

MEMORANDUM

Committee members should bring the packet and addenda from the January 26, February 9, and February 27 worksessions.

TO: Transportation, Infrastructure, Energy and Environment Committee

FROM: Josh Hamlin, Legislative Attorney 

SUBJECT: **Worksession:** Expedited Bill 53-14, Taxicabs – Licenses – Vehicle Requirements – Driver Identification Cards; Bill 54-14, Taxicabs – Transportation Network Service Requirements; and Bill 55-14, Taxicabs – Centralized Electronic Dispatch System.

Expedited Bill 53-14, Taxicabs – Licenses – Vehicle Requirements – Driver Identification Cards sponsored by Councilmembers Floreen, Berliner, Riemer, and then Council President Rice; Bill 54-14, Taxicabs – Transportation Network Service - Requirements, sponsored by Councilmembers Berliner and Floreen; and Bill 55-14, Taxicabs – Centralized Electronic Dispatch System, sponsored by Councilmember Riemer, were introduced on October 28, 2014. A public hearing on all three Bills was held on December 2, 2014. Prior worksessions on the Bills were held on January 26, February 9, and February 27, 2015.

Expedited Bill 53-14 would:

- permit the holder of a fleet Passenger Vehicle License to grant a sublicense to another person;
- increase the age limits for vehicles used as taxicabs;
- amend certain requirements for color and markings of vehicles used as taxicabs;
- allow software-based meters to be used in taxicabs; and
- amend certain requirements for temporary identification cards for taxicab drivers.

Bill 54-14 would:

- require a transportation network application company to obtain a license to operate in the County;
- require a transportation network application company and transportation network operator to meet certain registration requirements;
- require a vehicle used to provide transportation network service to meet certain standards;
- require a transportation network application company and transportation network operator to be insured; and
- require a transportation network application company and transportation network operator to meet certain accessibility standards.

Bill 55-14 would require the County Department of Transportation (DOT) to implement a centralized electronic taxicab dispatch system, and permit the Director to require certain taxicab operators to participate in the centralized electronic taxicab dispatch system.

December 2, 2014 Public Hearing

The T&E Committee held a public hearing on all three Bills on December 2, 2014. There were 30 speakers at the hearing, representing a wide range of perspectives on the issues covered in the Bills. Public hearing testimony is summarized and included in the packet for the January 26 worksession.

January 26, 2015 T&E Worksession

The Committee held its first worksession on the Bills on January 26, 2015. The packet for that worksession raised a number of issues of common concern to the owners and operators of “traditional” regulated taxicabs and the TNCs and drivers that Bill 54-14 would regulate. These issues also encompass many of the amendments to existing law regulating taxicabs that are proposed in Expedited Bill 53-14. The Committee discussed the issues of insurance, fares/ratesetting, driver background checks, and began discussion of the question of licensing both TNCs and TNC drivers.

February 9, 2015 T&E Worksession

The Committee held a second worksession on the Bills on February 9, 2015. In that worksession, the Committee discussed licensing, vehicle standards, data and trip records, and customer service, as well as proposed changes to Chapter 53 received from the Coalition for a Competitive Taxicab Industry (“CCTI”) after the introduction of the Bills.

February 27, 2015 T&E Worksession

The Committee held a third worksession on the Bills on February 27, 2015. The Committee discussed several of these issues raised by a number of taxicab drivers through the Montgomery County Professional Drivers Union (“MCPDU”) about their relationships with taxicab companies at that worksession. Specifically, the Committee considered: (1) whether to set caps on lease rates for taxicabs; (2) whether to permit taxicab drivers to use their own credit card processing terminals, and whether to cap rates that fleets may charge their drivers for credit card processing; (3) whether to limit other charges imposed on drivers by fleets; (4) whether the County should develop and require the use of uniform lease contracts; (5) whether the dispute resolution currently required to be provided for in operating agreements between fleets and drivers should include binding arbitration; and (6) how best to ensure the availability of accessible transportation with the entry of TNCs into the market.

At the February 27 worksession, the Committee also received written statements from 11 drivers, nine who either lease from or affiliate with Barwood, and two who drive for Orange Taxi (©475-483). The Orange drivers described the impact of the entry of TNCs on their livelihood, and generally expressed the view that TNCs and taxicabs should be subject to the same rules. The Barwood drivers universally opposed making drivers employees, lease caps, and the proposal to make PVLs non-transferable.

Recent Changes in the Regulatory Landscape

As discussed in the packet for the February 27 worksession, there have been recent developments both in Virginia and Maryland related to the regulation of TNCs, and as anticipated, there are now bills in both the Maryland Senate and House of Delegates that would create a statutory framework to regulate TNCs. With bills now under consideration in Annapolis, the County's ability to regulate TNCs is subject to the actions of both the Public Service Commission and the General Assembly.

Maryland Public Service Commission

In Maryland, the Public Service Commission (PSC) is considering regulations to regulate TNCs under the existing legislative framework. The proposed regulations are more restrictive to TNCs than the recently passed laws in the District of Columbia and Virginia. Key provisions of the proposed regulations include: (1) a requirement that each TNC obtain a permit from the PSC; (2) a requirement that each TNC driver obtain a for-hire driver's license, which requires a fingerprint-based criminal background check; and (3) insurance requirements that are identical to other passenger vehicles-for-hire.

Should they be adopted as proposed, the PSC regulations would apparently apply in Montgomery County. While the regulations would arguably not preempt the County's ability to regulate TNCs as providers of taxicab service, *per se*, if applicable in the County, they would overlap any County TNC law and create a duplicative regulatory regime. The Committee submitted comments on the proposed regulations on March 3, requesting that the PSC clarify that local jurisdictions that regulate taxicabs would retain the authority to regulate TNCs as taxicabs if the regulations are adopted (©442-446).

Maryland General Assembly

Senate Bill 868 (SB868) (©447-465) and House Bill 1231 (HB1231)¹ were cross-filed in the General Assembly on February 27 and March 2 respectively. The bills would define and regulate TNCs in a manner consistent with the Virginia and the District of Columbia in key areas. Generally, the bills would: (1) exclude TNCs from the definition of "common carrier" and the provisions of Title 10 of the Public Utilities Article; (2) define "transportation network services" as something distinct from the existing modes of for-hire transportation; (3) require TNCs to register with the State and conduct, or have a third-party conduct, background checks of prospective drivers; (4) require TNC drivers to register with the TNC, and the TNC to maintain a registry of drivers, but not require individual licensing of TNC drivers; (5) impose insurance requirements similar to other jurisdictions that have permitted the hybrid coverage with requirements depending on whether the driver is logged on to the app or has accepted a request for transportation; and (6) require TNC vehicles to meet certain standards. SB868 has been referred to the Finance Committee.

¹

<http://mgaleg.maryland.gov/webmga/frmMain.aspx?pid=billpage&tab=subject3&id=hb1231&stab=01&vs=2015RS>

Issues for Committee Discussion in this Worksession

In this worksession, the Committee will discuss the remaining provisions of a proposal from Councilmember Riemer addressing concerns raised by a number of taxicab drivers through the Montgomery County Professional Drivers Union (“MCPDU”) about their relationships with taxicab companies, the transferability of Passenger Vehicle Licenses, including the sublicensing provisions in Bill 53-14, and the centralized electronic dispatch system that is the subject of Bill 55-14, along with related provisions in the Riemer proposal.

Guide to attachments: Circle numbers referenced up to 230 are in the January 26 worksession packet, and circle numbers 231-258 are in the January 26 addendum. Circle numbers 259-310 are in the February 9 worksession packet. Circle numbers 311-383 are in the February 27 worksession packet, circle numbers 384-435 are in the February 27 addendum, and circle numbers 436-441 are in the February 27 addendum # 2.

Remaining “driver protection” provisions in the Riemer proposal

On February 23, Councilmember Riemer sent a memorandum to the Committee members asking their consideration of a number of amendments to Chapter 53 that would address the concerns raised by the MCPDU drivers (©349-362). The Riemer proposal would:

- Create a commission, appointed by the Executive and confirmed by the Council, composed of two representatives of fleets and two representatives of drivers to recommend to the Director of DOT:
 - Maximum taxicab lease rates charged by fleets;
 - Uniform agreements that must be used by fleets; and
 - A list of types and amounts of other allowed charges.
- Require that all operating agreements between fleets and drivers or affiliates:
 - Not exceed a term of one year;
 - Not be subject to automatic renewal; and
 - Provide for dispute resolution culminating in binding arbitration.
- Require that all operating agreements between fleets and drivers provide that a fleet ensures that the driver will earn from fares and tips, less expenses, an amount at least equal to the County minimum wage.
- Limit the credit card processing charge imposed by a fleet to 5% of the transaction.
- Provide for a mechanism in the operation of the centralized dispatch that would require the Director of DOT to direct a contribution, from a driver’s earnings through the dispatch, to a third party trade or advocacy organization designated by the driver.

The provisions of the Riemer proposal not discussed at the February 27 worksession are discussed below.

Should there be a mechanism for the drivers to send a voluntary contribution to the entity of their choosing?

The Riemer proposal would add language to the new section in Bill 55-14 establishing the centralized electronic dispatch that would require the Director to direct funds that would otherwise go to the driver to a third party designated by the driver (lines 26-29 at © 352-353). The specific language is:

“Upon written authorization of a driver, the Director, through the system, must deduct the amount designated by the driver from the driver’s fare reimbursement and forward that amount to a third party trade or advocacy organization designated by the driver.”

This provision would essentially make DOT part of the fundraising apparatus of the “third party trade or advocacy organization,” and is analogous to the “dues checkoff” in employer-employee relationships, whereby the employer deducts an amount from an employee’s paycheck for the purpose of paying the employee’s union dues. To the extent costs are incurred by the County in performing this function, it would amount to a sort of subsidy to such organization. There is nothing that would prevent a driver from making such a contribution directly, after reimbursement for fares earned on the centralized dispatch.

In a position paper for this Worksession submitted on March 5 (©471-474), CCTI stated its position on this provision as follows: “CCTI takes no direct position on this provision except that any authorization for deductions must also include the variety of payments that are routinely required whether voluntary or not.”

Should contracts between fleets and drivers or affiliates require that a fleet not take adverse action against a driver or affiliate without just cause?

The Riemer proposal would prohibit a licensee from taking adverse action against an affiliate without just cause (lines 255-256 at ©361). When the Committee discussed requiring a provision in contracts between fleets and drivers that would provide for binding arbitration to resolve disputes, Lee Barnes of Barwood Taxi raised concern about whether any driver dismissal would be subject to arbitration. This provision would likely make that the case. CCTI opposes this provision, arguing both that it is “impossibly vague” and unnecessary in light of the “fierce competition for drivers” (©472-473).

In discussions with stakeholders up to this point, staff is unaware of allegations of unjust dismissals and, in fact, has heard from both sides that fleets are having trouble keeping their taxicabs on the road for lack of drivers. With the entry of TNCs into the market, the idea that fleets are struggling to retain drivers is likely true. In the absence of allegations of unjust dismissals of drivers, requiring this provision seems like it may be a solution in search of a problem.

Should a fleet have to guarantee that its drivers net hourly earnings, after expenses, be at least equal to the amount of the County minimum wage?

This proposal raises both operational and legal questions. First, given the way taxicab drivers earn their money, it would appear to be impossible to get an accurate account of what exactly they are earning *per hour* of work. How would their “hours worked” be determined? How would their expenses, such a fuel costs, be documented? How would the amount of cash tips be determined? There may be ways to *estimate* some of these items, but using estimates to enforce a very specific earning requirement is problematic.

From a legal perspective, the requirement that a fleet ensures that a driver earn an amount equivalent to the County minimum wage may raise some concern about the independent contractor status of drivers. The Internal Revenue Service applies a 20 factor test in determining whether a person is an employee or independent contractor. Requiring a fleet to essentially guarantee that a driver earns a minimum amount would militate in favor of a finding that the person is an employee in two of those factors: “how the business pays the worker” and “the extent to which the worker can realize a profit or loss.” Employment status exists on a continuum. Putting the fleet in the position where it may pay the worker, and removing the risk of loss for the worker, would move the relationship toward employee on the continuum. It is not certain that this requirement would result in a driver being deemed an employee, but the prospect should be considered, along with the practical difficulty in determining the hours worked and tips received by the driver.

In its March 5 submittal, CCTI stated its opposition to this requirement, contending that it would both require the establishment of an employer-employee relationship and that it would be impossible to implement (©473).

Transfer of PVLs

Should the current restrictions on PVL transfers be relaxed, or in the alternative, should PVLs be made non-transferable? Should the fleet/independent driver balance be altered to permit more individual PVL holders?

Under current law, all transfers of PVLs must be approved by the Director of DOT, and the law prohibits the Director from approving a transfer of any license if the transferee already holds, or would then hold, more than 40% of the total number of licenses then in effect. It also prohibits the approval of the transfer of a license to an individual of a license issued to a fleet if: (1) the same fleet has already transferred more than 2 licenses to individuals during that calendar year; or (2) the transfer would result in individuals holding more than 30% of the total number of licenses then in effect. Finally, the law generally prohibits the approval of a transfer of a license if the license was issued or transferred within the previous 3 years.

The CCTI Draft includes amendments to MCC § 53-204 that would remove the above-described restrictions on the transfer of PVLs. Transfers would still be subject to the approval of the Director under the process set forth in MCC § 53-204(b) as follows:

- (b) A license may be transferred only if:
 - (1) the licensee notifies the Department in writing of the proposed transfer not less than 30 days before the date of the proposed transfer, specifying all terms and conditions of the proposed transfer and the identity of the proposed transferee;
 - (2) the Director finds that the proposed transferee meets all requirements of this Chapter and applicable regulations; and
 - (3) the licensee surrenders the license when the Director approves the transfer.

The restrictions on the transfer of PVLs from fleets to individuals – no more than two per year, and no more than 30% of the PVLs in effect to be held by individuals – are based on the

two-fold rationale of preventing fleets from taking windfall profits based on the market prices of the licenses and limiting the fragmentation of the taxicab industry. The market forces in 2004, when these provisions were enacted, clearly differ from those today. Certainly, the market value of PVLs has diminished with the entry of TNCs into the marketplace, and the increasing number on individual TNC drivers may render the attempt to prevent the fragmentation of the industry an academic exercise. It should also be noted that the advocacy group representing at least some taxicab drivers when Chapter 53 was last comprehensively amended in 2004² did not support a limitation on the percentage of individual ownership of licenses. This group actually advocated for much greater individual ownership, while retaining an affiliation requirement.

The current law's restriction on a transferee holding more than 40% of the licenses in effect is a clear attempt to prevent a consolidation in the industry, leading to diminished competition and presumably less incentive to deliver quality service. Again, with the entry of TNCs to the for-hire transportation market, competition for a large, and likely growing, percentage of the rides³ is essentially guaranteed, regardless of any consolidation of existing licensees. That said, if the Committee believes that it remains important to prevent consolidation, this restriction could be retained while the other restrictions are removed.

On February 24, CCTI submitted a "white paper" the justification for a cap on the number of taxicabs, and discussing the issues related to transferability of PVLs (©379-383). In the paper, CCTI argues for a limited number of taxicabs, citing positions stated County consultant Bruce Schaller. CCTI's positions are that a limited number of taxicabs ensures higher quality customer service, that allowing PVLs to have transfer value is intrinsic to the established taxicab market, and that transferability of PVLs is critical to the viability of taxicab companies.

In contrast to CCTI's request to relax transfer requirements, the Riemer proposal would:

- Require the issuance of 200 new PVLs to individuals in 2016, and require that 50% of licenses issued after that be issued to individuals;
- Make PVLs non-transferable; and
- Establish a fund to provide relief to PVL holders that can show a significant decline in value from the price that they paid for the license.

Staff understands that Councilmember Riemer intends to revise his proposal to require that the 200 PVLs to individuals in 2016 go to individuals *who only own one PVL*, and to remove the provision making PVLs non-transferable.

DOT position: In his letter to Councilmember Berliner dated February 27, 2015, Acting Director Al Roshdieh stated positions of DOT relevant to this issue. Mr. Roshdieh said that DOT has no objection to a prohibition of future transfer of PVLs from fleets to individuals (apparently in response to the Riemer proposal to make them non-transferable), and no objection to raising the percentage of individual PVLs (from 20%) for future issuances (©437).

In a letter to Councilmember Berliner dated February 26, 2015 (©466-470), David Mohebbi, president of CCTI, advocated a new PVL issuance to both fleets and drivers, and urged

² The group in 2004 was called Cabdrivers Allied for Better Service (CABS).

³ TNCs do not compete with traditional taxicabs for street hails, or rides booked by telephone, but the number of rides booked by app-based dispatch is growing and, for a variety of reasons, will almost certainly continue to grow.

the retention of transferability of PVLs. In its March 5 position paper, CCTI specifically addressed the proposed issuance of 200 new licenses in 2016, contending that adding 200 new taxicabs would “significantly [negatively] affect driver income.” CCTI recommended the issuance of 100 new licenses in 2016, with future issuances made in accordance with the existing provisions of § 53-205. CCTI also supports the Riemer proposal’s allocation of future license issuances of 50% to individuals and 50% to fleets (©473).

The issuance of a significant number of individual PVLs would have the effect of moving the County away from the fleet-based model that was discussed and adopted when the County last comprehensively revised Chapter 53 in 2004. Two memoranda from Bruce Schaller, the consultant engaged by the County to study the County’s taxicab market as part of its 2004 revision, are particularly pertinent to this discussion (©364-373, 374-378). For a specific discussion of fleet- vs. individual driver-based systems, see ©376. The Committee should consider whether circumstances have changed sufficiently or otherwise warrant a move away from a fleet based model. The entry of a large (or unlimited) number of TNCs into the market may have sufficiently altered the landscape to abandon the current fleet/individual balance. However, in the absence of the self-regulating rating system used by TNCs, it does seem likely that a de facto removal of the cap on licenses (as the issuance of 200 new individual licenses would seem to do) could lead to diminished customer service.

If the Committee desires to increase the proportion of individual PVL holders, it should consider alternatives to the issuance of a large quantity of new individual licenses without consideration for the public need. Given the persistent allegations of large numbers of fleet taxicabs sitting idle, the Committee might consider whether it is more desirable to reclaim, through revocation or nonrenewal, and redistribute “idle” licenses through more active enforcement or strengthening of the continuous operation requirement.

Should the County establish a fund to provide relief to PVL holders that can show a significant decline in value from the price that they paid for the license?

The Riemer proposal would require the creation of a “licensee reimbursement fund” to provide relief to PVL holders who can demonstrate a significant decline in value of their licenses from the purchase price (lines 68-73 at © 354). The intent of this fund would be to assist the estimated 40 individuals who purchased PVLs from fleets at market prices in prior years, and have seen the value of the PVLs decline precipitously since that time. As drafted it would, however, apply to any PVL holder that could demonstrate a “significant” devaluation from the purchase price. The proposal would authorize the Director to deposit funds from the issuance of new licenses into the fund, and would require the Director to administer the funds according to method (2) regulations. The regulations would be key to the effectiveness of such a fund, as would the source and amount of funds deposited into it. Presumably any decline in value would be based on the difference in the price paid by the holder for the PVL, and the payment received by the holder at the time the holder transfers the PVL. If the County issues a significant number of new licenses, there is a possibility that such a transfer could result in the holder recovering less than the issuance cost. The Committee should inquire of DOT’s expectations on how it would administer such a fund.

Sublicensing of PVLs

Bill 53-14 would amend the existing law to allow a fleet PVL holder to grant a sublicense to a vehicle owner to provide taxicab service under the license. See lines 7-33 at ©2-3. This amendment is an effort to ease the capital costs of fleets by allowing fleets to permit a taxicab driver who owns their own taxicab vehicle to drive the taxicab under the authority of the fleet's license. Fleets could then operate more like TNCs, but using licensed taxicabs. Current law requires that a license be issued only to the owner of each taxicab.

Some jurisdictions that use medallion systems, such as New York and Chicago, permit such arrangements as "medallion-only leases." Allowing the use of fleet PVLs by owners of taxicabs through sublicensing could have the desirable effect of getting more taxicabs on the road by giving fleets more flexibility in the way the PVLs are used. It would also allow taxicab owner/drivers the option of driving their vehicle without having to purchase a license outright. Bill 53-14 requires approval by the DOT Director of each grant of a sublicense, and grantees are subject to all requirements of PVL holders, which should provide necessary oversight of such arrangements.

DOT position: In his February 27, 2015 letter to Councilmember Riemer, Acting Director Roshdieh stated that DOT "has no objection [to sublicensing] as long as drivers have an opportunity to seek legal counsel of the contract in advance of its execution and the term of the sublicense does not exceed the term of the PVL" (©437).

Centralized Electronic Dispatch

Bill 55-14 represents an effort to adopt a program being pursued in Chicago and the District of Columbia (©191-195), and considered in New York City (©196-197), to create a digital dispatch system for all taxicabs. The intent of the Bill is twofold: (1) create a mechanism by which currently-regulated taxicabs can deliver taxicab services in a manner competitive with TNCs; and (2) be a part of a uniform regional dispatch system that would better serve the transportation needs of passengers in the Washington, DC metropolitan area.

In his February 23 proposal, Councilmember Riemer, in addition to requesting Committee support for the driver protection measures discussed above, requested that Bill 55-14 be amended to require preference given to a vendor providing a dispatch using open standards, and a vendor providing a dispatch that can include the most jurisdictions in the Washington, DC metropolitan area. The Riemer proposal would also remove the requirement that a fleet or association provide a dispatch service, and the requirement that all drivers must drive for or affiliate with a fleet or association.

Should the County establish a centralized electronic dispatch? How?

The D.C. regulations require the establishment of a taxicab cooperative,⁴ while Bill 55-14, modeled on the Chicago law, merely requires the establishment of a centralized electronic dispatch system by DOT. Bill 55-14 is drafted to impose a general requirement, and leave the details of implementation to DOT. Input from DOT on how it would administer an electronic dispatch, and from fleets on how they would integrate it into their operations will be important in determining whether it needs additional specificity. Given the fact that there is not a clear

⁴ http://dctaxi.dc.gov/sites/default/files/dc/sites/dc%20taxi/event_content/attachments/Chapters16and99.pdf

example of successful implementation of a centralized dispatch, because it is a new concept, a general approach is probably advisable.

The vendor preferences in the Riemer proposal would further the goal of greater regional interoperability of the dispatch, which would allow taxicabs to better compete with TNCs and improve customer service. CCTI opposes the preference for a vendor providing a dispatch that can include the most regional jurisdictions, instead arguing that vendor selection “should be based entirely on the quality and cost of the system sold (©472).

Should fleets be required to have dispatch services? Should drivers be required to affiliate with a fleet or join an association?

Current law requires drivers to drive for or affiliate with a fleet or association (MCC §53-201). Each fleet or association must operate a dispatch system (MCC §53-220). Typically, in suburban jurisdictions, most rides come from dispatched calls, not street hails or taxi stands. Quality dispatch service is necessary to maximize the usefulness of PVLs and provide timely service over a large geographic area for prearranged rides. It is in the provision of dispatch that taxicab fleets have built a great deal of their value.

The establishment of a centralized electronic dispatch used by all taxicabs appears to have great potential, but that potential has yet to be realized in any other jurisdiction that we might look to as an example. The unproven status of these sorts of systems justifies caution in considering the removal of the dispatch and affiliation requirements. Additionally, the Committee should be mindful of the fact that not all passengers use smartphones or pay with credit cards. Market demand may drive the continuation of 24/7 telephone dispatch to serve these passengers. However, the removal of the existing dispatch and affiliation requirements could, theoretically, result in a situation where these passengers have limited or no access to prearranged taxicab service. Also, regulation of the majority of PVLs via five fleets is a different proposition than regulating several hundred individual, unaffiliated drivers, and could prove extremely challenging to DOT.

CCTI supports the elimination of required “discrete dispatch systems,” saying that “with the advent of cell phone apps, the traditional dispatch models have been rendered almost obsolete.” CCTI opposes the elimination of the affiliation requirement, arguing that because DOT regulates through the fleets, removing the requirement would place an enormous burden on DOT.

DOT position: In his February 27 letter to Councilmember Berliner, Acting DOT Director Roshdieh requested that individual PVL holders be required to affiliate with a fleet or association (©437).

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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

ROGER BERLINER
COUNCILMEMBER
DISTRICT 1

CHAIRMAN
TRANSPORTATION, INFRASTRUCTURE
ENERGY & ENVIRONMENT COMMITTEE

March 3, 2015

David Collins, Executive Secretary
Public Service Commission of Maryland
William Donald Schaefer Tower
6 St. Paul St., 16th Floor
Baltimore, MD 21202

Re: RM55

Dear Executive Secretary Collins,

Enclosed for filing, please find the originals and seventeen (17) copies of the Comments of the Montgomery County Council Transportation, Infrastructure, Energy & Environment Committee, regarding Draft Regulations to the Code of Maryland Regulations ("COMAR") 20.95.01, Transportation (Passenger-for Hire).

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Councilmember Roger Berliner
Chair, Montgomery County Council
Transportation, Infrastructure, Energy &
Environment Committee

Councilmember Nancy Floreen, Member
Councilmember Tom Hucker, Member

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

Revisions to COMAR 20.95.01 –	*	Administrative Docket
Transportation	*	RM55
	*	

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**Comments of the Montgomery County Council Transportation, Infrastructure, Energy & Environment Committee
Regarding Draft Regulations to the Code of Maryland Regulations (“COMAR”) 20.95.01, Transportation (Passenger-for Hire)**

In accordance with the February 18, 2015 Notice of Initiating Rulemaking and Rule Making Session of the Public Service Commission (“Commission”), the members of the Montgomery County Council Transportation, Infrastructure, Energy & Environment Committee, Chair Roger Berliner and Councilmembers Nancy Floreen and Tom Hucker, submits these comments on the proposed revisions to the Code of Maryland Regulations (“COMAR”) 20.95.01 regarding Transportation (Passenger-for Hire).

Background

Transportation Network Companies (TNCs) are a new mode of delivery of for-hire driving service using smartphone applications to connect drivers with passengers. While they employ an innovative and consumer appreciated business model, they do compete with traditional limousines, sedans, and taxicabs that are variously regulated by the state and local jurisdictions.

The County Council has begun the process of legislatively creating a framework to regulate UberX and Lyft operating in the County, as they most closely compete with the taxicabs that we regulate. The County is asserting jurisdiction over the regulation of these TNC drivers and vehicles under State law inasmuch as the vehicles operating using the TNC application are providing a type of “taxicab services” and are a type of “taxicabs” as defined under State and County law.

The roots of the County's authority to regulate taxicabs date back to 1945, when the General Assembly enacted Chapter 941 of the Laws of Maryland, §§1130A-C (1945). "Taxicab" is defined under that law as:

...any motor vehicle for hire, designed to carry seven persons or less, including driver, operated upon any public street or highway in Montgomery County, or, on call or demand, accepting or soliciting passengers indiscriminately for transportation for hire between such points along public streets or highways in this State, as may be directed by the passenger or passengers so being transported; provided that nothing in this sub-title shall be construed to include as a taxicab, a motor vehicle operated, with the approval of the Public Service Commission, on fixed routes and schedules.

Laws of Maryland, Chapter 941, §1130A (1945). Chapter 941 expressly "authorized and empowered [the County] to enact, amend and repeal ordinances, providing regulations for the ownership and operation of taxicabs in Montgomery County" in order to protect the "public health, safety and welfare of the citizens of Montgomery County, or other persons who may use taxicab facilities." The 1945 law was enacted before Montgomery County adopted charter home rule in 1948. Since the County has adopted home rule, the Council has enacted numerous amendments to the County's taxicab regulations.

The current definition of "taxicab" under State law is found in § 1-101(ii)(1) of the Public Utilities Article of the Maryland Code. Under this definition:

Taxicab means a motor vehicle for hire that:

- (i) is designed to carry seven or fewer individuals, including the driver; and
- (ii) is used to accept or solicit passengers for transportation between points along public streets as the passengers request."

“Provide taxicab services” is defined in § 10-101(h) of the Public Utilities Article as follows:

“Provide taxicab services” means to operate a motor vehicle for hire that, in addition to other services:

- (1) is advertised or held out to the public as a taxicab or as providing taxicab services;
- (2) regardless of how or when engaged, provides for-hire service between points chosen by the passenger and for a fare that is based on the distance traveled, the time elapsed, or both; or
- (3) is engaged by the passenger for service between points chosen by the passenger that is provided through:
 - (i) hail from the street or other location; or
 - (ii) request made at a taxi stand or other location where the motor vehicle is standing and waiting for a request for service.

Vehicles using a TNC app to connect with passengers are operating and providing service in a manner consistent with these State law definitions, and are thus in our view subject to County jurisdiction as taxicabs. Further, it is our belief that regulation of these vehicles by the County is wholly appropriate given that these TNCs compete directly with the taxicabs that we already regulate. TNCs such as UberX and Lyft provide the same service as taxicabs, albeit in a different manner, so it stands to reason that they should be subject to regulatory oversight by the same body.

Moreover, there is a strong policy rationale behind this local control of taxicabs and their TNC competitors. The communities of Maryland will have different experiences with these new services. We expect Montgomery and Prince George’s Counties to be stronger markets than our more rural jurisdictions. While equanimity across jurisdictions is important to limit the difficulty of doing business for the TNCs, individual jurisdictions may have specific needs best addressed through local regulation.

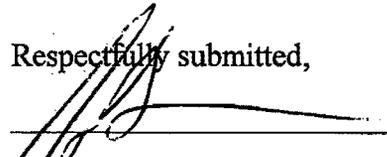
One such important need is the provision of service for the disabled. A requirement for such service is placed on our locally-regulated taxicabs. As TNCs look to represent more and more of the transportation-for-hire market in our community, it is essential that Montgomery County be able to guarantee, through surcharges or direct requirements on companies, that our disabled residents have reliable transportation. It is also not out of the question that TNCs may be called on to participate in user-side subsidy programs in the future. In addition, the provision of such services raises public safety concerns, and Montgomery County should have the legal ability to address those concerns as it sees fit.

Comment

For the legal and policy reasons set forth above, the Commission should clarify that the proposed regulations that are the subject of RM55 are not intended to pre-empt Montgomery County or other jurisdictions that already regulate taxicabs from regulating the industry's competitors as well. Our Department of Transportation is an existing regulatory body that has comprehensively regulated taxi cab fleets over the years, a role can easily be broadened to regulate these new entrants in a manner that also recognizes their distinct differences. We feel that our residents will be best-served by the County promoting a competitive local environment, guaranteeing public safety, and enabling additional service for the disabled.

We appreciate this opportunity to comment and seek clarification the draft revisions to COMAR 20.95.01, Transportation (Passenger-for Hire). We look forward to participating further in the discussion of these regulations and the issue of regulating Transportation Network Companies.

Respectfully submitted,



Councilmember Roger Berliner
Chair, Montgomery County Council
Transportation, Infrastructure, Energy &
Environment Committee

Councilmember Nancy Floreen, Member
Councilmember Tom Hucker, Member

SENATE BILL 868

C5

5lr0828
CF 5lr2271

By: **Senator Ferguson**

Introduced and read first time: February 27, 2015

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Public Utilities – Transportation Network Services**

3 FOR the purpose of authorizing the establishment of transportation network services in
4 the State; authorizing an individual to submit an application for registration as a
5 transportation network operator; requiring a transportation network company to
6 conduct, or have a third party conduct, a certain criminal history records check using
7 a certain database and obtain and review a driving record check for each applicant
8 before approving an application for the applicant; prohibiting a transportation
9 network company from approving an application for an applicant who has been
10 convicted of certain crimes; requiring a transportation network operator to meet
11 certain qualifications; requiring a transportation network company to register with
12 the Public Service Commission and create an application process for individuals to
13 apply for registration as a transportation network operator; requiring a
14 transportation network company to maintain certain records and a certain registry
15 of transportation network operators; requiring a transportation network company to
16 submit certain information to the Commission; requiring a transportation network
17 company to conduct, or have a third party conduct, a safety inspection of a motor
18 vehicle that will be used to provide transportation network services before the motor
19 vehicle is used to provide transportation network services; requiring the safety
20 inspection to be consistent with certain standards; requiring a transportation
21 network company to provide certain information on the transportation network
22 company's Web site; authorizing a transportation network company or a
23 transportation network operator to provide transportation network services at no
24 cost, for a suggested donation, or for a certain fare; requiring a transportation
25 network company or a transportation network operator to disclose certain fare
26 information to a passenger before the passenger arranges a trip with a
27 transportation network company or a transportation network operator; requiring a
28 transportation network company to transmit a certain electronic receipt to a
29 passenger on completion of providing transportation network services; requiring a
30 transportation network company to implement a certain policy on the use of drugs
31 or alcohol while an individual is arranging or providing transportation network

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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1 services; requiring a transportation network company to adopt a certain policy
2 prohibiting discriminatory conduct; requiring a transportation network operator to
3 comply with a certain policy and applicable laws regarding discriminatory conduct;
4 requiring a transportation network company and a transportation network operator
5 to maintain certain insurance coverage; authorizing certain insurance requirements
6 to be satisfied in a certain manner; specifying the types of insurer that may issue
7 certain required insurance; providing that certain required insurance shall be
8 deemed to satisfy a certain financial responsibility requirement; authorizing certain
9 insurers to exclude certain coverage and duty to defend if the exclusion is expressly
10 set forth in a certain policy under certain circumstances; setting forth the types of
11 coverage that the right to exclude coverage and duty to indemnify and defend may
12 apply to under certain circumstances; requiring a certain insurer to notify a certain
13 insured party that the insurer has no duty to defend or indemnify certain persons
14 for liability for a loss under certain circumstances; requiring certain insurers to make
15 certain disclosures in a certain manner; requiring a transportation network operator
16 to provide certain insurance information if a certain accident occurs; requiring a
17 transportation network operator to cooperate to facilitate the exchange of certain
18 information under certain circumstances; requiring a motor vehicle used to provide
19 transportation network services to meet certain criteria and display a certain trade
20 dress under certain circumstances; requiring a transportation network company to
21 ensure that the company's Web site is accessible to the blind and visually impaired
22 and to the deaf and hard-of-hearing and report to the Commission on increasing
23 access to wheelchair-accessible transportation network services on or before a
24 certain date; prohibiting a transportation network company from imposing certain
25 additional or special charges on an individual with a disability for providing certain
26 services or requiring that an individual with a disability be accompanied by an
27 attendant; requiring that if a transportation network operator accepts a certain ride
28 request from a passenger with a disability who uses a mobility device the operator
29 shall stow the device in the vehicle under certain circumstances; prohibiting a
30 transportation network company from charging a trip cancellation fee and requiring
31 a transportation network company to issue a certain refund in a timely manner
32 under certain circumstances; requiring a transportation network operator to treat
33 an individual with disabilities in a certain manner and properly and safely handle
34 certain equipment; authorizing the Commission to inspect certain records of a
35 transportation network company under certain circumstances; providing that
36 certain records are not subject to disclosure under the Maryland Public Information
37 Act; prohibiting the Commission or other public entity to disclose certain records or
38 information unless the disclosure is required by a subpoena or court order; requiring
39 the Commission or other public entity to promptly inform a transportation network
40 company before disclosing certain records or information as required by a subpoena
41 or court order; providing that transportation network companies and transportation
42 network operators are governed exclusively by certain provisions and regulations;
43 prohibiting a county or municipal corporation from imposing certain taxes or license
44 requirements on a transportation application company or transportation network
45 operator under certain circumstances or subjecting a transportation network
46 company to a local permitting process, rate limitation, or other local requirement;
47 specifying that a transportation network company and a transportation network

1 operator are not common carriers; exempting a motor vehicle used to provide
2 transportation network services from certain provisions of law relating to for-hire
3 driving services; specifying that certain provisions of law relating to for-hire driving
4 services do not apply to a transportation network company or a transportation
5 network operator; providing for the application of certain provisions; defining certain
6 terms; and generally relating to transportation network services.

7 BY repealing and reenacting, without amendments,

8 Article – Public Utilities

9 Section 1–101(a)

10 Annotated Code of Maryland

11 (2010 Replacement Volume and 2014 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Public Utilities

14 Section 1–101(e), (pp), (qq), and (rr) and 10–102(b)

15 Annotated Code of Maryland

16 (2010 Replacement Volume and 2014 Supplement)

17 BY adding to

18 Article – Public Utilities

19 Section 1–101(pp), (qq), and (rr); 4–101.1; and 10.5–101 through 10.5–112 to be
20 under the new title “Title 10.5. Transportation Network Services”

21 Annotated Code of Maryland

22 (2010 Replacement Volume and 2014 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

24 That the Laws of Maryland read as follows:

25 **Article – Public Utilities**

26 1–101.

27 (a) In this division the following words have the meanings indicated.

28 (e) (1) “Common carrier” means a person, public authority, or federal, State,
29 district, or municipal transportation unit that is engaged in the public transportation of
30 persons for hire, by land, water, air, or any combination of them.

31 (2) “Common carrier” includes:

32 (i) an airline company;

33 (ii) a car company, motor vehicle company, automobile company, or
34 motor bus company;

1 (iii) a power boat company, vessel-boat company, steamboat
2 company, or ferry company;

3 (iv) a railroad company, street railroad company, or sleeping car
4 company;

5 (v) a taxicab company;

6 (vi) a toll bridge company; and

7 (vii) a transit company.

8 (3) "Common carrier" does not include:

9 (i) a county revenue authority;

10 (ii) a toll bridge or other facility owned and operated by a county
11 revenue authority;

12 (iii) a vanpool or launch service; [or]

13 (iv) a for-hire water carrier, as defined in § 8-744 of the Natural
14 Resources Article;

15 (V) A TRANSPORTATION NETWORK COMPANY; OR

16 (VI) A TRANSPORTATION NETWORK OPERATOR.

17 (PP) "TRANSPORTATION NETWORK COMPANY" HAS THE MEANING STATED IN
18 § 10.5-101 OF THIS ARTICLE.

19 (QQ) "TRANSPORTATION NETWORK OPERATOR" HAS THE MEANING STATED
20 IN § 10.5-101 OF THIS ARTICLE.

21 (RR) "TRANSPORTATION NETWORK SERVICES" HAS THE MEANING STATED IN
22 § 10.5-101 OF THIS ARTICLE.

23 [(pp)] (SS) (1) "Transportation of persons for hire" means the transportation of
24 persons by:

25 (i) regularly scheduled operations;

26 (ii) charter or contract operations; or

27 (iii) tour or sightseeing operations.

1 (2) “Transportation of persons for hire” includes the transportation of
 2 persons, whether on the cooperative plan, carried by a corporation, group, or association
 3 engaged in the transportation of its stockholders, shareholders, or members.

4 [(qq)] (TT) “Water company” means a public service company that owns a water
 5 plant and sells or distributes water for gain.

6 [(rr)] (UU) “Water plant” means the material, equipment, and property owned by
 7 a water company and used or to be used for or in connection with water service.

8 **4-101.1.**

9 **THIS TITLE DOES NOT APPLY TO:**

- 10 (1) **TRANSPORTATION NETWORK SERVICES;**
- 11 (2) **A TRANSPORTATION NETWORK COMPANY; OR**
- 12 (3) **A TRANSPORTATION NETWORK OPERATOR.**

13 **10-102.**

14 (b) (1) This title applies to any motor vehicle used in the transportation of
 15 persons in exchange for remuneration except:

- 16 [(1)] (I) motor vehicles designed to transport more than 15 persons; [and]
- 17 [(2)] (II) transportation solely provided by or on behalf of a unit of federal,
 18 State, or local government, or a not-for-profit organization as identified in § 501(c)(3) and
 19 (4) of the Internal Revenue Code, that requires a criminal history records check and driving
 20 record check for its drivers, for clients of services including:

- 21 [(i)] 1. aging support;
- 22 [(ii)] 2. developmental and other disabilities;
- 23 [(iii)] 3. kidney dialysis;
- 24 [(iv)] 4. Medical Assistance Program;
- 25 [(v)] 5. Head Start;
- 26 [(vi)] 6. Welfare-to-Work;
- 27 [(vii)] 7. mental health; and

1 [(viii)] 8. job training; AND

2 (III) A MOTOR VEHICLE THAT IS USED BY A TRANSPORTATION
3 NETWORK OPERATOR TO PROVIDE TRANSPORTATION NETWORK SERVICES UNDER
4 TITLE 10.5 OF THIS ARTICLE.

5 (2) THIS TITLE DOES NOT APPLY TO A TRANSPORTATION NETWORK
6 COMPANY OR A TRANSPORTATION NETWORK OPERATOR.

7 TITLE 10.5. TRANSPORTATION NETWORK SERVICES.

8 10.5-101.

9 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

11 (B) "TRANSPORTATION NETWORK COMPANY" MEANS A PERSON THAT USES
12 A DIGITAL NETWORK OR SOFTWARE APPLICATION TO CONNECT A PASSENGER TO
13 TRANSPORTATION NETWORK SERVICES.

14 (C) "TRANSPORTATION NETWORK OPERATOR" MEANS AN INDIVIDUAL WHO
15 OWNS OR OPERATES A MOTOR VEHICLE THAT IS:

16 (1) THE INDIVIDUAL'S PERSONAL MOTOR VEHICLE OR A MOTOR
17 VEHICLE THAT IS OTHERWISE AUTHORIZED FOR USE BY THE INDIVIDUAL;

18 (2) NOT REGISTERED AS A MOTOR CARRIER UNDER § 13-423 OF THE
19 TRANSPORTATION ARTICLE; AND

20 (3) USED TO PROVIDE TRANSPORTATION NETWORK SERVICES.

21 (D) (1) "TRANSPORTATION NETWORK SERVICES" MEANS
22 TRANSPORTATION OF A PASSENGER:

23 (I) BETWEEN POINTS CHOSEN BY THE PASSENGER; AND

24 (II) THAT IS PREARRANGED BY A TRANSPORTATION NETWORK
25 COMPANY.

26 (2) "TRANSPORTATION NETWORK SERVICES" DOES NOT INCLUDE:

27 (I) TAXICAB SERVICE;

1 (II) FOR-HIRE SERVICES UNDER TITLE 10 OF THIS ARTICLE; OR

2 (III) PASSENGER SERVICES ENGAGED BY A PASSENGER HAILING
3 A VEHICLE FROM THE STREET.

4 **10.5-102.**

5 FOR PURPOSES OF THIS TITLE, TRANSPORTATION NETWORK SERVICES ARE
6 CONSIDERED TO:

7 (1) BEGIN WHEN A TRANSPORTATION NETWORK OPERATOR ACCEPTS
8 A REQUEST FOR TRANSPORTATION RECEIVED THROUGH THE TRANSPORTATION
9 NETWORK COMPANY'S DIGITAL NETWORK OR SOFTWARE APPLICATION;

10 (2) CONTINUE WHILE THE TRANSPORTATION NETWORK OPERATOR
11 TRANSPORTS THE PASSENGER IN THE TRANSPORTATION NETWORK OPERATOR'S
12 MOTOR VEHICLE; AND

13 (3) END WHEN THE PASSENGER EXITS THE TRANSPORTATION
14 NETWORK OPERATOR'S MOTOR VEHICLE.

15 **10.5-103.**

16 (A) AN INDIVIDUAL MAY SUBMIT AN APPLICATION TO A TRANSPORTATION
17 NETWORK COMPANY FOR REGISTRATION AS A TRANSPORTATION NETWORK
18 OPERATOR.

19 (B) BEFORE APPROVING AN APPLICATION SUBMITTED UNDER SUBSECTION
20 (A) OF THIS SECTION, A TRANSPORTATION NETWORK COMPANY SHALL:

21 (1) CONDUCT, OR HAVE A THIRD PARTY CONDUCT, A LOCAL AND
22 NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH APPLICANT USING THE
23 FOLLOWING DATABASES:

24 (I) A MULTISTATE OR MULTIJURISDICTIONAL CRIMINAL
25 RECORDS LOCATOR OR OTHER SIMILAR COMMERCIAL NATIONWIDE DATABASE WITH
26 VALIDATION THAT USES A PRIMARY SOURCE SEARCH; AND

27 (II) A NATIONAL SEX OFFENDER PUBLIC REGISTRY DATABASE;
28 AND

29 (2) OBTAIN AND REVIEW A DRIVING RECORD CHECK FOR EACH
30 APPLICANT.

1 (C) A TRANSPORTATION NETWORK COMPANY MAY NOT APPROVE AN
2 APPLICATION SUBMITTED UNDER SUBSECTION (A) OF THIS SECTION FOR AN
3 APPLICANT WHO:

4 (1) AS SHOWN IN THE CRIMINAL HISTORY RECORDS CHECK
5 REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION, WITHIN THE PAST 7 YEARS
6 HAS BEEN CONVICTED OF:

7 (I) A CRIME OF VIOLENCE UNDER § 14-101 OF THE CRIMINAL
8 LAW ARTICLE;

9 (II) SEXUAL ABUSE UNDER TITLE 3, SUBTITLE 3 OF THE
10 CRIMINAL LAW ARTICLE;

11 (III) ROBBERY UNDER TITLE 4, SUBTITLE 3 OF THE CRIMINAL
12 LAW ARTICLE; OR

13 (IV) FRAUD THAT IS PUNISHABLE AS A FELONY UNDER TITLE 8
14 OF THE CRIMINAL LAW ARTICLE;

15 (2) AS SHOWN IN THE DRIVING RECORD CHECK REQUIRED UNDER
16 SUBSECTION (B)(2) OF THIS SECTION, WITHIN THE PAST 7 YEARS HAS BEEN
17 CONVICTED OF:

18 (I) DRIVING UNDER THE INFLUENCE OF DRUGS OR ALCOHOL
19 UNDER § 21-902 OF THE TRANSPORTATION ARTICLE;

20 (II) FAILURE TO REMAIN AT THE SCENE OF AN ACCIDENT UNDER
21 TITLE 20 OF THE TRANSPORTATION ARTICLE; OR

22 (III) FLEEING OR ELUDING THE POLICE UNDER § 21-904 OF THE
23 TRANSPORTATION ARTICLE; OR

24 (3) AS SHOWN IN THE DRIVING RECORD CHECK REQUIRED UNDER
25 SUBSECTION (B)(2) OF THIS SECTION, WITHIN THE PAST 3 YEARS HAS BEEN
26 CONVICTED OF:

27 (I) DRIVING WITH A SUSPENDED OR REVOKED LICENSE UNDER
28 § 16-303 OF THE TRANSPORTATION ARTICLE; OR

29 (II) RECKLESS DRIVING UNDER § 21-901.1 OF THE
30 TRANSPORTATION ARTICLE.

1 10.5-104.

2 A TRANSPORTATION NETWORK OPERATOR SHALL:

3 (1) POSSESS:

4 (I) A VALID DRIVER'S LICENSE;

5 (II) PROOF OF REGISTRATION FOR THE MOTOR VEHICLE THAT
6 IS USED FOR TRANSPORTATION NETWORK SERVICES; AND

7 (III) PROOF OF INSURANCE FOR THE MOTOR VEHICLE THAT IS
8 USED FOR TRANSPORTATION NETWORK SERVICES; AND

9 (2) BE AT LEAST 21 YEARS OLD.

10 10.5-105.

11 (A) A TRANSPORTATION NETWORK COMPANY SHALL:

12 (1) REGISTER WITH THE COMMISSION;

13 (2) CREATE AN APPLICATION PROCESS FOR INDIVIDUALS TO APPLY
14 FOR REGISTRATION AS A TRANSPORTATION NETWORK OPERATOR UNDER § 10.5-103
15 OF THIS TITLE;

16 (3) MAINTAIN A CURRENT REGISTRY OF THE TRANSPORTATION
17 NETWORK COMPANY'S TRANSPORTATION NETWORK OPERATORS;

18 (4) SUBMIT PROOF TO THE COMMISSION THAT THE COMPANY:

19 (I) IS REGISTERED TO DO BUSINESS IN THE STATE; AND

20 (II) MAINTAINS A WEB SITE THAT PROVIDES THE
21 TRANSPORTATION NETWORK COMPANY'S CUSTOMER SERVICE TELEPHONE NUMBER
22 OR ELECTRONIC MAIL ADDRESS;

23 (5) IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION,
24 CONDUCT, OR HAVE A THIRD PARTY CONDUCT, A SAFETY INSPECTION OF THE
25 MOTOR VEHICLE THAT A TRANSPORTATION NETWORK OPERATOR WILL USE BEFORE
26 THE MOTOR VEHICLE MAY BE USED TO PROVIDE TRANSPORTATION NETWORK
27 SERVICES;

1 **(6) PROVIDE THE FOLLOWING INFORMATION ON THE**
2 **TRANSPORTATION NETWORK COMPANY'S WEB SITE:**

3 **(I) THE TRANSPORTATION NETWORK COMPANY'S CUSTOMER**
4 **SERVICE TELEPHONE NUMBER OR ELECTRONIC MAIL ADDRESS;**

5 **(II) THE TRANSPORTATION NETWORK COMPANY'S**
6 **ZERO-TOLERANCE POLICY ESTABLISHED UNDER § 10.5-107 OF THIS TITLE;**

7 **(III) THE PROCEDURE FOR REPORTING A COMPLAINT ABOUT AN**
8 **INDIVIDUAL WHO A PASSENGER REASONABLY SUSPECTS VIOLATED THE**
9 **TRANSPORTATION NETWORK COMPANY'S ZERO-TOLERANCE POLICY; AND**

10 **(IV) A COMPLAINT TELEPHONE NUMBER AND ELECTRONIC MAIL**
11 **ADDRESS FOR THE COMMISSION; AND**

12 **(7) MAINTAIN RECORDS FOR:**

13 **(I) EACH APPLICATION SUBMITTED UNDER § 10.5-103 OF THIS**
14 **TITLE;**

15 **(II) INFORMATION COLLECTED THROUGH A CRIMINAL HISTORY**
16 **RECORDS CHECK AND A REVIEW OF EACH APPLICANT'S DRIVING HISTORY UNDER §**
17 **10.5-103(C) OF THIS TITLE;**

18 **(III) THE INFORMATION REQUIRED FOR EACH TRANSPORTATION**
19 **NETWORK OPERATOR UNDER § 10.5-104 OF THIS TITLE;**

20 **(IV) THE REGISTRY REQUIRED UNDER ITEM (3) OF THIS**
21 **SUBSECTION;**

22 **(V) THE SAFETY INSPECTION REQUIRED UNDER ITEM (5) OF**
23 **THIS SUBSECTION;**

24 **(VI) FOR AT LEAST 1 YEAR, EACH TRANSPORTATION NETWORK**
25 **SERVICE ARRANGED BY THE TRANSPORTATION NETWORK COMPANY, INCLUDING**
26 **COPIES OF RECEIPTS THAT ARE TRANSMITTED TO A PASSENGER UNDER §**
27 **10.5-106(B) OF THIS TITLE;**

28 **(VII) FOR AT LEAST 1 YEAR, EACH COMPLAINT FILED FOR AN**
29 **ALLEGED VIOLATION OF THE TRANSPORTATION NETWORK COMPANY'S**
30 **ZERO-TOLERANCE POLICY UNDER § 10.5-107(B)(2) OF THIS TITLE;**

1 (VIII) FOR AT LEAST 1 YEAR, EACH INVESTIGATION BEGUN UNDER
2 § 10.5-107(B)(3) OF THIS TITLE;

3 (IX) THE TRANSPORTATION NETWORK COMPANY'S INSURANCE
4 POLICY REQUIRED UNDER § 10.5-108(A) OF THIS TITLE; AND

5 (X) FOR AT LEAST 1 YEAR, EACH ACCIDENT THAT INVOLVES A
6 MOTOR VEHICLE THAT IS USED FOR TRANSPORTATION NETWORK SERVICES
7 PROVIDED BY THE TRANSPORTATION NETWORK COMPANY.

8 (B) THE SAFETY INSPECTION REQUIRED UNDER SUBSECTION (A)(5) OF THIS
9 SECTION SHALL BE CONSISTENT WITH THE STANDARDS APPROVED BY THE
10 DEPARTMENT OF STATE POLICE FOR VEHICLES THAT MUST BE INSPECTED IN
11 ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF
12 TRANSPORTATION OR A COMPARABLE INSPECTION REQUIRED BY THE
13 JURISDICTION IN WHICH THE VEHICLE IS REGISTERED.

14 10.5-106.

15 (A) (1) A TRANSPORTATION NETWORK COMPANY OR A TRANSPORTATION
16 NETWORK OPERATOR MAY:

17 (I) OFFER TRANSPORTATION NETWORK SERVICES AT NO COST;

18 (II) SUGGEST A DONATION FOR TRANSPORTATION NETWORK
19 SERVICES PROVIDED; OR

20 (III) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, CHARGE
21 A FARE FOR TRANSPORTATION NETWORK SERVICES PROVIDED.

22 (2) IF A FARE IS CHARGED UNDER PARAGRAPH (1)(III) OF THIS
23 SUBSECTION, A TRANSPORTATION NETWORK COMPANY OR A TRANSPORTATION
24 NETWORK OPERATOR SHALL DISCLOSE THE FOLLOWING INFORMATION TO A
25 PASSENGER BEFORE THE PASSENGER ARRANGES A TRIP WITH A TRANSPORTATION
26 NETWORK COMPANY OR A TRANSPORTATION NETWORK OPERATOR:

27 (I) THE METHOD FOR CALCULATING THE FARE;

28 (II) THE APPLICABLE RATE BEING CHARGED; AND

29 (III) AN ESTIMATED FARE FOR THE TRANSPORTATION NETWORK
30 SERVICES THAT WILL BE PROVIDED.

1 (B) THE TRANSPORTATION NETWORK COMPANY, ON COMPLETION OF
2 TRANSPORTATION NETWORK SERVICES PROVIDED BY A TRANSPORTATION
3 NETWORK OPERATOR, SHALL TRANSMIT AN ELECTRONIC RECEIPT TO THE
4 PASSENGER'S ELECTRONIC MAIL ADDRESS OR MOBILE APPLICATION
5 DOCUMENTING:

- 6 (1) THE ORIGIN AND DESTINATION OF THE TRIP;
- 7 (2) THE TOTAL TIME AND DISTANCE OF THE TRIP; AND
- 8 (3) A BREAKDOWN OF THE TOTAL FARE PAID, IF ANY.

9 10.5–107.

10 (A) (1) IN THIS SECTION, "DISCRIMINATORY CONDUCT" INCLUDES:

11 (I) REFUSING SERVICE ON THE BASIS OF A PASSENGER'S RACE,
12 SEX, CREED, COLOR, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL ORIENTATION,
13 AGE, GENDER IDENTITY, OR DISABILITY, INCLUDING REFUSAL OF SERVICE TO A
14 PASSENGER WITH A SERVICE ANIMAL UNLESS THE TRANSPORTATION NETWORK
15 OPERATOR HAS A DOCUMENTED SERIOUS MEDICAL ALLERGY TO ANIMALS ON FILE
16 WITH THE TRANSPORTATION NETWORK COMPANY;

17 (II) USING DEROGATORY OR HARASSING LANGUAGE ON THE
18 BASIS OF A PERSON'S RACE, SEX, CREED, COLOR, NATIONAL ORIGIN, MARITAL
19 STATUS, SEXUAL ORIENTATION, AGE, GENDER IDENTITY, OR DISABILITY;

20 (III) REFUSING SERVICE BASED ON THE PICK-UP OR DROP-OFF
21 LOCATION OF THE PASSENGER; OR

22 (IV) RATING A PASSENGER ON THE BASIS OF THE PASSENGER'S
23 RACE, SEX, CREED, COLOR, NATIONAL ORIGIN, MARITAL STATUS, SEXUAL
24 ORIENTATION, AGE, GENDER IDENTITY, OR DISABILITY.

25 (2) "DISCRIMINATORY CONDUCT" DOES NOT INCLUDE REFUSING
26 SERVICE TO AN INDIVIDUAL WITH A DISABILITY DUE TO VIOLENT, SERIOUSLY
27 DISRUPTIVE, OR ILLEGAL CONDUCT BY THE INDIVIDUAL.

28 (B) A TRANSPORTATION NETWORK COMPANY SHALL:

1 (1) IMPLEMENT A ZERO-TOLERANCE POLICY ON THE USE OF DRUGS
2 OR ALCOHOL WHILE AN INDIVIDUAL IS ARRANGING OR PROVIDING
3 TRANSPORTATION NETWORK SERVICES;

4 (2) IMMEDIATELY SUSPEND AN INDIVIDUAL WHO IS ARRANGING OR
5 PROVIDING TRANSPORTATION NETWORK SERVICES ON RECEIPT OF A PASSENGER
6 COMPLAINT CONTAINING A REASONABLE ALLEGATION THAT THE INDIVIDUAL
7 VIOLATED THE ZERO-TOLERANCE POLICY; AND

8 (3) CONDUCT AN INVESTIGATION INTO THE ALLEGED VIOLATION OF
9 THE ZERO-TOLERANCE POLICY.

10 (C) A SUSPENSION ISSUED UNDER SUBSECTION (B) OF THIS SECTION SHALL
11 LAST FOR THE DURATION OF THE INVESTIGATION.

12 (D) (1) A TRANSPORTATION NETWORK COMPANY SHALL:

13 (I) ADOPT A POLICY PROHIBITING DISCRIMINATORY CONDUCT;
14 AND

15 (II) NOTIFY PEER-TO-PEER TRANSPORTATION NETWORK
16 OPERATORS OF THE POLICY.

17 (2) A TRANSPORTATION NETWORK OPERATOR SHALL COMPLY:

18 (I) WITH THE POLICY ADOPTED IN ACCORDANCE WITH THIS
19 SUBSECTION; AND

20 (II) WITH ALL APPLICABLE LAWS REGARDING DISCRIMINATORY
21 CONDUCT.

22 10.5-108.

23 (A) FOR ACCIDENTS INVOLVING A TRANSPORTATION NETWORK OPERATOR
24 DURING THE PERIOD OF TIME IN WHICH A TRANSPORTATION NETWORK OPERATOR
25 IS PROVIDING TRANSPORTATION NETWORK SERVICES, THE FOLLOWING IS
26 REQUIRED:

27 (1) PRIMARY AUTOMOBILE LIABILITY INSURANCE THAT COVERS THE
28 TRANSPORTATION NETWORK OPERATOR'S PROVISION OF SERVICES IN THE AMOUNT
29 OF \$1,000,000 PER INCIDENT FOR BODILY INJURY AND PROPERTY DAMAGE; AND

1 (2) UNINSURED MOTORIST INSURANCE COVERAGE REQUIRED UNDER
2 § 19-509 OF THE INSURANCE ARTICLE.

3 (B) (1) FOR ACCIDENTS INVOLVING A TRANSPORTATION NETWORK
4 OPERATOR DURING THE PERIOD OF TIME IN WHICH A TRANSPORTATION NETWORK
5 OPERATOR IS LOGGED INTO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL
6 NETWORK AND AVAILABLE TO PROVIDE TRANSPORTATION NETWORK SERVICES BUT
7 IS NOT PROVIDING TRANSPORTATION NETWORK SERVICES, THE FOLLOWING IS
8 REQUIRED:

9 (I) AUTOMOBILE LIABILITY INSURANCE FOR BODILY INJURY
10 AND PROPERTY DAMAGE THAT MEETS OR EXCEEDS THE MINIMUM COVERAGE
11 REQUIREMENTS UNDER § 17-103(B) OF THE TRANSPORTATION ARTICLE; AND

12 (II) AUTOMOBILE LIABILITY INSURANCE THAT MEETS OR
13 EXCEEDS THE MINIMUM COVERAGE REQUIREMENTS UNDER § 19-509 OF THE
14 INSURANCE ARTICLE.

15 (2) A TRANSPORTATION NETWORK COMPANY SHALL MAINTAIN
16 AUTOMOBILE LIABILITY INSURANCE IN THE AMOUNTS REQUIRED UNDER
17 PARAGRAPH (1) OF THIS SUBSECTION TO PROVIDE COVERAGE IN THE EVENT A
18 PARTICIPATING TRANSPORTATION NETWORK OPERATOR'S OWN AUTOMOBILE
19 LIABILITY INSURANCE POLICY EXCLUDES COVERAGE ACCORDING TO ITS POLICY
20 TERMS OR DOES NOT PROVIDE THE MINIMAL COVERAGE REQUIRED UNDER
21 PARAGRAPH (1) OF THIS SUBSECTION.

22 (C) THE INSURANCE REQUIREMENTS LISTED IN SUBSECTIONS (A) AND (B)
23 OF THIS SECTION MAY BE SATISFIED BY AN AUTOMOBILE LIABILITY POLICY
24 MAINTAINED BY:

25 (1) THE TRANSPORTATION NETWORK OPERATOR;

26 (2) THE TRANSPORTATION NETWORK COMPANY; OR

27 (3) BOTH.

28 (D) INSURANCE REQUIRED UNDER THIS SECTION MAY BE ISSUED BY:

29 (1) AN INSURER AUTHORIZED TO DO BUSINESS IN THE STATE; OR

30 (2) A SURPLUS LINES INSURER UNDER TITLE 3, SUBTITLE 3 OF THE
31 INSURANCE ARTICLE.

1 **(E) INSURANCE REQUIRED BY THIS SECTION SHALL BE DEEMED TO SATISFY**
2 **THE FINANCIAL RESPONSIBILITY REQUIREMENT FOR A MOTOR VEHICLE UNDER §**
3 **19-509 OF THE INSURANCE ARTICLE AND TITLE 17, SUBTITLE 1 OF THE**
4 **TRANSPORTATION ARTICLE.**

5 **(F) (1) FOR THE PURPOSES OF THIS TITLE, INSURERS THAT WRITE**
6 **AUTOMOBILE LIABILITY INSURANCE IN THE STATE MAY EXCLUDE ANY AND ALL**
7 **COVERAGE AND THE DUTY TO DEFEND AFFORDED UNDER THE OWNER'S INSURANCE**
8 **POLICY FOR ANY LOSS OR INJURY THAT OCCURS WHILE AN INSURED VEHICLE**
9 **PROVIDES OR IS AVAILABLE TO PROVIDE TRANSPORTATION NETWORK SERVICES IF**
10 **THE EXCLUSION IS EXPRESSLY SET FORTH IN THE POLICY AND APPROVED FOR SALE**
11 **IN MARYLAND.**

12 **(2) THE RIGHT TO EXCLUDE COVERAGE AND THE DUTY TO**
13 **INDEMNIFY AND DEFEND SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION MAY**
14 **APPLY TO ANY COVERAGE INCLUDED IN AN AUTOMOBILE LIABILITY INSURANCE**
15 **POLICY, INCLUDING:**

16 **(I) LIABILITY COVERAGE FOR BODILY INJURY AND PROPERTY**
17 **DAMAGE;**

18 **(II) UNINSURED AND UNDERINSURED MOTORIST COVERAGE;**

19 **(III) MEDICAL PAYMENTS COVERAGE;**

20 **(IV) PERSONAL INJURY PROTECTION COVERAGE;**

21 **(V) COMPREHENSIVE PHYSICAL DAMAGE COVERAGE; AND**

22 **(VI) COLLISION PHYSICAL DAMAGE COVERAGE.**

23 **(3) AS REQUIRED UNDER § 27-304(18) OF THE INSURANCE ARTICLE,**
24 **AN INSURER SHALL NOTIFY THE INSURED PARTY THAT THE INSURER HAS NO DUTY**
25 **TO DEFEND OR INDEMNIFY ANY PERSON OR ORGANIZATION FOR LIABILITY FOR A**
26 **LOSS THAT IS PROPERLY EXCLUDED IN ACCORDANCE WITH THE TERMS OF THE**
27 **APPLICABLE PRIMARY OR EXCESS INSURANCE POLICY.**

28 **(G) (1) AN INSURER THAT WRITES AUTOMOBILE LIABILITY INSURANCE IN**
29 **THE STATE SHALL DISCLOSE IN A PROMINENT PLACE ON ITS APPLICATION FOR**
30 **INSURANCE WHETHER THE INSURANCE POLICY PROVIDES COVERAGE WHILE AN**
31 **INSURED VEHICLE PROVIDES OR IS AVAILABLE TO PROVIDE TRANSPORTATION**
32 **NETWORK SERVICES.**

1 **(2) IF AN AUTOMOBILE LIABILITY INSURANCE POLICY CONTAINS AN**
2 **EXCLUSION FOR TRANSPORTATION NETWORK SERVICES, THE INSURER OR ITS**
3 **AGENT SHALL DISCLOSE IN WRITING THE EXACT LANGUAGE OF THE EXCLUSION TO**
4 **THE APPLICANT DURING THE APPLICATION PROCESS.**

5 **(H) (1) IF AN ACCIDENT OCCURS THAT INVOLVES A MOTOR VEHICLE THAT**
6 **IS BEING USED FOR TRANSPORTATION NETWORK SERVICES, THE TRANSPORTATION**
7 **NETWORK OPERATOR SHALL PROVIDE PROOF OF:**

8 **(I) THE TRANSPORTATION NETWORK OPERATOR'S PERSONAL**
9 **INSURANCE; AND**

10 **(II) LIABILITY COVERAGE REQUIRED UNDER SUBSECTION (A)**
11 **OF THIS SECTION.**

12 **(2) A TRANSPORTATION NETWORK OPERATOR WHO IS INVOLVED IN**
13 **AN ACCIDENT WHILE PROVIDING TRANSPORTATION NETWORK SERVICES SHALL**
14 **COOPERATE TO FACILITATE THE EXCHANGE OF INFORMATION, INCLUDING A**
15 **DESCRIPTION OF THE COVERAGE, EXCLUSIONS, AND LIMITS PROVIDED UNDER AN**
16 **INSURANCE POLICY EACH PARTY HAS BEEN ISSUED OR MAINTAINED.**

17 **10.5-109.**

18 **(A) A MOTOR VEHICLE USED TO PROVIDE TRANSPORTATION NETWORK**
19 **SERVICES SHALL:**

20 **(1) HAVE A MANUFACTURER'S RATED SEATING CAPACITY OF EIGHT**
21 **OR FEWER PERSONS, INCLUDING THE TRANSPORTATION NETWORK OPERATOR;**

22 **(2) HAVE AT LEAST FOUR DOORS AND MEET APPLICABLE FEDERAL**
23 **MOTOR VEHICLE SAFETY STANDARDS FOR VEHICLES OF ITS SIZE, TYPE, AND**
24 **PROPOSED USE; AND**

25 **(3) BE NO MORE THAN 10 MODEL YEARS OF AGE AT ENTRY INTO**
26 **SERVICE AND NO MORE THAN 12 MODEL YEARS OF AGE WHILE BEING USED TO**
27 **PROVIDE TRANSPORTATION NETWORK SERVICES.**

28 **(B) (1) A MOTOR VEHICLE THAT IS USED TO PROVIDE TRANSPORTATION**
29 **NETWORK SERVICES SHALL DISPLAY A CONSISTENT AND DISTINCTIVE TRADE DRESS**
30 **CONSISTING OF A LOGO, AN INSIGNIA, OR AN EMBLEM AT ALL TIMES THAT THE**
31 **TRANSPORTATION NETWORK OPERATOR IS PROVIDING TRANSPORTATION**
32 **NETWORK SERVICES.**

1 **(2) THE TRADE DRESS REQUIRED UNDER THIS SUBSECTION SHALL**
2 **BE:**

3 **(I) SUFFICIENTLY LARGE AND COLOR CONTRASTED SO AS TO**
4 **BE READABLE DURING DAYLIGHT HOURS AT A DISTANCE OF AT LEAST 50 FEET; AND**

5 **(II) REFLECTIVE, ILLUMINATED, OR OTHERWISE PLAINLY**
6 **VISIBLE IN DARKNESS.**

7 **10.5-110.**

8 **(A) ON OR BEFORE JANUARY 1, 2016, EACH TRANSPORTATION NETWORK**
9 **COMPANY SHALL:**

10 **(1) ENSURE THAT THE COMPANY'S WEB SITE IS ACCESSIBLE TO THE**
11 **BLIND AND VISUALLY IMPAIRED AND THE DEAF AND HARD-OF-HEARING; AND**

12 **(2) PROVIDE A REPORT TO THE COMMISSION ON HOW THE COMPANY**
13 **INTENDS TO INCREASE ACCESS TO WHEELCHAIR-ACCESSIBLE TRANSPORTATION**
14 **NETWORK SERVICES TO INDIVIDUALS WITH DISABILITIES.**

15 **(B) A TRANSPORTATION NETWORK COMPANY MAY NOT:**

16 **(1) IMPOSE ADDITIONAL OR SPECIAL CHARGES ON AN INDIVIDUAL**
17 **WITH A DISABILITY FOR PROVIDING SERVICES TO ACCOMMODATE THE INDIVIDUAL;**
18 **OR**

19 **(2) REQUIRE THAT AN INDIVIDUAL WITH A DISABILITY BE**
20 **ACCOMPANIED BY AN ATTENDANT.**

21 **(C) IF A TRANSPORTATION NETWORK OPERATOR ACCEPTS A RIDE REQUEST**
22 **THROUGH A TRANSPORTATION NETWORK COMPANY FROM A PASSENGER WITH A**
23 **DISABILITY WHO USES A MOBILITY DEVICE:**

24 **(1) IF THE VEHICLE IS CAPABLE OF STOWING THE MOBILITY DEVICE,**
25 **THE OPERATOR SHALL STOW THE MOBILITY DEVICE IN THE VEHICLE; AND**

26 **(2) IF THE PASSENGER OR OPERATOR DETERMINES THAT THE**
27 **VEHICLE IS NOT CAPABLE OF STOWING THE DEVICE, THE TRANSPORTATION**
28 **NETWORK COMPANY:**

29 **(I) MAY NOT CHARGE A TRIP CANCELLATION FEE; OR**

1 (II) IF A FEE IS CHARGED, SHALL PROVIDE THE PASSENGER
2 WITH A REFUND IN A TIMELY MANNER.

3 (D) A TRANSPORTATION NETWORK OPERATOR SHALL:

4 (1) TREAT AN INDIVIDUAL WITH DISABILITIES IN A RESPECTFUL AND
5 COURTEOUS MANNER; AND

6 (2) PROPERLY AND SAFELY HANDLE MOBILITY DEVICES AND
7 ASSOCIATED EQUIPMENT.

8 10.5-111.

9 (A) IF THE COMMISSION HAS A REASONABLE BASIS TO SUSPECT THAT A
10 TRANSPORTATION NETWORK COMPANY IS NOT IN COMPLIANCE WITH THIS TITLE,
11 THE COMMISSION MAY INSPECT THE RECORDS OF A TRANSPORTATION NETWORK
12 COMPANY AT THE COMPANY'S PLACE OF BUSINESS OR AN AGREED-ON THIRD-PARTY
13 LOCATION TO THE EXTENT NECESSARY TO DETERMINE WHETHER THE
14 TRANSPORTATION NETWORK COMPANY IS IN COMPLIANCE.

15 (B) (1) RECORDS DISCLOSED TO THE COMMISSION BY A
16 TRANSPORTATION NETWORK COMPANY, INCLUDING NAMES AND ADDRESSES OF
17 TRANSPORTATION NETWORK OPERATORS ARE NOT SUBJECT TO DISCLOSURE
18 UNDER THE MARYLAND PUBLIC INFORMATION ACT.

19 (2) (I) THE COMMISSION OR ANY OTHER PUBLIC ENTITY MAY NOT
20 DISCLOSE RECORDS OR INFORMATION DISCLOSED TO THE COMMISSION UNDER
21 PARAGRAPH (1) OF THIS SUBSECTION TO ANY PERSON UNLESS THE DISCLOSURE IS
22 REQUIRED BY A SUBPOENA OR COURT ORDER.

23 (II) IF A SUBPOENA OR COURT ORDER REQUIRES THE
24 COMMISSION OR OTHER PUBLIC ENTITY TO DISCLOSE INFORMATION DISCLOSED TO
25 THE COMMISSION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSION
26 OR PUBLIC ENTITY SHALL PROMPTLY NOTIFY THE TRANSPORTATION NETWORK
27 COMPANY BEFORE DISCLOSING THE INFORMATION.

28 10.5-112.

29 (A) NOTWITHSTANDING ANY OTHER LAW, TRANSPORTATION NETWORK
30 COMPANIES AND TRANSPORTATION NETWORK OPERATORS ARE GOVERNED
31 EXCLUSIVELY BY THIS TITLE AND ANY REGULATIONS ADOPTED BY THE COMMISSION
32 IN ACCORDANCE WITH THIS TITLE.

1 **(B) A COUNTY OR MUNICIPAL CORPORATION MAY NOT:**

2 **(1) IMPOSE A TAX ON OR REQUIRE A TRANSPORTATION NETWORK**
3 **COMPANY OR TRANSPORTATION NETWORK OPERATOR TO OBTAIN A LICENSE IF THE**
4 **TAX OR LICENSE RELATES TO PROVIDING TRANSPORTATION NETWORK SERVICES;**
5 **OR**

6 **(2) SUBJECT A TRANSPORTATION NETWORK COMPANY TO A LOCAL**
7 **PERMITTING PROCESS, RATE LIMITATION, OR ANY OTHER LOCAL REQUIREMENT.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2015.

COALITION FOR A COMPETITIVE TAXICAB INDUSTRY, INC.

February 26, 2015

Mr. Roger Berliner
Council Member
Montgomery County Council
100 Maryland Ave.
6th Floor
Rockville, MD 20850

Dear Mr. Berliner:

On behalf of all of the members of CCTI, I want to thank you for sending us a copy of your letter dated February 19, 2015 addressed to Al Roshdieh, the Acting Director of the Department of Transportation. I also appreciate the opportunity to respond to the issues raised in that letter.

Our members are pleased that you are showing such concern for the welfare and incomes of our County's taxi drivers. We also share that concern. We believe, however, that the inflammatory verbal attacks on the taxi fleets are unwarranted and patently untrue. Taxi drivers' incomes have not decreased in the past two years due to lease rates or credit card fees, but instead due to the influx of an unlimited number of illegal for-hire transportation providers.

We believe that if the Council is truly concerned about driver incomes it would revise Chapter 53 to ensure that all providers- taxi drivers and TNC operators- have the same operating requirements, have limits on the total number of licensed providers and that the County will aggressively enforce the law against those who operate illegally. Drivers could also benefit if the fares they could charge were raised given that there has been no fare increase in over six years. In specific response to the issues raised in your letter, we offer the following:

Vehicle Lease Caps. At the outset of this discussion, it must be noted that the Committee has been obviously concerned with placing as few restraints as possible on TNCs. As the Committee has embraced the "free market" principles advanced by Uber and Lyft, it has also assured all parties that the old model of taxi regulation, essentially treating taxis as a highly regulated utility, was a thing of the past. Your new suggestion to institute lease caps belies these assurances and suggests that it is the Committee's intention to create an even more imbalanced "playing field" which will guarantee the failure of traditional taxi operators.

Your letter to Mr. Roshdieh offers the opinion that taxi drivers are “the most disempowered workers” in our county. We respectfully disagree. In fact, there are more opportunities for drivers now than at any time in memory. The competition for taxi drivers has never been more fierce given the explosion in for-hire transportation in recent years. There are five fleets in the County and taxi companies all over the Washington metropolitan area, all of whom compete for drivers. Add to that mix, the huge number of private sedans, contract transportation companies such as Metro Access, shuttle vans and private contractors, drivers now have a “buyer’s market.” And now, with the lure of companies such as Uber and Lyft, drivers have yet another option and the taxi fleets are seeing the lowest vehicle utilization rates in their history.

Even so, to have a fair discussion of lease caps, one must first conduct an accurate study of the economics: driver income and expenses *and* owner income and expenses. Relying on a few drivers’ anecdotal statements is hardly fair. By way of example, to counter the impression that the County taxi drivers are earning less than the minimum wage, Barwood has provided data showing that a number its drivers earned over \$100,000.00 in gross income in 2014. At the least, before even entertaining a cap on leases, the County should require real data regarding driver income and expenses and fleet costs.

In 2013, the Maryland Public Service Commission proposed lease caps on the taxi industry under its jurisdiction. Yet after taking testimony, conducting an inquiry into the complicated economics of a taxi operation, and assessing the ever increasing number of options for drivers, it concluded that its proposal was unnecessary and punitive to the taxi industry. We urge you to look to that process for further information on this issue.

Each of the fleets has previously provided the Council with their current lease rates. Over the last ten years, the lease rates of our members have increased between a minimum of 0% (Regency Cab) and a maximum 7% (Barwood). Over that same period of time, the cost of vehicles has risen by 18%, the cost of liability insurance has risen by 12%; the cost of vehicle repairs has risen by 23% and the costs of employee wages and benefits have increased by an astounding 61%. In order to absorb these costs, a taxi fleet (or a smaller owner/operator) has a very limited means to increase revenues. Unlike most other businesses, we cannot raise fares to customers or expand our market share by adding more vehicles to our fleets.

Your letter also appears to endorse the caps put into place by Seattle and New York City. In comparing markets it is always important to be sure that the markets are analogous. In both Seattle and New York City the caps were placed on *shift* rentals. This means that an owner in

New York or Seattle may lease a cab to a driver for a ten or twelve hour shift and then lease the same cab to another driver for a second shift. Some companies even have three shifts a day.

No fleet in Montgomery County leases by shift. Rather, all Montgomery County cabs are leased to drivers for twenty four hours a day, seven days a week. This means the driver/lessee can use the vehicle not only for transporting passengers but also for personal use. For many of our drivers, the cab is their only vehicle, eliminating the need to buy and maintain a personal use vehicle. As such, the New York and Seattle lease caps are not remotely analogous to what occurs in Montgomery County. In those cities the 24 hour lease rates, while capped, are almost double what any fleet is charging here.

CCTI and each of its members are vehemently opposed to a cap on their only means of income. Just as important, however, is that your letter suggests that taxi drivers need relief from “onerous” lease fees. Yet your letter offers no such concern for those who drive for a TNC. Is the Committee prepared to limit the amount of revenue a TNC company can make from its drivers? Is the Committee prepared to stop the TNCs from lowering their rates to drive out competition on the backs of their own drivers? If not, on what basis does the Committee feel it is proper to restrict the earning ability of the existing taxi fleets?

Credit Card Terminals and Fees. Your letter raises two issues with respect to credit cards. The first is concerned with the in-cab terminals. All Montgomery County cabs now have credit card terminals. Each of the five taxi fleets have contracts with third party providers. Under each of these contracts the provider supplies the in-vehicle hardware, the software and also processes credit card transactions. The provider also collects a fee on each transaction on top of the fees charged by the banks. The fleets receive no financial benefit from these transactions. The cost to the fleets for this service, including bank fees, ranges from 3.5% to 5% of each transaction.

Each of these contracts requires the fleet to insure that the contractor’s system is used exclusively. The reason for that exclusivity is that the provider needs to cover the cost of the production of the technology, the production and maintenance of the equipment, and also make a profit. The exclusivity also provides an important secondary benefit in that passengers, who encounter a problem in service with a driver, can contact the fleet for resolution. A fleet is unable to resolve the issue for the passenger when it has no relationship to the credit card terminal provider.

The second issue concerns credit card fees. The member fleets all charge different fees for credit card use and the fees are for different services provided by the fleets. The fees retained by the fleets range from 0% (Sun Taxi) to 3% (Barwood) over and above the fees described

above. Much like governments that raise fees rather than taxes, fleets charge drivers fees in order to hold down vehicle rental fees. Fees, admittedly, are a way to raise revenue and different fleets have different fee structures. The credit card fees are designed to limit the cost to drivers as many drivers take in revenue with little or no use of credit cards. Barwood's fees are used to offset the huge technology investments that have benefitted not only the company, but also drivers and passengers. Barwood, however, does not charge fees on any other trips. Other member companies charge lower credit card fees but assess fees on Call-n-Ride fares, Medicaid trips and Metro Access trips to cover their cost.

CCTI opposes a cap on fees as it needlessly limits a company's ability to use different tools to raise revenue. A limitation on fees will not lower costs for the drivers but rather, will simply result in increases in rent and affiliation fees.

Contract Terms. Your letter claims that "some companies require drivers" to be affiliated with a fleet for five years. Of the five fleets that make up the membership of CCTI, only one company, Barwood, has long term affiliation contracts. In Barwood's case, however, most of the long term contracts are the result of sales of PVLs arising out of its bankruptcy proceedings. In those cases Barwood discounted its sales price by \$10,000 as an incentive for drivers to remain affiliated with Barwood's fleets. Many drivers preferred the incentive, although a few paid the higher price and then affiliated with other companies. Many of the purchasers of PVLs also financed their purchases either through a third party lender, Enterprise Development Group, Inc., or through Barwood's holding company, Transco (or both). In those cases the lenders required the drivers to remain affiliated with Barwood's fleet so long as the debt was outstanding. Some purchasers signed five year notes, many had shorter periods.

CCTI is opposed to arbitrary limits on contract terms. Although long term contracts are not commonly used today, they can be a tool that benefits both fleet owners and drivers. Companies should be allowed to experiment with contract terms to offer incentives and protections for drivers in exchange for a longer term. Incentives like discounted rents, price controls, or longevity rewards all could be a reasonable basis for a driver to sign a long term lease. Of course, if a driver does not wish to enter into a long term contract, he/she is free to enter a shorter one or seek a relationship with another company as discussed above. There can be no "contracts of adhesion" if drivers have the existing range of options to work elsewhere.

CCTI is also opposed to uniform lease language. Each fleet is different and should have the ability to enter into its own contract with a driver. A uniform lease is simply another step toward treating all taxis as a county managed utility and a step away from the kind of innovation and market driven ideas that the Council has so ardently embraced with the TNCs.

Dispute Resolution. Since 2005 our code has provided the drivers with a dispute resolution mechanism. It is found in Sec. 53-219 (f). Until the Department of Transportation arranged for the 2014 mediation process between all five fleets and a number of drivers claiming to be part of a union, the mechanism had *never* been used. CCTI members continue to support the existing language and are willing to entertain reasonable changes to the language if such changes would be beneficial. Any analysis of this issue would need to begin with a discussion of the types of actual driver issues that are currently not being addressed.

PVL Issuance. CCTI adopts and incorporates its earlier submission on PVL issues. We agree that there should be an issuance of PVLs available to both fleets that wish to grow and to individual drivers who wish to invest in their own business. However, the issuance of PVLs will not help anyone if they are not transferable and if they do not have value. If there is no limitation on the number of providers, including TNC Operators, the PVLs will be worthless and neither fleets nor drivers will have the collateral or incentive to invest in their businesses.

Service to the Disabled Community. CCTI continues to advocate that all licensees provide service to the disabled community. Understanding that the business model for TNCs makes it difficult to accommodate wheel-chair accessible vehicles, TNCs should be permitted to opt out of actually providing service by being surcharged on each ride provided in the County. The funds derived from the surcharge should be used to cover the costs of those who actually provide the service.

The cost to operate a wheel-chair accessible vehicle is substantial and under current law places a heavy economic burden on those who provide the services. By the very nature of the clientele, the time it takes to pick up and drop off a disabled passenger is much longer than that for the non-disabled. This means fewer jobs per day for a driver of such a vehicle. The law also prohibits any difference in fares which means a driver is likely to make less money operating a wheel-chair accessible vehicle. The vehicles themselves are far more expensive to purchase and outfit than a standard taxi sedan. The surcharge can be used to remedy these disparities, and in so doing, it will incentivize taxi fleets and drivers to put more of these vehicles on the road.

On behalf of CCTI and its individual members, we thank you for your time and attention to these matters and we look forward to further discussion on these and other issues affecting the local taxi industry.

Very truly yours,

David Mohebbi, President

CCTI POSITION PAPER FOR COUNTY COUNCIL WORK SESSION #4

CCTI offers the following comments and arguments to address the agenda items scheduled for the fourth work session scheduled for March 10, 2015.

Introduction

Most of the agenda items arise from the most recent amendments offered by Mr. Reimer. These amendments, along with certain issues raised by the Committee, have changed the entire nature of the process which was begun over six months ago. This legislative process began as an effort to legally introduce new transportation businesses known as Transportation Network Companies while freeing the existing taxi fleets from regulations that were described by the Chair as “archaic.” In response to this effort CCTI produced a proposed unified overhaul of Chapter 53 which incorporated nearly all of the original three introduced bills along with additional recommendations that would benefit taxi drivers and allow the existing fleets to innovate and compete with these new competitors. CCTI continues to stand by its proposed revisions as a fair and comprehensive solution that serves all stakeholders fairly.

In recent weeks, however, the conversation has veered wildly away from the original goals and has now become driven by wild accusations, half-truths and unsubstantiated claims at the hands of a group of drivers egged on by organized labor. As a result, the existing fleets are now faced not with *less* regulation, but with *more*. The Committee has already indicated approval of proposals that will bring the County ever more deeply into the business and financial relations between fleets and drivers. If enacted, the proposals on the agenda for this work session would take the County ever closer to absolute control of every aspect of the taxi business, while simultaneously giving the TNCs the opportunity to legally operate in the County with almost complete impunity. The Committee needs to return its focus to the fundamental issues that initiated this process.

Centralized Dispatch System. CCTI continues to support the original proposal contained within Bill 55-14. A non-exclusive centralized electronic dispatch system (“County App”) would benefit all County taxi drivers and the public. Even so, establishing the County App is not as simple as finding the right technology. As with any system, the humans that use the system will find its weaknesses and exploit them. It is human nature. As such, establishing and enforcing reasonable rules on the system’s use will be the challenge for the County. The Director, prior to establishing the criteria for any system, should consult with the local fleets and other entities that have established dispatch systems to familiarize themselves with the kinds of

problems and abuses that routinely occur. The Council should also understand that any third party vendor that will provide an application will want the relationship to be profitable which will mean that the vendor will charge a fee for each trip that will be expected to either come out of the driver's share or paid by the County.

Other jurisdictions. Mr. Reimer has recently offered an amendment directing the Director to give a preference to a vendor that includes "the greatest number of jurisdictions in the Washington D.C. region in the system." CCTI is not clear what this provision means. Is it intended that: 1) the County App would show available vehicles for hire found in other jurisdictions? 2) the County App coordinate with similar apps in other jurisdictions? CCTI suggests that no preference should be given to any vendor simply because it was lucky enough to have been selected by a neighboring jurisdiction; the selection of a vendor should be based entirely on the quality and cost of the system sold.

Pre-set payments. Mr. Reimer has also recently offered an amendment to allow the Director to deduct payments designated for an individual driver for the benefit of a "third party trade or advocacy organization designated by the driver." CCTI takes no direct position on this provision except that any authorization for deductions must also include the variety of payments that are routinely required whether voluntary or not. "Advocacy organizations" should not only include a trade union but also any charity or other organization that a driver may wish to pay. In addition the creation of such a procedure would have to include the payment of tax liens, child support, judgment creditors, insurance premiums and the like. Either the Department should have the obligation to handle all such voluntary and legitimate involuntary claims or it should not be required to handle any of them.

Commission on Fleet-Driver Relations. CCTI believes this proposal is an unnecessary intrusion into the each fleet's legitimate confidential business practices. Moreover, it is inappropriate for either driver representatives or fleet representatives to negotiate contract terms and rates without knowing the complete financial information for all parties concerned. In order to do that, all representatives would have to be given access to not only fleet business records, but also complete driver income records. The CCTI members are firmly opposed to sharing its confidential business information with its competitors or the drivers. CCTI suspects that this kind of disclosure of individual driver income would also be unpopular.

CCTI also remains opposed to any arbitrary cap on lease rates or any other fee, especially in light of the fact that the TNCs would not be subject to any such restriction. The market should decide these issues. However, in light of the Committee's recent "straw vote," CCTI believes that if any caps are to be entertained they should be decided by the Director after a thoughtful and reasoned process with input from all fleets and drivers.

Adverse actions against drivers. Another proposal requires that a "licensee must not take adverse action against a driver without just cause." This provision, as written, is impossibly

vague. Even so, the CCTI members firmly believe that lease drivers *are* treated fairly. In this age of fierce competition for drivers, the fleets generally bend over backwards to retain drivers. There are many instances, however, where fleets will terminate leases to drivers for cause. These would include accidents, demonstrably poor customer service, and failure to pay rent. Naturally, there will be drivers who feel that they have not be treated fairly and the current Code already provides them with a mechanism to take the matter up with a neutral mediator. To date, CCTI members know of not a single incident of a driver requesting relief under the County mediation program.

CCTI is firmly opposed to any requirement that a driver or fleet participate in binding arbitration. Such a requirement cannot be mandated as it violates each party's due process rights and access to the courts and thus is unconstitutional.

Minimum wage requirement. The County's taxi drivers are all independent contractors. Neither the fleets nor the drivers are seeking to change that fundamental relationship. A guarantee of minimum wage would require the establishment of an employer-employee relationship which, it is respectfully submitted, cannot be compelled by legislation. The only way a fleet could guarantee a minimum wage would be to guarantee a sufficient number of trips to each driver. That is impossible since the fleets do not have control of the number of trips, the length or value of those trips or the hours and places a driver may work. Moreover, any effort to "steer" trips to an underperforming driver would mean taking away trips from another driver, which is patently unfair.

PVL issues. CCTI adopts and incorporates its earlier position paper, dated February 23, 2015 as it addresses the issues of transferability and the need to maintain a value. CCTI requests that the earlier paper be made part of the packet.

- A. Issuance of new PVLs.** CCTI agrees that a number of new PVLs should be issued in 2015 or 2016. Mr. Reimer's suggestion of issuing 200 PVLs is excessive. While the impact of TNCs has not been fully assessed, it is clear that adding 200 new taxis and an untold number of TNC Operators will significantly affect driver income. CCTI recommends that a total of 100 PVLs be issued in 2016 and that future decisions regarding the issuance of new PVLs take into account all of the criteria set forth in Sec 53-205. CCTI also supports Mr. Reimer's proposed allocation of half of the new PVLs to be issued to fleets and the remaining half to drivers as currently set out in the Code.
- B. Reimbursement fund.** The idea of a reimbursement fund as proposed is lacking the necessary specifics to provide in-depth comment. The CCTI members would love to see a fund that would fairly compensate any PVL holder for loss of value as a result of either a formal "taking" by legislation or the informal devaluation brought about by the introduction of the TNCs. That said, it is unclear how the necessary funds could be accrued or how compensation would be calculated. CCTI believes this

proposal cannot be fairly implemented. Rather than compensate for devaluation, efforts should be made to make sure that PVLs maintain value and that the Council does nothing to intentionally render them valueless. It is also essential to note that the issues concerning PVL valuation and transfer affect not only the five fleets, but also the approximately 200 owner/operators who have invested in this County's transportation system.

- C. **PVL leasing.** CCTI continues to advocate the leasing of PVLs to drivers who wish to use their own vehicles as a taxi in the County. Many jurisdictions in the country currently permit this kind of leasing. Such arrangements allow a fleet to provide different types of opportunities to drivers, including the use of drivers who wish to work part-time. Part-time drivers have been hailed by Uber and others as a welcome innovation which provides needed service at times that were previously under-served.

Elimination of Dispatch and Affiliation Requirements. CCTI continues to advocate the elimination of the requirement of discreet dispatch systems. While no member fleet has current plans to abandon its existing dispatch system, the reality is that with the advent of cell phone apps, the traditional dispatch models have been rendered almost obsolete. Fleets and drivers should be allowed to experiment with different models and should even be allowed to share a system if they wish. The County App is an example of such a system, but the fleets should not be restricted to any one system. Rather they should be encouraged to innovate and be given the freedom to do so.

CCTI also continues to advocate on behalf of the fleet system. The elimination of the requirement to affiliate with a fleet or with an association makes no sense from a regulatory point of view. The Department, as the entity responsible for regulating taxis, needs to seek the assistance of an entity, be it fleet or association, to aid in its efforts. If the Department was required to contact and schedule nearly 800 individual drivers each time it conducted a meter inspection, a cosmetic inspection or for license renewals it would be an enormous undertaking. CCTI believes there is no viable argument to eliminate the affiliation requirement.

February 26, 2015

To: the Montgomery County Council

I came to the United States from the Soviet Union twenty-five years ago. I believe in the freedom and the free market system that we have here in the United States. An engineer in my country of birth, I worked various jobs in this country but have found that the taxi industry suits me best. Four years ago, I affiliated with Barwood. I own four PVLs: I drive one of my taxis and lease the other three.

I understand that the county government is considering making changes to the way the taxi industry works. I support the government's help with creating rules that everyone would follow, which would eliminate the unfair advantages that Uber and other companies have, claiming they are technology companies. Why do I have to charge customers the set county rates, but they can charge anything they like, low or high? There are so many issues on that subject. I am sure you know them all, so I will move on to the other types of changes I have heard about and object to.

As an owner and a driver, I do not believe drivers should become employees. The greatest advantage to being a taxi driver or owner is flexibility. I do not want to be told when to work, or where, and my drivers do not want to be controlled like that, either. Is there any other place in the U.S. where taxi drivers are employees? This is totally against what it means to be a taxi driver, an independent business person.

As an affiliate, I have a business. I have the right to set the rent, based on my expenses, and would not want that to be controlled by the government. In a free market, if I can't find drivers at the rent I want to charge, I have to lower it.

PVL's have value. They would be worthless if they could not be sold. This proposal about making them non-transferable is unfair to all the people who worked hard to save money to buy their PVL's. Uber and the other "technology" companies have already reduced their value.

Finally, coming from the Soviet Union, let me say that I do not believe in unions, and the drivers' union I have heard about lately does not represent me.

Thank you for taking the time to read my letter.

Sincerely,

A handwritten signature in black ink that reads "Michael Pesin" followed by a vertical line and the number "151".

Michael Pesin

Taxi233@yahoo.com; 301-233-9948

February 25, 2015

To the Montgomery County Council:

My name is Salvador Maldonado. I was born in Peru, where my father had a small taxi company. I have always loved the transportation business, so when I came to the United States more than 25 years ago, I got jobs in that business. I drove a bus for a private school in Potomac, Maryland for five years; I had a car service for people with disabilities; and then a sedan service for trips between Montgomery County and New York City. When Vamoose and the other bus companies started doing the same thing for much less, my business was over.

I was glad to be able to get into the taxi business with Barwood. Beginning about four years ago, I leased a taxi from them, then I bought two PVL's. I drive one taxi and rent the other. Driving and owning taxis has given me the opportunity to build a business to support my family. I am proud that both of my children are in college.

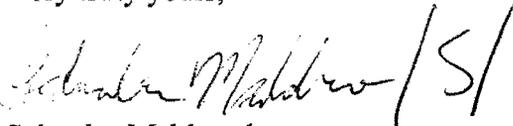
I have heard that the county is thinking about making changes to the taxi business and that a driver's union is also suggesting changes that will affect my business. This union does not represent me.

I would not want a limit on the amount of rent that I can charge someone who drives my other taxi. I would not want to make that driver my employee. I'd have to file taxes for them and get a worker's compensation policy. This could put me out of business.

Most of all, I object to the idea that I might not be able to sell my PVL's if I want to do that in the future, when I retire. With the two new cars, they cost me over \$100,000.

I would also like for Uber to have to work with the same rules that we have to obey, like going by the county fare structure. We cannot lower or increase fares. .

Very truly yours,



Salvador Maldonado
Taxigoing@yahoo.com

To the Montgomery County Council:

Hello. My name is Moses Bwebale and I came to this country 23 years ago from Uganda. After working in the dry cleaning business for a few years, I heard about Barwood and began to drive a Barwood taxi. That was 20 years ago. I love driving and meeting new people, so I saved up and bought a PVL.

Things have been difficult lately with Uber taking business away. It is easy for them because they do not have to do all the things we have to do. It is not fair.

Driving and owning a taxi has been a good business for me and has let me send one child to college and another will go in a few years. My business is important to me and my family.

I hear that a driver's union and the county council want to make changes in Montgomery County that will affect my business. The union does not represent me and I do not agree with some changes I have heard about. In fact, Peter Ibek, a representative of the Montgomery County Professional's Drivers Union approached me about attending a meeting. He asked me to sign my name to be contacted for a meeting. I later found out that this list was used for a petition by the Driver's Union without my consent. I do not agree with these issues on the petition.

Although I drive my own taxi, I sometimes go back to Uganda for a month or two at a time. That means I rent my taxi. And if I fall ill, I would rent my taxi.

I would not want to be told how much rent I can charge. I would not like to make that driver my employee if I have to stop driving and hire someone to drive in my place. Also, please make sure the value of the PVL remains strong. We drivers who bought PVL's spent a lot of money on them.

Thank you,

A handwritten signature in black ink that reads "Moses Bwebale" followed by a large, stylized "S" or "B" mark.

Moses Bwebale
6509 Park Hall Drive
Laurel, MD 20707

To the Montgomery County Council:

My name is Charles Metis. When I came to the United States from Haiti more than 30 years ago, I worked in the hotel business downtown but did not advance. I leased a Barwood taxi in 1991. After only four years, I was able to buy my first PVL and have bought two more since then. I drive one of my taxis myself and affiliate all three with Barwood. Barwood has provided me with good service and customers.

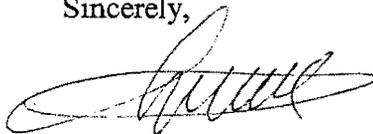
Driving and owning taxis has given me the opportunity to build a business to support my family. Two of my four children have graduated from college and the younger two are currently enrolled in college. I have helped my widowed sister and her two children as well.

My business is important to me and my family. I understand that a driver's union wants to make changes in Montgomery County that will affect my business. The union does not represent me. I object to the following proposed, possible changes:

1. A centralized dispatch system run by the County.
2. A limit on the amount of rent that I can charge someone who drives one of my taxis. The County does not know the extent of my business expenses.
3. Drivers becoming employees. Taxi drivers are independent contractors; their status gives them incentive to work hard and earn as much money as possible. If I have to make my drivers my employees, I feel it would be a mistake for them and it would ruin me financially. I would have to file quarterly taxes and pay the employers' portion of the tax, do W2s, obtain a worker's comp policy, and more. I believe I would go out of business.
4. Guarantee of minimum wage. This does not make sense for a taxi driver.
5. Prohibiting the transfer of PVL's. I have three. How could it be fair that I could never sell them? I worked hard to save the money to purchase them.

Thank you for your consideration of my views.

Sincerely,



Charles Metis

2805 Red Lion
Silver Spring, MD 20904

MoCo Hearing Feb 27 Letter1

February 26, 2015

To the Montgomery County Council:

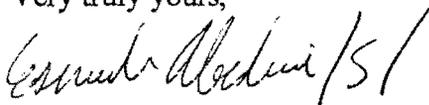
I came to the United States from Iran many years ago and have been in the taxi business with Barwood for 25 years. I have two PVL's. I drive one taxi and rent the other one.

This week I learned from another driver that there may be some changes to the taxi business in Montgomery County. I am not a part of the driver's union that has given its ideas to County Council members.

I do not know all the details, but from what I heard, I want you to know that three things would hurt me and my business greatly: setting a limit on the rent I can charge someone who drives my other taxi, making the driver my employee, and not being able to sell my PVL.

One more thing I would like you to know: taxi drivers are being hurt by Uber because they do not have to follow the same rules and regulations. I hope you will fix this problem.

Very truly yours,



Esmail Abedini
14508 Snapdragon Circle
N. Potomac, MD 20878

February 25, 2015

To the Montgomery County Council T & E Committee:

I'm Bruce Block and I have been a Barwood driver for three years and I've lived in Montgomery County for over 30 years. My undergraduate degree is in mathematics and economics, I am a serial entrepreneur who has created four companies. I've taken one of them public. I am a former partner at the firm of Booz Allen & Hamilton and have an MBA in Finance from American University. I enjoy driving a taxi because as a single Dad of a 12 year old I need the flexibility driving a taxicab provides so I can be there for my son.

I would like to state for the record that the Drivers Union does not represent me. I specifically want to address some of the driver union suggestions.

1. **I do not believe drivers should be employees.** Success should be based upon your level of commitment to the position. Additionally, I don't want to be capped at an hourly wage when I know I can make more by being industrious and providing exemplary customer service.
2. **As for lease terms;** I don't believe the government should set a lease rate, this would amount to price fixing. The daily lease rate for the car should be set by competition not by the government.
3. **I'm strongly against a two tier system,** where TNC's, like Uber and Lyft, exist under different regulations than taxi fleets. This is patently unfair!!! Take for example Passenger Vehicle Licenses (PVLs). It appears that under proposed regulations the County requires one type of transportation company, taxi fleets, to have licenses and the other, TNCs do not face these requirements. Furthermore, the influx of an unlimited number of Uber cars devalues PVLs which is unfair to my fellow drivers, many of whom have invested in PVLs.

As you know, I testified in a previous T & E Committee meeting and I'm more than willing to meet with council members and share my insight from a business perspective. Thank you for your time.

Bruce Block 1/5/15

Bruce Block, brucejayblock@hotmail.com

2/25/15

Date

February 25, 2015

To: Montgomery County Council T & E Committee

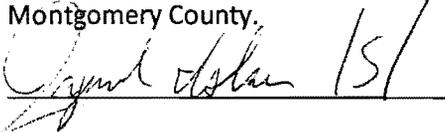
My name is Jaynul Islam, a Barwood taxi, affiliate driver. You may remember me from my testimony in support of expedited Bill 53-14. I'll refresh you on my back story. I've had the privilege of driving for Barwood and serving the citizens of Montgomery County for more than 8 years. I live in Montgomery County, Silver Spring to be exact. As an affiliate driver I hold a Passenger Vehicle License, also known as a PVL.

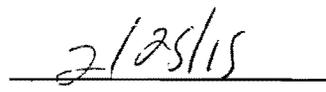
As an owner and a driver I feel I have been negatively affected by the influx of unlicensed operators who work for Transportation Network Companies, like Uber and Lyft. . At one point I had two PVLs but was recently forced to sell one due to the illegal competition from TNCs.

It has come to my attention that the County Council is considering suggested changes to the taxicab industry proposed by a driver's union. I want to make it abundantly clear that the driver's union does NOT represent me. I'm concerned with some of their proposals and would like to address that with you here.

1. I do not believe drivers should become employees. As an affiliate, I consider myself to be a small business owner. I currently own and operate my vehicle but if I was to ever decide to have someone else operate my vehicle I would incur additional costs which could potentially put me out of business. I would have to get a workman's comp policy, file quarterly taxes and pay the employers portion of the tax and get W2s.
2. I am strongly against prohibiting the transfer of my PVL, which means I could never sell it! I consider my PVL purchase to be an investment. Already, the presence of an unlimited number of Uber cars has substantially devalued my PVL. To think on top of this devaluation that I would be prohibited from selling my PVL is unbelievable. I'd like to add that what we *should* focus on is limiting the number of TNC vehicles. Without a limit on their number the value of all PVLs will be eliminated which is not fair to those, such as myself, who have invested in them.
3. I also do not want the County to dictate what I can charge in rent if I decide to have a driver operate my vehicle. I want to be able to base daily rent on my business needs and business expenses, and not have it dictated to me. I believe the freedom to run my own business is the same thing any business owner would want.

Thank you for taking the time to again hear my views on the transportation for hire industry in Montgomery County.


Jaynul Islam, j_islam365@yahoo.com


Date

February 26, 2015

To the Montgomery County Council T & E Committee:

My name is Kwadwo Owusu, but everyone knows me as Kojo. I've leased and driven a taxi for Barwood for 4 years. Prior to Barwood I was a manager for Home Depot. I have a bachelors in business administration from the University of Ghana and a certificate of architectural engineering from Holloway College in London.

I can't be at the work session today because I am focused on my customers who I have pre-arranged trips with and I don't want to let them down. Bottles of water, granola bars, and a smile are what every customer who sits in my taxi receives. Customer service is extremely important to me. I've always believed the customer comes first.

Even though service is my main focus I've definitely noticed the drivers' union talk. I first became aware of the union when my name was falsely added to the petition they presented to Montgomery County. Another driver actually signed MY name without my permission! Please know the drivers' union doesn't represent me. I don't have anything against the union but I have a voice and if I have anything to say I will speak up as I'm doing today.

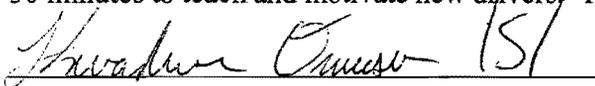
I understand the union is proposing the County set lease rates, mandate there is no credit card transaction fee and require drivers become employees.

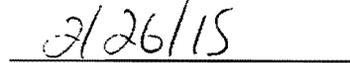
I don't feel this is necessary. I think these are shortcuts that some drivers want instead of taking the time to build a business. I'm successful because of the work I put into the position. From the moment I got a cab I begin reaching out to customers, doing every trip and asking customers to call me back. This is how I built up over 100 personal customers who like to call me directly.

The credit card processing fee doesn't keep me from making money, would I love to have that money back in my pocket, sure who wouldn't, but that's not holding me down at all. It's up to me to be successful and make money.

I'm not depressed over the current rent, sure I don't want it to increase but I'm very comfortable with where it is now. I dress in a suit and tie every day. I respect the business, I work hard and I'm successful. I look at it like a business, sure there are some expenses but if I was a salaried employee I would have money taken from my gross for insurance, 401 K etc.

I'm not part of the union because they are trying to follow the ideology of all drivers against the owner, but what they forgot about is the owner is a business person as well and he has to maintain the business. I care about the business, I care about drivers' success as well as the drivers' family which depends on the driver. This is why I go to Barwood's new driver classes each week and spend 20 - 30 minutes to teach and motivate new drivers. This is how I choose to use my voice.





Kwadwo Owusu , kojo5555@yahoo.com

Date

Cuthbert Joseph
3012 Castleleigh Road
Silver Spring, MD 20904
202-438-3784

February 26, 2015

To the Montgomery County Council:

My name is Cuthbert Joseph and my wife and I came to this country 50 years ago from Grenada. I drove a taxi in DC when I first came to the US. I started leasing a taxi from Barwood in 1986 until 2006 when I was issued my own PVL by Montgomery County. I then affiliated my taxi with Barwood. My wife and I own our home in Montgomery County and we've raised our children and put them all through college. I can say that I have made a successful career out of driving a taxi.

I have owned 3 vehicles that I operated as Barwood Taxi 340 through the years beginning in 2006 through 2015. I currently have a 2012 Scion XB and my customers love it.

I heard that the driver's union and the county council want to make changes that will affect my taxi business. The union does not represent me and I do not agree with Councilmember Riemer's proposed amendment, particularly on these issues:

- The County should not set the rates on what I can charge for my taxi every two years. As long as I've owned my own taxi, the price of maintenance, parts and labor have gone up in price but yet the amount that I can charge my customers stays the same. Now that illegal taxis are operating in Montgomery County, they are low balling their prices, my personal customers that I have been transporting for years are expecting me to drive for \$1.25 per mile. I cannot afford to do that when I have to pay the cost to maintain my vehicle, purchase automobile insurance, gas, County and MVA fees, and vehicles loans if I have one at the time.
- I do not agree that drivers should be guaranteed a minimum wage and be employees.
- I do not agree that you should distribute more PVLs. We already have enough competition with the illegal taxis, adding more PVLs would affect my revenue even more. How will I be able to guarantee myself minimum wage?
- The final point is that I should be able to transfer my PVL. If I have been allowed to use the PVL as collateral and have a security interest on it, then I should be able to transfer it. It is my asset and it has been that way for 50 years.

Please reconsider what you are proposing so that taxi owners like me can survive in the taxi business in Montgomery County.

Cuthbert Joseph 15/
Respectfully,
Cuthbert Joseph