

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY



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SPECIAL BOARD

AGENDA

Wednesday, July 1, 2015
2:30 P.M.

San Diego International Airport
Commuter Terminal – Third Floor
Board Room
3225 N. Harbor Drive
San Diego, California 92101

***Live webcasts of Authority Board meetings can be accessed at
<http://www.san.org/Airport-Authority/Meetings-Agendas?EntryId=1954>***

This Agenda contains a brief general description of each item to be considered. The indication of a recommended action does not indicate what action (if any) may be taken. ***Please note that agenda items may be taken out of order.*** If comments are made to the Board without prior notice or are not listed on the Agenda, no specific answers or responses should be expected at this meeting pursuant to State law.

Staff Reports and documentation relating to each item of business on the Agenda are on file in Corporate & Information Governance and are available for public inspection.

NOTE: Pursuant to Authority Code Section 2.15, all Lobbyists shall register as an Authority Lobbyist with the Authority Clerk within ten (10) days of qualifying as a lobbyist. A qualifying lobbyist is any individual who receives \$100 or more in any calendar month to lobby any Board Member or employee of the Authority for the purpose of influencing any action of the Authority. To obtain Lobbyist Registration Statement Forms, contact the Corporate & Information Governance/Authority Clerk Department.

PLEASE COMPLETE A "REQUEST TO SPEAK" FORM PRIOR TO THE COMMENCEMENT OF THE MEETING AND SUBMIT IT TO THE AUTHORITY CLERK. ***PLEASE REVIEW THE POLICY FOR PUBLIC PARTICIPATION IN BOARD AND BOARD COMMITTEE MEETINGS (PUBLIC COMMENT) LOCATED AT THE END OF THE AGENDA.***

The Authority has identified a local company to provide oral interpreter and translation services for public meetings. If you require oral interpreter or translation services, please telephone the Corporate & Information Governance/Authority Clerk Department with your request at (619) 400-2400 at least three (3) working days prior to the meeting.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

NEW BUSINESS:

1. AIRPORT-PERMITTED COMMERCIAL VEHICLE DRIVER PERMIT REQUIREMENTS:

The Board is requested to amend the codes.

RECOMMENDATION: Adopt Resolution No. 2015-0066, authorizing the President/CEO to determine the required form of background checks for all ground transportation service providers and amending Authority Codes 9.12 – Ground Transportation Service Permits, 9.13 – Driver Permits, 9.14 – Insurance, 9.15 – Vehicle Registration and 9.21 – Vehicle Condition to facilitate issuance of Transportation Network Company Pilot Program Permits.

(Ground Transportation: David Boenitz, Director)

ADJOURNMENT:

Policy for Public Participation in Board, Airport Land Use Commission (ALUC), and Committee Meetings (Public Comment)

- 1) Persons wishing to address the Board, ALUC, and Committees shall complete a "Request to Speak" form prior to the initiation of the portion of the agenda containing the item to be addressed (e.g., Public Comment and General Items). Failure to complete a form shall not preclude testimony, if permission to address the Board is granted by the Chair.
- 2) The Public Comment Section at the beginning of the agenda is limited to eighteen (18) minutes and is reserved for persons wishing to address the Board, ALUC, and Committees on any matter for which another opportunity to speak is not provided on the Agenda, and on matters that are within the jurisdiction of the Board. A second Public Comment period is reserved for general public comment later in the meeting for those who could not be heard during the first Public Comment period.
- 3) Persons wishing to speak on specific items listed on the agenda will be afforded an opportunity to speak during the presentation of individual items. Persons wishing to speak on specific items should reserve their comments until the specific item is taken up by the Board, ALUC and Committees. Public comment on specific items is limited to twenty (20) minutes – ten (10) minutes for those in favor and ten (10) minutes for those in opposition of an item. Each individual speaker will be allowed three (3) minutes, and applicants and groups will be allowed five (5) minutes.
- 4) If many persons have indicated a desire to address the Board, ALUC and Committees on the same issue, then the Chair may suggest that these persons consolidate their respective testimonies. Testimony by members of the public on any item shall be limited to **three (3) minutes per individual speaker and five (5) minutes for applicants, groups and referring jurisdictions.**
- 5) Pursuant to Authority Policy 1.33 (8), recognized groups must register with the Authority Clerk prior to the meeting.
- 6) After a public hearing or the public comment portion of the meeting has been closed, no person shall address the Board, ALUC, and Committees without first obtaining permission to do so.

Additional Meeting Information

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Board Communication

Date: June 29, 2015
To: Board Members
From: Angela Shafer-Payne, VP, Operations
Subject: Airport-Permitted Commercial Driver Permit Requirements

Board Meeting- June 25, 2015

At the June 25, 2015 meeting, the Board was requested to approve Staff's recommendation to authorize the President/CEO to determine the required form of background checks for all ground transportation service providers and to amend Authority Codes 9.12 – Ground Transportation Service Permits, 9.13 – Driver Permits, 9.14 – Insurance, 9.15 – Vehicle Registration and 9.21 – Vehicle Condition, to facilitate issuance of Transportation Network Company Pilot Program Permits. During the discussion, the Board had questions about the differences between the California Public Utilities Commission ("PUC") establishing TNC background check requirements (Decision 13-09-045, September 19, 2013) and the Authority's existing Code § 9.13. During the meeting, Uber Technologies ("Uber") voiced concerns regarding the differences between the PUC requirements and the Authority's Code and clearly reiterated Uber's disagreement with the Authority's evaluation requirement for the disqualifying offense review period. Staff was directed to provide additional information comparing key regulatory requirements for commercial driver background checks procedures and disqualification criteria.

Background Check Comparison Criteria (Attachment A)

Staff has prepared the Background Check Comparison Criteria (Attachment A) describing the background requirements found in the following: (1) the PUC Decision (Attachment B); (2) Authority Code and (3) the San Diego County Code of Regulatory Ordinances ("County Code") (Attachments C & D) used by the Sheriff's Department to issue taxicab licenses. The table summarizes the general requirements, the disqualifying offense review period, and the specific offenses disqualifying a permit applicant.

The PUC stipulates that "any felony conviction within seven (7) years prior to the date of the background check" makes the applicant ineligible to be a TNC Driver. The Authority's Code, which is consistent with the County Code, establishes that an applicant who would otherwise be ineligible based upon a disqualifying offense may become eligible "when five (5) years have elapsed from the later of (1) the last date of applicant's discharge from a jail or penal institution; (2) the last date of applicant's discharge from parole; or (3) the last date on which applicant was placed on probation." These relevant time periods are the most distinctive differences between the PUC, the Authority Code, and the County Code.

The offenses common among the three agencies that disqualify an applicant for a permit for commercial ground transportation services are: (1) sexual offenses, (2) driving under the influence of drugs or alcohol, (3) fraud, (4) use of a motor vehicle to commit a felony, (5) crimes involving property damage, (6) theft, (7) acts of violence, and (8) acts of terror.

The Driver Violation Point Count defined by the PUC and the Authority Code presents some differences. For TNCs, the PUC rules provide the driver “may have no more than 3 points within the preceding 3 years, no “major violations” within the preceding 3 years and no driving under the influence convictions within the past 7 years”. The Authority Code references CVC 12810.5, stating “Except as otherwise provided in subdivision (b), a person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be *prima facie* presumed to be a negligent operator of a motor vehicle.” The County Code requirement does not mention the Driver Violation Point Count.

The possession of a controlled substance offense is addressed in the Authority Code and the County, but not by the PUC. Any offenses associated with acquiring an unauthorized or illegally obtained Airport permit is only found within the Authority Code.

Recommendation:

Staff recommends the Board authorize the President/CEO to determine the required form of background checks and other permit requirements for all ground transportation service providers. Staff also requests the designated changes to the Authority Code be made to accommodate the revised driver permit requirements.

ATTACHMENT A

Background Check Comparison Criteria

	California Public Utilities Commission (PUC) Decision 13-09-045	SDCRAA Code § 9.13	San Diego County Code of Regulatory Ordinances
General	TNCs are required to conduct a criminal background check for each driver. The criminal background check must be a national criminal background check, including use of the national sex offender database and social security number. No fingerprint check is required.	No person shall drive or operate a commercial ground transportation vehicle at the Airport without a valid Driver's Permit ("Driver's Permit") from the Authority in their possession. Commercial ground transportation vehicles include Charter Vehicles, Courtesy Vehicles, Taxicabs, Vehicles for Hire, and TNC Vehicles.	Taxicab Operators and Taxicab Drivers require a license. The Sheriff's Department issues: (1) Operator's License (2) Driver's Identification Card
Disqualifying Offense Review Period	TNC driver applicants are disqualified if they have a felony criminal <u>conviction within 7 years prior to the date of the background check.</u>	Driver applicants are disqualified based upon criteria listed in 9.13, but may be permitted where <u>five (5) years have elapsed from the later of:</u> (i) the last date of applicant's discharge from a jail or penal institution; (ii) the last date of applicant's discharge from parole; or (iii) the last date on which applicant was placed on probation	Driver <u>applicants are disqualified based on criteria listed in the County's code, but may be permitted where five (5) years have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation/parole/post-release community supervision</u> In addition to the reasons for denying a new license under section 21.108 or a renewal license in section 21.109, the Issuing Officer may deny an applicant a taxicab driver's identification card if the Issuing Officer determines the applicant has been: (see below)

ATTACHMENT A

Background Check Comparison Criteria

OFFENSE Applicants denied or disqualified for	California Public Utilities Commission (PUC) Decision 13-09-045	SDCRAA Code § 9.13	San Diego County Code of Regulatory Ordinances
Sexual offenses	Y	Any person required to register as a sex offender pursuant to the California Sex Offender Registration Act (California Penal Code § 290, et seq.);	Convicted of an offense requiring the applicant to register as a sex offender under Penal Code § 290 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of passengers.
Driving under the influence of drugs or alcohol;	Y	California Vehicle Code § 23152 or §23153 (DUI); the vehicle code of another state or jurisdiction for driving a vehicle upon a highway while under the influence of an intoxicating liquor, drugs or narcotics;	Convicted of any of the following motor vehicle offenses: operating a motor vehicle under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, reckless driving, fleeing from a police officer or failing to fulfill the duty required after being involved in a motor vehicle accident involving property damage, injury or death.
Fraud;	Y	Any person who has been convicted of a crime, the nature of which the Authority determines indicates the applicant's unfitness to operate a commercial ground transportation vehicle for hire in a safe and lawful manner, including, but not limited to, assault or battery, or any form thereof;	Convicted of any felony involving theft, fraud, violence,

ATTACHMENT A

Background Check Comparison Criteria

OFFENSE Applicants denied or disqualified for	California Public Utilities Commission (PUC) Decision 13-09-045	SDCRAA Code § 9.13	San Diego County Code of Regulatory Ordinances
Use of a motor vehicle to commit a felony;	Y	Any person who has been convicted of a crime, the nature of which the Authority determines indicates the applicant's unfitness to operate a commercial ground transportation vehicle for hire in a safe and lawful manner, including, but not limited to, assault or battery, or any form thereof;	Convicted of any of the following motor vehicle offenses: operating a motor vehicle under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, reckless driving, fleeing from a police officer or failing to fulfill the duty required after being involved in a motor vehicle accident involving property damage, injury or death.
A crime involving property damage	Y	Any person who has been convicted of a crime, the nature of which the Authority determines indicates the applicant's unfitness to operate a commercial ground transportation vehicle for hire in a safe and lawful manner, including, but not limited to, assault or battery, or any form thereof;	Convicted of any of the following motor vehicle offenses: operating a motor vehicle under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, reckless driving, fleeing from a police officer or failing to fulfill the duty required after being involved in a motor vehicle accident involving property damage, injury or death
Theft	Y	Any person who has been convicted of a crime, the nature of which the Authority determines indicates the applicant's unfitness to operate a commercial ground transportation vehicle for hire in a safe and lawful manner, including, but not limited to, assault or battery, or any form thereof;	Convicted of any felony involving theft, fraud, violence,

ATTACHMENT A

Background Check Comparison Criteria

OFFENSE Applicants denied or disqualified for	California Public Utilities Commission (PUC) Decision 13-09-045	SDCRAA Code § 9.13	San Diego County Code of Regulatory Ordinances
Acts of violence	<p style="text-align: center;">Y</p>	Any person who has been convicted of a crime, the nature of which the Authority determines indicates the applicant's unfitness to operate a commercial ground transportation vehicle for hire in a safe and lawful manner, including, but not limited to, assault or battery, or any form thereof;	Convicted of any felony involving theft, fraud, violence;
Acts of terror	<p style="text-align: center;">Y</p>	Any person who fails a Security Threat Assessment by the United States Transportation Security Administration ("TSA")	<p style="text-align: center;">N</p>
Violation point count	Until the Department of Motor Vehicle (DMV) Employer Pull Notice Program is available for use by Transportation Network Companies (TNC), TNCs shall perform, prior to allowing a driver on the platform and quarterly thereafter, driving record checks through the DMV in order to ensure that drivers meet applicable requirements. The DMV check criteria shall provide that a user may have no more than 3 points within the preceding 3 years, no "major violations" (reckless driving, hit and run, or driving with a suspended license conviction) within the preceding 3 years, and no driving under the influence conviction within the past 7 years	Any person who, within the 12 months immediately preceding the submission of an application pursuant to this section, is convicted of, or held by any final administrative determination to be a negligent driver pursuant to California Vehicle Code §12810.5; CVC 12810.5. (a) Except as otherwise provided in subdivision (b), a person whose driving record shows a violation point count of four or more points in 12 months, six or more points in 24 months, or eight or more points in 36 months shall be prima facie presumed to be a negligent operator of a motor vehicle.	Convicted of any of the following motor vehicle offenses: operating a motor vehicle under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, reckless driving, fleeing from a police officer or failing to fulfill the duty required after being involved in a motor vehicle accident involving property damage, injury or death

ATTACHMENT A

Background Check Comparison Criteria

OFFENSE Applicants denied or disqualified for	California Public Utilities Commission (PUC) Decision 13-09-045	SDCRAA Code § 9.13	San Diego County Code of Regulatory Ordinances
Possession of a controlled substance	<p style="text-align: center;">N</p>	Any person who is addicted, as defined in California Welfare and Institutions Code §3009, to any substance prohibited by the Uniform Controlled Substances Act unless enrolled and successfully participating in a drug treatment program approved by a court of relevant jurisdiction; Any person required to register with the chief of police pursuant to California Health and Safety Code §11590, et seq.	Convicted of an offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section 11590 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of passengers.
Unauthorized or illegally obtained airport permit	<p style="text-align: center;">N</p>	Any person who provides false information when applying for an Authority Driver's Permit; or any person who alters, falsifies, forges, duplicates or in any manner reproduces or counterfeits, or displays or causes to be displayed any Driver's Permit issued pursuant to this Section.	<p style="text-align: center;">N</p>

COM/MP1/avs

Date of Issuance 9/23/2013

Decision 13-09-045 September 19, 2013

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on Regulations
Relating to Passenger Carriers, Ridesharing, and
New Online-Enabled Transportation Services.

Rulemaking 12-12-011
(Filed December 20, 2012)

**DECISION ADOPTING RULES AND REGULATIONS TO
PROTECT PUBLIC SAFETY WHILE ALLOWING NEW ENTRANTS
TO THE TRANSPORTATION INDUSTRY**

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**DECISION ADOPTING RULES AND REGULATIONS
TO PROTECT PUBLIC SAFETY WHILE ALLOWING NEW ENTRANTS
TO THE TRANSPORTATION INDUSTRY**

Summary

This decision adopts rules and regulations for New Online Enabled Transportation Services, referred to hereafter as a Transportation Network Company¹ (TNC), to ensure that public safety is not compromised by the operation of this new transportation business model. TNCs are not just Lyft, SideCar, InstantCab, and UberX.² This Commission defines a TNC as an organization whether a corporation, partnership, sole proprietor, or other form, operating in California that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their personal vehicles.³ Among other

¹ In the Rulemaking, we referred to these companies as New Online-Enabled Transportation Services (NOETS). We are changing the acronym to Transportation Network Company (TNC) for ease of use.

² The Commission's Safety and Enforcement Division issued cease and desist letters and \$20,000 citations against Uber, Lyft, and SideCar for operating without authority and other violations of state law. However, in 2013, the Safety and Enforcement Division entered into settlement agreements intended to ensure the public safety of both riders and drivers with Uber, Lyft, and SideCar, allowing the companies to operate while the Commission's TNC rulemaking is underway.

<http://www.cpuc.ca.gov/PUC/transportation/Passengers/CarrierInvestigations/>.

³ There are eleven exemptions to the Passenger Charter-party Carriers' Act contained in Public Utilities Code § 5353. Our definition of a TNC does not in any way usurp those existing exemptions. For example, one of the exemptions is passenger vehicles carrying passengers on a non-commercial enterprise basis. This exception has been defined by the Commission to mean non-profit organizations. See D.91.-06-025 ("The term 'noncommercial enterprise basis' in PU Code Section 5353(f) includes operations conducted on a not-for-profit, tax-exempt basis, as authorized by federal or state law."). Another exemption is the rideshare exemption itself, which exempts: Transportation of

requirements established in this decision, we require each TNC (not the individual drivers) to obtain a permit from the California Public Utilities Commission (Commission), require criminal background checks for each driver, establish a driver training program, implement a zero-tolerance policy on drugs and alcohol, and require insurance coverage as detailed below.

This decision orders a second phase to this proceeding to review the Commission's existing regulations over limousines and other charter-party carriers to ensure that the public safety rules are up to date, and that the rules are responsive to the needs of today's transportation market. In addition, the second phase will consider the potential impact of any legislative changes that could affect our ability to regulate the TNC industry. When the second phase is complete, the Commission will initiate the Commission's resolution process to update the General Order (GO) 115 and 157 series to include the new regulations relating to the charter-party carrier subclass of TNC.

Finally, the Commission is aware that TNCs are a nascent industry. Innovation does not, however, alter the Commission's obligation to protect public safety, especially where, as here, the core service being provided -- passenger transportation on public roadways -- has safety impacts for third parties and property. The Commission is familiar with and confident in its ability to protect public safety in the face of rapid technological change. Consequently, while the Commission adopts these rules and regulations, it will

persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver.

also look for further guidance from the legislature should it decide that there is a need for legislation to provide guidance in regulating this new industry.

1. Procedural History

On December 20, 2012, the Commission opened this Rulemaking in order to determine whether and how TNC services arranged through online-enabled apps such as Uber, SideCar, and Lyft might affect public safety.⁴

In the Order Instituting Rulemaking (Rulemaking), the Commission stated that:

We initiate this proceeding to protect public safety and encourage innovators to use technology to improve the lives of Californians.⁵ The purpose of this Rulemaking is not to stifle innovation and the provision of new services that consumers want, but rather to assess public safety risks, and to ensure that the safety of the public is not compromised in the operation of these business models. The Commission invites all interested parties to participate in this proceeding to ensure that regulation is not a hindrance, but continues to be the safety net that the public can rely on for its protection.⁶

The Commission sought comment on issues including: how the Commission's existing jurisdiction should be applied to businesses such as Uber, SideCar, and Lyft; the consumer protection and safety implications of these new

⁴ The Commission's Safety and Enforcement Division issued cease and desist letters and \$20,000 citations against Uber, Lyft, and SideCar for operating without authority and other violations of state law. However, in 2013, the Safety and Enforcement Division entered into settlement agreements intended to ensure the public safety of both riders and drivers with Uber, Lyft, and SideCar, allowing the companies to operate while the Commission's TNC rulemaking is underway.

<http://www.cpuc.ca.gov/PUC/transportation/Passengers/CarrierInvestigations/>.

⁵ R.12-12-011, Rulemaking at 1.

⁶ R.12-12-011, Rulemaking at 2.

methods for arranging transportation services; whether and how the new transportation business models differ from longstanding forms of ridesharing; and the new transportation business models' potential effect on insurance and transportation access.

On January 28, 2013, opening comments were filed by: Willie L. Brown, Jr., Luxor Cab Company, Greater California Livery Association, San Francisco Airport Commission, International Association of Transportation Regulators, Uber Technologies, Personal Insurance Federation of California (PIFC), Center for Accessible Technology (CforAT), Zimride, TransForm, SideCar Technologies, San Francisco Municipal Transportation Agency, Ed Healy, United Taxicab Workers, San Francisco Cab Drivers Association, Taxicab Limousine and Paratransit Association, and Taxicab Paratransit Association of California.

On February 11, 2013, reply comments were filed by: Electronic Frontier Foundation, International Association of Transportation Regulators, United Taxicab Workers, Zimride, CforAT, Luxor Cab Company, San Francisco Municipal Transportation Agency, Transform, SideCar Technologies, Taxicab Paratransit Association of California, Ed Healy, Willie J. Brown, Jr., eRideshare, and San Francisco Cab Drivers Association.

On February 15, 2013, the Commission held a Prehearing Conference in order to, *inter alia*, establish the service list, determine the positions of the parties, identify issues for inclusion in the April 2, 2013 Assigned Commissioner and Administrative Law Judge's Scoping Memo and Ruling (Scoping Memo), and discuss the procedural schedule. Prehearing Conference Statements were filed by: United Taxicab Workers, International Association of Transportation Regulators, Willie J. Brown, Jr., Transform, Taxicab Paratransit Association of

California, San Francisco Municipal Transportation Agency, Zimride, Uber Technologies, CforAT, and San Francisco Airport Commission.

On March 7, 2013, the Administrative Law Judge (ALJ) issued a notice to the parties via e-mail, setting a workshop schedule and directing parties to file workshop statements answering specific questions about the following issues: TNC operations; jurisdiction; public safety; insurance; background checks; accessibility and equal access; and how Commission regulations may enhance or impede access to public roadways.

On April 2, 2013, the assigned Commissioner and ALJ issued the Scoping Memo which established the scope and schedule of the Rulemaking, categorized the Rulemaking as quasi-legislative, and determined that hearings were not necessary.

On April 3, 2013, workshop statements were filed by: Willie L. Brown, Jr., The Utility Reform Network, San Francisco Cab Drivers Association, Zimride, SideCar Technologies, TransForm, San Francisco Airport Commission and San Francisco Municipal Transportation Agency, Uber Technologies, Taxicab Paratransit Association of California, United Taxicab Workers, Luxor Cab Company, and CforAT.

On April 10 and 11, 2013, the Commission held a workshop to facilitate dialogue among the parties on issues including: jurisdiction, public safety, accessibility, insurance, and proposed modifications for California statutes or Commission regulations. Two parties, TransForm and Taxicab Paratransit Association of California, took notes during the workshop and prepared a draft report summarizing all parties' positions as articulated during the workshop. Parties reviewed the draft report to ensure that their positions were captured

correctly, and on May 17, 2013, TransForm and Taxicab Paratransit Association of California filed the final workshop report with the Commission.

On April 25, 2013, CforAT filed a motion requesting an additional round of comments on the issues raised in the Scoping Memo. On May 10, 2013, the ALJ granted the motion, determining that opening comments were due on June 3, 2013 and reply comments were due on June 10, 2013. On July 17, 2013, the California Highway Patrol (CHP) filed its comments.⁷

The purpose of this Rulemaking is not to stifle innovation and the provision of new services that consumers want, but rather to assess public safety risks, and to ensure that the safety of the public is not compromised in the operation of these business models. The Commission invited all interested parties to participate in this proceeding to ensure that regulation is not a hindrance, but continues to be the safety net that the public can rely on for its protection.⁸

2. Jurisdiction

As noted in the Rulemaking,⁹ the Commission's jurisdiction over charter-party carriers is clear. Nevertheless, new technology and innovation require that the Commission continually review its regulations and policies to ensure that the law and the Commission's safety oversight reflect the current state of the industry and that these regulations are just and fair for all passenger carriers.

⁷ R.12-12-011, Rulemaking at 1.

⁸ R.12-12-011, Rulemaking at 2.

⁹ R.12-12-011, Rulemaking at 2-3.

The Commission sought comment on how the Commission's existing jurisdiction pursuant to the California Constitution and the Public Utilities Code (PU Code) should be applied to businesses like Uber, Sidecar, and Lyft and the drivers employed or utilized by these or similar entities. The Commission also sought comment on whether any existing legislation should be modified or if new legislation should be enacted.

2.1. Comments on the Rulemaking

The parties that filed opening comments all addressed jurisdiction in varying degrees. The summaries of the positions of parties below capture all the positions that have been voiced in this Rulemaking on the subject of jurisdiction.

The CHP asserts that TNCs fall under existing Commission jurisdiction, because the CHP views TNCs as for-hire passenger carriers.¹⁰ The CHP views a donation for transportation service equivalent to direct compensation, because the intent is to conduct a for-hire operation.¹¹

Luxor Cab asserts that these businesses should be regulated the same as all other passenger carriers. Furthermore, it asserts that the presence of new technology for summoning a car does not in any way change the nature of the business that they are engaged in.¹²

Greater California Livery Association (GCLA) asserts that, based on their experience, these transportation technology companies should be subject to the same Commission regulation and enforcement as charter party carriers.¹³

¹⁰ California Highway Patrol comments filed on 07/17/13 at 1-2.

¹¹ California Highway Patrol comments filed on 07/17/13 at 1.

¹² Luxor Cab Opening Comments filed on 01/28/13 at 1.

¹³ GCLA Opening Comments filed on 01/28/13 at 2.

Uber suggests that the Commission does not currently have jurisdiction over Uber because Uber is not a charter-party carrier within the meaning of PU Code § 5351 *et seq.* Further, Uber advocates against extending the Commission's jurisdiction to companies like Uber because: 1) no public policy or public interest is advanced by such an extension of the law; 2) the Legislature has recently enacted new legislation exempting Internet Protocol-enabled (IP-enabled) services from regulation by the Commission; and 3) extending Commission regulation to Uber would conflict with Federal and State policies promoting further development of, and innovation in, information services provided over the Internet by prohibiting regulation of information services providers.¹⁴

TransForm acknowledges that the Commission has jurisdiction over charter-party carriers not meeting the statutory exemptions for taxicabs and work-related ridesharing, and has exercised this jurisdiction to ensure consumer protection and safety for traditional chartered transportation services.¹⁵ TransForm further asserts that the Commission should exercise its jurisdiction carefully so that it is applied in a way that allows growth of technology-enabled ridesharing services rather than eliminating an innovative tool to help address transportation access and climate change. The Commission should recommend to the legislature any necessary modifications to existing statutory exemptions to create a coherent regulatory framework that allows for ridesharing services to grow, while ensuring that consumer protection and safety is addressed. At the same time it is important for high-volume services to consult and coordinate

¹⁴ Uber Opening Comments filed on 01/28/13 at 5.

¹⁵ TransForm Opening Comments filed on 01/28/13 at 2.

with local cities, counties, and public transit agencies to avoid potential impacts.¹⁶

The San Francisco Municipal Transportation Authority (SFMTA) says state law defines a charter-party carrier as any “person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state.”¹⁷ Drivers affiliated with businesses like Lyft and Sidecar drive passengers to destinations of their choice in exchange for payment. These businesses collect payments from passengers, share revenue with the drivers, and manage the exchange of information between passengers and drivers to facilitate interactions and commerce between drivers and passengers. SFMTA goes on to say that although certain transportation providers that would otherwise meet the definition of a “charter-party carrier” are exempted by statute from the Commission’s regulatory oversight, services like Lyft and SideCar do not fall within any of these exemptions.¹⁸

SideCar asserts that it is neither a charter-party carrier nor a transportation service, but rather it is a technology platform that facilitates exempt ridesharing and, to that extent, should be exempt from Commission jurisdiction under PU Code § 5353(f) and (h).¹⁹

¹⁶ TransForm Opening Comments filed on 01/28/13 at 4.

¹⁷ SFMTA Opening Comments filed on 01/28/13 at 2, citing PU Code § 5360.

¹⁸ SFMTA Opening Comments filed on 01/28/13 at 2.

¹⁹ SideCar Opening Comments filed on 01/28/13 at 9.

Lyft asserts that the Commission should solely focus on regulation necessary to fulfill its responsibility for public safety.²⁰ Lyft cautions the Commission to not force-fit existing regulations onto such an emerging industry.

International Association of Transportation Regulators (IATR) recommends that the Commission should conduct further investigation to determine whether TNCs operate without a profit. IATR believes that companies that operate for-profit, and that use on-line apps that directly connect passengers to drivers, clearly fall under the Commission's definition of a charter-party carrier, and should be subject to all the existing regulations.²¹

Taxicab Paratransit Association of California asserts that TNCs operate as on demand services and therefore fail to comply with the legal requirements for operation as a Transportation Charter Party (TCP).²²

2.2. Discussion

California law currently recognizes and regulates three modes of passenger transportation for compensation: taxi services, regulated by cities and/or counties; and charter-party carrier services, and passenger-stage companies, regulated by the Commission. In recent years, the communications revolution in wireless service, smartphones, and on-line apps has further facilitated the development and adoption of passenger transportation for compensation to a point where passengers seeking rides can be readily connected with drivers willing to provide rides in private vehicles. This

²⁰ Zimride (Lyft) Opening Comments filed on 01/28/13 at 4.

²¹ IATR Opening Comments filed on 01/28/13 at 3.

²² TPAC Opening Comments filed on 02/04/13 at 5. The term TCP is defined and discussed, *infra*, in this Decision.

development in passenger transportation for compensation, referred to in this proceeding as TNCs and associated with companies including UberX, Lyft, and Sidecar, does not fit neatly into the conventional understandings of either taxis or limousines, but that does not mean that this Commission's responsibility to public safety in the transportation industry should be ignored and/or left for individual companies or the market place to control.

2.2.1. Neither the Federal Telecommunications Act of 1996 nor Public Utilities Code Section 710 Exempts TNCs from State Jurisdiction

We reject Uber's assertion that TNCs are nothing more than an application on smart phones, rather than part of the transportation industry. Uber is the means by which the transportation service is arranged, and performs essentially the same function as a limousine or shuttle company dispatch office. Accordingly, Uber is not exempt from the Commission's jurisdiction over charter-party carriers. Nonetheless, because of the novelty of these new services, we will address Uber's jurisdictional arguments here.

As Uber notes in its comments, the 1996 Federal Telecommunications Act²³ (FTA) distinguishes between "telecommunications" and "information services." In so doing, Congress codified the Federal Communications Commission's (FCC) historical determination that "basic" services were to be treated differently from "enhanced" services. Uber seeks to convince the Commission further with a detailed discussion of a Vonage case, in which the FCC concluded that nomadic Voice over Internet Protocol (VoIP) service is a purely interstate service, not subject to state jurisdiction. Uber recounts a California Court of Appeal case

²³ P.L. No. 104-104, 110 Stat. 56 (1996).

involving actions brought against eBay, where the court held eBay immune from state causes of action.

In addition, Uber notes passage of Senate Bill 1161 in 2011 codified §§ 239 and 710 of the PU Code. Section 710 prohibits the Commission from “exercising any regulatory jurisdiction” over VoIP or IP-enabled services, subject to a delegation of federal authority, other express statutory authority, or exceptions contained in § 710.

Uber’s citations are beside the point as none of the cited statutes or precedents prevent this Commission from regulating passenger transportation over public roadways. Specifically, we reject the argument that TNCs are simply providers of IP-enabled services and therefore exempt from our jurisdiction. We find this argument to be factually and legally flawed and, therefore, do not accept that the method by which information is communicated, or the transportation service arranged, changes the underlying nature of the transportation service being offered.

First, the Commission is not attempting to enact rules that would impose regulations on the smart phone applications used to connect passengers with drivers. Instead, the Commission is promulgating rules that will govern the transportation service itself. Second, we do not believe that this Commission loses its jurisdiction over transportation services simply because a smart phone application is used to facilitate the transportation service. Nothing Uber has cited in California or federal law would mandate that result based on the facts here. Indeed Uber and Sidecar’s position would effectively obviate the Commission’s authority under PU Code § 5371.6(a) to prevent TCPs from operating illegally in order to protect the public and prevent unfair competition:

The Legislature finds and declares that advertising and use of telephone service is essential for charter-party carriers of passengers to obtain business and to conduct intrastate passenger transportation services. Unlawful advertisements by unlicensed charter-party carriers of passengers has resulted in properly licensed and regulated charter-party carriers of passengers competing with unlicensed charter-party carriers of passengers using unfair business practices. Unlicensed charter-party carriers of passengers have also exposed citizens of the state to unscrupulous persons who portray themselves as properly licensed, qualified, and insured charter-party carriers of passengers. Many of these unlicensed charter-party carriers of passengers have been found to have operated their vehicles without insurance or in an unsafe manner, placing the citizens of the state at risk.

Similarly, the Legislature has created additional safeguards in Government Code § 53075.8(b)(1) that allow for the termination of a taxicab's telephone service if the taxi is operating without proper authority:

The Legislature further finds and declares that the termination of telephone service utilized by taxicabs operating without proper authority is essential to ensure the public safety and welfare. Therefore, local agencies should take enforcement action, as specified in this section, to disconnect telephone service of unauthorized taxicab operators who unlawfully advertise passenger transportation services in yellow page directories and other publications. The enforcement actions provided for by this section are consistent with the decision of the California Supreme Court in *Goldin v. Public Utilities Commission* (1979) 23 Cal. 3d 638.

We deem it is inconsistent with our grant of authority over transportation services to be barred from regulating a transportation service provided by TNCs based on the means of communication used to arrange the service.

Moreover, to date neither the FCC, nor a court of higher jurisdiction, has ruled that this Commission, or any other state commission, is precluded by the FTA from regulating TNCs. It is interesting to note that the Federal Trade Commission (FTC) has intervened in state proceedings by filing comments but has not, to date, gone so far as to claim that state-regulatory efforts to assert jurisdiction over TNCs is preempted by the FTA. For instance, on June 7, 2013, the FTC sent a letter to General Counsel of the District of Columbia Taxicab Commission that offered comments in the proposed TNC-related rulemaking. Previously, the FTC filed comments in TNC-related rulemaking proceedings in Alaska²⁴ and Colorado.²⁵ Tellingly, neither the FTC nor the FCC has claimed that the state regulatory bodies are preempted from promulgating regulations to deal with the growing TNC business.

In response to the proposed decision, Uber continued its argument by comparing itself to Google PowerMeter. In its August 19, 2013 comments to this decision, Uber stated that in the same way that Google did not become an energy utility by developing the Google PowerMeter software application, Uber does not become a transportation company by developing the Uber Software Application. The major difference between Uber and Google PowerMeter is that Uber controls the financial transaction between the customer and the company. Uber receives the customer fare and then transfers those funds to the driver

²⁴ FTC comments dated April 19, 2013 to the Honorable Debbie Ossiander Concerning AO NO. 2013-36 Regarding the Regulatory Framework for the Licensing and Permitting of Taxicabs, Limousines, and Other Vehicles for Hire in Anchorage, Alaska.

²⁵ FTC comments dated March 6, 2013 to the Colorado Public Utilities Commission *In The Matter of the Proposed Rules Regulating Transportation by Motor Vehicle*, 4 Code of Colorado Regulations 723-6.

minus its share, while Google PowerMeter does not take any money from the customer. Google PowerMeter was a tool that allowed an electricity consumer to view his or her electricity usage. The data displayed by Google PowerMeter was measured by a measurement device installed by the customer with his or her consent. The goal of the Google PowerMeter was to inform the energy customers of their energy use, which could help the consumer identify ways to save energy. The customer was not charged a fare, and Google did not generate other revenues from the tool. If all Uber did was to show customers maps of available cars, without giving them a way to book a ride and without controlling or taking a share of the fare, then the analogy might be more appropriate.

The Commission elects to use a more appropriate analogy involving Google. Google Search is an app and a software platform, and uses that software to provide a product: search listings. In 2011, Google agreed to pay a settlement of \$500 million for allowing fraudulent pharmaceutical advertisements.²⁶ In the case of pharmaceutical listings, Google Search was connecting people with products that were harmful or fraudulent, and which represented a threat to public safety. The people selling the illegal drugs had to be held accountable, but so did the software platform that connected people with the illegal drugs. The same is true with Uber. The Uber brand is now a known brand for car service. It is expected that a passenger requesting an Uber car will get a black town car or something of similar stature. It is expected that this service may cost more, but it is a higher service with professional drivers. Passengers may call Uber more frequently because of its name recognition. Uber by its name alone is selling a

²⁶ See <http://www.wired.com/threatlevel/2013/05/google-pharma-whitaker-sting/all/>.

type of car service. Because Uber is profiting from this service it should also be held responsible if the driver is negligent or not applying Uber safe practices. The same way Google was held responsible for allowing fraudulent advertisements is the same reason why Uber should be held responsible for its drivers.

Uber argues that the taxi cabs and limousines that arrange rides on the Uber platform are already regulated and insured, and that no additional regulation of Uber itself is necessary to protect the public interest. Perversely, however, the fact that regulated forms of transportation arrange rides through the Uber platform injects a considerable degree of uncertainty into the question of whether a taxi cab or limousine's insurance coverage would cover a claim. For example, if a limousine driver uses Uber's method of fare calculation and billing rather than the method otherwise required by TCP rules or limousine company policy, in the event of an incident the limousine's existing insurance policy may deny a claim on the grounds that the limousine had stopped operating, strictly speaking, and for insurance purposes, as a covered vehicle. In this same hypothetical incident, based on Uber's comments in this proceeding, we anticipate that Uber would deny that it has any obligation to insure the parties injured in the accident, on the grounds that Uber is an app and the limousine driver was already insured.

Until this Decision becomes effective, there is a real possibility that parties suffering losses in an incident would find that there is no insurance available to cover their potential claim.

Due to the considerable uncertainty that exists concerning the insurance coverage applicable to rides (other than UberX rides) arranged through the Uber app, and the threat to public safety and well-being created by this uncertainty,

the Commission is strongly inclined to require Uber to obtain a TCP permit in order to continue operating in California. As discussed elsewhere in this Decision, the Commission intends to open a second phase of this proceeding (Phase II) to consider the rules applicable to TCPs in California. In order to ensure the greatest possible evidentiary record, the Commission would prefer to leave all non-TCN issues, including Uber's potential TCP status, to Phase II. However, the Commission will not allow the uncertainty regarding Uber's insurance to persist during the pendency of Phase II. We require Uber to demonstrate to the Commission within 30 days of the issuance of this decision that it maintains commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers in transit to or during trips arranged through the Uber app, the Commission reserves the right to require Uber to obtain a TCP permit through Commission resolution. while they are providing Uber services. The insurance coverage shall be available to cover claims regardless of whether an Uber driver maintains insurance adequate to cover any portion of the claim.

2.2.2. TNCs Transport Passengers for Compensation

Public Utilities Code § 5360 states in part:

Subject to the exclusions of Section 5353, "charter-party carrier of passengers" means every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state.

We reject the arguments made by Lyft and SideCar that any payment for rides arranged through their apps is voluntary and find that current TNCs are engaged in the transportation of persons for compensation. Although the phrase "for compensation" is not defined by PU Code § 5360, the plain-meaning

interpretation of PU Code § 5360 in D. 69231 (June 15, 1965) informs our decision in this proceeding.

In D.69231, a skate arena owner was ordered to cease and desist transporting passengers to his skate arena until he obtained his TCP certificate. While the record was unclear as to whether the owner would charge a fee for the proposed service, the Commission determined that even if the transportation was for free, “transportation furnished by business enterprises without charge is also ‘for compensation’ if the organization sponsoring the trip receives a business benefit.”²⁷ The Commission reiterated this interpretation in D.81805 (August 28, 1973) where we reasoned that “it was not necessary for the staff to prove that respondent actually received money consideration for the transportation in question. It is enough that he received an economic benefit.”²⁸

Clearly each TNC is receiving either an economic benefit or a business benefit. At a minimum, they are receiving increased patronage with the growth of their businesses. This possibility was an important factor for the Commission in rendering its decision in D.69231 that the skate arena owner’s status was a TCP: “Applicant would receive a business benefit and compensation from the

²⁷ D.69231 at 409.

²⁸ D.69231 at 493. The Commission has reached a similar conclusion with respect to free service provided by PSCs, finding that the service was for compensation. (See *Peter J. Van Loben Sels (Valley Transit Lines) v. B.J. Smith et al., copartners (Cal. Transit Lines)*, 49 Cal. P.U.C. 290 (1950); and *Richard Chala v. Morris Gordon of Gordon’s Outlet Store, et al.*, Decision No. 57356 in Case No. 6152 (1958), unreported. Our reasoning is also similar the Legislature’s when it added Section 17510.1 to the Business and Professions Code: “As used in this article, ‘sale’ shall include a gift made with the hope or expectation of monetary compensation.” Thus, a donation or a gift can still be considered a form of compensation.

increased patronage for his skate arena business resulting from the advertising.”²⁹

2.2.3. TNCs Operate on a Prearranged Basis

Unlike taxi cabs, which may pick up passengers via street hails, PU Code § 5360.5 requires that charter party carriers operate on a prearranged basis.

We find that TNCs operate on a prearranged basis. PU Code § 5360.5 does not define “prearranged,” and we are reluctant to impose a minimum time requirement as some other jurisdictions have done.³⁰ Instead, we are guided by the plain meaning of “prearranged” as something arranged in advance, which has been our custom and practice in interpreting “prearranged” at the Commission. For example, our information packet for prospective TCP applicants says that all transportation performed by TCPs must be arranged beforehand, and the driver must have a completed waybill in his or her possession at all times during the trip.³¹

We believe TNCs satisfy the “prearranged” requirement in two ways: first, before a passenger can request a ride, the passenger must download the app and agree to the TNC service agreement. Examples can be found in the TNC written

²⁹ 409.

³⁰ For example, the Washington Administrative Code requires that for-hire vehicles must be prearranged for at least 15 minutes. (Washington Rev. Code Section 308-83-200.) The International Association of Transportation Regulators issued proposed model regulations for smartphone applications in the for-hire industry and suggested that the “prearranged or prearrangement” should require “a minimum of thirty (30) minutes between the request for transportation service and the arrival of the vehicle at the transportation origin location.”

³¹ Basic Information for passenger carriers and applicants (Rev. /28/11) issued by the Transportation License Section of the Commission.

terms of use.³² Uber makes our point clearly in its description of its service that “persons who use the Uber App to request *prearranged transportations* have sole discretion over whether or not to use the Uber App, if ever.”³³ Second, for a particular trip, the passenger must input information such as current location. A TNC driver cannot be hailed like a cab where no information is exchanged until the passenger enters the vehicle. As such, each TNC is offering transportation on a “prearranged” basis.

Prearrangement has typically been verified through the use of a waybill. TCPs must possess a waybill for each ride that includes information on the driver’s name, vehicle license plate number, and time and date when the charter was arranged, and similar information.³⁴ Pursuant to more recent legislation, waybills may be kept in an electronic format beginning January 1, 2014.³⁵ In order to comply with the applicable statutes and regulations, all TNC drivers must be able to prove that a ride was matched on the TNC software application as evidence of prearrangement. In other words, information in the software application must be the equivalent of an electronic waybill.

2.2.4. The Commission Has the Jurisdiction and the Duty to Establish Regulations Governing the Provision of TNC Services

Based on the record in this proceeding, and as the Rulemaking originally made clear, this Commission regulates charter party passenger carriers pursuant

³² See Exhibits B (Uber), D (SideCar), F (Lyft), and H (Tickengo) to the Workshop brief, filed on April 3 by TPAC.

³³ Pre-Workshop Statement, 4, filed on April 3, 2013 by Uber. (*Italics added.*)

³⁴ General Order 157-D, Part 3.01.

³⁵ See PU Code § 5381.5.

to Article XII of the California Constitution and the Charter-party Carriers' Act, PU Code § 5351 *et seq.* (the Act). Section 5360 states in part:

Subject to the exclusions of Section 5353, "charter-party carrier of passengers" means every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state.

Section 5381 states in part:

...(t)he commission may supervise and regulate every charter-party carrier of passengers in the State and may do all things...necessary and convenient in the exercise of such power and jurisdiction.

We are persuaded by the comments made by the CHP, TransForm, and to a certain extent Lyft. Our focus is public safety and secondarily ensuring that regulations reflect changing technology and ways of doing business to ensure that rules are in place to improve the lives of Californians. We agree with the CHP that a "donation" for passenger transportation service is equivalent to direct compensation for the service provided, which falls under the jurisdiction of this Commission. TransForm states in their comments in part:

TransForm believes that all people deserve affordable, safe, and easy access to jobs, housing, services, and nature on foot, bicycle, or public transportation.

TransForm envisions that in the future transportation will be redefined in terms of access and sustainability, and residents will be able to quickly get where they want to go in ways that fully meet their needs, whether these needs are health, happiness, saving time, or saving money. Our transportation system will provide the public with choices that amount to a system that is exceptional and state-of-the-art.

TransForm believes that rideshare services have the potential to advance several California policy goals, including improving transportation access, reducing

greenhouse gas emissions, reducing vehicle miles travelled, and reducing congestion. When the legislature passed the landmark transportation law SB 375 in 2008, the legislature found that “[w]ithout improved land use and transportation policy, California will not be able to achieve the goals of AB 32,” the Global Warming Solutions Act. The legislature also found that the transportation sector contributes over 40 percent of the greenhouse gas emissions in the State of California, the largest of any sector, with automobiles and light trucks alone contributing almost 30 percent. The California Air Resources Board, in setting regional greenhouse gas reduction targets, adopted targets requiring each region’s Sustainable Communities Strategy and Regional Transportation Plan to achieve specified reductions in the transportation sector by the years 2020 and 2035.³⁶

We agree with TransForm with respect to the above two points. Additionally, Lyft has been the only TNC that has acknowledged that safety is not only a priority, but there should also be some overarching rules and regulations. We applaud Lyft for its leadership in this area and we certainly agree with Lyft in this area.

For the reasons discussed *supra*, we find that TNCs are charter-party passenger carriers, and therefore we will exercise our existing jurisdiction pursuant to Article XII of the California Constitution and the Passenger Charter-party Carriers’ Act, PU Code §§ 5351, *et seq.* (the Act). Additionally, the Commission has very broad powers under PU Code § 701 which gives the Commission the ability (via a rulemaking process) to develop new categories of regulation when a new technology is introduced into an existing industry. In

³⁶ TransForm Opening Comments filed on 01/28/13 at 1.

this Decision, under the broad grant of authority pursuant to PU Code §§ 5381 and 701, we create the category of Transportation Network Company (TNC) to accompany the existing category of TCP.³⁷ Again, a TNC is defined as an organization, whether a corporation, partnership, sole proprietor, or other form, operating in California that provides transportation services for compensation using an online-enabled app or platform to connect passengers with drivers using their personal vehicles. The primary distinction between a TNC and other TCPs is that a TNC connects riders to drivers who drive their personal vehicle, not a vehicle such as a limousine purchased primarily for a commercial purpose. To that end, a TNC is not permitted to itself own vehicles used in its operation or own fleets of vehicles.

With this definition in mind, the Commission finds that Uber (in contrast to UberX) is not a TNC. Uber connects riders with drivers who do not drive their own personal vehicle, but typically operate in town cars or limousines, which the driver may often as well use to transport customers for another limousine/town car company. As such, Uber does not meet the definition of a TNC. As discussed elsewhere in this Decision, the Commission intends to open a second phase of this proceeding (Phase II) to consider the rules applicable to TCPs in

³⁷ The Commission has previously developed new types of transportation services with unique rules relevant to that specific form of transportation. Namely, in D.97-07-063, the Commission “adopt[ed] rules for a new niche form of passenger stage corporation (PSC) that specializes in the common carriage of infants and children . . .” The Commission required such carriers to apply for a PSC permit, but developed a special set of rules applicable to these forms of transportation. D.97-07-063 stated, “This is a restricted class of PSC carrier not previously designated by this Commission, and special requirements need to be imposed on these carriers.” In creating these new rules, the Commission relied on its broad power under § 701, and the Passenger-Stage Corporation provisions of the Public Utilities Code § 5351.

California. In order to ensure the greatest possible evidentiary record, the Commission would prefer to leave all non-TNC issues, including Uber's potential TCP status, to Phase II. UberX, however, does meet the TNC definition and must apply for a TNC license.

A company or individual wishing to provide transportation or facilitate transportation of passengers can choose to either get a TCP certificate/permit or a TNC permit.³⁸ Further, TNCs need not apply for a certificate of public convenience and necessity pursuant to PU Code § 5371. TNCs are exempted from this requirement, as are many charter-party carriers regulated by the Commission, pursuant to PU Code § 5384(b), which authorizes the Commission to issue permits to passenger carrier operations who use only vehicles with seating capacities of under 15-passengers. TNC permits will only be granted to companies utilizing smart phone technology applications to facilitate transportation of passengers in the driver's personal vehicle.

Within 45 days after the effective date of this Decision, the Commission's Safety Enforcement Division (SED) will post a TNC Application Packet on its website, and TNCs currently operating in California are required to file their TNC Applications with SED 60 days thereafter if they wish to continue operating. The TCP requirements are already in place, although as suggested *supra* the Commission will open a second phase to this Rulemaking to update those rules and regulations to ensure that safety requirements are up to date. Based on the record of this proceeding and the safety and other concerns expressed by parties, the settlement agreements that were entered into with Lyft,

³⁸ There is also a third choice and that is to apply for a taxicab license.

SideCar, and Uber, and our existing TCP rules we have created the following rules and regulations for all TNCs. The following rules and regulations shall be applied for all TNCs effective immediately:

Safety Requirements

- a) TNCs shall maintain commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing TNC services. The insurance coverage shall be available to cover claims regardless of whether a TNC driver maintains insurance adequate to cover any portion of the claim.³⁹
- b) TNC drivers shall be required to provide proof of both their personal insurance and the commercial insurance in the case of an accident.
- c) TNCs shall perform criminal background checks on each TNC driver before the driver begins offering service. In order to protect public safety, any person who has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror shall not be permitted to provide TNC services.
- d) TNCs shall institute a zero tolerance intoxicating substance policy with respect to drivers as follows:
 - 1. The TNC shall include on its website, mobile application and riders' receipts, notice/information on the TNC's zero-tolerance

³⁹ TNCs must make their certificate of insurance public and the Commission will put this certificate on its website.

policy and the methods to report a driver whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the ride.

2. The website and mobile application must include a phone number or in-app call function and email address to contact to report the zero-tolerance complaint.
 3. Promptly after a zero-tolerance complaint is filed, the TNC shall suspend the driver for further investigation.
 4. The website and mobile application must also include the phone number and email address of the Commission's Passenger Section: 1-800-894-9444 and CIU_intake@cpuc.ca.gov.
- e) TNCs shall obtain each TNC driver's driving record before the driver begins providing service and quarterly thereafter. Drivers with convictions for reckless driving, driving under the influence, hit and run, or driving with a suspended or revoked license shall not be permitted to be a TNC driver. Drivers may have a maximum of two points on their driving records for lesser offenses, e.g., equipment problems, speeding, or child safety seat violations.
- f) TNCs shall establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer service. This program must be filed with the Commission within 45 days of the adoption of this decision. TNCs must report to the Commission on an annual basis the number of drivers that became eligible and completed the course.
- g) TNC drivers must possess a valid California driver's license, be at least 21 years of age, and must provide at least one year of driving history before providing TNC services.

- h) TNCs may only use street-legal coupes, sedans, or light-duty vehicles including vans, minivans, sport utility vehicles (SUVs) and pickup trucks. Hatchbacks and convertibles are acceptable.
- i) TNC drivers are prohibited from transporting more than 7 passengers on any given ride.⁴⁰
- j) The app used by a TNC to connect drivers and passengers must display for the passenger: 1) a picture of the driver, and 2) a picture of the vehicle the driver is approved to use, including the license plate number to identify the vehicle.
- k) TNC vehicles shall not be significantly modified from factory specifications, e.g., no “stretch” vehicles.
- l) Prior to allowing each TNC driver to operate a vehicle, and annually thereafter, a TNC must inspect the driver’s vehicle, or have the vehicle inspected at a facility licensed by the California Bureau of Automotive Repair, and maintain complete documentation of such inspections. A TNC driver’s vehicle must, at a minimum, pass a 19 point inspection prior to allowing the driver to operate the vehicle under the TNC’s platform:
 - 1. Foot brakes;
 - 2. Emergency brakes;
 - 3. Steering mechanism;
 - 4. Windshield;

⁴⁰ If a TNC elects to carry insurance up to \$1.5 million per incident for all of its drivers, then pursuant to PU Code § 5391 and General Order 115-F, the TNC vehicles can include up to 10 people including the driver. However, no TNC driver is permitted to operate a bus, which is defined by California Vehicle Code § 233(b) as “a vehicle designed, used, or maintained for carrying more than 10 persons, including the driver, which is used to transport persons for compensation or profit . . .”

5. Rear window and other glass;
6. Windshield wipers;
7. Headlights;
8. Tail lights;
9. Turn indicator lights;
10. Stop lights;
11. Front seat adjustment mechanism;
12. Doors (open, close, lock);
13. Horn;
14. Speedometer;
15. Bumpers;
16. Muffler and exhaust system;
17. Condition of tires, including tread depth;
18. Interior and exterior rear view mirrors; and
19. Safety belts for driver and passenger(s).

Regulatory Requirements

For all reports identified below required to be provided by TNCs, the reports must be verified. Verification consists of provision of a signature of a corporate officer of the TNC verifying under penalty of perjury under the laws of the State of California that the report is accurate and contains no material omissions.

- a. TNCs (not the drivers) must be permitted by this Commission before operating as a TNC.⁴¹
- b. TNCs shall clearly disclose, on their app and website, that TNCs facilitate rides between

⁴¹ There are six types of charter party carrier permits/certificates. TNCs shall apply for a class P permit.

passengers and private drivers using their own personal vehicles. Additionally, the disclosure should state that each TNC is required to maintain insurance policies providing a minimum of \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing TNC services.

- c. TNC drivers may only transport passengers on a prearranged basis. For the purpose of TNC services, a ride is considered prearranged if the ride is solicited and accepted via a TNC digital platform before the ride commences. TNC drivers are strictly prohibited from accepting street hails.
- d. TNCs shall participate in the California Department of Motor Vehicle's Employer Pull Notice Program to obtain timely notice when any of the following are added to a TNC driver's driving record:
 - i. Convictions;
 - ii. Accidents;
 - iii. Failures to appear;
 - iv. Driver's license suspension or revocation; and
 - v. Any other action taken against the driving privilege.
- e. TNCs shall obtain proof of insurance from each TNC driver before the driver begins providing service and for as long as the driver remains available to provide service.
- f. TNCs shall allow passengers to indicate whether they require a wheelchair-accessible vehicle or a vehicle otherwise accessible to individuals with disabilities.
- g. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a report detailing the number and percentage of their customers who

requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles.

- h. TNC vehicles shall display consistent trade dress (i.e., distinctive signage or display on the vehicle) when providing TNC services that is sufficiently large and color contrasted as to be readable during daylight hours at a distance of at least 50 feet. The trade dress shall be sufficient to allow a passenger, government official, or member of the public to associate a vehicle with a particular TNC (or licensed transportation provider). Acceptable forms of trade dress include, but are not limited to, symbols or signs on vehicle doors, roofs, or grills. Magnetic or removable trade dress is acceptable. TNC shall file a photograph of their trade dress with the Safety and Enforcement Division.
- i. Although TNCs may provide platforms allowing drivers and passengers to “rate” each other, TNCs shall ensure that such ratings are not based on unlawful discrimination, and that drivers do not discriminate against passengers or potential passengers on the basis of geographic endpoints of the ride, race, color, national origin, religion, sex, disability, age, or sexual orientation/identity.
- j. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a verified report detailing the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates; and the number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates. The verified report provided by TNCs must contain the above ride information in electronic Excel or other spreadsheet format with information, separated by columns, of the date, time, and zip code of each request and the concomitant date, time, and zip code

of each ride that was subsequently accepted or not accepted. In addition, for each ride that was requested and accepted, the information must also contain a column that displays the zip code of where the ride began, a column where the ride ended, the miles travelled, and the amount paid/donated. Also, each report must contain information aggregated by zip code and by total California of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers.

- k. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a verified report in electronic Excel or other spreadsheet format detailing the number of drivers that were found to have committed a violation and/or suspended, including a list of zero tolerance complaints and the outcome of the investigation into those complaints. Each TNC shall also provide a verified report, in electronic Excel or other spreadsheet format, of each accident or other incident that involved a TNC driver and was reported to the TNC, the cause of the incident, and the amount paid, if any, for compensation to any party in each incident. The verified report will contain information of the date of the incident, the time of the incident, and the amount that was paid by the driver's insurance, the TNC's insurance, or any other source. Also, the report will provide the total number of incidents during the year.
- l. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a verified report

detailing the average and mean number of hours and miles each TNC driver spent driving for the TNC.⁴²

- m. Upon request, drivers shall display to Commission or airport enforcement officers, law enforcement, or city or county officials a physical or electronic record of a ride in progress sufficient to establish that it was prearranged. To the extent that trip records are contained on electronic devices, TNC drivers are not required to relinquish custody of the devices in order to make the required display.
- n. If a passenger files a complaint against a TNC or TNC driver with the Commission, Commission staff shall have the right to inspect TNC records and vehicles as necessary to investigate and resolve the complaint to the same extent the Commission and Commission staff is permitted to inspect all other charter-party carriers.
- o. Operations at Airports. TNCs shall not conduct any operations on the property of or into any airport unless such operations are authorized by the airport authority involved.
- p. Similar to our regulations over limousines one-third of one percent of the total revenues from TNC services in California shall be collected by this Commission on a quarterly basis as part of overall fees.

The Commission will convene a workshop one year after the issuance of this decision to hear from all stakeholders on the impacts of this new mode of transportation and the accompanying regulations. Workshops topics will

⁴² For the requested reporting requirements, TNCs shall file these reports confidentially unless in Phase II of this decision we require public reporting from TCP companies as well.

include, but not necessarily be limited to, a consideration of safety, competition, innovation, accessibility, congestion, the California Environmental Quality Act, and other pollution related issues. Specifically, the Commission will be interested to get an update on TNCs' commercial insurance policies and how these policies have performed. The Commission may choose to open a new proceeding to update its rules based on the information learned in this workshop.

TNCs that fail to adhere to these requirements may have their permits revoked or be otherwise subject to sanctions by the Commission. The Commission is authorized to conduct inspections of charter-party carriers including TNCs. For instance, PU Code § 5371.5 states that: "Upon receipt of a complaint containing sufficient information to warrant conducting an investigation, the commission shall investigate any business that advertises limousine-for-hire or passenger charter transportation service for compensation in motor vehicles." Therefore, each TNC must keep records of all trips made by its TNC drivers. The Commission is also authorized to "cancel, revoke, or suspend any operating permit or certificate" if the carrier violates any of the provisions of the Act, provisions of the operating permit or certificate issued thereunder, or any order, decision, rule, regulation, direction, demand, or requirement established by the Commission.⁴³ The Commission is also authorized to issue fines.⁴⁴

Sections 5411 to 5420 of the Act contain relevant provisions regarding issuing fines and penalties. In addition, the Commission has established a

⁴³ PU Code § 5378.

⁴⁴ See e.g., PU Code § 5378(b).

citation program in Resolution ALJ-187, which provides a process by which the Commission may issue fines, carriers may appeal fines, and the Commission may hold a hearing pursuant to that appeal.

These provisions authorizing the Commission to inspect, investigate, and issue fines and other penalties apply in equal measure to all TNCs as they do to other charter-party carriers. Therefore, the Commission must have access to a TNC's records whenever it requests them.

Parties have raised a number of concerns regarding the Terms & Conditions used by certain TNCs, which include general disclaimers of liability. No Term & Condition in a TNC's Terms of Service or elsewhere, can be inconsistent with this decision. Nor can any Term & Condition in a TNC's Terms of Service be used or relied on by the TNC to deny insurance coverage, or otherwise evade the insurance requirements established in this decision. Moreover, the Terms of Service does not absolve the TNC of its responsibilities to comply with the stated regulations in this decision to ensure safety of the public. As stated earlier in this decision, the Commission will open a Phase II to consider updating its regulations over TCP certificate holders. Phase II will also consider the standard and appropriate language for Terms & Conditions for both TCP and TNC certificate holders.

3. Safety

The Commission opened this proceeding to protect public safety and secondarily encourage innovators to use technology to improve the lives of Californians. The Commission has a responsibility for determining whether and how public safety might be affected by these TNCs. In opening this Rulemaking,

the Commission wanted to assess public safety risks, and to ensure that the safety of the public is not compromised in the operation of TNCs.

3.1. Comments on the Rulemaking

As with the issue of jurisdiction a number of parties filed comments about the effect of TNC service on public safety. In this section we will summarize all the positions filed.

The CHP asserts that it is too early to determine the effect of this type of service on both the passengers and public safety. It goes on to caution, however, that passenger transportation left unregulated unnecessarily increases the potential for operation of unsafe vehicles, unqualified drivers, and uninsured transportation drivers.⁴⁵

Luxor Cab's comments focus more on the need to keep drivers safe. Luxor Cab asserts that taxicab drivers have the highest risk of occupational homicide of all US occupations, and that this is why taxi regulators require safety equipment such as bullet-resistant partitions and digital security cameras, as well as crime-prevention training for drivers.⁴⁶

The GCLA believes that the transportation technology companies can put the public at risk of potential dangers arising from having unregulated and perhaps even unlicensed drivers and unsafe vehicles providing for-hire transportation services without oversight or enforcement.⁴⁷

The San Francisco Airport Commission believes that lack of adequate liability insurance, criminal background checks, driver training and regular

⁴⁵ CHP Comments filed on 7/17/13 at 2.

⁴⁶ Luxor Cab Comments filed on 01/28/13 at 2.

⁴⁷ GCLA Comments filed on 01/28/13 at 2.

vehicle inspections all decrease public safety, and although some TNCs represent that they do all of the above, the Airport Commission is asking for regulatory verification.⁴⁸

The SFMTA asserts that TNCs have a negative effect on public safety because of a lack of regulatory oversight. The SFMTA asserts that at the state and local level, California regulators of taxi and limousine service protect the public with the following kinds of requirements:

1. Criminal background checks of drivers;
2. Drug and alcohol testing of drivers;
3. DMV “pull notice” checks to enable suspension of drivers with new safety related moving violations;
4. Driver training for local geography, traffic safety and customer service values;
5. Vehicle age and mileage limitations;
6. Routine, professional vehicle inspections; and
7. Transparent pricing regulations.⁴⁹

The San Francisco Cab Drivers Association asserts that the proliferation and acceptance of private vehicles and unlicensed public passenger drivers for hire creates a false sense of trust by the general public. Furthermore, it asserts that they are witnessing private vehicles being flagged down and soliciting passengers on the street which will result in an assault or worse, on a passenger or a driver, unprotected by security cameras, dispatch or a shield, and no readily identifiable markings on the vehicle.⁵⁰

⁴⁸ San Francisco Airport Commission Opening Comments filed on 01/28/13 at 2.

⁴⁹ SFMTA Opening Comments filed on 01/28/13 at 8.

⁵⁰ San Francisco Cab Association’s Opening Comments filed on 01/29/13 at 2.

In their comments, Lyft notes that ridesharing is nothing new and has been occurring on a relatively large scale for many decades – from casual carpools and bulletin boards to more recent on-line forums – without any regulation and with few if any institutional safety mechanisms. Lyft goes on to say that rather than creating a new activity requiring scrutiny as a public safety concern, responsible peer-to-peer platforms such as Lyft have introduced innovative and highly effective institutional safety mechanisms that increase public safety over existing alternatives. New tools made available by modern technologies – online criminal background checks, mobile application photo identification, and Global Positioning System (GPS) positioning – can advance public safety beyond existing measures.⁵¹

SideCar asserts that TNCs are mission-driven and have strong incentives to protect the trust and safety of their communities and the public. SideCar goes on to claim that its safety program and rules aim to reduce and prevent accidents or other incidents, and it has implemented a 10-point safety program to create a safe experience for drivers and riders alike. Under this safety program, all drivers are required to undergo thorough background checks and safety training.⁵²

United Taxicab Workers assert that TNCs provide service through non-professional drivers of private vehicles, and since they claim that they are not regulated by the state or local authorities, the public can only take the word of the company. United Taxicab Workers go on to note that safety is the paramount concern in the taxi regulation and that taxis are inspected regularly and are

⁵¹ Lyft Opening Comments filed on 01/28/13 at 4-5.

⁵² SideCar Opening Comments filed on 01/28/13 at 17.

subject to age and mileage requirements. Furthermore, drivers receive training and must go through background checks prior to becoming a taxi driver.⁵³

In its comments, TPAC asserts that the primary reason for regulation of the passenger transportation industry is the need to ensure safety. It goes on to say that public safety is promoted through the screening of drivers, and by ensuring that those who take on the responsibility of transporting passengers can be held accountable for their actions.⁵⁴

3.2. Discussion

We agree that protecting and enhancing public safety is the paramount purpose behind regulating this industry. We initiated this Rulemaking for the sole purpose of determining how TNCs affect public safety. We further agree with the CHP, the San Francisco Airport Commission, the SFMTA, and other parties who have urged us to adopt safety rules and regulations that will hold TNCs accountable for safety. We also agree with Lyft that ridesharing is nothing new and has been occurring on a relatively large scale for many decades – from casual carpools and bulletin boards to more recent on-line forums. We note, however, that there is a specific exemption for the true form of ridesharing in the PU Code. PU Code § 5353(h) exempts:

Transportation of persons between home and work locations or of persons having a common work-related trip in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver.

⁵³ United Taxicab Workers Opening Comments filed on 01/29/13 at 4-5.

⁵⁴ TPAC Opening Comments filed on 02/04/13 at 6.

The section also states:

This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit," as used in this subdivision does not include the recovery of actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.

In our view the Commission firmly believes that TNCs do not meet the rideshare exemption and actually are providing transportation services for compensation.

Lyft and SideCar have both entered into settlement agreements with the Commission's Safety and Enforcement Division as stated above and have complied with the safety requirements in those agreements. Therefore, it is not entirely correct to state (as some parties have in their comments) that the public must only rely on the company's word. These agreements, however, are interim arrangements pending the conclusion of this Rulemaking. Therefore, in this decision we adopt strict safety regulations and guidelines that are similar in nature and in some cases more stringent than current and past practice in the transportation industry as a whole. The regulations for TNCs will require the company to conduct criminal background checks, establish a driver training program, maintain a zero-tolerance policy on drugs and alcohol, register in the Department of Motor Vehicle (DMV) Pull Notice program, conduct a 19-point car inspection, and require a one-year driving history from the driver. These regulations along with other requirements are stated above in the summary section as well as the jurisdiction section.

Regarding the criminal background checks, we will require each TNC to conduct a criminal background check for each driver prior to that applicant becoming a TNC driver. The criminal background check must be a national

criminal background check including the national sex offender database. The criminal background check should be using the applicant's social security number and not just the applicant's name. Any felony criminal conviction within seven years prior to the date of the background check for violent crime, a sexual offense, a crime involving property damage, and/or theft will make the applicant ineligible to be a TNC driver.

Regarding the 19-point vehicle inspection, we require the TNC or an authorized third party facility licensed by the California Bureau of Automotive Repair to conduct the car inspections and for the TNC to maintain the record of such inspections in case of an audit.

Regarding the DMV Pull Notice Program, we are aware that the California DMV does not currently permit TNCs to enroll non-employee drivers in the Employer Pull Notice Program. We are also aware that it was established to provide employers and regulatory agencies with a means of promoting driver safety through the ongoing review of driver records. An employer enrolled in the program is assigned a requester code. The requester code is added to an employee's driver license (DL) record. When an employee's DL is updated to record an action/activity, a check is made electronically to determine if a pull notice is on file. If the action/activity is one that is specified to be reported under the program, a driver record is generated and mailed to that employer. The DMV Pull Notice program allows a transportation company to monitor DL records of employees. This monitoring accomplishes the following:

- Improves public safety;
- Determines if each driver has a valid DL;
- Reveals problem drivers or driving behavior; and
- Helps to minimize the transportation company's liability.

The Commission began enrolling owner operators into this program in 1990. We are similarly hopeful that the DMV is able to amend the requirements of the program to allow TNCs to participate automatically in the program once they have completed the other requirements for the driver to begin providing service. Specifically, we encourage the DMV to modify the language about employers being the only entity to qualify for this automatic service. We understand that currently TNCs can manually enter into the program, but automatic enrollment improves public safety in that the notification to TNCs will be automatic and timely. We are hoping to work with the DMV to find a solution that improves public safety as we have added new rules and regulations to allow TNCs to provide transportation services. Until the DMV Employer Pull Notice Program is available for use by TNCs, TNCs shall perform, prior to allowing a driver on the platform and quarterly thereafter, driving record checks through the DMV in order to ensure that drivers meet applicable requirements. The DMV check criteria shall provide that a user may have no more than three points within the preceding three years, no “major violations” (reckless driving, hit and run, or driving with a suspended license conviction) within the preceding three years, and no driving under the influence conviction within the past seven years.

Regarding the accessibility plan which each TNC is required to file within 45 days of the issuance of this decision, each plan shall include the following:

- a. A timeline for modifying apps so that they allow passengers to indicate their access needs, including but not limited to the need for a wheelchair accessible vehicle. A passenger should be allowed to state other access needs, either from a drop-down menu with room for comments or through a field requesting information.

- b. A plan for how the TNC will work to provide appropriate vehicles for passengers who specify access needs, including but not limited to a plan to provide incentive to individuals with accessible vehicles to become TNC drivers.
- c. A timeline for modifying apps and TNC websites so that they meet accessibility standards. The relevant standard for web access is WCAG 2.0 AA. Guidance on accessibility standards for iPhone apps can be found at [http://developer.apple.com/library/ios/documentation/UserExperience/Conceptual/iPhone Accessibility](http://developer.apple.com/library/ios/documentation/UserExperience/Conceptual/iPhone%20Accessibility) and [http://developer.apple.com/library/ios/documentation/UserExperience/Conceptual/iPhone Accessibility/Making Application Accessible/Making Application Accessible.html](http://developer.apple.com/library/ios/documentation/UserExperience/Conceptual/iPhone%20Accessibility/Making%20Application%20Accessible/Making%20Application%20Accessible.html). Guidance on accessibility standards for Android apps can be found at <http://developer.android.com/training/accessibility/accessible-app.html>.
- d. A timeline for modifying apps so that they allow passengers to indicate that they are accompanied by a service animal, and for adopting a policy that service animals will be accommodated.
- e. A plan for ensuring that drivers' review of customers will not be used in a manner that results in discrimination, including any policies that will be adopted and any monitoring that will take place by the TNC to enforce this requirement.

Each aspect of the accessibility plan will be addressed in the annual reports required of each TNC regarding compliance, necessary improvements (if any) and additional steps to be taken by the TNC to ensure that there is no divide between service provided to the able and disabled communities. These reports will be served by SED on the service list for this proceeding, and input from interested parties will be invited. Based on SED's review of the annual reports as well as input from interested parties, the Commission will determine what, if

any, changes need to be made in the TNC business model, or new regulations adopted, in order to ensure that TNCs are accessible to, and do not discriminate against, persons with disabilities.

4. Ridesharing

The definition of ridesharing does not permit transportation performed for profit.⁵⁵ Recovery of actual costs incurred only applies to vanpool vehicles, which is defined by the Vehicle Code as seating more than 10 passengers, but less than 15 passengers, including the driver. The Commission sought comment on whether the TNCs' business models qualify as ridesharing for the purpose of the PU Code § 5353(h) exemption and, with respect to its passenger carrier regulation, whether the Commission should recommend a broader or narrower definition of ridesharing than that contained in the California Vehicle Code.

4.1. Comments on the Rulemaking

Various parties filed comments in response to the questions asked in the Rulemaking. This section will summarize all the various positions. We may not cite every party that filed comments, but we will cite every position.

Opening comments filed by former San Francisco Mayor Willie L. Brown Jr. proposes a mandatory cap on TNC driver earnings and an updated definition that includes this cap in the PU Code § 5353 (f).⁵⁶ These comments further state that the issue for sites such as Tickengo and 511.org is that there is no clear definition of vehicles carrying passengers on a noncommercial enterprise basis, and that a clear definition of ridesharing would help eliminate confusion with TCPs, fill empty seats in cars, and reduce pollution and congestion while

⁵⁵ Rulemaking at 7.

⁵⁶ Comments from Willie Brown filed on 01/18/13 at 1-2.

lowering the cost of door-to-door transportation.⁵⁷ Tickengo proposes that we limit the maximum share-the-expense carpool amount drivers can collect on a yearly basis to the American Automobile Association's (AAA) official annual cost of vehicle ownership (currently \$8,776 per year).⁵⁸

Luxor Cab, on the other hand, asserts that the statutory definition of ridesharing is adequate, but what is lacking is compliance with regulations by unlicensed for-hire TNCs.⁵⁹ Luxor Cab further comments that legitimate ridesharing does not include the transportation of a passenger on a trip the driver was not otherwise planning to take. Luxor asserts that it is the very nature of taxicab service that the ride is offered on demand and in accordance with the passenger's desired location. Finally, Luxor Cab comments that the amount of compensation should not determine the need for compliance with regulations, but rather it is the nature of the service that ought to be determinative.⁶⁰

The SFMTA asserts that there is no reason for the Commission to change the definition of ridesharing under the Vehicle Code in order to accommodate for-profit transportation services delivered through smartphone applications. It further asserts that there is nothing about the 'new business model' of offering for-hire transportation services through the mechanism of a smartphone application that justifies abandoning the fundamental regulatory infrastructure of the transportation for-hire industry, or that changes the level of regulatory concern when members of the public place themselves in the care and control of

⁵⁷ Comments of Willie Brown filed on 01/18/13 at 2.

⁵⁸ Comments of Willie Brown filed on 01/18/13 at 3.

⁵⁹ Luxor Cab comments filed on 01/28/13 at 3.

⁶⁰ Luxor Cab comments filed on 01/28/13 at 3.

a private individual who they pay to carry them safely to their destination in a motor vehicle over the public right of way.⁶¹

Lyft asserts that the Commission is reading the PU Code too narrowly and recommends that the Commission explicitly acknowledge and clarify that: 1) a voluntary donation, regardless of the amount, does not constitute “compensation” as the term is used in § 5360 and that 2) the “primary purpose” of any driver that only receives voluntary donations from riders and no other pay from the company operating the rideshare platform is not to make a “profit,” as defined in § 5353(h). Lyft also suggests that the Commission consider recommending that the Legislature clarify or broaden the definition of ridesharing.⁶²

SideCar urges the Commission to clarify the rideshare exemption in PU Code § 5353(h) and establish a bright line “safe harbor” for ridesharing drivers and authentic peer-to-peer rideshare technology providers. It goes on to say that while the Public Utilities Code currently has no provision for the recovery of the costs incurred in owning and operating a vehicle, except a vanpool vehicle, SideCar believes that a standard should be adopted for ridesharing in regular passenger vehicles.⁶³

The San Francisco Cab Drivers Association asserts that businesses like Sidecar and Lyft clearly do not qualify for exemption from charter carrier laws under the definition of ridesharing as defined in § 522 of the Vehicle Code. This transportation is not between home and work locations or of persons having a

⁶¹ SFMTA comments filed on 01/28/13 at 9.

⁶² Lyft comments filed on 01/28/13 at 7.

⁶³ SideCar comments filed on 01/28/13 at 11.

common work-related trip. The sole purpose of these trips is to convey passengers to their requested destination, for profit.⁶⁴

IATR asserts that while the PU Code exempts from regulation passenger vehicles that carry passengers on a “noncommercial enterprise basis,” this term is not defined. It goes on to say that TNCs fail to meet the definition for ridesharing (as they operate outside of strictly work and home locations, and transport passengers on trips that are NOT incidental to the driver) and fail to qualify for the Commission exemption because they are operating for profit/compensation.⁶⁵ IATR further suggests that the definition of ridesharing be narrowed whereas Lyft says that the Commission is reading the definition too narrowly. IATR says that the Commission should act to clarify the regulatory exemption and to make clear that to qualify for the exemption, a driver is prohibited from making any profit and/or accepting compensation.⁶⁶

The CHP asserts that the term “ridesharing” is a term-of-art within the lexicon of transportation – notwithstanding the vehicle used, ridesharing is essentially deemed to be reserved for like-minded individuals with a transportation motivation incidental to another purpose and not seated in profit-making derived from the transportation.⁶⁷

⁶⁴ San Francisco Cab Drivers Association comments filed on 01/28/13 at 3.

⁶⁵ IATR Comments filed on 01/28/13 at 4.

⁶⁶ IATR Comments filed on 01/28/13 at 5.

⁶⁷ CHP comments filed on 7/17/13 at 4-5.

4.2. Discussion

We agree with the vast majority of the parties that filed comments that TNCs do not qualify for the rideshare exemption under PU Code § 5353(h).

PU Code § 5353(h) exempts from Commission regulation:

Transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver. This exemption also applies to a vehicle having a seating capacity of more than 15 passengers if the driver files with the commission evidence of liability insurance protection in the same amount and in the same manner as required for a passenger stage corporation, and the vehicle undergoes and passes an annual safety inspection by the Department of the California Highway Patrol. The insurance filing shall be accompanied by a one-time filing fee of seventy-five dollars (\$75). This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit," as used in this subdivision, does not include the recovery of the actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.⁶⁸

⁶⁸ Vehicle Code § 522 defines "ridesharing" as "two or more persons traveling by any mode, including, but not limited to, carpooling, vanpooling, bus pooling, taxi pooling, jitney, and public transit."

Section 5353(h) provides two opportunities to qualify for the rideshare exemption:

Transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver.

TNCs fail to satisfy either of these requirements.

In our review of the filings and supporting documents, there is no evidence that TNC drivers have a common work-related or incidental purpose with their passengers. Instead, drivers transport passengers entirely at the convenience of the passenger:

Lyft is recruiting drivers with the following language: “Be a Lyft Driver” material states that “drivers are making up to \$35/hour + choosing their own hours!”⁶⁹

Uber’s service is defined as “your on-demand private driver.”⁷⁰

SideCar offers the following pitch to its prospective drivers: “Drive where you want, when you want, and who you want. You are your own boss. Some of our SideCar drivers are earning \$30+ per hour.”⁷¹

InstantCab tells prospective drivers that it makes “it easy for customers and cab drivers to find each other. We’re looking for drivers to help us launch and provide high quality service to anyone who needs a taxi. We’re not a taxi company, you

⁶⁹ <http://www.lyft.me/drivers>.

⁷⁰ Exhibit A, 34, Workshop Brief, filed by TPAC on April 3, 2013.

⁷¹ Exhibit C, 48, Workshop Brief, filed by TPAC on April 3, 2013.

can work for any existing taxi company and use our app to find guaranteed customers.”⁷²

Tickengo tells its prospective drivers that they can “accept any ride if you want to go to the same destination, *or if you just want to help.*”⁷³

Services provided by TNCs are thus very different from traditional, longstanding forms of ridesharing.⁷⁴ TNCs are clearly designed to provide a car service for compensation. There is no requirement that there be a common purpose. Instead, TNCs operate as an alternative to other traditional car services. Several parties in comments on the proposed decision expressed concern that the proposed decision would, as former San Francisco Mayor Brown described in his comments, limit the ability of “a regular citizen [to] request a ride from a family member who may wish to give them a ride to the airport for free.”⁷⁵ Similarly, eRideShare, which has provided an online carpool matching service since 1999, expressed concerns that the proposed decision would override existing statutory exemptions for ridesharing services.⁷⁶ These concerns are ill founded. We reiterate that our Decision in no way impacts the exemptions in Section 5353 of the Public Utilities Code. To the extent that services such as Rideshare meet

⁷² <https://instantcab.wordpress.com/join/>.

⁷³ <https://tickengo.com/a/becomedriver/>. (Italics added.)

⁷⁴ The TNCs should be contrasted with <http://www.511.org>, a ridesharing service which is managed by a partnership of public agencies led by the Metropolitan Transportation Commission, the California Highway Patrol, and the California Department of Transportation. There are no references to Terms and Conditions, donations, and other forms of compensation.

⁷⁵ Comments on Proposed Decision – from former San Francisco Mayor Willie L. Brown Jr. on 8/12/2013.

⁷⁶ Final Opening Comments of eRideShare Inc. on 08/19/2013.

either the “non-commercial enterprise” or rideshare exemption under Section 5353, or other exemptions as applicable, such services would be exempt from Commission regulation. The Commission has never regulated the ability of a “regular citizen [to] request a ride from a family member who may wish to give them a ride to the airport for free,” and nothing in the Public Utilities Code or our Decision would extend the Commission’s jurisdictional reach to such lengths. Further, the Commission would again note that the basis for regulating TNCs is that they meet the definition of a charter-party carrier under the Public Utilities Code. That is, they are “engaged in the transportation of persons by motor vehicle for compensation.”⁷⁷

We agree with SFMTA that there is no reason for the Commission to change the definition of ridesharing under the Vehicle Code in order to accommodate for-profit transportation services delivered through smartphone applications. Furthermore, there is nothing about the ‘new business model’ of offering transportation services for compensation through the mechanism of a smartphone application that justifies abandoning the fundamental regulatory infrastructure of the transportation for compensation industry, or that changes the level of regulatory concern. The underlying principal continues to be ensuring public safety. Regulation is the safety net that the public should rely on for its protection. We are not persuaded by the TNCs that would like us to create a regulatory gap because they are using a smartphone to facilitate transportation for compensation. We are, however, encouraged by the TNC’s embrace of

⁷⁷ PU Code § 5360 (emphasis added).

technology and innovation to bring choice and convenience to the public in a safe manner.

5. Transportation Access

The Commission's authority over passenger carriers is grounded in the need to protect the public's safe and reliable access to California's roadways.

Section 5352 of the Act states:

The use of the public highways for the transportation of passengers for compensation is a business affected with a public interest. It is the purpose of this chapter to preserve for the public full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon the highways; to secure to the people adequate and dependable transportation by carriers operating upon the highways; to secure full and unrestricted flow of traffic by motor carriers over the highways which will adequately meet reasonable public demands by providing for the regulation of all transportation agencies with respect to accident indemnity so that adequate and dependable service by all necessary transportation agencies shall be maintained and the full use of the highways preserved to the public; and to promote carrier and public safety through its safety enforcement regulations.

PU Code § 5352 places public safety as a key goal in ensuring that the public enjoys full access to the roadways. In this Rulemaking the Commission sought comment on the ways that safety regulations may enhance or impede public access to the roadways.

5.1. Comments on the Rulemaking

Many parties filed comments in response to this issue and there were some that remained silent. We will summarize those positions that were submitted in this section.

Luxor Cab asserts that unlicensed for-hire carriers such as Uber, Lyft, and SideCar do not invest in safety equipment and crime-prevention training for drivers. It goes on to say that TNCs and their drivers try to compensate for the lack of professional safety measures by cherry-picking the customers whom they believe are safest to convey. Luxor Cab then cautions that the result of this type of cherry-picking is de facto red-lining of low-income neighborhoods and discrimination against customers based on drivers' profiling that may be little more than stereotyping according to ethnicity or disability. Luxor Cab also says that such practices are illegal for licensed operators because they have the effect of reducing public access to the roadways.⁷⁸

The CHP asserts that the Commission's oversight responsibilities relative to transportation access are rooted in two essential areas. First, the regulation of accident indemnity to ensure adequate and dependable service by transportation operators and preservation of full use of the highways; and secondly, to promote public and operator safety through enforcement regulations.⁷⁹

Perhaps the most detailed and focused comments on this issue came from Center for Accessible Technology (CforAT). CforAT rightly reminds us that any demand-response transit service must also comply with state and federal anti-discrimination statutes, including requirements that such services be accessible to people with disabilities.⁸⁰

San Francisco Cab Drivers Association asserts that they have personally witnessed an abundance of Lyft and other private vehicles transporting people in

⁷⁸ Luxor Cab opening comments filed on 01/28/13 at 3-4.

⁷⁹ CHP comments filed on 07/17/13 at 3.

⁸⁰ CforAT comments filed on 01/28/13 at 1-2.

the back seat, blocking up traffic and making illegal maneuvers, while legal taxicabs drive around empty. They go on to say that this adds to traffic congestion. Additionally, the assertion is made that a Lyft driver nearly ran into the individual head-on while making an illegal left turn across Van Ness Avenue in San Francisco onto California Street and a professional driver would not do that.⁸¹

5.2. Discussion

We agree with CforAT that TNCs must endeavor to provide equal access to all consumers. Because TNCs are in their infancy we cannot determine at this point whether equal access is being hampered. As a threshold matter, TNCs must do the following:

- a. TNCs shall allow passengers to indicate whether they require a wheelchair-accessible vehicle or a vehicle otherwise accessible to individuals with disabilities.
- b. One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division a report detailing the number and percentage of their customers who requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles. Upon receipt this report shall be made public by the Safety and Enforcement Division. This report shall also contain a description of any instances or complaints of unfair treatment or discrimination of persons with disabilities.

The above information will be used by the Commission to determine what, if any, changes need to be made to the regulations in order to ensure that TNCs are accessible to, and do not discriminate against, persons with disabilities. The

⁸¹ San Francisco Cab Drivers Association comments filed on 01/29/13 at 3-4.

Commission also notes it currently has few provisions or protections to ensure equal access for passengers with disabilities under its current TCP regulations.⁸² Updating any regulations in this area, as found to be needed, may also be something the Commission should consider in Phase 2 of this rulemaking.

We also agree with the CHP that the Commission must regulate TNCs to ensure adequate and dependable service by transportation operators and to promote public and operator safety. Consequently, we require TNCs to follow the safety and regulatory requirements stated above in section 3.2 of this decision.

And we also agree with Luxor Cab that discrimination against customers based on drivers' profiling that may be little more than stereotyping by ethnicity, disability, or economic class, will not be tolerated. It is noteworthy that, although not a party to this proceeding, Homobiles was created to serve a community that may not have been adequately served by the existing transportation forms. According to Homobiles' website, it was formed to serve underserved communities who experience stress or discrimination on various forms of transportation for hire due to their gender or sexual identity.⁸³ The Commission notes that while some parties argue that TNCs such as Lyft, UberX, and SideCar must be regulated either as taxi cabs or limousines in order to ensure nondiscrimination and public safety, Homobiles was formed to meet the needs of consumers whose transportation needs are not being adequately met by

⁸² For instance, the Commission requires every carrier to maintain on file with the Commission an equipment list of all vehicles in use including whether each vehicle is handicap accessible. (GO 157-D, Section 4.01.)

⁸³ <http://www.homobiles.org/terms/>.

either taxi cabs or limousines. We applaud the founders of Homobiles for establishing a non-profit 501(c)(3) volunteer organization that caters to the underserved communities of San Francisco.

We agree with CforAT that the Commission should be informed by the legacy of transit discrimination and should work to ensure that the new services mark a break from this problematic history. Just as it would be unacceptable to allow any form of transit service to operate if it were to engage in racial discrimination, new forms of online-enabled transit services cannot be permitted to exclude people with disabilities. We agree. Therefore, we direct TNCs to submit a plan within 90 days of the effective date of this decision to tell us how they plan to ensure that TNCs will avoid creating a divide between the able and disabled communities. TNCs must explain how they plan to provide incentives to individuals with accessible vehicles to become TNC drivers. Furthermore, TNCs should ensure accessibility accommodations for their apps and websites to enable the disabled public access to the same services as clients who are not disabled.⁸⁴

6. Insurance

California Insurance Code § 11580.1(b) requires that non-commercial vehicles have a minimum liability coverage of \$15,000 for injury/death to one person, \$30,000 for injury/death to more than one person, and \$5,000 for damage to property. The Commission's GO 115-F requires that any charter party carrier vehicle with a seating capacity of seven passengers or fewer have a minimum

⁸⁴ Title III of the Americans with Disabilities Act (ADA) requires that businesses and nonprofit services providers make accessibility accommodations to enable the disabled public to access the same services as clients who are not disabled.

commercial coverage of \$750,000. In the Rulemaking, the Commission sought comments on, *inter alia*, the insurance aspects of this new transportation model. For instance, if a vehicle is insured as a private vehicle, but involved in an incident while transporting passengers for compensation, the Rulemaking asked what type of coverage would the insurance offer for injuries/damages to the driver, the paying passenger, and any other people or property involved in the incident, and whether the insurance industry had an opinion on the insurance coverage available for private vehicles used to transport passengers for compensation.

6.1. Comments on the Rulemaking

This Rulemaking has at least 18 parties who filed comments. No party claimed that TNCs should not have insurance or that liability insurance in the transportation business was not a key component of their business model. In this section we will note the PIFC's comments.⁸⁵ We also note that many parties claimed either in their comments or during the workshop that TNCs are uninsured.

In its comments, PIFC asserts that it surveyed its member insurance companies, finding that "the industry standard for personal auto insurance policy contracts is to exempt from insurance coverage claims involving vehicles used for transporting passengers for a charge."⁸⁶ PIFC goes on to say that in situations where a vehicle is insured as a private vehicle and is used to transport

⁸⁵ According to comments filed by PIFC on 01/28/13, the PIFC members represent six of the nation's largest insurance companies (State Farm, Farmers, Liberty Mutual Group, Progressive, Allstate and Mercury) which collectively write a majority of the personal lines of auto insurance in California.

⁸⁶ PIFC comments filed on 01/28/13 at 1-2.

passengers for a fee, no insurance coverage would exist.⁸⁷ The Commission also inquired about the sufficiency of the minimum liability coverage required under California Insurance Code § 1158.1(b). PIFC asserts that since there would be no coverage for the type of situations at issue, the minimum amount of coverage would be irrelevant.⁸⁸ Finally, with respect to California Insurance Code § 11580.24, PIFC notes that the legislature encouraged car sharing programs (i.e., renting out one's personal vehicle to another driver), as long as the owner does not earn more than the annual cost of owning the vehicle from the car sharing program. PIFC goes on to say that in doing so, it shields private passenger car insurers from any liability by shifting the responsibility for coverage to the private vehicle ridesharing program. The PIFC notes that the issue before the Commission is not ridesharing, but instead it is one of using a private passenger vehicle in a livery service. This is clearly not covered under a standard policy; if an incident occurs, coverage would not exist.⁸⁹

6.2. Discussion

We will require TNCs to maintain commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing TNC services. The insurance coverage shall be available to cover claims regardless of whether a TNC driver maintains insurance adequate to cover any portion of the claim. This level of liability insurance is above what the Commission currently requires of

⁸⁷ PIFC comments filed on 01/28/13 at 1-2.

⁸⁸ *Id.*

⁸⁹ *Id.*

TCP drivers. It is equal to the insurance that the SFMTA requires of taxicab companies.

We reject the claim that Lyft, SideCar, and Uber/UberX do not have insurance. The Commission's Safety & Enforcement Division, in entering into settlement agreements with these entities, made sure that each of these companies maintained excess liability insurance policies providing a minimum of \$1 million per incident. We note PIFC's comments in this Rulemaking, and note that, even if a TNC driver's personal insurance does not apply in the event of an accident, the insurance required by the Commission will apply.

We require that each TNC file their insurance policies under seal with the Commission as part of applying for a license. Furthermore, the license for the TNC will automatically expire upon expiration of the insurance policy unless and until the TNC provides an updated insurance policy and applies to renew its license. In Phase II of this proceeding we will consider whether these policies for both TCP as well as TNC certificate holders should be made public and included in the Commission's website.

7. Workshop Report

As part of the Scoping Memo, parties were invited to attend a workshop to consider issues including but not limited to jurisdiction, safety, transportation access, and proposed modifications to existing rules and regulations. On April 10 and 11, 2013, the parties attended the Commission's workshop in San Francisco at the Commission's offices. The workshop sessions were publicly noticed and open to the public.

Two parties that we'd like to thank and extend our appreciation to for drafting the workshop report are TPAC and TransForm. On May 17th these two parties filed the Workshop Report on behalf of those parties who attended

the workshop.⁹⁰ The Workshop Report summarizes party positions as articulated during the workshop.

Most of the issues such as jurisdiction, safety, access, and the definition of ridesharing have already been discussed in the above sections of this decision. There are, however, two issues not addressed above that we will address in this section.

During the workshop, Commission staff asked whether there was a third way to regulate TNCs that protected public safety, but also allowed innovation and technology to bring choice and convenience to the public. The SFMTA/IATR stated that the idea that there is some third way to regulate these TNCs is offensive to the men and women who work as regulators to protect public safety and access. The SFMTA/IATR pointed out that the taxi industry is a highly managed transportation network that requires regulations to ensure universal access to door to door transportation in an urban environment.⁹¹ TPAC stated that it believed that the Commission had inappropriately provided preapproval to a third-way regulatory approach via its settlement agreements with companies such as Uber and Lyft. TPAC stated that the third-way regulatory approach affected by the TNCs' settlement agreements amounted to the deregulation of the taxicab industry, and as such violated state law.⁹²

Counsel for the SFMTA and the San Francisco Airport Commission stated that

⁹⁰ TPAC, TransForm, CforAT, GCLA, Luxor Cab, IATR, PIFC, the San Francisco Cab Drivers Association, the San Francisco Limo Union, the San Francisco Medallion Association, SFMTA, The San Francisco Airport Commission, SideCar, Tickengo, Uber, The United Taxicab Workers, TURN, and Lyft.

⁹¹ Workshop Report at 14.

⁹² *Id.*

TNCs have presented no credible argument for a third way. The SFMTA and San Francisco Airport Commission stated that there are two possible regulatory schemes, the local system for taxicabs and the state system for charter-party carriers, but there is no justification for subjecting TNCs to lesser standards than those applicable to all other charter party carriers.⁹³ Luxor Cab stated that the topic of a third way to regulate TNCs is misleading because it assumes that there is something new about the TNCs, when taxi companies have been using similar technological services for several years before the inception of Uber, Lyft, and SideCar.⁹⁴ SideCar asserted the need for regulatory recognition of the innovative combination of services offered by communications platforms such as SideCar, in combination with noncommercial ridesharing.⁹⁵ Lyft stated that, to the extent the Commission finds that it should regulate to protect public safety interests, it is supportive of a third way regulatory approach because, if applied to TNCs, the current regulatory scheme would create unreasonable barriers for ridesharing services to enter the market.⁹⁶

A second issue that was discussed during the workshops and does not neatly fit into any of the discussion above is the notion of fair competition among regulated and unregulated entities. TPAC commented that the goal of the Commission should be to create a fair system. They argue that where both a regulated system and an unregulated system exist, the natural inclination of the industry will be to move towards deregulation in order to avoid all of the costs of

⁹³ Workshop Report at 15.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

regulatory compliance. Consequently there will be no room left for a regulated industry.⁹⁷

Several parties including the SFMTA, San Francisco Airport Commission, TPAC, United Taxicab Workers, and the SF Cab Drivers Association contend that regulated taxis cannot compete with TNCs. United Taxicab Workers argue that to allow TNCs to exist in their current unregulated form or subject to minimal regulation essentially creates a race towards the bottom with negative impact on safety and service. These groups contended that professional drivers will be pushed towards the TNC business model because of lower operational costs. The representative from the SFMTA/IATR states that when this unregulated system devastates the regulated environment, no one will be left to provide safe and accessible door to door service to city residents and visitors.⁹⁸

7.1. Discussion

We are not persuaded by the position taken by the SFMTA that updating regulation is offensive to those currently working to regulate public safety and access. Regulatory bodies must always look to update their rules and regulations in order to keep pace with time and technology. The Commission's goal in this Rulemaking is to strike the proper balance between safety and innovation, so that regulation provides a safety net that the public can rely on for its protection while new businesses innovate and use technology to better the lives of Californians. The regulations that we are adopting for TNCs are similar to what the SFMTA requires of taxicab drivers. Namely, we require a license for each TNC, require a criminal background check to be completed for each driver,

⁹⁷ Workshop Report at 26.

⁹⁸ *Id.*

require that each TNC establish a driver training program, and require liability insurance that is equal to what the SFMTA requires of taxicab drivers. We will not, however, meddle into their business model by forcing TNCs to designate each driver an employee or contractor. Again, our role is to protect public safety, not to dictate the business models of these companies.

We reject TPAC's allegation that a third way of regulation is the same as deregulation. The settlement agreements that SED entered into with three of the companies were a first step toward regulation. The regulations that we establish in this decision will ensure that safety is foundational to a TNC's business. Additionally, we support choice not only for passengers, but also drivers. Going forward, a company may either apply for a TNC license or a TCP license with the Commission.

We accept those party's comments calling for regulation of TNCs. As such, in this decision we exercise our existing jurisdiction pursuant to Article XII of the California Constitution and the Act. In this decision under the broad grant of authority pursuant to PU Code § 5381, we create the category of TNC to accompany the existing category of TCP. A company or individual wishing to provide transportation or facilitate transportation of passengers can choose to either get a TCP license or a TNC license. The TCP requirements are already in place, although as indicated, *supra*, the Commission will open a second phase to this Rulemaking to update those rules and regulations to ensure that safety requirements are up to date.

8. Comments on Proposed Decision

The proposed decision of Commissioner Michael R. Peevey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of

Practice and Procedure. Comments were filed on August 19, 2013 by Tickengo, CforAT, SideCar, Lyft, Uber, TPAC, IATR, Los Angeles Department of Transportation, GCLA, TransForm, Luxor Cab, eRideshare, SFMTA, California Airports Council, TLPA, San Francisco Cab Drivers Association (SFCDA), United Taxicab Workers, SFMTA/SFO, PIFC and Consumer Attorneys of California, and reply comments were filed on August 26, 2013 by TPAC, Luxor Cab, United Taxicab Workers, Lyft, IATR, CforAT, TLPA, SFMTA/SFO, SideCar, Uber, PIFC and SFCDA.

In response to comments, the proposed decision has been revised to further explain the definition of what constitutes a TNC. It is further noted that the existing exemptions under the Commission's Charter Party Carrier authority are not usurped by the creation of this new category. All of the existing eleven exemptions still apply. The proposed decision has also been revised to clarify what kind of a criminal background check is expected, the insurance requirements and what specifics should be included in the TNC plans to ensure accessibility. Other revisions in response to comments have been made as appropriate.

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Robert Mason III is the assigned ALJ in this proceeding.

Findings of Fact

1. The Commission opened this Rulemaking on December 20, 2012, to protect public safety and to encourage innovators to use technology to improve the lives of Californians.
2. The Commission has a responsibility for determining whether and how public safety might be affected by these TNCs.

3. Parties filed comments in this proceeding on January 28, 2013 and reply comments were filed on February 11, 2013.

4. On February 15, 2013, the Commission held a Prehearing Conference and on April 2, 2013, the assigned Commissioner and ALJ issued a Scoping Memo.

5. Workshops were held on April 11 and 12, 2013, at the Commission's auditorium.

6. In the Rulemaking we referred to these companies as New Online-Enabled Transportation Services. We are changing the abbreviation to TNC for ease of use.

7. TNCs are not just Lyft, SideCar, InstantCab, and UberX.

8. A TNC is defined as an organization whether a corporation, partnership, sole proprietor, or other form, operating in California that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their personal vehicles.

9. California law currently recognizes and regulates three modes of passenger transportation for compensation: taxi services, regulated by cities and/or counties; and charter party carrier services, and passenger stage companies, regulated by the California Public Utilities Commission.

10. It is reasonable to conclude that in recent years, the communications revolution in wireless service, smartphones and apps has further facilitated the development and adoption of passenger transportation for compensation, to a point where passengers seeking rides are readily connected with drivers willing to provide rides in private vehicles.

11. It is reasonable to conclude that current TNCs are providing passenger transportation for compensation.

12. TNCs do not fit neatly into the conventional understandings or statutory definitions of either taxis or limousines, but that does not mean that this Commission's responsibility to public safety in the transportation industry should be ignored and/or left for individual companies to dictate.

13. TNCs operate on a prearranged basis because 1) before a passenger can request a ride, the passenger must download the software application, provide identification information and agree to the TNC service agreement, and 2) for a particular trip, the passenger must input information regarding current location, and finally 3) a TNC driver cannot be hailed on the street similar to a taxicab where no information is shared until the passenger enters the vehicle.

14. In order to comply with the applicable statutes and regulations, all TNC drivers must be able to prove that a ride was matched on the TNC software application as evidence of prearrangement.

15. The California DMV does not currently permit TNCs to enroll non-employee drivers in the Employer Pull Notice Program. Until the DMV Employer Pull Notice Program is available for use by TNCs, TNCs should perform, prior to allowing a driver on the platform and quarterly thereafter, driving record checks through DMV in order to ensure that drivers meet applicable requirements. The DMV check criteria shall provide that a user may have no more than 3 points within the preceding 3 years, no "major violations" (reckless driving, hit and run, or driving with a suspended license conviction) within the preceding 3 years, and no driving under the influence conviction within the past 7 years.

16. It is reasonable to conclude that TNCs are charter party passenger carriers, and therefore we will exercise our existing jurisdiction over these services

pursuant to Article XII of the California Constitution and the Passenger Charter-party Carriers' Act, PU Code § 5351 *et seq.*

17. It is reasonable to exercise this Commission's broad grant of authority pursuant to PU Codes §§ 5381 and 701 to create the category of TNC to accompany the existing category of TCP. A company or individual wishing to provide transportation or facilitate transportation of passengers can choose to either get a TCP license or a TNC permit.

18. The definition of ridesharing does not permit transportation performed for profit.

19. Recovery of actual costs incurred only applies to vanpool vehicles, which is defined by the Vehicle Code as seating more than 10 passengers, but less than 15 passengers, including the driver.

20. It is reasonable to conclude that TNCs do not qualify for the rideshare exemption under PU Code § 5353(h), because § 5353(h) provides two opportunities to qualify for the rideshare exemption: either the transportation must have a common work-related purpose; or the transportation must be incidental to another purpose of the driver. TNCs fail to satisfy either of these requirements.

21. Pursuant to PU Code § 5352 the Commission's authority over passenger carriers is grounded in the need to protect the public's safe and reliable access to California's roadways.

22. PU Code § 5352 positions public safety as a key goal in ensuring that the public enjoys full access to the roadways.

23. The primary distinction between a TNC and other TCPs is that a TNC connects riders to drivers who drive their personal vehicle, not a vehicle such as a limousine purchased primarily for a commercial purpose.

24. A TNC shall not be permitted to accept street hails.

25. A TNC is not permitted to itself own vehicles used in its operation or own fleets of vehicles. With this definition in mind, the Commission finds that Uber (in contrast to UberX) is not a TNC.

26. Uber connects riders with drivers who do not drive their own personal vehicle, but typically operate in town cars or limousines, which the driver may often as well use to transport customers for another limousine/town car company.

27. In order to ensure the greatest possible evidentiary record, the Commission would prefer to leave all non-TNC issues, including Uber's potential TCP status, to Phase II.

28. The Commission will not allow the uncertainty regarding Uber's insurance to persist during the pendency of Phase II. Uber should be required to demonstrate to the Commission within 30 days of the issuance of this decision that it maintains commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing Uber services. The insurance coverage shall be available to cover claims regardless of whether an Uber driver maintains insurance adequate to cover any portion of the claim.

29. UberX does meet the TNC definition and should apply for a TNC license.

30. In this decision we will require TNCs to maintain commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing TNC services. The insurance coverage shall be available to cover claims regardless of whether a TNC driver maintains insurance adequate to cover any portion of the claim.

31. The criminal background check must be a national criminal background check including the national sex offender database. The criminal background check should be using the applicant's social security number and not just the applicant's name. Any felony criminal conviction within seven years prior to the date of the background check for violent crime, a sexual offense, a crime involving property damage, and/or theft will make the applicant ineligible to be a TNC driver.

32. The Commission is authorized to conduct inspections of charter-party carriers which will now include TNCs. For instance, § 5371.5 of the Act states that: "Upon receipt of a complaint containing sufficient information to warrant conducting an investigation, the commission shall investigate any business that advertises limousine-for-hire or passenger charter transportation service for compensation in motor vehicles."

33. The Commission is also authorized to issue fines pursuant to PU Code § 5378(b).

34. PU Code § 5411 to 5420 of the Act contain relevant provisions regarding issuing fines and penalties. These provisions allow the Commission to issue fines to carriers who have violated one or more provisions of the California Public Utilities Code. In addition, the Commission has established a citation program in Resolution ALJ-187.

35. The Commission's purpose in this Rulemaking is to ensure that regulation is the safety net that the public relies on for its protection and secondarily encouraging innovation and utilization of technology to better the lives of Californians.

36. No Term and Condition in a TNC's Terms of Service or elsewhere, can be inconsistent with this decision's commercial liability insurance requirements for

TNCs. Nor can any Term and Condition in a TNC's Terms of Service be used or relied on by the TNC to deny insurance coverage, or otherwise evade the insurance requirements established in this decision.

37. The Commission will open a Phase II to consider updating its regulations over TCP certificate holders. Phase II will also consider the standard and appropriate language for Terms & Conditions for both TCP and TNC certificate holders.

Conclusions of Law

1. The Federal Telecommunications Act of 1996 and recently adopted California legislation (Senate Bill 1161 authored by Senator Alex Padilla) limit California's ability to regulate IP-enabled services, but they do not prevent California from regulating passenger transportation over public roadways.

2. TNCs are not providers of IP-enabled services and are not exempt from our jurisdiction.

3. To date neither the FCC, nor a court of higher jurisdiction, has ruled that this Commission, or any other state commission, is precluded by the Federal Telecommunication Act of 1996 from regulating TNCs.

4. The Commission regulates charter party passenger carriers pursuant to Article XII of the California Constitution and the Passenger Charter-party Carriers' Act, PU Code, §§ 5351, *et seq.* Section 5360 states in part:

Subject to the exclusions of Section 5353, "charter-party carrier of passengers" means every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state.

Section 5381 states in part:

...(t)he commission may supervise and regulate every charter-party carrier of passengers in the State and may do all

things...necessary and convenient in the exercise of such power and jurisdiction.

5. The Commission has very broad powers under PU Code § 701 which suggests that the Commission has the ability (via a rulemaking process) to develop new categories of regulation when a new technology disrupts an existing industry.

6. We find that TNCs are charter party passenger carriers, and therefore we will exercise our existing jurisdiction pursuant to Article XII of the California Constitution and the Passenger Charter-party Carriers' Act, PU Code § 5351 *et seq.* (the Act). In this decision, under the broad grant of authority pursuant to PU Codes § 5381 and 701, we create the category of TNC to accompany the existing category of TCP.

7. Section 5353(h) provides two opportunities to qualify for the rideshare exemption: Transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in § 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver.

8. PU Code § 5353(h) exempts transportation of persons between home and work locations or of persons having a common work-related trip in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in § 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver.

9. The section also states the exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit," as

used in this subdivision does not include the recovery of actual costs incurred in owning and operating a vanpool vehicle, as defined in § 668 of the Vehicle Code.

10. Current TNCs do not fulfill the rideshare exemption and actually are providing transportation services for compensation.

11. PU Code § 5352 positions public safety as a key goal in ensuring that the public enjoys full access to the roadways.

O R D E R

IT IS ORDERED that:

1. Transportation Network Companies shall follow the safety and regulatory requirements as detailed in Section 2.2.4 of this decision.

2. All reports required by this decision to be submitted by Transportation Network Companies must be verified by the provision of a signature of an officer of the corporation stating under penalty of perjury under the laws of the State of California that the report is accurate and contains no material omissions.

3. Each Transportation Network Company (TNC) (not the driver) must have a license with this Commission. There are six types of charter party carrier permits/certificates. TNCs shall apply for a class P permit.

4. Each Transportation Network Company (TNC) is required to conduct a criminal background check for each driver prior to that applicant becoming a TNC driver. The criminal background check must be a national criminal background check including the national sex offender database. The criminal background check must use the applicant's social security number and not just the applicant's name. Any felony criminal conviction within seven years prior to the date of the background check for driving under the influence of drugs or alcohol, fraud, use of a motor vehicle to commit a felony, a violent crime or act of

terror, a sexual offense, a crime involving property damage, and/or theft will make the applicant ineligible to be a TNC driver.

5. We require the Transportation Network Company (TNC) or an authorized third party facility licensed by the California Bureau of Automotive Repair to conduct and ensure that each vehicle passes a 19-point vehicle inspection prior to allowing a vehicle to be driven as part of the TNC's service, and annually thereafter, and for the TNC to maintain the record of such inspections in case of an audit.

6. We require TNCs to maintain commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing TNC services. The insurance coverage shall be available to cover claims regardless of whether a TNC driver maintains insurance adequate to cover any portion of the claim. This insurance requirement shall be disclosed on each TNC's app and website.

7. Until the Department of Motor Vehicle (DMV) Employer Pull Notice Program is available for use by Transportation Network Companies (TNC), TNCs shall perform, prior to allowing a driver on the platform and quarterly thereafter, driving record checks through the DMV in order to ensure that drivers meet applicable requirements. The DMV check criteria shall provide that a user may have no more than 3 points within the preceding 3 years, no "major violations" (reckless driving, hit and run, or driving with a suspended license conviction) within the preceding 3 years, and no driving under the influence conviction within the past 7 years.

8. Drivers for Transportation Network Companies are prohibited from accepting street hails from potential passengers.

9. This decision orders a second phase to this proceeding to review the Commission's existing regulations over limousines and other charter party carriers in order to ensure that these rules have kept pace with the needs of today's transportation market, and that the public safety rules are up to date. In addition, the second phase will consider the potential impact of any legislative changes that could affect our ability to regulate the Transportation Network Company industry.

10. The Commission will convene a workshop one year after the issuance of this decision to hear from all stakeholders on the impacts of this new mode of transportation and accompanying regulations. Workshops topics will include, but not necessarily be limited to, a consideration of safety, competition, innovation, accessibility, congestion, the California Environmental Quality Act, and other pollution related issues.

11. Transportation Network Companies must submit a plan within 90 days of the issuance of this decision to the Safety and Enforcement Division to explain how they plan to ensure that this new form of transportation service does not create a divide between the able and disabled communities.

12. Within 45 days after the effective date of this Decision, the Commission will post a Transportation Network Company Application Packet on its website, and Transportation Network Companies currently operating in California must file their Transportation Network Company Applications with the Safety and Enforcement Division 60 days thereafter if they wish to continue operating.

13. Uber is required to demonstrate to the Commission within 30 days of the issuance of this decision that it maintains commercial liability insurance policies providing not less than \$1,000,000 (one million dollars) per-incident coverage for incidents involving vehicles and drivers while they are providing Uber services.

The insurance coverage shall be available to cover claims regardless of whether an Uber driver maintains insurance adequate to cover any portion of the claim.

14. UberX meets the Transportation Network Company (TNC) definition and must apply for a TNC license.

15. No Term and Condition in a TNC's Terms of Service or elsewhere, can be inconsistent with this decision. Nor can any Term and Condition in a TNC's Terms of Service be used or relied on by the TNC to deny insurance coverage, or otherwise evade the insurance requirements established in this decision.

16. Taxicab Paratransit Association of California's motion to compel discovery is denied without prejudice.

17. Rulemaking 12-12-011 remains open.

This order is effective today.

Dated September 19, 2013, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

CARLA J. PETERMAN

Commissioners

San Diego County Code of Regulatory Ordinances

CHAPTER 3. TAXICABS AND TAXICAB OPERATORS*

***Note**--Repealed and reenacted by Ord. No. 3209 (N.S.), effective 7-17-68; amended by Ord. No. 3377 (N.S.), effective 6-30-69; repealed and reenacted by Ord. No. 3905 (N.S.), effective 7-20-72.

Cross reference(s)--Licenses, business regulations and business taxes, [Tit. 2](#); highways and traffic, [Tit. 7](#); taxicab stands, § [72.190](#) et seq.

SEC. 21.301 . DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Medallion" means the pre-numbered decal placed on a taxicab by the Issuing Officer annually, signifying that the "taxicab operator" is authorized to operate the vehicle as a taxicab in the unincorporated areas of the County.

(b) "Posted rate" means the rate the operator has registered with the Issuing Officer for transporting passengers and which is posted in the taxicab. The "posted rate" includes flat rate fares and the fares at which the taximeter has been calibrated and inspected by the Sealer of Weights and Measures.

(c) "Taxicab" means a motor vehicle as the term is defined by the California Vehicle Code, used for transportation of passengers for hire, equipped with a taximeter. A taxicab shall be a vehicle designed to transport no more than eight passengers, excluding the driver.

(d) "Taxicab driver" means any person who drives or controls the movements of a taxicab.

(e) "Taxicab driver's identification card" means the annual license issued to a taxicab driver under this chapter authorizing the driver to operate a taxicab in the unincorporated area of the County.

(f) "Taxicab operator" means a person engaged in the taxicab business.

(g) "Taxicab operator's license" means the annual license issued by the Issuing Officer authorizing a taxicab operator to pick up passengers in the unincorporated areas of San Diego County.

(h) "Taxicab permit" means the annual permit issued by the Issuing Officer to a taxicab operator for each taxicab that has satisfactorily passed inspection.

(i) "Taxicab stand" means an area designated by the County Road Commissioner for the exclusive use by taxicabs to load or unload passengers or to park or stand while waiting for employment by passengers.

(j) "Taximeter" means a device on the inside of a taxicab that is calibrated to calculate the fare earned by the taxicab operator for transporting passengers.

(Amended by Ord. No. 4738 (N.S.), effective 9-9-76; amended by Ord. No. 5307 (N.S.), effective 12-21-78; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

Cross reference(s)--Definitions, § [12.101](#) et seq.; definitions relative to highways and traffic, § [71.101](#); Vehicle Code definitions, § [72.3](#).

SEC. 21.302. TAXICAB OPERATOR'S LICENSE.

The taxicab operator's license is governed by sections [21.101](#) to [21.117](#) and any additional conditions in this chapter. In addition to the grounds for denying a new or renewal license provided in sections [21.108](#) and [21.109](#) respectively, the Issuing Officer may deny a new or renewal taxicab operator's license if the applicant does not have the insurance coverage required by this chapter. The Sheriff shall be the Issuing Officer for licenses under this section and for taxicab driver's identification cards required by section [21.307](#).

(Amended by Ord. No. 5307 (N.S.), effective 12-21-78; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.303. ADDITIONAL REASONS FOR REVOCATION OR SUSPENSION OF TAXICAB OPERATOR'S LICENSE.

In addition to the reasons in section [21.112](#) for revoking or suspending a taxicab operator's license the Issuing Officer may revoke or suspend the license if the operator, his agents, or employees are responsible for any of the following:

- (a) Charging or demanding a passenger pay a fare exceeding the posted rate.
- (b) Driving or controlling the movements of a taxicab without a valid driver's identification card issued pursuant to this code.
- (c) Allowing a person to drive or control the movements of a taxicab without a valid driver's identification card issued pursuant to this code.
- (d) Operating or allowing another person to operate a taxicab without the insurance coverage required by this chapter.
- (e) Operating or allowing another person to operate a taxicab that has not been issued a valid taxicab permit or a valid medallion by the Issuing Officer.
- (f) Operating a taxicab without a current taximeter registration certificate issued by the Sealer of Weights and Measures or without the registration certificate in the vehicle.

(g) Violating any other provision of this code.

(Amended by Ord. No. 5200 (N.S.), effective 8-10-78; amended by Ord. No. 5307 (N.S.), effective 12-21-78; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8316 (N.S.), effective 11-25-93; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.304. REGULATION OF TAXICAB OPERATORS.

(a) It shall be unlawful for any taxicab operator to refuse a prospective or actual fare, take any action to actively discourage a prospective or actual fare or refuse to dispatch a driver:

(1) Based on any discriminatory means, including race, creed, color, age, sex, national origin, disability, sexual orientation, gender identity or military status of any prospective passenger.

(2) Based upon the length of any trip if the trip is within the area normally serviced by the operator.

(b) A taxicab operator shall require taxicab drivers using the operator's taxicabs to maintain trip logs and turn them in at least once a week, as required by section [21.315\(n\)](#). A taxicab operator shall maintain the trip logs for one year from the date they are turned in and shall have them available for inspection by the Issuing Officer.

(Amended by Ord. No. 5200 (N.S.), effective 8-10-78; amended by Ord. No. 5290 (N.S.), effective 11-30-78; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.305. INSPECTION OF TAXICABS.

(a) It shall be unlawful for a taxicab operator to operate a taxicab unless the taxicab has passed an initial inspection either by the Issuing Officer or another person approved by the Issuing Officer. The inspection may include but not be limited to the taxicab operating conditions listed in this chapter and any other conditions the Issuing Officer reasonably determines a taxicab must comply with to operate safely. If the taxicab passes the initial inspection the Issuing Officer shall issue a taxicab permit for one year.

(b) After passing the initial inspection a taxicab shall pass an annual inspection to satisfy the same conditions required by the initial inspection. It shall be unlawful for a taxicab operator to operate a taxicab that has not passed its annual inspection and been issued an annual permit.

(c) If the Issuing Officer is satisfied that a taxicab has passed an inspection required by this section the Issuing Officer shall issue an annual taxicab permit and affix a medallion on the vehicle authorizing the operator to place the taxicab in service for one year.

(d) It shall be unlawful for any person other than the Issuing Officer or his designee to place a medallion on or remove a medallion from a taxicab. It shall also be unlawful to tamper with or alter a medallion.

(e) The absence of a medallion on a taxicab that complies with paragraph (c) above shall be prima facie evidence in a proceeding to suspend or revoke a taxicab operator's license for operating a taxicab without a valid medallion.

(Amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.306. CONDITION OF TAXICABS.

(a) The taxicab operator shall not allow any taxicab to remain in service unless the vehicle meets all the minimum requirements to pass inspection contained in paragraph (b) below.

(b) The minimum requirements for the initial inspection and annual inspections that all taxicabs must meet are as follows:

(1) Hubcaps or wheel covers are on all wheels for which hubcaps or wheel covers are standard equipment.

(2) There are no tears or rust holes in the vehicle body and no loose pieces hanging from the vehicle body. Fenders, bumpers and light trim are securely fixed to the vehicle. No taxicab has extensive un-repaired body damage. The vehicle is equipped with front and rear bumpers. The exterior of the vehicle is in a reasonably clean condition so as not to obscure the company or owner's name on the vehicle and any number assigned to the vehicle.

(3) The vehicle is painted and marked in accordance with the color scheme approved by the Issuing Officer. Paint and markings are not faded or deteriorated in such a manner as to preclude immediate recognition of the approved color scheme, the company or owner's name and any number assigned to the vehicle.

(4) Headlights are operable on both high and low beam. Taillights, parking lights, signal lights, and interior lights are all operable.

(5) The vehicle is equipped with adequate windshield wipers maintained in good operating condition.

(6) All brake systems are operable.

(7) Excessive play in the steering mechanism does not exceed three inches free play in turning the steering wheel from side to side.

(8) The engine compartment is reasonably clean and free of uncontained combustible materials.

(9) Mufflers are in good operating condition.

(10) The windshield is without cracks or chips that could interfere with the driver's vision. All other windows are intact and able to be opened and closed as intended by the manufacturer. The windows and windshield are in a reasonably clean condition so as not to obstruct visibility.

(11) All door latches and door handles are operable from both the interior and exterior of the vehicle.

(12) The vehicle's suspension system does not sag because of weak or broken springs or excessive motion when the vehicle is in operation, due to weak or defective shock absorbers.

(13) All seats are securely fastened to the vehicle. Seat belts, when required by the California Vehicle Code, are installed. The upholstery is free of grease, holes, rips, torn seams and burns.

(14) The interior of each vehicle and the trunk or luggage area is in a reasonably clean condition, free of foreign matter, offensive odors and litter. The seats are reasonably clean and without large wear spots. The door handles and doors are intact and clean. The trunk or luggage area is empty except for a spare tire, a personal container for the driver not exceeding one cubic foot in volume and emergency equipment, to allow maximum space for passenger luggage and belongings.

(15) The tires comply with the California Vehicle Code.

(Amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.307. TAXICAB DRIVER'S IDENTIFICATION CARD - REQUIREMENTS AND ADDITIONAL GROUNDS FOR DENIAL.

(a) It shall be unlawful for any taxicab driver to pick up or discharge passengers in the unincorporated areas of the County of San Diego without first obtaining a taxicab driver's identification card from the Issuing Officer. The Issuing Officer may issue an applicant a temporary identification card for up to 90 days, while an investigation is pending.

(b) To be eligible for a taxicab driver's identification card a person must be at least 18 years of age, have a valid California vehicle operator's license, have successfully completed a drug screening test pursuant to Government Code section 53075.5(b)(3) and have obtained employment with at least one licensed taxicab operator. A taxicab driver may be employed by up to four licensed taxicab operators at one time, including being self-employed.

(c) In addition to the reasons for denying a new license under section [21.108](#) or a renewal license in section [21.109](#), the Issuing Officer may deny an applicant a taxicab driver's identification card if the Issuing Officer determines that:

(1) The applicant has been convicted of an offense requiring the applicant to register as a sex offender under Penal Code section 290 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of passengers.

(2) The applicant has been convicted of an offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section 11590 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of passengers.

(3) The applicant has within five years of the date of the application been convicted of any of the following motor vehicle offenses: operating a motor vehicle under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, reckless driving, fleeing from a police officer or failing to fulfill the duty required after being involved in a motor vehicle accident involving property damage, injury or death.

(4) The applicant has within five years of the date of the application been convicted of assault or battery.

(5) The applicant addicted to any substance prohibited by the Uniform Controlled Substances Act (Health and Safety Code Section 11000 et seq.) unless the applicant is enrolled and successfully participating in a drug treatment program approved by the Court.

(6) The applicant within 12 months of the date of the application, has been convicted of, or held by any final administrative determination to have committed an act listed in section [21.315](#) below that would be grounds for suspending or revoking a taxicab driver's identification card.

(d) The Issuing Officer may also require an applicant to demonstrate that the applicant is knowledgeable about the provisions of this chapter, State and local traffic regulations and geography of the County, in order to qualify for the identification card.

(Amended by Ord. No. 4622 (N.S.), effective 1-15-76; amended by Ord. No. 4738 (N.S.), effective 9-9-76; amended by Ord. No. 5200 (N.S.), effective 8-10-78; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 8784 (N.S.), effective 4-29-97; amended by Ord. No. 9599 (N.S.), effective 10-23-03; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

State law reference(s)--Prohibited substances, Health and Safety Code, § 11000 et seq; offenses requiring registration, etc., Health and Safety Code, § 11590; approved programs, Welfare and Institutions Code, §§ 4351, 4352.

SEC. 21.308. TAXICAB DRIVER'S IDENTIFICATION CARD -- TERMS.

(a) A taxicab driver's identification card shall be valid for one calendar year from the date it is issued. If the Issuing Officer suspends the card, it shall not extend the one-year term.

(b) The identification card may be renewed within the 30 days prior to its expiration date by submitting a renewal application with the Issuing Officer.

(c) The identification card shall contain the taxicab driver's full name, date of birth, physical description, thumbprint, names of the companies he works for, expiration date and be laminated.

(d) A new laminated taxicab driver's identification card shall be issued each time a valid identification card must be replaced because it is lost, damaged or the driver changes employers between the date of issue and the date of expiration. The driver must pay the renewal fee as provided by section [21.1901](#) to cover the cost of the new card.

(Amended by Ord. No. 4622 (N.S.), effective 1-15-76; amended by Ord. No. 4729 (N.S.), effective 8-13-76; amended by Ord. No. 4738 (N.S.), effective 9-9-76; amended by Ord. No. 5737 (N.S.), effective 5-29-80; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7603 (N.S.), effective 4-13-89; amended by Ord. No. 8049 (N.S.), effective 5-7-92; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

Cross reference(s)--Sheriff's regulatory fees, § [21.1901](#).

SEC. 21.309. NOTICE OF TAXICAB DRIVER'S CHANGE OF EMPLOYMENT.

At least once a month every taxicab operator shall notify the Issuing Officer in writing of the name and driver's identification card number of each taxicab driver who has left the taxicab operator's employment or is no longer driving for his or her company.

(Amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.310. ADDITIONAL REASONS FOR REVOCATION OR SUSPENSION OF TAXICAB DRIVER'S IDENTIFICATION CARD.

In addition to the reasons stated in section [21.112](#) for suspending or revoking a license the Issuing Officer may suspend or revoke a taxicab driver's identification card if the driver commits an act in section [21.307](#)(c) or:

(a) Has a driving record showing a violation point count as provided by California Vehicle Code sections 12810 and 12810.5,

(b) Alters, tampers with or duplicates a taxicab driver's identification card,

(c) Displays or causes to be displayed or has in his possession any taxicab driver's identification card of the type described in paragraph (b) above,

(d) Fails to comply with section [21.315](#) of this chapter or any other section of this chapter that regulates the conduct of taxicab drivers,

(e) Has his California driver's license suspended or revoked,

(f) Has his taxicab driver's privileges suspended or revoked by any other jurisdiction in San Diego County that regulates taxicab drivers in its jurisdiction, or

(g) Fails to promptly obey all lawful orders or instructions of any peace officer, fire department official or regulating official.

(Amended by Ord. No. 4313 (N.S.), effective 6-20-74; amended by Ord. No. 4622 (N.S.), effective 1-15-76; amended by Ord. No. 4729 (N.S.), effective 8-13-76; amended by Ord. No. 4738 (N.S.), effective 9-9-76; amended by Ord. No. 5200 (N.S.), effective 8-10-78; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80; effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7882 (N.S.), effective 5-2-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.311. INSURANCE REQUIRED.

(a) It shall be unlawful for any person to operate a taxicab business within the unincorporated areas of the County unless the person has in effect insurance coverage issued by a company authorized to transact insurance business in the State of California with coverage amounts that meet the requirements of paragraph (b) below. The insurance coverage required by this section shall insure the public against any loss or damage that may result to any person or property from the operation of all taxicabs used by the operator in the operator's business. A taxicab operator shall furnish the Issuing Officer with a certificate of insurance coverage as a prerequisite to obtaining a taxicab operator's license. The certificate shall provide that the insurer will notify the Issuing Officer in writing of any policy cancellation and the notice shall be sent to the Issuing Officer by registered mail at least 30 days prior to cancellation of the policy. The certificate shall also state:

- (1) The full name of the insurer;
- (2) The name and address of the insured;
- (3) The insurance policy number;
- (4) The type and limits of coverage;
- (5) The specific vehicle(s) insured;
- (6) The effective dates of the certificate; and
- (7) The certificate issue date.

(b) The insurance shall provide coverage for each taxicab in an amount not less than \$1,000,000 per occurrence, combined single limit for bodily injury and property damage.

(c) In addition to the requirements in subsection (a) of this section, insurer must also meet the following criteria:

(1) Admitted in California by the California Department of Insurance;

(2) Insurers must have an A.M. Best Company Financial strength rating of A- (excellent), or better; and

(3) All companies must have a financial size category of not less than VII (seven-\$50-\$100 million), or similar Standard and Poors rating.

(Amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10134 (N.S.), effective 4-14-11; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.312. TAXICAB, COLORS AND COMPANY NAMES.

(a) Each taxicab operator shall have his taxicab(s) painted a distinctive color or colors approved by the Issuing Officer and shall have permanently affixed to each taxicab the operator's name or the name under which the operator does business. If the operator has more than one taxicab, each taxicab shall be numbered. The color scheme of a taxicab may not be changed without the prior written permission of Issuing Officer.

(b) It shall be unlawful for any person to knowingly modify or alter any taxicab with the intent to deceive the public as to the taxicab operator's identity or to conceal the fact that a vehicle is a taxicab.

(Amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80), supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.313. TAXICAB FARES.

(a) A taxicab operator shall file with the operator's license application a statement of the "posted rate" the operator charges to transport passengers. The "posted rate" shall apply to all taxicabs operated under the taxicab operator's license. Posted rates shall be in effect for not less than three months. The operator shall file a rate amendment with the Issuing Officer at least 14 days before any new "posted rate" is to take effect.

(b) The operator shall prominently post the rate schedule on the interior of both rear doors of all taxicabs in letters at least one inch high. The rates shall be in dollars and cents and shall be broken down as follows:

- (1) Flag drop rate
- (2) Travel charge rate
- (3) Time charge rate

(c) The fare shall be displayed on a taximeter in dollars and cents. The figures that display the fare shall be easily readable by persons in the passenger compartment of the taxicab.

(d) It shall be unlawful for a passenger who has hired a taxicab to refuse to pay the fare.

(e) It shall be unlawful for the taxicab operator or the taxicab driver to request the passenger pay a fare in excess of the posted rate.

(f) Every taxicab operator, driver, agent and employee shall accurately state the "posted rate" in effect in response to any inquiry.

(Amended by Ord. No. 5307 (N.S.), effective 12-21-78; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.314. TAXIMETERS.

(a) Every taxicab shall be equipped with a taximeter that has been registered, inspected and sealed by the Sealer of Weights and Measures before a taxicab is placed in service for the first time. A taxicab operator shall also submit every taximeter in the taxicabs it operates to the Sealer for an annual registration and inspection.

(b) It shall be unlawful for a taxicab operator to place a taxicab in service that is not equipped with a taximeter:

(1) That accurately calculates the approved fare the taxicab operator is authorized by the Issuing Officer to charge.

(2) That bears a current registration certificate from the Sealer of Weights and Measures.

(c) It shall be unlawful for a taxicab driver:

(1) To transport passengers for a fee in any taxicab that is not equipped with a taximeter.

(2) To transport passengers for a fee in any taxicab equipped with a taximeter that does not have a current registration certificate from the Sealer of Weights and Measures.

(3) To knowingly charge a passenger a fee that has been inaccurately calculated by a taximeter.

(d) The Issuing Officer may inspect any taximeter at any time.

(e) The Issuing Officer shall revoke the taxicab permit and order any taxicab operator to remove a taxicab from service that is without a taximeter, has a taximeter that does not have a current registration certificate from the Sealer or that does not accurately calculate fares. It shall be unlawful for any taxicab operator to fail to comply with an order from the Issuing Officer to remove a taxicab from service.

(Amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 8316 (N.S.), effective 11-23-93; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.315. REGULATIONS APPLICABLE TO TAXICAB DRIVERS.

(a) A taxicab driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to his destination safely and expeditiously.

(b) A taxicab driver shall provide a receipt to any passenger who requests one after the passenger pays the fare. The receipt shall indicate the beginning and ending points of the trip, the fare charged, the date, the operator's name, and the vehicle number, and shall be signed by the driver.

(c) No person shall solicit passengers for taxicabs other than the taxicab driver. The taxicab driver, however, may not leave the taxicab to solicit passengers. The Issuing Officer may authorize a dispatcher to solicit passengers as a system of loading of passengers at such times and places as in the Issuing Officer's discretion public service and traffic conditions require.

(d) No taxicab driver shall transport more persons, including the driver, than the manufacturer's rated seated capacity for the vehicle. A taxicab driver shall also not transport luggage or other items exceeding the vehicle's storage volume or load-carrying capacity.

(e) It shall be unlawful for any taxicab driver to allow a taxicab to remain standing in an established taxicab stand unless the driver remains within twelve feet of any portion of the established taxicab zone, or unless the taxicab driver is assisting passengers to load or unload.

(f) No taxicab driver shall knowingly pick up a person who has summoned a taxicab of a competitive taxicab company without informing the person that he does not represent the taxicab company the person summoned.

(g) No taxicab driver, who has been hired by a passenger, shall pick up any additional passenger without the consent of the original passenger.

(h) A taxicab driver shall not operate a taxicab unless he has affixed his driver's identification card in a prominent location inside the taxicab, visible to passengers in the passenger compartment. A taxicab driver while working shall display the name and photo identification badge issued to him by the Issuing Officer. The driver shall prominently display the badge on the outside front of the driver's clothing, between the waist and shoulders.

(i) It shall be unlawful for a taxicab driver to refuse a prospective or actual fare or to take any action to actively discourage a prospective or actual fare on the basis of race, creed, color, age,

sex, national origin or disability. A taxicab driver may, however, refuse a prospective or actual fare if it is readily apparent to the driver that a person presents a hazard to the driver. A taxicab driver is also not obligated to transport any person who is verbally or in any other way abusive to the driver.

(j) It shall be unlawful for a taxicab driver to refuse or discourage a prospective fare based upon the length of the trip if the trip is within the area normally serviced by the taxicab operator who employs the driver.

(k) A taxicab driver shall assist a passenger with loading or unloading a reasonable size, number, and type of passenger luggage or other items, when requested by a passenger. A driver, however, is not required to lift any single item that exceeds 25 pounds. The requirement to assist with loading or unloading shall be limited to retrieving or depositing items onto the nearest curbside adjacent to a legally parked taxicab. A sign in the form of a transparent decal may be affixed to the rear-door, side window stating that, "DRIVER IS NOT REQUIRED TO LOAD LUGGAGE IN EXCESS OF 25 POUNDS PER ITEM OR OF A SIZE OR KIND THAT WILL NOT SAFELY FIT IN THE DESIGNATED LUGGAGE AREA OF THIS VEHICLE." A driver with a lawful disability that prevents him from handling items may submit proof of disability to the Issuing Officer requesting relief from the requirement to assist passengers with luggage. If approved by the Issuing Officer, the driver may affix a small sign either in the passenger section of the vehicle to be visible to a rear seat passenger or on the inside of the trunk cover lid stating that, "DRIVER HAS DISABILITY THAT PREVENTS HANDLING OF LUGGAGE."

(l) A taxicab driver may seek passengers by driving on a public street, but may not travel at a speed or in a manner that interferes with or impedes traffic.

(m) A taxicab driver shall display an "out of service" sign when the taxicab is not available for hire. The sign must be located inside the vehicle to be visible and readable from outside the vehicle at a distance of at least 10 feet away.

(n) A taxicab driver shall maintain a daily trip log which shall be available for inspection upon request by any peace officer. The trip log shall show the driver's name, taxicab number, date, time, origin and destination of each trip, and fare charged. The logs shall have ruled lines and columns sufficient to include all required information and the entries shall be in black or dark blue ink. The driver shall submit his trip logs to the taxicab operator at least once a week.

(o) It shall be unlawful for any taxicab driver while transporting passengers to display the flag or device attached to the taximeter in a position indicating the vehicle is available for hire. It shall also be unlawful for the taxicab driver to prevent the taximeter from operating while the driver is transporting passengers. It shall also be unlawful for a taxicab driver to cause the taximeter to record when the taxicab is not employed or to allow the taximeter to continue to record after reaching the passenger's final destination.

(p) While driving or operating a taxicab, drivers shall be hygienically clean, well-groomed and neat and suitably dressed. The term "hygienically clean" shall refer to that state of personal hygiene, body cleanliness, and absence of offensive body odor normally associated with bathing or showering on a regular basis.

(q) Taxicab drivers shall make every attempt to return lost property left in the taxicab to its owner. If a driver is unable to locate or return the property to its owner, the driver shall contact the Sheriff's Department within 24 hours. Lost property shall be accounted for on a driver's trip sheet next to fare information.

(Amended by Ord. No. 4313 (N.S.), effective 6-20-74; amended by Ord. No. 4956 (N.S.), effective 8-25-77; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 7309 (N.S.), effective 7-2-87; amended by Ord. No. 7428 (N.S.), effective 2-4-88; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

Cross reference(s)--Highways and traffic, [Tit. 7](#); traffic code, § [72.1](#) et seq.

SEC. 21.316. BUSINESS TELEPHONE REQUIRED; NOTICE OF CHANGE.

(a) The permit holder shall maintain a business telephone in working order which must be answered during normal business hours, Monday thru Friday, and during all hours of operation.

(b) The permit holder shall, in case of any change of his or her business address, mailing address, or business address, notify the Issuing Officer in writing of such change within forty-eight (48) hours of the effective date of this change.

(Added by Ord. No. 10312 (N.S.), effective 2-6-14)

TITLE 2 LICENSES, BUSINESS REGULATIONS AND BUSINESS TAXES*
DIVISION 1. BUSINESS REGULATIONS*
CHAPTER 1. UNIFORM LICENSING PROCEDURE

CHAPTER 1. UNIFORM LICENSING PROCEDURE

SEC. 21.101. LICENSES, PERMITS AND REGISTRATION REQUIRED.

This chapter establishes a Uniform Licensing Procedure and only applies to the activities that require licenses, permits or registration under sections [21.102](#) and [21.103](#) unless this code provides that this chapter or any portion of this chapter regulates other activities. For purposes of this chapter "license" means a license, permit or registration and "licensee" means a licensee, permittee or registrant. No person other than an applicant for a license shall have any right to challenge a decision to grant, deny, suspend or revoke a license. It shall be unlawful for any person to engage in any activity listed in sections [21.102](#) and [21.103](#) within the unincorporated area of the County of San Diego:

- (a) Without first having obtained a license from the appropriate Issuing Officer as described below:
- (b) After a license required by this chapter has expired or been suspended or revoked;
- (c) Contrary to terms of the license issued pursuant to this chapter.

(Amended by Ord. No. 5307 (N.S.), effective 12-21-78; amended by Ord. No. 5493 (N.S.), effective 5-24-79; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 6408 (N.S.), effective 8-26-82; amended by Ord. No. 8244 (N.S.), effective 6-17-93; amended by Ord. No. 8655 (N.S.), effective 4-18-96; amended by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 9479 (N.S.), effective 7-19-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.102. LICENSE REQUIRED FROM THE SHERIFF.

The following activities require a license for which the Sheriff is the Issuing Officer:

- (a) Amusement Establishment and Devices
- (b) Amusement Ride Centers/Go-Cart Centers
- (c) Bathhouses
- (d) Carnivals and Circuses
- (e) Casino Parties
- (f) Entertainment Establishments
- (g) Entertainment Managers

- (h) Firearms Dealers
- (i) Fortune Telling
- (j) Holistic Health Practitioners
- (k) Junk Yards and Motor Vehicle Wrecking Yards
- (l) Massage Establishments
- (m) Massage Technicians
- (n) Massage Technician Trainees
- (o) Medical Marijuana Operations Certificate
- (p) Merchandise Coupons
- (q) Off-Premises Massage
- (r) Outdoor Assemblies
- (s) Outdoor Assembly Managers
- (t) Pawnbrokers and Second Hand Dealers
- (u) Public Dances
- (v) Shooting Ranges
- (w) Solicitors
 - (1) License
 - (2) Identification Card
- (x) Swap Meets
- (y) Taxicab Operators and Taxicab Drivers
 - (1) Operator's License
 - (2) Driver's Identification Card
- (z) Teen-age Dances

(Amended by Ord. No. 5307 (N.S.), effective 12-21-78; amended by Ord. No. 5493 (N.S.), effective 5-24-79; amended by Ord. No. 5931 (N.S.), effective 11-18-80; Ord. No. 5938 (N.S.), adopted 11-25-80, effective 12-25-80, supersedes Ord. No. 5931; amended by Ord. No. 6408 (N.S.), effective 8-26-82; amended by Ord. No. 8244 (N.S.), effective 6-17-93; amended by Ord. No. 8655 (N.S.), effective 4-18-96; amended by Ord. No. 9420 (N.S.), effective 2-2-02; amended by Ord. No. 9479 (N.S.), effective 7-19-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10102 (N.S.), effective 1-7-11; amended by Ord. No. 10120 (N.S.), effective 3-3-11)

SEC. 21.103. LICENSE REQUIRED FROM THE DEPARTMENT OF ANIMAL SERVICES.

The following activities require a license for which the Department of Animal Services is the Issuing Officer:

- (a) Kennels
- (b) Guard Dogs
 - (1) Operator's Permit
 - (2) Premises Permit

(Added by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.104. APPLICATION PROCEDURE.

An application for a license shall be submitted to the Issuing Officer on a form provided by the Issuing Officer. The application shall be accompanied by the appropriate application fee as provided in section [21.106](#) and shall not be accepted by the Issuing Officer until the fee is paid. The applicant, by submitting the application, consents to the investigation under section [21.107](#).

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.105. NOT TRANSFERABLE.

No license shall be transferable from one person to another person or from one location to another location unless the license or permit provides it is transferable.

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.106. COST OF INVESTIGATION AND FEES.

(a) The application fee for each license required by this chapter shall be an amount sufficient for the County to recover its costs to investigate and process the application, conduct an appeal hearing and all enforcement costs for regulating the activities in sections [21.102](#) and [21.103](#). The application fee is not refundable.

(b) The fees for licenses for which the Sheriff is the Issuing Officer are as provided in section [21.1901](#). The fees for licenses for which the Department of Animal Services is the Issuing Officer shall be established by resolution of the Board of Supervisors and shall be on file with the Clerk of the Board.

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.107. APPLICATION INVESTIGATION.

(a) The Issuing Officer may investigate each application for a license required by this chapter to determine whether the applicant:

(1) Has completely and accurately furnished information on the application or in response to any other request for information made by the Issuing Officer or any other County employee or County department concerning the application.

(2) Meets all minimum age requirements under federal, State and County laws and regulations.

(3) Has been convicted of a crime. The Issuing Officer is authorized to obtain the applicant's fingerprints and transmit the fingerprints to the State Department of Justice and Federal Bureau of Investigation (FBI) to obtain the applicant's State and local federal criminal history information.

(4) Committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the applicant or another person or to injure another person, or

(5) Committed an act involving moral turpitude.

(b) The Issuing Officer, as part of the investigation, may:

(1) Request that any person or public entity provide information the Issuing Officer deems relevant and necessary to investigate the application.

(2) Determine whether the location at which the applicant intends to conduct the proposed activity complies with all federal, State and County laws and regulations.

(3) Post for 10 days in a conspicuous place where the Issuing Officer conducts business a notice stating: (A) the name and address of the applicant, (B) the location(s) where the applicant intends to conduct the activity for which a license is required, (C) the type of license applied for, (D) whether the application is for a new license or request for renewal, (E) that any person may submit relevant information to the Issuing Officer in connection with the application and (F) that any information must be submitted to the Issuing Officer no later than five days from the last day the notice will be posted.

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10120 (N.S.), effective 3-3-11)

SEC. 21.108. GROUNDS FOR DENIAL OR ISSUANCE OF NEW LICENSE.

(a) The Issuing Officer may deny a new license on any of the following grounds:

(1) Applicant does not meet the minimum age requirements established by federal, State or County law or regulation for the activity. If no other law or regulation provides for a minimum age, the minimum age is 18.

(2) The applicant or any person on the applicant's behalf has made any false statement of a material fact in the application or in any report or record the applicant is required to provide or maintain under this code; or

(3) The activity at the location proposed is prohibited by any federal, State or County law or regulation; or

(4) If less than five (5) years have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation/parole/post-release community supervision, the applicant has been convicted of any felony involving theft, fraud, violence, sex with a minor, sale of any controlled substance on Schedules I-V of the Health and Safety Code or any other felony involving moral turpitude. The applicant's conviction within five years of any of the above stated offenses shall be prima facie evidence of the applicant's unfitness for a license governed by this chapter. The applicant may present evidence of rehabilitation that the Issuing Officer or any hearing officer shall consider in determining the applicant's fitness for a license, but the applicant bears the burden of overcoming the presumption of unfitness resulting from the conviction.

(b) Except for an Entertainment Establishment License under sections [21.2101](#) et seq. the Issuing Officer may also deny a new license required by this chapter for the following additional grounds if the applicant:

(1) Within five years preceding the date of the application has been convicted of or held by any final administrative determination to have been in violation of any statute, ordinance or regulation reasonably and rationally related to the license they are applying for or any offense involving deceptive trade practices or other illegal business practices that cast doubt upon the applicant's qualifications, character or fitness to engage in the activity for which the license is requested; or

(2) Violated any ordinance or law regulating the activity for which applicant requests a license; or

(3) Fails to meet any State Law requirement for a license. If State Law precludes the Issuing Officer from applying any portion of paragraphs (b)(1) and/or (b)(2) above to the application process the Issuing Officer may only rely upon grounds not precluded by State Law.

(4) Suffers from alcoholism, drug addiction or any other physical or mental disorder, condition or disease that the Issuing Officer determines renders the applicant unfit to engage in the activity for which the applicant seeks a license.

(c) The Issuing Officer shall issue the license or notify the applicant within 30 days after the applicant filed a complete application that the license has been denied.

(Amended by Ord. No. 5290 (N.S.), effective 11-30-78; amended by Ord. No. 6879 (N.S.), effective 1-17-85; amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 8244 (N.S.), effective 6-17-93; amended by Ord. No. 9479 (N.S.), effective 7-19-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07; amended by Ord. No. 10312 (N.S.), effective 2-6-14)

SEC. 21.109. EXPIRATION AND RENEWAL.

(a) A license issued pursuant to this chapter shall expire one year from the date it is issued unless the license by its terms provides a different expiration date. A license may be renewed by filing a renewal application not more than 60 days and not less than 40 days prior to the expiration date. The Issuing Officer may deny renewal on the following grounds:

(1) Any of the grounds for denying a new license; or

(2) The licensee committed an illegal act, or allowed any of its agents or employees to commit an illegal act, while engaging in the activity for which the license was issued or used or allowed any agent or employee to use the license contrary to its terms; or

(3) The licensee failed or refused to surrender the license to the Issuing Officer after receiving notice the license was suspended or revoked; or

(4) State Law provides the applicant is not entitled to renew the license. If State Law precludes the Issuing Officer from applying paragraphs (2) or (3) the Issuing Officer may only rely upon grounds not precluded by State Law.

(b) The Issuing Officer shall issue the renewal license or notify the applicant within 30 days after the applicant filed a complete application that the renewal has been denied.

(Amended by Ord. No. 5290 (N.S.), effective 11-30-78; amended by Ord. No. 6879 (N.S.), effective 1-17-85; amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 8244 (N.S.), effective 6-17-93; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.110. NOTICE OF DENIAL AND STATEMENT OF APPEAL RIGHTS.

(a) If the Issuing Officer denies a new or renewal license other than an Entertainment Establishment License, the Issuing Officer shall give the applicant notice of the denial stating each finding the Issuing Officer relied upon for the denial and advising the applicant of the following appeal rights:

(1) The right to a hearing before the Issuing Officer to contest the denial, if within 21 days after the date of the notice the applicant makes a written request for a hearing to the Issuing Officer.

(2) At the hearing the applicant may present evidence and be represented by legal counsel.

(3) If the applicant fails to request a hearing within 21 days of the date of the notice the applicant waives all rights to contest the denial.

(4) If after the hearing before the Issuing Officer the hearing officer does not overturn the denial, the applicant has the right to appeal the Issuing Officer's decision to the Appellate Hearing Board, but only if the applicant appears at and completes the hearing before the Issuing Officer.

(b) If the Issuing Officer denies an Entertainment Establishment License the Issuing Officer shall give the applicant notice that states the decision is final and the applicant is entitled to prompt judicial review by a court of competent jurisdiction. The County hereby designates the denial of an Entertainment Establishment License under this section to be eligible for expedited judicial review pursuant to Code of Civil Procedure section 1094.8. If the applicant files an action for Administrative Mandamus under section 1094.8 to challenge the Issuing Officer's denial of the license, the Issuing Officer shall immediately issue the applicant a provisional license. The provisional license shall allow the applicant to engage in the activity and will expire upon the court's entry of a judgment on the applicant's appeal or other action to challenge the Issuing Officer's denial of the license. If the Issuing Officer determines that issuing a provisional license

would threaten the health or safety of the public while judicial review is pending, the Issuing Officer shall not issue a provisional license.

(Amended by Ord. No. 5290 (N.S.), effective 11-30-78; amended by Ord. No. 6879 (N.S.), effective 1-17-85; amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 8244 (N.S.), effective 6-17-93; amended by Ord. No. 9479 (N.S.), effective 7-19-02; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.111. POSTING, DISPLAYING OR CARRYING LICENSE.

Any person issued a license under this chapter shall post, display or carry the license as follows:

(a) If the activity for which the license has been issued is at a fixed location the license shall be prominently posted at the location and a copy of the license shall be displayed in any vehicle used in connection with the activity.

(b) If the activity for which the license has been issued is conducted only from a vehicle the license shall be prominently displayed from the vehicle.

(c) If the activity is not conducted from a fixed location or vehicle the licensee shall carry the license at all times while conducting the activity and shall display the license to any person on request.

(d) No person shall post, display or carry any license after it has expired, been revoked or suspended.

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.112. SUSPENSION OR REVOCATION.

(a) The Issuing Officer may suspend or revoke a license on the following grounds:

(1) The licensee committed any act which would be grounds to deny the license, or

(2) The licensee committed an illegal act, or allowed any of its agents or employees to commit an illegal act, while engaging in the activity for which the license was issued or used or allowed any agent or employee to use the license to its terms; or

(3) The licensee refused to allow an inspection pursuant to section [21.117](#) or other inspection authorized by this code or State law.

(b) If the Issuing Officer proposes to suspend or revoke a license the Issuing Officer shall give the licensee notice that states:

(1) Whether the proposed action is to revoke or suspend the license and for suspension, the time period for the suspension,

(2) The reasons why the Issuing Officer believes the license should be suspended or revoked,

(3) The applicant has the right to a hearing before the Issuing Officer to contest the suspension or revocation of the license if within 21 days after the date of the notice the applicant makes a written request for a hearing to the Issuing Officer,

(4) At the hearing the applicant may present evidence and be represented by legal counsel,

(5) If the applicant fails to request the hearing within 21 days of the date of the notice the applicant waives all rights to contest the license revocation or suspension,

(6) If after the hearing before the Issuing Officer the hearing officer does not overturn the decision to suspend or revoke the license the applicant has the right to appeal the Issuing Officer's decision to the Appellate Hearing Board, but only if the applicant appears at the hearing and completes the hearing before the Issuing Officer.

(c) If the Issuing Officer determines to suspend or revoke an Entertainment Establishment License the Issuing Officer shall give the applicant notice that the decision is final and the applicant is entitled to prompt judicial review. The County hereby designates the suspension or revocation of an Entertainment Establishment License under this section to be eligible for expedited judicial review pursuant to Code of Civil Procedure section 1094.8. If the applicant files an action for Administrative Mandamus under section 1094.8 to challenge the Issuing Officer's suspension or revocation of the license the Issuing Officer shall immediately issue the applicant a provisional license. The provisional license shall allow the applicant to engage in the activity and will expire upon the court's entry of a judgment on the applicant's appeal or other action to challenge the Issuing Officer's denial of the license. If the Issuing Officer determines that issuing a provisional license would threaten the health or safety of the public while judicial review is pending, the Issuing Officer shall not issue a provisional license.

(Amended by Ord. No. 5290 (N.S.), effective 11-30-78; amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.113. HEARINGS -- ISSUING OFFICER.

(a) If the Issuing Officer receives a request for hearing after issuing a notice of denial pursuant to section [21.110](#) or a notice of intent to suspend or revoke a license pursuant to section [21.112](#) the Issuing Officer shall:

(1) Schedule a date for the hearing no more than 30 days and no less than 15 days after the Issuing Officer receives the request.

(2) Notify the appellant of the date, time and location of the hearing.

(3) State in the notice that the appellant must appear at and complete the hearing in order to contest the denial or the proposed suspension or revocation.

(4) Assign a member of the Issuing Officer's department to be the hearing officer who was not been involved in the investigation of the applicant, any decision to deny the license or any decision to suspend or revoke the license.

(b) Once scheduled, the hearing shall not be continued except for good cause.

(c) In cases where the license or permit was denied, the hearing officer shall determine whether the evidence establishes grounds to deny the license.

(d) In cases where the Issuing Officer proposes to suspend or revoke the license the hearing officer shall determine:

(1) Whether the evidence establishes grounds for suspension or revocation.

(2) Whether a shorter period of suspension should be imposed rather than the time period the Issuing Officer proposed.

(e) The hearing officer's decision shall be in writing. Within three days of the hearing the decision shall be provided to the appellant pursuant to the notice provisions of section [11.112](#) of this code. The decision may also be posted at the office of the Issuing Officer for five days. If the appellant failed to appear or failed to complete the hearing the decision shall state the appeal is denied and not appealable. Otherwise, the decision shall state:

(1) The hearing officer's findings of fact, conclusions and reasons for the decision,

(2) If the decision is adverse to the appellant it shall state that the appellant may appeal the decision to the Appellate Hearing Board,

(3) If decision imposes a license suspension or revocation, it shall state the suspension or revocation will become effective 15 days after the date of the decision unless the appellant appeals the decision to the Appellate Hearing Board before the 15 days expire.

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.114. STAY OF SUSPENSION OR REVOCATION.

The effect of a decision of the hearing officer to suspend or revoke a license shall be stayed while an appeal to the Appellate Hearing Board is pending or until the time for filing the appeal has expired. There shall be no stay of the effect of the decision of the hearing officer upholding the denial of any license.

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.115. EXCEPTION TO HEARING PROCEDURE.

Notwithstanding any other provision of this code, when, in the opinion of the Issuing Officer, there is a clear and immediate threat to the safety and protection of the public, the Issuing Officer may suspend or revoke a license without a hearing. The Issuing Officer shall prepare a written notice of suspension or revocation which includes a statement of the action, a concise explanation of the reasons for the action, the code section(s) relied upon for the action and an explanation of the licensee's right to request a hearing from the Issuing Officer. The licensee may request a hearing from the Issuing Officer within five days of a notice that is personally served or within 10 days if the notice is sent by mail. The procedures in section [21.113](#) apply to this hearing except that the hearing shall be held not more than 15 days from the date the Issuing Officer receives

the request for hearing decision and the Issuing Officer's decision shall not be stayed while the hearing or appeal is pending.

(Amended by Ord. No. 6879 (N.S.), effective 1-17-85; amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC. 21.116. APPEAL TO APPELLATE HEARING BOARD.

(a) A licensee who receives an adverse decision from a hearing officer pursuant to section [21.113](#)(e)(2) has the right to appeal to the Appellate Hearing Board within 15 days of the date of the hearing officer's decision. The appellant shall file a timely written notice of appeal to the Clerk of the Board of Supervisors. The notice of appeal shall provide:

- (1) The name and address of the person filing the appeal,
- (2) The name of the hearing officer who issued the decision appealed from,
- (3) The date of the decision,
- (4) Whether the decision is from a denial or a suspension or revocation of a license,
- (5) The reasons why the appellant asserts the hearing officer's decision is erroneous.

(b) The Clerk of the Board will schedule a hearing under section [16.102](#).

(Amended by Ord. No. 7912 (N.S.), effective 6-27-91; amended by Ord. No. 9889 (N.S.), effective 10-26-07)

SEC 21.117. CONSENT TO COMPLIANCE INSPECTION.

Any person to whom a license is issued under this title consents to reasonable compliance inspections by the Issuing Officer or any Building, Fire or Health official with jurisdiction over the site where the activity is carried on. The compliance inspections may only be conducted during normal operating hours and are solely for the purpose of determining whether the activity is being carried on in compliance with federal, State and County laws, ordinances or regulations and to promote the public health and safety. Failure to allow the inspection under this section is grounds for suspension or revocation of the license.

(Added by Ord. No. 9889 (N.S.), effective 10-26-07)

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Item 1



Airport-Permitted Commercial Vehicle Driver Permit Requirements

David Boenitz

Director, Ground Transportation

July 1, 2015

Recommendation

- Adopt Resolution No. 2015-_____
 - (1) authorizing the President/CEO to determine the required form of background checks for all ground transportation service providers.
 - (2) amending Authority Codes 9.12 – Ground Transportation Service Permits, 9.13 – Driver Permits, 9.14 – Insurance, 9.15 – Vehicle Registration and 9.21 – Vehicle Condition to reflect issuance of a Transportation Network Company Pilot Program Permit.

Background Checks

Regulatory Agency



California Public
Utilities Commission
Decision 13-09-045



Airport Authority Code



San Diego County
Code of Regulatory
Ordinances

Regulatory criteria



Criminal Convictions



Driving Records



Known Terrorists
Watch List

Comparisons

PUC	County Code	Airport Code
<ul style="list-style-type: none">• Criminal background check for each driver prior to that applicant becoming a TNC driver.• Must be a national criminal background check including the national sex offender database.• Must use the applicant's social security number and not just the applicant's name.	<ul style="list-style-type: none">• Taxicab Operators and Taxicab Drivers require a license for which the Sheriff is the Issuing Officer: (1) Operator's License (2) Driver's Identification Card• Fingerprint check is used to verify taxicab applicant's identity.	<ul style="list-style-type: none">• No person shall drive or operate a commercial ground transportation vehicle at the Airport without a valid Driver's Permit from the Authority.• Fingerprint check verifies VFH applicant's identity.• Security Threat Assessment (STA) for Taxicab and VFH applicants

Comparisons

PUC	County Code	Airport Code
Applicants are disqualified or denied if any felony <u>criminal conviction within seven years prior to the date of the background check</u> will make the applicant ineligible to be a TNC driver.	Applicants are disqualified or <u>denied if less than five (5) years have elapsed from the date of discharge from a penal institution or the satisfactory completion of probation/parole/post-release community supervision</u>	Driver applicants are disqualified based upon criteria listed in 9.13, but may be permitted where <u>five (5) years have elapsed from the later of:</u> (i) the last date of applicant's discharge from a jail or penal institution; (ii) the last date of applicant's discharge from parole; or (iii) the last date on which applicant was placed on probation

Disqualifying Offenses

Regulatory Agency

PUC

- Sexual Offenses
- Driving under the influence of drugs or alcohol
- Fraud
- Use of motor vehicle to commit a felony
- A crime involving property
- Theft
- Acts of violence
- Acts of terror
- Violation point count

Sheriff's Department

- and
- Possession of a controlled substance

Airport Authority

- and
- Unauthorized or illegally obtained Airport permit



Authority Code Changes

- 9.12 Ground Transportation Permits
- 9.13 Driver Permits
- 9.14 Insurance
- 9.15 Vehicle Registration
- 9.21 Vehicle Condition

Recommendations



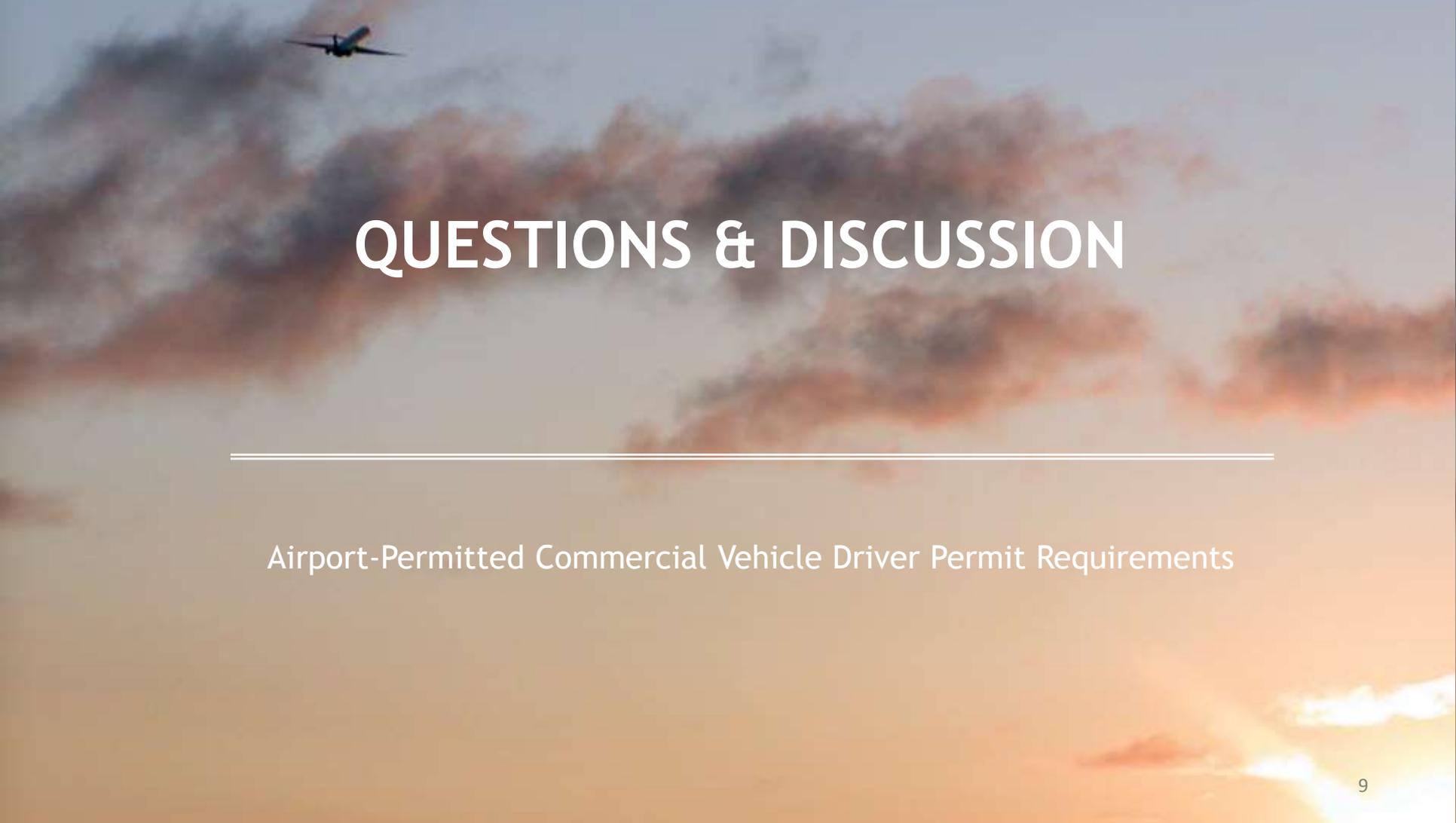
Allow ground transportation providers to perform background checks approved by the President/CEO



Authorize President/CEO to determine the required form of background check



Make needed Authority Code Changes to reflect the actions and changes.



QUESTIONS & DISCUSSION

Airport-Permitted Commercial Vehicle Driver Permit Requirements



**SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT**

**Item No.
1**

Meeting Date: **JULY 1, 2015**

Subject:

Airport-Permitted Commercial Vehicle Driver Permit Requirements

Recommendation:

Adopt Resolution No. 2015-0066, authorizing the President/CEO to determine the required form of background checks for all ground transportation service providers and amending Authority Codes 9.12 – Ground Transportation Service Permits, 9.13 – Driver Permits, 9.14 – Insurance, 9.15 – Vehicle Registration and 9.21 – Vehicle Condition to facilitate issuance of Transportation Network Company Pilot Program Permits.

Background/Justification:

Transportation Network Company (TNC) Driver Permit Requirements.

TNC drivers are private citizens who use their own personal vehicles to transport passengers for compensation on a prearranged basis. TNC drivers provide these services mostly on a part time basis using an online-enabled application ("app") or platform to connect with prospective requesting customers. The California Public Utilities Commission ("PUC"), the state's TNC regulator, requires each TNC (not the individual drivers) to obtain a PUC permit. The PUC requires the TNC to (1) conduct a criminal background check for each driver, (2) conduct a 19 point vehicle inspection of all TNC vehicles, (3) implement a driver training program, (4) adopt a zero-tolerance policy on drugs and alcohol, and (5) carry comprehensive insurance coverage for each TNC vehicle.

The emergence of TNCs into the commercial ground transportation system has brought to the surface a number of key concerns not just for the regulators, insurance companies and law enforcement agencies, but also for municipal governments, state legislatures, airport operators, and other ground transportation providers. Even the California state legislature has been unsuccessful at passing more comprehensive laws requiring stricter TNC regulations. The American Association of Airport Executives ("AAAE") is working with the TNCs and airports to establish a system for tracking TNC vehicles while operating on airport property. As a result several TNCs are now making inroads into major domestic airports causing them to step back to review and revise codes and policies that have stood for many years. Airports are looking to balance long-standing regulations with the need to provide for customer service, ensure passenger safety and facility security.

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San Diego International Airport ("SDIA") is no exception. For the past year, Authority staff has worked in good faith with the TNC industry attempting to draft a permit to balance the Authority's long-standing commercial ground transportation regulations, airport security and passenger safety with the TNCs' interests in initiating services for Airport customers.

At the February 19, 2015 Authority Board meeting, staff presented (1) the current regulatory framework, governance, and oversight of the commercial ground transportation industry; (2) the feedback received from the TNC and SDIA Ground Transportation Stakeholders, recapping the content of several meetings ; and (3) a TNC Permit comparison between SDIA's Draft Permit and SFO's Signed Permit, showing major similarities and differences. The Board decided at that meeting to follow staff's recommendations to generate a permit to allow TNCs to operate at the Airport.

Among the TNC permit recommendations staff presented was a need to have a reliable background check process to verify a driver's criminal history, driving record, and if the driver might pose a potential terrorist threat. TNCs, like the charter vehicle and limousine providers, are authorized by the PUC to employ an accredited background check organization to investigate their driver's criminal and driving record history. To verify that the TNCs were conducting their background checks as per the PUC regulation, Authority staff proposed a plan to randomly select a sample of TNC drivers and require them to submit to a LiveScan (i.e., fingerprint) background check.

This audit check would have been reviewed by Airport staff or another 3rd party background check service to compare the results of the background check with those of the TNC background check. The staff's fingerprint audit plan has been resoundingly rejected by the two largest TNCs (Lyft and Uber) as they claim it raises concerns about driver privacy, driver convenience and TNC proprietary information.

Opoli, the smallest of the TNCs interested in serving SDIA, has agreed to sign the current permit and abide by the Authority's background check requirements. Opoli, however, is still a very small player in the ride share market and has had very little impact on providing TNC services during their first month of operation (June 2015).

TNC Operations at other Airports.

San Francisco International Airport ("SFO") and Nashville International Airport ("BNA") were two of the first major domestic airports to permit TNCs. Both allow TNCs to operate without fingerprint background checks and instead rely on the TNCs to conduct their own checks. Other airports, including some California airports, are following SFO and BNA and not requiring TNCs to follow the same rules as their legacy ground transportation providers.

Driver Permit Requirements for all other ground transportation modes

Authority Code Section 9.13, entitled "Driver's Permits", governs the background requirements and permit process applicable to drivers of commercial ground transportation vehicles (i.e., Charter Vehicles, Courtesy Vehicles, Taxicabs, Vehicles for Hire, and TNC Vehicles). Currently Airport driver's permits are issued only to Taxicab and Vehicle for Hire ("VFH") shuttle drivers. Driver's permits are issued only after a successful background check has been completed which reflects the driver/applicant has no disqualifying criminal convictions and meets other requirements. In all background checks, disqualifying criminal and driving record criteria, including the length of time since a crime was committed, have been established to ensure safety, fairness and consistency. A successful background check allows the Authority to issue a picture identification badge ("credential") to the driver/applicant in accordance with a Department of Homeland Security/Transportation Security Administration ("TSA") directive. Currently, background checks of drivers of Courtesy Vehicles and Charter Vehicles are not being conducted and credential badges are not issued to these drivers.

Taxicabs. As required by the Metropolitan Transit System ("MTS") permit application, Taxicab drivers must complete and submit to the San Diego County Sheriff's Department a fingerprint ("LiveScan") check to verify the driver's identity and criminal history through the Department of Justice and the Federal Bureau of Investigation ("FBI"). Currently, the Authority accepts this background check, but also requires the driver to complete and pass a TSA Security Threat Assessment ("STA") in order to obtain an Airport driver's permit.

Vehicles for Hire ("VFH"). VFH drivers must currently submit to the Authority's LiveScan background check with the STA as a condition to obtaining an Airport driver's permit. The issuance of driver's permits is done annually by the Authority, requiring Taxicab and VFH driver's to complete a permit application, and in the case of VFH drivers, to resubmit their background check information and pay all fees. The current process imposes additional requirements on VFH and Taxicab drivers that drivers of the other modes do not have to observe. The proposed changes to the ground transportation program will allow the President/CEO to set and change this background requirement.

Authority Code Section 9.21. Staff is recommending 9.21 (e) Driver Regulation be changed to Driver Attire and Personal Hygiene with the following:

"All drivers of commercial ground transportation vehicles shall comply with the clothing and hygiene requirements as established by the President/CEO."

This change would supplement the MTS Ordinance 11 requirement for taxicabs. The change would also allow each ground transportation mode to issue and enforce the Driver Attire and Personal Hygiene requirements that have been set by respective company.

Recommendation.

Staff has diligently and in good faith negotiated the Pilot Program TNC permit terms and conditions with Uber and Lyft for the last two months. Substantial progress has been made and the major permit terms and conditions have been worked out, except for the driver background check requirements. Uber and Lyft are unwilling to participate in the fingerprint background check citing privacy and convenience issues, but are willing to enlist an accredited 3rd party background check to conduct audits of their current background check provider and process. Any discrepancies found by this 3rd party would be reported to the Airport and considered along with the other data collected during the Pilot Program.

Requests have also been made by the Transportation Alliance Group ("TAG") to discontinue the Airport driver background checks and rely on the Sheriff's Department check. TAG contends that eliminating the Airport's background check requirement would be a first step to "level the playing field" with the TNCs. VFH permit holders would also be responsible for engaging a 3rd party background check process.

Staff therefore, requests the Board to authorize the President/CEO to determine the required form of background checks and other permit requirements for all ground transportation service providers.

Staff is also recommending changes to the Authority Code to accommodate the change to driver permit requirements. The Airport Code changes offer the Airport a wider range of ground transportation services and more conveniences while giving the Permit holders greater flexibility and more options.

Fiscal Impact:

Fiscal Year 2016 Authority revenue will be reduced by approximately \$32,000 due to the elimination of annual driver permit fees.

Authority Strategies:

This item supports one or more of the Authority Strategies, as follows:

- Community Strategy Customer Strategy Employee Strategy Financial Strategy Operations Strategy

Environmental Review:

- A. CEQA: This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act ("CEQA"), as amended. 14 Cal. Code Regs. § 15378. This Board action is not a "project" subject to CEQA. Cal. Pub. Res. Code § 21065.
- B. California Coastal Act Review: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code § 30106.

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Application of Inclusionary Policies:

Not Applicable

Prepared by:

DAVID BOENITZ
DIRECTOR, GROUND TRANSPORTATION

RESOLUTION NO. 2015-0066

A RESOLUTION OF THE BOARD OF THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY AUTHORIZING THE PRESIDENT/CEO TO DETERMINE THE REQUIRED FORM OF BACKGROUND CHECKS FOR ALL GROUND TRANSPORTATION SERVICE PROVIDERS AND AMENDING AUTHORITY CODES 9.12 – GROUND TRANSPORTATION SERVICE PERMITS, 9.13 – DRIVER PERMITS, 9.14 – INSURANCE, 9.15 – VEHICLE REGISTRATION AND 9.21 – VEHICLE CONDITION TO FACILITATE ISSUANCE OF TRANSPORTATION NETWORK COMPANY PILOT PROGRAM PERMITS

WHEREAS, the President/CEO (or his or her designee) of the Authority issue permits authorizing ground transportation services for the transportation of persons and baggage from and within the Airport; and

WHEREAS, a valid permit is permission for the permittee, including the permittee's employees, drivers and agents, to transport, by a vehicle to which a decal is affixed, passengers and baggage over and upon the non-dedicated private streets within the Airport, in accordance with the rules, regulations, and standing time limits from time to time established and designated by the President/CEO; and

WHEREAS, except as provided in Authority Code Section 9.23, no person shall drive or operate a commercial ground transportation vehicle at the Airport without a valid Driver's Permit ("Driver's Permit") from the Authority in their possession; and

WHEREAS, a commercial ground transportation vehicle includes, but is not be limited to, a Charter Vehicle, Courtesy Vehicle, Taxicab, Vehicle for Hire, and Transportation Network Company ("TNC") Vehicle; and

WHEREAS, at the February 19, 2015 Board Meeting, staff indicated a desire to have a random number of fingerprint background checks conducted on TNC drivers during the TNC pilot program; and

WHEREAS, staff has worked in good faith with all TNCs for the past year to form a permit that would balance our long-standing commercial ground transportation regulations, airport security and passenger safety with the TNCs interest in serving airport customers, but has been unable to reach agreement with the TNCs on the random fingerprint background check requirement; and

WHEREAS, the California Public Utilities Commission (“PUC”) requires TNCs to conduct criminal background checks for each applicant-driver before they may become a driver. The background check must be a national criminal background check, including the national sex offender database, and be based on the applicant’s name and social security number, but does not involve the use of fingerprint identification.

WHEREAS, convictions within seven (7) years for violent crimes, DUI, fraud, use of a motor vehicle to commit a felony, sexual offenses, acts of terror, or crimes involving property damage or theft bars applicants from becoming TNC drivers; and

WHEREAS, in order to maintain a level playing field among all commercial ground transportation providers, staff recommends Code Section 9.13 be modified to permit the President/CEO the discretion to remove the fingerprint and Security Threat Assessment requirements for Taxicab, Vehicle for Hire and TNC drivers.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes the President/CEO to determine the required form of background checks for all ground transportation service providers; and

BE IT FURTHER RESOLVED that the Board hereby amends Authority Codes 9.12 – Ground Transportation Service Permits (Attachment A), 9.13 – Driver Permits (Attachment B), 9.14 – Insurance (Attachment C), 9.15 – Vehicle Registration (Attachment D) and 9.21 – Vehicle Condition (Attachment E) to facilitate the issuance of Transportation Network Company Pilot Program Permits; and

BE IT FURTHER RESOLVED that the Board authorizes, approves and directs the President/CEO to take such other actions and steps as are necessary to implement the TNC Pilot Program; and

BE IT FURTHER RESOLVED that the Board finds this action is not a “project” as defined by the California Environmental Quality Act (“CEQA”) (California Public Resources Code § 21065); and is not a “development” as defined by the California Coastal Act (California Public Resources Code §30106).

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a special meeting this 1st day of July, 2015, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE &
INFORMATION GOVERNANCE /
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

CODES

- ARTICLE 9** - **SAN DIEGO INTERNATIONAL AIRPORT**
PART 9.1 - **GROUND TRANSPORTATION**
SECTION 9.12 - **GROUND TRANSPORTATION PERMITS**
-

The President/CEO or his or her designee of the Authority may issue permits authorizing ground transportation service for the transportation of persons and baggage from or within the Airport. A valid permit is permission for the person to whom it is given, including said person's employee, driver or agent, to transport, by a vehicle to which a decal or trade dress is affixed, passengers and baggage over and upon the non-dedicated private streets within the Airport, in accordance with the rules, regulations, and standing time limits established and designated by the President/CEO from time to time.

(a) Vehicle Restrictions.

(1) Beginning July 1, 2012, the total number of authorized vehicle decals for Taxicab permits shall not exceed 450 for the Airport. A reserve list shall be retained and may be used by the President/CEO for possible replacements. The operating authority of vehicle decals for Taxicabs shall be restricted to two days every five days, not to exceed 180 authorized decals each day through the establishment of a numbered system.

(2) The total number of authorized Vehicle for Hire operators shall not exceed nine.

(3) The total number of authorized TNC permittees shall not exceed ten.

(43) No Vehicle for Hire operator may transfer a vehicle decal except as provided in Section 9.19 of this Code. Authorized Vehicle for Hire operators may increase the number of vehicle decals for their fleet each calendar year by the higher of two vehicles or 10% of their then existing fleet.

(54) No Taxicab, Charter Vehicle, Vehicle for Hire, Courtesy Vehicle, or TNC vehicle shall be operated at the Airport without ~~awithout~~ the appropriate current Airport-issued vehicle decal or approved vehicle trade dress ~~and permit issued by the Authority~~ and having passed inspection as provided by this Code. No ~~vehicle-decal permit or right to operate shall be issued for any~~ Taxicab, Charter Vehicle, Vehicle for Hire, Courtesy Vehicle, or TNC Vehicle more than ten (10) years old shall be allowed to operate at the Airport.

(65) The Board ~~President/CEO~~ reserves the right to increase or decrease the number of ground transportation service permits ~~and vehicle decals~~ or otherwise further limit or restrict the days or times for operation of the Permit Holders as provided herein or as may be provided pursuant to a duly adopted resolution.

(b) Permit Terms and Fees.

A ground transportation service permit may be issued any time during the calendar year and shall not exceed the expiration date. Irrespective of the date of issuance of any permit, every ground transportation service permit shall expire at the end of the permit term period during which it was issued unless any such permit is sooner terminated, suspended, revoked or cancelled. No permit shall be extended nor shall any permit be renewed or transferred except as provided in this Code.

(1) Trip fees or any other fees and charges for a ground transportation service provider shall be set by resolution of the Board.

(c) ~~Automated~~ Vehicle Identification.

All authorized Airport Commercial Ground Transportation Service Provider vehicles shall display ~~a vehicle identification decal~~ an approved vehicle decal or trade dress and have ~~installed an Authority-approved and operable~~ Automated Vehicle Identification (“AVI”) transponder or Global Positioning System (“GPS”) unit.

(1) No person shall remove, damage or tamper with a vehicle decal or AVI transponder or GPS unit unless given written authorization by the Authority.

(2) No person shall evade or attempt to evade an Airport AVI reader or GPS system.

(3) No TNC shall operate a vehicle at the Airport without the Authority-approved trade dress.

(d) Vehicle Inspections.

Each vehicle for which there is an application for a vehicle decal, permit^[BKL1] or trade dress shall ~~pass be~~ inspected at by the Authority or an Authority-approved Inspection Station prior to operating at the Airport ~~issuance of a vehicle decal~~, and shall be subject to further inspection at other times as ~~required~~ deemed advisable by the ~~Authority~~ President/CEO.

[Amended by Resolution No. 2014-0073R dated July 7, 2014]
[Amended by Resolution No. 2012-0083 dated July 12, 2012]
[Amended by Resolution No. 2011-0065R dated June 2, 2011]
[Amended by Resolution No. 2011-0012 dated January 6, 2011]
[Adopted by Resolution No. 2002-02 dated September 20, 2002.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

CODES

ARTICLE 9 - SAN DIEGO INTERNATIONAL AIRPORT
PART 9.1 - GROUND TRANSPORTATION
SECTION 9.13 - DRIVER'S PERMITS AND REQUIREMENTS

(a) Except as provided in Section 9.23 of this Code, no person shall drive or operate a commercial ground transportation vehicle at the Airport for the purpose of picking up passengers, except pursuant to a ~~without a valid ground transportation permit~~ Driver's Permit ("Driver's Permit") issued by from the Authority ~~in their possession~~. For purposes of this Article, a commercial ground transportation vehicle shall include, but not be limited to, a Charter Vehicle, Courtesy Vehicle, Taxicab, Vehicle for Hire, and TNC Vehicle.

(b) Every Permittees holding a commercial ground transportation permit shall conduct a background checks, as required by the Authority and state law, on all Permittee's Drivers. Permittees shall not allow any person, as defined below, to ~~No driver shall be allowed to operate a commercial ground transportation vehicle at the Airport-Airport: where they are any of the following:~~ A Driver's Permit shall not be issued to any of the following

_____ ÷

(1) Any person required to register as a sex offender pursuant to the California Sex Offender Registration Act (California Penal Code §_290, *et seq.*);

(2) Any person required to register with the chief of police pursuant to California Health and Safety Code §_11590, *et seq.*;

(3) Any person convicted of a felony;

(4) Any person convicted of violating any of the following:

(i) California Vehicle Code §_23152 or §_23153;

(ii) The vehicle code of another state or jurisdiction for driving a vehicle upon a highway while under the influence of an intoxicating liquor, drugs or narcotics;

(iii) California Vehicle Code §_23103 or §23104; or

(iv) The vehicle code of another state or jurisdiction for reckless driving.

(5) Any person who has been convicted of a crime, the nature of which the

Authority determines indicates the applicant's unfitness to operate a commercial ground transportation vehicle for hire in a safe and lawful manner, including, but not limited to, assault or battery, or any form thereof;

(6) Any person who is addicted, as defined in California Welfare and Institutions Code § 3009, to any substance prohibited by the Uniform Controlled Substances Act unless enrolled and successfully participating in a drug treatment program approved by a court of relevant jurisdiction;

(7) Any person who, within the twelve (12) months immediately preceding the submission of an application pursuant to this section, is convicted of, or held by any final administrative determination to be a negligent driver pursuant to California Vehicle Code §12810.5;

~~(8) Any person who fails a Security Threat Assessment by the United States Transportation Security Administration ("TSA");~~

(9) Any person who provides false information when applying for an Authority Driver's Permit; or

(10) Any person who alters, falsifies, forges, duplicates or in any manner reproduces or counterfeits, or displays or causes to be displayed any Driver's Permit issued pursuant to this Section or by the Authority.

(c)

(1) The provisions of Subsections (b)(1), (b)(2), (b)(3), (b)(4) and (b)(5) above shall not apply when five (5) years have elapsed from the later of:

- (i) the last date of applicant's discharge from a jail or penal institution;
- (ii) the last date of applicant's discharge from parole; or
- (iii) the last date on which applicant was placed on probation.

(2) For the purposes of Subsection (b) above, conviction includes, but is not limited to, a plea or verdict of guilty, a finding of guilty by a court or jury in a trial, a plea of *nolo contendere*, or a forfeiture of bail.

~~(3) The President/CEO shall determine the appropriate background check required prior to the authorizing drivers to operate at the Airport pursuant to any Permit. The Authority shall fingerprint every applicant and may forward fingerprints to state and federal law enforcement agencies for search.~~

(4) Permit holders shall comply with the reasonable requests of the President/CEO to audit the efficacy of background checks conducted on drivers operating at the Airport pursuant to any Permit.~~The Authority shall collect from the applicant and forward to the TSA information that is requested by the TSA for the conduct of a Security Threat Assessment.~~

(5) A Taxicab Driver who is in possession of a valid Taxicab Driver's Identification Card issued by the San Diego County Sheriff's Department ~~may~~ may be deemed in compliance with the background check requirements of this Code.~~Authority's fingerprinting requirements. Such applicants are still subject to the TSA's Security Threat Assessment.~~

(6) If, after investigation, the Authority determines that the application for a Driver's Permit should be denied, the Authority shall prepare a Notice of Denial of Application setting forth the reasons for such denial. Such Notice shall be either sent by registered mail to the applicant or personally delivered. Any person who has had an application for a Driver's Permit denied may request a hearing in accordance with the provisions of this Code.

(d) Driver's Permit – Terms and Fees

(1) A Driver's Permit may be issued any time during the calendar year for a term not to exceed one (1) year.

(2) A Driver's Permit may be renewed within the thirty (30) days prior to its expiration date by making application to the Authority, unless such permit is terminated, suspended, revoked or cancelled. A Driver's Permit shall not be renewable thirty (30) days after the expiration date of the Permit.

(3) The fee for a Driver's Permit shall be set by resolution or ordinance of the Board.

(4) Prior to the issuance or reissuance of a Driver's Permit, satisfactory proof of compliance with this Code shall be submitted to the Authority.

(5) Prior to the issuance or reissuance of a Driver's Permit, the applicant must provide proof of a valid current California's Driver's License of the class required by the Authority.

[Amended by Resolution No. 2014-0073R dated July 7, 2014]
[Amended by Resolution No. 2009-0019 dated February 5, 2009]
[Resolution No. 2002-02 dated September 20, 2002.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

CODES

ARTICLE 9 - SAN DIEGO INTERNATIONAL AIRPORT
PART 9.1 - GROUND TRANSPORTATION
SECTION 9.14 - INSURANCE

(a) No person shall operate, drive, or cause to be operated or driven any Taxicab, Vehicle for Hire, Charter Vehicle, TNC Vehicle, scheduled ground transportation service, hotel or other courtesy vehicle or any other commercial ground transportation service (except as provide in Section 9.23 of this Code) (“**Insured Drivers**”) over an upon the non-dedicated private streets for the transportation of persons and baggage from or within the Airport unless they establish and maintain in effect the forms of financial responsibility for public liability and workers’ compensation specified in this Section.

(1) Insured Drivers shall maintain a valid policy of automobile liability insurance executed and delivered by a company authorized to carry on insurance business in the State of California, with an AM Best Company financial rating acceptable to the President/CEO. The minimum terms and limits of said policy shall be set from time to time by the President/CEO. The terms of the policy shall provide that the insurance company assumes financial responsibility for injuries to persons, property and employees caused by the operation of the Insured Drivers and their authorized drivers and Airport Ground Transportation Service Permitted vehicles.

(2) Insured Drivers shall maintain a valid policy of workers’ compensation insurance for all its drivers and shall include a waiver of subrogation endorsement in favor of the Authority.

(b) A valid certificate of insurance issued by the company providing the insurance policy required under the provisions of this section shall be filed with and approved by the President/CEO. This certificate, with appropriate endorsements to the underlying policies, shall provide that the Authority and its officers, employees and agents are named as additional insureds. It shall also provide that the insurer will notify the Authority at least 30 days prior to a reduction in coverage or cancellation of the policy. The certificate also shall state:

- ~~(1)~~ The name and address of the Insured Drivers;
- (2) The insurance policy number;
- (3) The type and limits of coverage, including any deductibles or self-insured retention;
- (4) The specific vehicle(s) insured for vehicle liability coverage;

- (~~5~~4) The effective dates of the policy; and
- (~~6~~5) The certificate's date of issue.

[Amended by Resolution No. 2014-0073R dated July 7, 2014]
[Resolution No. 2002-02 dated September 20, 2002.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

CODES

ARTICLE 9 - SAN DIEGO INTERNATIONAL AIRPORT
PART 9.1 - GROUND TRANSPORTATION
SECTION 9.15 - VEHICLE REGISTRATION

(a) No Airport Ground Transportation Service Permit shall be issued without proof of valid vehicle registration provided to and approved by the Authority.

(b) California vehicle registration shall list the Driver, Permit Holder or the Permit Holder's "dba" as the registered owner. If a vehicle is leased or rented, then a copy of a valid lease or rental agreement shall be provided to and approved by the Authority prior to any permit being issued.

[Amended by Resolution No. 2014-0073R dated July 7, 2014]
[Resolution No. 2002-02 dated September 20, 2002.]

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

CODES

- ARTICLE 9** - **SAN DIEGO INTERNATIONAL AIRPORT**
PART 9.2 - **GROUND TRANSPORTATION**
SECTION 9.21 - **VEHICLE CONDITION**
-

(a) Vehicle Condition.

(1) No person shall operate, drive, or cause to be operated or driven any Taxicab, Vehicle for Hire, Charter Vehicle, TNC Vehicle, scheduled ground transportation service, hotel or other courtesy vehicle or any other commercial ground transportation service over and upon the non-dedicated private streets of the Airport unless it is in safe operating condition and in good repair. Its lighting equipment shall be in good working order. There shall be no cracked or broken windshields, windows or mirrors. The muffler and exhaust system shall be adequate to prevent excessive or unusual noise and shall not emit excessive smoke, flame, gas or oil. Exterior paint and markings shall not be faded or discolored. The vehicle shall have in operational condition, a heater, air conditioner and defroster. The vehicle shall be maintained in a clean condition, both with regard to the interior and exterior. In any vehicles required to have a taximeter, the person driving shall make certain that: the taximeter is in proper recording position at all times; the meter reading is visible to any passenger; and the meter light is burning during hours of darkness. The vehicle shall be further maintained in condition as provided in accordance with rules and regulations established by the President/CEO.

(2) The Authority may inspect any vehicle. If the inspection reveals that such vehicle is not in reasonable good repair or operating condition, from the standpoint of the safety, health and comfort of passengers, then the vehicle shall be ordered out of service by an Airport Traffic Officer or other Airport representative until such time as remedial repairs and corrections have been made. When such repairs and corrections have been made, such vehicle shall be re-inspected by an Airport-approved inspection service with proof of the repair and correction to determine whether or not proper repairs and corrections have been made and in no case shall the vehicle be permitted to resume its operation until such repairs and corrections have been made.

(b) Identification.

(1) Personal/Individual. All persons operating a commercial ground transportation vehicle at the Airport shall have and be in possession of a valid certificate or permit from the appropriate municipal or state governmental authority, proof of insurance in full force and effect equal to the requirements of the Authority, a valid driver's license of the class required issued by the State of California and, any required identification card, and have affixed to the right bottom corner of the windshield or such other location as directed by the President/CEO a valid vehicle decal or a valid Driver Permit issued by the Authority and. The Driver shall present any of these documents upon the demand of an authorized officer of the Authority or any peace officer.

(2) Vehicle. The vehicle shall be registered in the state of California and properly display, as approved by the President/CEO, the required exterior markings, state license plates, approved trade dress and licensing decals.

(c) Pickup Areas.

(1) No person shall stop, park or stand any vehicle while awaiting for any passenger or employment at any location on Airport property other than at an authorized stand, designated area, line or zone. Passenger pickups shall take place only at designated stands and zones after following authorized procedures as may be established by the President/CEO and within vehicle standing time limits and parking regulations. The above rules may be waived for disabled passengers.

(2) No person shall solicit any customer's patronage in any manner while on Airport property or in an Airport terminal building.

(3) Taxicab and Vehicle for Hire drivers shall use only the assigned Taxicab or Vehicle for Hire line and stand as respectively designated by the President/CEO. Taxicab or Vehicle for Hire line means an area at the Airport designated by sign or other suitable means which is reserved for Taxicabs or Vehicles for Hire only while waiting to advance in turn to a vacancy at a Taxicab or Vehicle for Hire stand. "Taxicab and Vehicle for Hire stand" means an area on Airport property so designated and reserved for parking only while waiting to pick up passengers for hire.

(4) Before entry onto Airport property without passengers or after discharging passengers on Airport property, every Taxicab or Vehicle for Hire operator shall proceed to the off-Airport hold lot as designated by the President/CEO and wait with the vehicle at the hold lot until an authorized officer or designate issues a time-stamped dispatch ticket and dispatches the vehicle and operator to the Airport. The vehicle operator shall give the valid dispatch ticket to an authorized officer or designate on duty at the Airport before the operator is authorized to pick up or engage any passenger for hire. Picking up any passenger for hire after or while leaving off any other passenger without proceeding through the designated hold lot and being issued a valid dispatch ticket is prohibited. The President/CEO, from time to time, may establish, change or modify the rules, regulations and dispatch procedures for operation of the off-Airport hold lots.

(5) Notwithstanding any other regulation, any prospective passenger may select for hire any Taxicab or Vehicle for Hire, wherever located at the stand.

(6) The driver of each Taxicab or Vehicle for Hire in a Taxicab or Vehicle for Hire line shall at all times, until engaged for hire, remain in the driver's seat at the wheel of the vehicle or outside and within close proximity of the vehicle, except in case of emergency or personal necessity.

(7) The driver of each Taxicab or Vehicle for Hire at the Taxicab or Vehicle for Hire stand shall at all times, until engaged for hire, remain in the driver's seat at the wheel of the vehicle; provided, however, when engaged for hire, the driver may assist a passenger and load baggage into the vehicle. In case of an emergency or personal necessity, the driver may leave a Taxicab which is at the Taxicab stand.

(8) After a Taxicab exits a Taxicab stand, each vehicle at its rear shall at once be moved toward the head of the Taxicab stand and the Taxicab at the head of the Taxicab line shall be moved forward to occupy the vacancy in the Taxicab stand. Likewise, each vehicle to the rear in the Taxicab line shall be moved toward the head of the Taxicab line.

(9) No owner or operator of a Taxicab, Vehicle for Hire or Charter Vehicle, or TNC shall at any time while at the Airport by words, gesture or otherwise, solicit, persuade or urge or attempt to solicit, persuade or urge any person to use or hire any vehicle.

(10) If the driver of a Taxicab occupying the position at the head of the Taxicab stand refuses to accept and transport a passenger for hire or refers the passenger to a different Taxicab, the Taxicab and driver who refused or referred the passenger shall immediately be dispatched to the rear of the Taxicab line and the driver shall immediately remove the Taxicab from the head of the Taxicab stand.

(d) Driver's Examination.

The President/CEO may, but is not required to, issue or reissue a Driver's Permit to a person who has successfully passed an examination as given and required by the Authority, upon payment of the appropriate fee. The President/CEO also shall have the right to reexamine persons holding a Driver's Permit at intervals that the President/CEO deems advisable. Except in the event of reissuance as provided above, each applicant for a permit required by this provision and each driver must:

~~(1) Take and successfully pass an oral or written examination prior to issuance of a permit, which shall be established, designed and given by the President/CEO to test the applicant's or driver's knowledge of the location of principal office buildings, railroad and bus terminals, government offices, military installations, shopping centers, hotels, motels, freeway systems, major points of interest and residential communities in relation to the Airport and the most direct freeway and roadway routes from the Airport to such locations. Said examination may be given more than one time each year for new applicants at such times as determined by the President/CEO. No applicant shall be permitted to take the written or oral examination required by this subparagraph more than four times in any 12 month period;~~

(12) Be able to converse in the English language;

(23) Hold a valid and effective driver's identification card as provided by the County of San Diego Code if operating a Taxicab; and

(43) Successfully complete ~~the~~ an approved Airport Customer Service Course.

(e) Driver Regulations: Attire and Personal Hygiene

Every driver shall comply with the following clothing requirements: All drivers of commercial ground transportation vehicles shall comply with the clothing and hygiene requirements as established by the President/CEO.

~~(1) — Every driver shall be hygienically clean, well-groomed, neat and suitably dressed in compliance with all applicable requirements of this section at all times while a transportation vehicle is in his or her custody;~~

~~(2) — Drivers shall be clean shaven and hair shall be neatly fashioned. If a beard or moustache is worn, it shall be well-groomed and neatly trimmed at all times in order not to present a ragged appearance;~~

~~(3) — The term “suitably dressed” shall be interpreted to mean the driver shall wear clean and pressed trousers, a clean and pressed shirt with a collar and sleeves, shoes with socks and, if desired, appropriate outer garments. Female drivers may wear a skirt in place of trousers; and~~

~~(4) — Clothing that is not considered appropriate and is not permitted includes: T-shirts, underwear, tank tops, body-shirts, swimming, jogging suits or similar types of attire when worn as an outer garment, shorts or trunks (jogging or bathing) or sandals.~~

(f) Duty to Transport Passengers. The person operating a ground transportation service shall not refuse to transport any passenger, including baggage, requiring transportation and shall take all passengers to their requested destination using the most direct available route on all trips unless otherwise specifically requested by the passenger; provided, however, nothing herein shall require any person to provide ground transportation service contrary to any municipal or state permit or certificate regarding ground transportation or its Authority authorized permit. Furthermore, a driver is not required to transport any such passengers when: the driver has already been dispatched on another call; when such passengers appears to be under the influence of intoxicating liquor, or disorderly; or when the passenger may cause the vehicle to become damaged, stained or foul smelling; ~~or if a passenger requires the use of a litter or stretcher.~~

(g) Non-Discrimination. In providing ground transportation services on Airport property, no person shall discriminate against any person or class of persons by reason of sex, color, race, creed, religion, physical or mental disability, veteran status, medical condition, marital status, age, sexual orientation, pregnancy or national origin. The accommodations and services shall be made available to the public on fair and reasonable terms.

(h) Fares and Receipts. No driver shall collect, demand, receive or arrange for any compensation in an amount greater or less than that approved or allowed by the appropriate fare setting governmental agency or commission for the ground transportation service. Upon request, the driver shall give a passenger making payment a receipt showing the amount of fare paid, the driver’s correct name and correct vehicle license number and Authority permit number. There shall be no fare or charge to the passenger by a Courtesy Vehicle.

(i) Conformance with Laws. Any authorized ground transportation service shall be provided in conformance and obedience of:

(1) All lawful orders or instruction from authorized officers of the Authority;

(2) Any and all rules and regulations now in force or which may be changed, added, modified or adopted by the Authority for operation of transportation services at the Airport; and

(3) Any and all laws, ordinances, statutes, rules, regulations, orders, permits or certificates from the Airport, any governmental authority, municipal, state or federal, lawfully exercising authority over such person holding an Authority permit, including persons, employees, drivers and agents.

[Amended by Resolution No. 2014-0073R dated July 7, 2014]
[Resolution No. 2002-02 dated September 20, 2002.]