

Dear Honorable Members of the State of Kansas House of Representatives Transportation Committee:

I thank Representatives Holscher, Barker, Delperdang, Finney, Gartner, Henderson, Kuether, Neighbor, Samsel, Winn and Woodard for their care and concern for public safety and their efforts to improve upon it. In that interest, they have produced House Bill 2614 requiring trade dress on Transportation Network Company (TNC) drivers' vehicles. The bill at present requires that TNC drivers' vehicles display reflective or illuminated signage on the front windshield and passenger-side rear window (ambiguous - passenger rear quarter glass or passenger side of rear window/backlight?). Per email communication from Representative Holscher, "We're looking for testimony from people who want to ensure the safety of all passengers, especially young women, when catching a ride through an app." In a telephone conversation this morning with Representative Holscher, she shared that the verbiage may change to require that the trade dress signage include the driver's name and license plate number of the vehicle along with the TNC logo.

In that shared interest of public safety, I am sharing the following observations, concerns, and suggestions:

I have a background in physical and cyber-security through my professional work as a security and compliance analyst with Corporate Risk Solutions, Inc. (CRSI), formerly of Lenexa, KS. The company specialized in physical and cyber-security compliance for electric utility companies. I also provide private transportation for hire through both Lyft and Uber. It was my work at CRSI that led me to becoming a TNC driver through Lyft and Uber. When Lyft and then Uber opened in Kansas City, a couple of our Certified Ethical Hackers encouraged a few of us to sign up as an academic curiosity exercise as they wanted to test the cyber-security of the networks in protecting client data, etc. I found driving to be pleasant and have continued. On the physical security side, one of the key standout advantages of TNC vehicles is that they are not necessarily marked. Our team of experts agreed that taxis and other trade dress marked for-hire vehicles are at greater risk of attack or malicious activity because they are marked. A would-be person with ill intent may see such a vehicle and its occupants as good targets for robbery due to perceived cash on board. The lack of markings combined with positive identification of drivers and passengers through the apps largely solves the outside attack threat issue and the passenger - driver identification issue.

I have completed over 6,000 rides combined via Lyft and Uber since 2014 when the services opened in Kansas City and only experienced 2 incidents with reportable personal safety issues: One in which an inebriated passenger strongly requested that I take her home - to my home. I took her to her home with the rest of her party and reported the incident to Uber. The other was an inebriated man attempted to climb from the back seat to the front seat and grabbed the steering wheel. I also reported this to Uber. Neither of these directly relate to the public safety concern of passengers entering the wrong vehicles or drivers picking up the wrong passengers, but they do relate in that all of these safety issues revolve around personal behaviors and choices.

Positive identification of passengers and drivers before passengers enter the TNC vehicle is vital for the shared safety of drivers and passengers. Passengers receive descriptions of the vehicles including license plate number, make, model, and color plus the first name and a photo of the driver. Drivers receive the first name of the requesting passenger. Some passengers will be waiting curbside and attempt to hop into the first vehicle that stops near them without verifying anything. Likewise, there are drivers who don't verify the passenger's identity and tap or swipe "start trip" as soon as someone enters the car and "off they go" right or wrong. They are the high-risk pool. The passengers of the high-risk pool are also

the intended benefactors of trade dress. As many are engrossed in their cell phones, conversations, listening to something with headphones, or otherwise distracted, I truly doubt that adding trade dress will move their personal safety needle much if at all. They just don't pay attention.

What does insure safety for drivers and riders alike is my process that I regularly share with other drivers through social networks:

1. Upon accepting a requested ride, I send the following text to the rider: Thanks for requesting. I'm on my way to open doors, load luggage, and provide great service! Please wait inside warm, comfy, and safe. 🚗 😊
2. Upon arrival at the pickup location, I get out, walk around the car, and greet the rider: "Hello. I am Nolan and my license plate is QEC856. May I please have your name?" I never ask "Are you so-and-so?". A distracted person will mistakenly say "Yes".
3. Once the rider provides the correct name, I welcome the passengers, load their luggage, etc. No one enters with open alcohol, smoking, e-cigarettes, visible weapons, etc. I point out seatbelts and amenities available and we go.

Likewise, if a driver doesn't get out and greet the passengers, the passengers must take responsibility and place their safety first. Regardless of trade dress, before they enter a vehicle, they must do their due diligence and see if the vehicle matches the description and driver matches the photo. They must ask the driver, "May I please have your name?" and not "Are you so-an-so?".

Most drivers and passengers don't do these things and likely won't regardless. They just want to get in and go. It's a human behavioral issue.

To address the safety issue of the wrong people in the wrong car that HB 2614 attempts to address, Uber has been rolling out an app feature that sends a personal identification number (PIN) to the rider. The rider must give the PIN to the driver. The driver cannot start the ride until the correct PIN is entered in the driver's app. This easy, electronic step, solves the wrong person in the wrong car safety issue.

Trade dress can impact other areas of safety:

- Modern vehicles have much less glass area than vehicles built just a few years ago. Outward visibility is greatly reduced due to thick pillars, high door window sills, etc. Anything applied to the glass further reduces outward visibility and increases the risk of collisions.
- Lighted signage is non-compliant with United States Department of Transportation regulations regarding signal lighting for motor vehicles. State, county, and local police in Kansas have been enforcing these regulations and ticketing drivers displaying lighted signage. The same applies to automotive reflectors as regulated by the US DOT. A state-legislated requirement for illuminated trade dress or reflectors that conflicts with DOT regulations is a compliance and enforcement problem.
- Lighted signage, such as Lyft's Amp light often mounts on a dashboard. It is illegal to mount or place anything on dashboards in many jurisdictions. More importantly any signage on the interior of a windshield, on a dashboard, any window, or seating area has the potential of becoming a projectile in a collision in which airbags deploy. This increases the risk of injury or death to occupants of the vehicle. This is why many newer vehicles no longer have coat hooks over the doors.

Trade dress can cause unintended financial impacts for drivers, many of whom do not have great financial resources. In the spring of 2015, the Kansas legislature was working to appropriately regulate the TNC industry and require that it provide proper primary full coverage insurance at all times that a driver is online. Uber, in particular, ran a very effective social media, email, and app-based disinformation campaign accusing the Kansas legislature of writing a “poison pill bill” that would ban Uber from Kansas. The bill would have required state-run background checks for drivers and their driving history as well as the aforementioned full-coverage insurance. Uber hired Mark Dugan, Governor Sam Brownback’s campaign manager to lead the charge against regulating TNCs and bend Governor Brownback to its will. See: <https://www-1.kansas.com/news/politics-government/article19766655.html#> The legislature passed the bill, Uber shut down its app and declared that Kansas banned Uber. Governor Brownback then vetoed the bill and “Voila!” Uber got the bogus and weak bill it wanted and turned its app back on.

This ties to trade dress as most personal insurance policies prohibit use of the insured person’s vehicle for TNC ride-share business. Lyft and Uber provide only minimum state limit liability insurance when a driver is online but has no request or passenger in the car. The personal insurance is void. The only protection is:

- Liability coverage
- \$25,000/person for bodily injury
- \$50,000/accident for bodily injury
- \$25,000/accident for property damage
- Personal injury protection (PIP or No Fault)
- Minimum amount required by law:
- \$4,500/person for medical expenses
- \$900/month for one year for disability/loss of income
- \$25/day for in-home services
- \$2,000 for funeral, burial or cremation expense
- \$4,500 for rehabilitation expense
- Survivor Benefits: Disability/loss of income up to \$900/month for one year
- In-home services up to \$25/day for one year
- Uninsured/Underinsured
- \$25,000/person
- \$50,000/accident

This means that if the driver causes an accident while online but has no passenger, he or she has no protection for damage to his or her vehicle and is grossly uninsured based on average values of modern cars and costs of injuries.

Lyft and Uber do provide full-coverage primary insurance with comprehensive and collision with deductibles of \$2,500 and \$1,000 respectively to cover the driver’s car and a \$1 million combined single limit liability policy. Most Americans cannot afford a surprise expense of \$400 not to mention, \$2,500 or \$1,000 plus the loss of income plus the loss of insurance coverage when their personal insurance company finds out that they are driving for TNCs. A few companies do offer ride-share riders, but they tend to be higher-charging companies to start with and then charge income-struggling drivers more for the ride-share rider. Most drivers are financially forced to choose to “fly under the radar” and run on their regular insurance and pray that something bad won’t happen. If a driver is not on an active trip but in an accident, he or she will turn off the app and report the accident not mentioning TNC work

to avoid the financial calamity of being cancelled and uprated with more expensive insurance if they can get any at all. Trade dress makes it more difficult for the driver to make the personal claim that he or she should not be forced into the dilemma over.

\$1 million combined single limit liability provided by the TNCs is insufficient. A driver can have up to 7 passengers in the car if driving a minivan or large SUV. If he or she causes an accident and totals another late model car and injures just a couple of people, the \$1 million is gone very fast, leaving the driver on the hook for everything, probably in debt for life or facing bankruptcy. It is important to remember that property and casualty insurance companies are not health insurance companies and must pay the full "sticker price" charged by medical providers, e.g. Hospital A bills \$20,000 for an MRI that a health insurance company will pay \$1,000 for by contract but a property and casualty company will have to pay the full \$20,000. The medical dollars get spent at lightning speed when paid by a property and casualty company.

Suggestions of what to do:

- Drop the trade dress requirement in HB 2614 as it causes more problems than it can solve.
- Change HB 2614 to include the requirement for a PIN based verification system forcing the driver to enter in the driver's app the PIN displayed on the rider's app to start the ride. This forces the confirmation of both riders and drivers.
- Legislate that TNCs provide drivers with primary full coverage comprehensive, collision, and liability insurance with comprehensive and collision deductibles not to exceed \$1,000 and liability coverage not less than \$1 million/ride-share vehicle occupant, e.g. 4 people in the car = \$4 million, 7 people = \$7 million combined single limits.

Bad things do happen. Bad things happen rarely but often get a lot of attention, especially when they happen in a popular buzz-worthy service. This attracts much attention and public outcry but may not represent the real risks or present the real solutions. Fixing the insurance situation will improve security for drivers and passengers alike after bad things happen. Bad personal things happen to people of all genders. Based on the the available data about for-hire and TNC services, negative interactions involving drivers and passengers occur at the same or possibly lower rates than the taxi and limo industry as a whole. Trade dress cannot affect the necessary behavioral changes in drivers or passengers to significantly enhance safety and security. PIN verification can affect the necessary behavioral changes needed, reducing those negative interactions and making it very difficult for those who would fraudulently pose as legitimate drivers. Together, we can improve security for drivers and passengers alike.

Please contact me with any question, concern, or observation. Thank you for your attention and consideration.

Sincerely,  
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