digital network to:

- Remove the requirement to obtain a local and national criminal background check on the individual, conducted by the KBI; and
- Remove the requirement, if the individual's personal vehicle is subject to a lien, that the individual provide proof to the lienholder and to the TNC of comprehensive and collision insurance coverage on the vehicle that covers the period when the individual is logged on to a TNC's digital network but not engaged in a prearranged ride (Period 1) and when the individual is engaged in a prearranged ride (Period 2).

The bill adds a list of disqualifying events that prohibit a TNC from permitting an individual to act as a driver on its digital network. The list of disqualifying events include permanent disqualifications and disqualifications occurring within an established period of time.

Disqualifications

A TNC is prohibited from permitting an individual to act as a TNC driver on its digital network who:

- Does not possess a valid driver's license;
- Does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;
- Does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride;
- Is not at least 19 years of age;
- Has a permanent disqualification, as described below; or
- Has a disqualification that occurred within a specified time frame, described below as staged disqualifications.

Permanent Disqualifications

An individual is permanently disqualified as a TNC driver if he or she:

- Has been convicted of:
 - Any person felony described in statute in Article 34 or Article 54 of *Kansas Statutes Annotated* Chapter 21 (*i.e.*, capital murder, first or second degree murder, voluntary or involuntary manslaughter, assisting suicide, kidnapping or aggravated kidnapping, or aggravated assault);
 - Any sex offense described in statute in Article 35 or Article 55 of KSA Chapter 21 (*i.e.*, rape, criminal or aggravated criminal sodomy, sexual or aggravated sexual battery, indecent or aggravated indecent liberties with a child, indecent or aggravated indecent solicitation of a child, unlawful sexual relations, electronic solicitation, sexual exploitation of a child), or KSA 2014 Supp. 21-6419 through 21-6422 (*i.e.*, any sexual offense that is a crime against the public morals);
 - Identity theft, as described in KSA 2010 Supp. 21-4018, or KSA 2014 Supp. 21-6107;
 - Any attempt, conspiracy, or solicitation of any crime described above; or
 - A crime under the law of another jurisdiction that is substantially the same as the crimes described above; or

- Is registered on the National Sex Offender Registry, the Kansas Offender Registry, or any similar registry of any other jurisdiction.

Staged Disqualifications

An individual is disqualified as a TNC driver for a set period of time if he or she has:

- A combined total of more than three moving violations in Kansas or any other jurisdiction within the past three years;
- A traffic violation in Kansas or any other jurisdiction within the past three years of attempting to evade the police, reckless driving, or driving on a suspended license; or
- A conviction, adjudication, or placement on diversion, within the past seven years, of:
 - Driving under the influence of drugs or alcohol in Kansas or any other jurisdiction;
 - Any crime involving controlled substances, as described in KSA 2010 Supp. 21-36a01 through 21-36a17 or in statute in Article 57 of Chapter 21, or any violation of any provision of the Uniform Controlled Substances Act prior to July 1, 2009;
 - Theft, as described in KSA 2009 Supp. 21-3701 or KSA 2014 Supp. 21-5801;
 - Any crime involving fraud, dishonesty, or deceit, as described by the Kansas Criminal Code;
 - Any attempt, conspiracy, or solicitation of any crime described above; or
 - A violation of the law or ordinance of another jurisdiction, including any municipality, which is substantially the same as the crimes described above.

Lienholders' Interest

The bill adds that a TNC is required to disclose prominently, with a separate acknowledgment of acceptance, to its drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital platform: "If you are required by agreement with the lienholder to maintain comprehensive and collision insurance on the vehicle, using the vehicle for TNC services without such insurance coverage may violate your legal obligation to the lienholder under Kansas law."

In addition, if the vehicle used by a TNC driver is subject to a lien and the lienholder requires comprehensive and collision insurance in its agreement, the bill requires the TNC

driver to ensure that such insurance is in effect and covers the periods when the TNC driver is logged on to a TNC's digital network but not engaged in a prearranged ride (Period 1) and when the TNC driver is engaged in a prearranged ride (Period 2).

The bill also deletes language (2015 House Sub. for SB 117) referencing an undefined commission that is prohibited from assessing fines for violations under this section of the Act.