

**601 KAR 1:113. Transportation Network Company.**

RELATES TO: KRS 17.500, 61.878(1)(c)1., 61.930(6), 61.931(6), 186.050, 186.281, 189.290, 189A.010, 281.010, 281.600, 281.630, 281.6301, 281.631, 281.640, 281.650, 281.655, 281.656, 281.912, 281.990, 304.3-070, 304.10-010-304.10-070, 304.20-020, 304.39-020(2), 304.39-040, 304.39-320, Chapter 365, 532.060

STATUTORY AUTHORITY: KRS 281.600, 281.630, 281.655

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Department of Vehicle Regulation to promulgate administrative regulations to regulate and establish requirements for the safe operation of motor carriers. KRS 281.630 authorizes the department to establish requirements for a transportation network company to apply for authority to operate in Kentucky. KRS 281.655 requires the department to establish standards for pre-trip acceptance policies and prearranged ride liability policies for transportation network companies. This administrative regulation establishes the standards and application requirements for a transportation network company to operate in Kentucky.

Section 1. Definitions. (1) "Basic reparation benefits" is defined by KRS 304.39-020(2).

(2) "Certificate" is defined by KRS 281.010(8).

(3) "Driver" is defined by KRS 281.010(20).

(4) "Mobile application" is defined by KRS 281.010(30).

(5) "Motor carrier" is defined by KRS 281.010(31).

(6) "Motor carrier vehicle" is defined by KRS 281.010(32).

(7) "Operating Authority" means the authority granted to operate as a TNC in the commonwealth through the application process with the department.

(8) "Passenger" is defined by KRS 281.010(36).

(9) "Personal information" is defined by KRS 61.931(6).

(10) "Prearranged ride" is defined by KRS 281.010(39).

(11) "Pre-trip acceptance liability policy" is defined by KRS 281.010(40).

(12) "Regular seat" is defined by KRS 281.010(44).

(13) "Street hail" is defined by KRS 281.010(45).

(14) "Transportation network company" or "TNC" is defined by KRS 281.010(51).

(15) "Transportation network company driver" or "TNC driver" is defined by KRS 281.010(53).

(16) "Transportation network company service" or "TNC service" is defined by KRS 281.010(54).

(17) "Transportation network company vehicle" or "TNC vehicle" is defined by KRS 281.010(55).

(18) "Underinsured vehicle coverage" is defined by KRS 304.39-320(1).

(19) "Uninsured vehicle coverage" is defined by KRS 304.20-020(2).

Section 2. Application and Renewal. (1) A TNC shall register as a business organization with the Kentucky Secretary of State.

(2) The department may waive the filing of the certificate of assumed name if a TNC:

(a) Demonstrates compliance with the relevant provisions of KRS Chapter 365;

(b) Certifies in writing to the department that Kentucky law either prohibits or does not require the filing; and

(c) States the reasons in writing why the filing is not required.

(3) In order to apply for a certificate to operate, a TNC shall submit directly to the Division of Motor Carriers:

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(4) A TNC with fifty-one (51) or more vehicles may qualify vehicles to operate by providing to the department through an online data access point:

(a) A completed Transportation Network Company Authority Application, TC 95-627;

(b) An application fee of \$250 pursuant to KRS 281.630(3)(b); and

(c) A calendar year bulk qualification fee pursuant to the following schedule:

1. \$3,000 for fifty-one (51) to 100 vehicles;

2. \$4,500 for 101 to 150 vehicles;

3. \$6,000 for 151 to 200 vehicles;

4. \$7,500 for 201 to 250 vehicles;

5. \$9,000 for 251 to 300 vehicles;

6. \$10,500 for 301 to 350 vehicles;

7. \$12,000 for 351 to 400 vehicles;

8. \$15,000 for 401 to 500 vehicles; and

9. \$22,500 for 501 or more vehicles.

(5) A TNC shall annually submit the following to the Division of Motor Carriers to renew a certificate:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605;

(b) A certificate renewal fee of \$250 pursuant to KRS 281.630(4)(d); and

(c) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(6) If a TNC elects to use the bulk vehicle registration payment option in the TNC's initial or renewal TNC application, the TNC shall not be required to submit additional vehicle qualification information and fees to the Division of Motor Carriers in connection with vehicles that are added during the duration of the period for which the bulk payment was made.

(7) A TNC shall pay a renewal bulk fee by December 15 of each calendar year.

(8) A TNC vehicle shall be added to the TNC's current list by submitting the following to the Division of Motor Carriers:

(a) A completed Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application, TC 95-605; and

(b) A vehicle qualification fee of thirty (30) dollars per vehicle prorated for the month the vehicle is qualified pursuant to KRS 281.631(3)(a)1. and (8).

(9) An application shall be submitted electronically, by mail, or by hand delivery.

(10) Operating authority obtained pursuant to this section shall not be transferable.

(11)(a) The TNC shall submit the following documents if submitting an application for certificate, annual renewal, or adding a driver during the year:

1. An affidavit from the corporate officer in charge of Kentucky operations certifying that the national criminal background check of TNC drivers established in KRS 281.630 and 281.6301 shall be completed prior to allowing the TNC driver to accept rides through the TNC mobile application; and

2. One (1) copy of the current contractual agreement between the TNC and TNC drivers.

(b) A deficient application shall be returned to the applicant with no formal action taken by the department.

Section 3. Demonstration of Financial Responsibility and Insurance. (1) A TNC shall maintain primary automobile insurance that:

(a) Recognizes that a driver is a TNC driver or using a vehicle to transport passengers for compensation; and

(b) Provides insurance coverage for a TNC driver who is:

1. Logged on to the TNCs mobile application; or

2. Engaged in a prearranged ride.

(2) The following pre-trip acceptance liability policy insurance coverage requirements shall apply if a TNC driver is logged on to the TNC's mobile application and available to receive transportation requests but not engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(12);

(b) Basic reparation benefits in accordance with KRS 304.39-020;

(c) Uninsured vehicle coverage in accordance with KRS 304.20-020; and

(d) Underinsured vehicle coverage in accordance with KRS 304.39-320.

(3) The pre-trip acceptance liability policy insurance coverage requirements of KRS 281.655(12) shall be satisfied by one (1) of the following:

(a) Automobile insurance maintained by the TNC;

(b) Automobile insurance maintained by the TNC driver; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(4) The following automobile insurance requirements shall apply while a TNC driver is engaged in a prearranged ride:

(a) Primary automobile liability insurance in the minimum amounts required by KRS 281.655(4);

(b) Basic reparation benefits in accordance with KRS 304.39-020;

(c) Uninsured vehicle coverage in accordance with KRS 304.20-020; and

(d) Underinsured vehicle coverage in accordance with KRS 304.39-320.

(5) The prearranged ride liability insurance coverage requirements of KRS 281.655(4) shall be satisfied by one (1) of the following:

(a) Automobile insurance maintained by the TNC;

(b) Automobile insurance maintained by the TNC driver; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(6) If the insurance maintained by a TNC driver has lapsed or does not provide the required coverage, the TNC shall provide the required insurance coverage beginning with the first dollar of a claim. The TNC shall have the duty to defend a claim for damages.

(7) Coverage under an automobile insurance policy maintained by the TNC shall not be dependent on a personal automobile insurer or policy first denying a claim.

(8) The insurance required by this section shall be placed with an insurer licensed pursuant to KRS 304.3-070, or with a surplus lines insurer eligible under KRS 304.10-010 through 304.10-070.

(9) A TNC driver shall carry proof of insurance coverage satisfying KRS Chapter 304, KRS 281.655, and this administrative regulation during his or her use of a vehicle in connection with a TNC's mobile application. In the event of an accident, and upon request, a TNC driver shall provide this insurance coverage information directly to interested parties, automobile insurers, and investigating police officers.

(10) A TNC driver shall disclose directly to interested parties, automobile insurers, the department, and investigating police officers, whether or not he or she was logged on to the TNC's mobile application or on a prearranged ride at the time of an accident.

Section 4. Insurance Exclusions. (1) A Kentucky automobile insurer may exclude the following coverage under a TNC driver's insurance policy for loss or injury that occurs while a TNC driver is logged on to a TNC's mobile application or while a TNC driver provides a prearranged ride:

(a) Liability coverage for bodily injury and property damage;

(b) Personal injury protection coverage as established in KRS Chapter 304;

(c) Uninsured and underinsured motorist coverage;

(d) Medical payments coverage;

(e) Comprehensive physical damage coverage; and

(f) Collision physical damage coverage.

(2) Nothing in this administrative regulation shall require a personal automobile insurer to provide coverage while a driver is:

(a) Logged on to the TNC mobile application;

(b) Engaged in a prearranged ride; or

(c) Using a vehicle to transport passengers for compensation.

(3) Nothing in this administrative regulation shall preclude an insurer from providing coverage for the TNC driver's vehicle.

(4) An automobile insurer whose policy excludes coverage for a TNC vehicle or TNC driver shall have no duty to defend or indemnify a claim for personal or property damages.

(5) An automobile insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver.

(6) In a claims coverage investigation, the TNC and an insurer potentially providing coverage shall cooperate to facilitate the exchange of relevant information with directly involved parties.

(7) Information relevant to a claims coverage situation shall include:

- (a) The name of the insurer or potential insurer of the TNC driver;
- (b) The precise times the TNC driver logged off and on the TNC mobile application in the twelve (12) hour period immediately before and after the incident; and
- (c) A complete description of the insurance coverage including the exclusions and limits.

Section 5. Vehicles. (1) A vehicle used by a driver for TNC services shall be qualified by the department to operate by submitting a completed Transportation Network Company Authority Application, TC 95-627 and submitting the fees required in Section 2 of this administrative regulation.

(2) The TNC shall ensure that the vehicles used by TNC drivers to transport passengers shall be subject to an annual inspection approved by an automotive technician who holds a valid automotive service excellence (A.S.E.) certification from the National Institute for Automotive Service Excellence.

(3) The annual inspection shall be completed on the vehicle inspection form provided in Transportation Network Company Authority Application, TC 95-627, or an equivalent vehicle inspection form provided by the TNC.

(4) A TNC shall collect and maintain information on the vehicles being used to provide service by TNC drivers including:

- (a) The VIN and license plate number; and
- (b) Records of official vehicle inspections by the automotive technician.

(5) Records of vehicle inspection and VIN and license plate numbers shall be kept by the TNC for a minimum of three (3) years from the date of inspection, and the TNC shall make the records available to the department or its representative on request. The information and records may be submitted as personal or proprietary information pursuant to KRS 61.878(1)(c)1 and 61.931(6).

(6) A vehicle used to provide TNC services shall be readily identifiable by the following:

- (a) A company specific emblem or decal affixed to the front windshield on the passenger side of the vehicle provided by the TNC; and
  - (b) An electronic copy of the current TNC certificate.
- (7) A driver who is no longer providing TNC service shall destroy or return the decal or emblem to the TNC.
- (8) A TNC shall ensure that the vehicles used by drivers to provide TNC services shall:
- (a) Have at least four (4) doors;
  - (b) Be designed to carry no more than eight (8) persons including the driver; and
  - (c) Be no more than ten (10) model years old with an odometer reading of less than 200,000 miles.

Section 6. TNC Drivers. (1) A TNC shall require each driver to undergo a national criminal background check before providing TNC services pursuant to KRS 281.6301.

(2) The TNC shall certify the criminal background check during the application process established in Section 2 of this administrative regulation. The national criminal background check shall be either:

- (a) A comprehensive background check using fingerprint analysis; or
- (b) An individual analysis using a social security number.

(3) The analysis required in subsection (1) of this section shall be conducted by a business or firm engaged in determining criminal background history.

(4) A TNC shall also require that each TNC driver:

- (a) Is at least twenty-one (21) years old;
- (b) Is the owner or lessee of the TNC vehicle or has a statement from the registered owner authorizing the use of the vehicle for TNC services pursuant to KRS 281.631;
- (c) Is listed as an insured of the TNC vehicle;
- (d) Has a valid state-issued driver's license and vehicle registration;
- (e) Has personal vehicle insurance coverage as established in Section 3 of this administrative regulation;
- (f) Has completed an annual driver safety training course approved by the department;
- (g) Provides a written or electronic affirmation that he or she is fit and able to operate a motor vehicle to provide TNC services; and
- (h) Is in compliance with applicable state law and local ordinances related to the operation of a motor vehicle.

(5) A current list of drivers shall be kept on file with the TNC and made available for inspection by the department on request. A TNC driver's electronic file shall include the following:

- (a) A current driving history record to be updated annually;
- (b) The current address of the driver;
- (c) A copy of a valid state-issued driver's license and the operator's license number;
- (d) Proof of his or her personal vehicle insurance coverage;
- (e) Proof of personal vehicle registration;
- (f) Proof of the written or electronic affirmation that a TNC driver is fit and able to operate a motor vehicle to provide TNC services;
- (g) Verification of the criminal background check required in subsection (1) of this section;
- (h) Records indicating if a driver has refused to accept a prearranged ride and the reason for doing so;
- (i) Records of complaints against a driver; and
- (j) A copy of the most current vehicle inspection.

Section 7. Passenger Service. (1) A TNC shall adopt a policy of non-discrimination based on the following:

- (a) Destination;
- (b) Race or color;
- (c) National origin;
- (e) Religious belief or affiliation;

- (f) Sex and sexual orientation or identity;
  - (g) Disability;
  - (h) Age; and
  - (i) The presence of a passenger's service animal.
- (2) A TNC shall notify TNC drivers of the adopted policy of non-discrimination established in subsection (1) of this section.
- (3) After acceptance, a TNC driver may refuse to transport a passenger who is acting in an unlawful, disorderly, or endangering manner but shall comply with the non-discriminatory policy in subsection (1) of this section. A driver may also refuse to transport a passenger with a service animal if the driver has a documented medical allergy.
- (4) A TNC driver shall not transport a passenger under the age of fourteen (14) unless accompanied by a person over the age of eighteen (18).
- (5) A TNC shall establish policies regarding TNC driver behavior that shall include the following prohibitions:
- (a) Being under the influence of alcohol or another substance or combination of substances that impair the driving ability while providing TNC services;
  - (b) Accepting a street hail by a potential rider;
  - (c) Directly soliciting a passenger or responding to a direct solicitation; and
  - (d) Providing services for cash.
- (6) A driver shall immediately report the following to the driver's affiliated TNC:
- (a) A refusal to transport a passenger and the reasons for the refusal within forty-eight (48) hours after the refusal if the refusal occurred after the ride had been accepted by the driver;
  - (b) Information regarding a driving citation, incident, or accident within twenty-four (24) hours after the event; or
  - (c) Information regarding a conviction within twenty-four (24) hours.
- (7) A TNC shall provide the following information to the public on its Web site and mobile device application software:
- (a) A schedule of its rates or the method used to calculate rates and peak pricing; and
  - (b) Information indicating a zero tolerance policy related to drug and alcohol usage by its drivers while performing TNC services and a passenger support telephone number or email address where a suspected violation may be immediately reported.
- (8) A TNC shall provide the following information to a person requesting a ride through its mobile application:
- (a) The expected cost of the trip if requested by a potential passenger;
  - (b) The first name and a photograph of the TNC driver accepting the ride request; and
  - (c) A photograph or description, including license plate number, of the vehicle that will be used for the ride.
- (9) At the completion of the prearranged ride, a TNC shall electronically provide the passenger with a receipt showing:
- (a) The point of origin and destination of the ride;
  - (b) The duration and distance of the ride;
  - (c) The cost of the ride broken down into base fare and additional charges; and
  - (d) The driver's first name.

Section 8. Terms of Service. (1) The TNC shall not require a hold harmless or indemnification clause in the terms of service for a TNC driver or passenger that may be used to evade the insurance requirements of this administrative regulation and KRS Chapter 281.

(2) A TNC shall not disclose to a third party the personally identifiable information of a user of the TNC's mobile application unless:

- (a) The TNC obtains the user's consent to disclose personally identifiable information;
- (b) The disclosure is required to comply with a legal obligation; or
- (c) The disclosure is required to protect or defend the terms of use of the service or to investigate violations of the terms of use.

(3) A TNC may disclose a passenger's name and telephone number to the TNC driver in order to facilitate correct identification of the passenger by the driver or to facilitate communication between the passenger and the driver.

Section 9. Penalties. (1) A TNC that operates in violation of the requirements of this administrative regulation shall be fined \$200 pursuant to KRS 281.990(1).

(2) A TNC that operates in violation of the terms of its certificate or permit or operates without a valid permit shall be fined \$500 per occurrence pursuant to KRS 281.990(2).

(3) A TNC that fails to produce requested records and information pursuant to KRS 281.820 within forty-eight (48) hours of the request by the department shall be fined \$200.

(4) A TNC shall be responsible for an affiliated TNC driver's failure to comply with this administrative regulation if the driver's violation has been previously reported to the TNC in writing and the TNC has failed to take action within ten (10) days of the report.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Transportation Network Company Authority Application", TC 95-627, November, 2014; and
- (b) "Motor Carrier Passenger Certificate, Vehicle Qualification and Renewal Application", TC 95-605, May, 2015.

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