

House Study Committee on For-Hire Transportation Services

**Report of the Committee
December 31, 2014**

Georgia House of Representatives

House Study Committee on For-Hire Transportation Services

Members of the Committee

Representative Alan Powell, Chairman

Representative John Carson

Representative Emory Dunahoo

Representative Lynne Riley

Representative Dale Rutledge

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Introduction and Hearings

During the 2014 Legislative Session, HB 907 was introduced. The bill's main purpose was to provide for a state sanctioned background check and vehicle inspection for for-hire transportation services. The emergence of new technology that allows users of a referral service application on their smart phones to order and pay for transportation brought a new referral industry for transportation services to the forefront, and with it a concern for how to maintain public safety with the growth of such an industry. After working its way through the legislative process, it was determined that further study would be necessary in order to address the issues discussed during the regular forty day interval that made up the session. HR 1830 was drafted and then the language added to HR 1805 which was adopted. Upon passage, the House Study Committee on For-Hire Transportation Services was established.

The committee was chaired by Representative Alan Powell. Other members of the committee included Representatives John Carson, Emory Dunahoo, Lynne Riley, and Dale Rutledge. While the committee was granted five total meetings, they completed their work in three. The meetings were held in the Coverdell Legislative Office Building in Atlanta.

Meeting number one was held on Monday, November 10, 2014 and was held as an organizational meeting. Chairman Powell gave an outline of future meetings, reintroduced the issues at hand, and acquainted the committee members with the stakeholders. The stakeholders were then given a chance to briefly address the committee.

Meeting two was held on Tuesday, December 16, 2014. The committee heard testimony from the transportation referral service industry (Lyft and Uber), and various government agencies including the Georgia Bureau of Investigation, the Department of Public Safety, Department of Driver Services and the City of Atlanta, as well as representatives of Hartsfield-Jackson International Airport, the Association of County Commissioners of Georgia, the Georgia Municipal Association and the Police Chief's Association.

The third and final public meeting was held on Wednesday, December 17, 2014 and the committee heard from the taxi and limousine industry. They also took testimony from the Georgia Sheriffs' Association, the Georgia Motorcoach Operators Association, the Georgia Department of Driver Services and the Georgia Department of Revenue.

After all the parties had presented, the points of contention were clearly evident. While the ride-sharing industry stands firm that they operate with safe drivers and vehicles, others are not so sure they are doing all that needs to be done to ensure passenger safety. The question remains whether the industry standard as implemented by the referral companies goes as far as it should in checking and confirming the backgrounds of potential drivers. While the industry vehemently assures the quality of their standard background checks, others insist any background check that does not include fingerprints and GCIC/NCIC reports is an incomplete background check.

In keeping with the goal of public safety, the committee touched briefly on vehicle safety issues. How do the companies assure that the vehicles driven by their drivers are safe? Both transportation referral companies, i.e., Lyft and Uber have policies on how old the car may be and they testify that the cars are inspected. The taxi and limousines operating within the state must submit to annual or semi-annual inspections depending on the policy set forth by the applicable regulating authority that governs taxis and limousines. The representatives from the taxi and limousine companies feel that parity is of great importance for the safety of the public as well as a level playing field for all competitors in this for hire industry and want to see the ride-share companies subject to the same regulations or the legislature should consider the repeal of some existing regulations.

Another issue discussed was whether the umbrella insurance policies (a form of contingent insurance coverage) carried by the ride-share companies is adequate coverage. Not only was there a question as to the adequacy, but the timing and scope of the coverage was also questioned. While the ride-sharing companies testified that their drivers and passengers are protected because of the way the policy is structured, the representatives from the insurance industry in Georgia remained hesitant to agree. All for-hire transportation services should be properly covered by a valid commercial policy. Surplus lines that are not regulated in this state may indeed pose a risk to Georgia consumers. Should one of these companies go out of business or run out of funds, consumers have no recourse for getting the compensation as a result of an accident/incident. Furthermore, the public and the for-hire drivers should be confident and clear that the type and scope of coverage is sufficient in the case of an accident in order to preclude unnecessary and expensive litigation.

The fourth major issue broached by the committee was the question of sales tax liability. Georgia is one of seven states which levy sales tax on transportation services and it is not evident that these new technology based transportation companies are paying their fair share of the sales tax for the rides that

they arrange. The Georgia Department of Revenue (DOR) testified that they could not share information on companies who are or are not remitting the required sales tax; therefore, the committee was left at the mercy of the information these companies were willing to give. While the ride-share companies stated that they were in negotiations with DOR on how the taxation might work, the taxi and limousine carriers were adamant that negotiations were not necessary. They contend that Georgia law requires a remittance of sales and use tax on transportation services and the stance of the taxi/limousine representatives was that if the new companies are not remitting such, they are in clear violation of the law. The Revenue Department appears to be relying on the statutory language of the code and the case of *Collins v. Adam Cab, Inc.*, 261 Ga 305, 406, SE2d 860 (1991) for the proposition that all for hire transportation companies are obligated to pay sales tax on its fares.

One issue discussed was the use of a 'disclaimer of rights' by for hire transportation companies (including Uber and Lyft). The committee found the idea that a consumer, in order to even download a particular application, was required to sign away certain rights was problematic and of a genuine concern of the committee. Apparently, users of the application agree to a contract where they cannot hold the transportation referral company responsible for any accident that is the fault of the driver or a third party. The argument for this disclaimer according to these referral companies is that they are simply mediators who put two people together; a passenger and a driver. Simply put, the referral companies testified they are not a transportation service and therefore should not be subject to the same liabilities as limousine and taxi companies.

This committee read and reviewed the terms and conditions for both referral companies (Lyft and Uber). We believe these disclaimers are written heavily in favor of the transportation referral companies, as they specifically indemnify the referral companies from most liability that might arise from accidents, incidents, etc. (Uber stipulates a \$500 limit and Lyft has no liability, as allowed by applicable state law). While, this committee supports free market transactions between willing buyers and sellers, any waiver of liability should be done knowingly and willingly by the customers. For this issue of TNC disclaimers, the committee does not have a recommended action for the General Assembly to take. Rather, Georgia consumers should be fully aware of the terms and conditions they agree to when agreeing to such ride-share services.

Considerations

1. Background checks on potential drivers:

Are the open source background checks used by UBER and Lyft thorough enough to ensure safe drivers? The committee heard overwhelming testimony that they do not. Without fingerprints, there remains a strong possibility of an incomplete history or false identities being utilized.

- DDS branding of licenses as “For-Hire Driver” after a complete background check following the current process used by DDS to check those obtaining a chauffeur endorsement.
- DDS cooperating with the industry to create an expedient and thorough process in order to have qualified drivers ready to work in a timely manner.

2. Insurance coverage:

- All For-Hire Transportation companies should carry verifiable, legal and sufficient coverage to protect consumers.
- Determine what type of commercial coverage is adequate and whether contingent liability coverage is permissible.

3. Tax Liability:

- In an effort to capture the revenue due the state from the presence and operations of these companies, the committee must consider whether a simple solution might be repealing the sales tax on transportation services and setting up a decal system where owner/operators pay an annual fee for each vehicle in a fleet or, in the case of the ride-sharing companies, each car used by individual drivers who contract with a ride-share company.

4. Parity across industries:

- Taxis and limousines are currently regulated by local governments and the state, respectively. The new ride-share companies are not regulated. Cities and states across the country are struggling with figuring out how to regulate these new players. Are they taxis or limousines?
 - Perhaps the state should look at new definitions of “metered” and “unmetered” rides as well as “on demand “ versus “pre-arranged transportation” Does a GPS device with pricing software qualify as a “meter”? If so, the ride-share operators could be defined as taxis.
 - Because taxis are regulated by local governments, perhaps the state should set standards that the locals enforce.
 - Grandfather existing medallion programs (e.g., City of Atlanta’s Certificates of Public Necessity and Convenience) and prohibit the creation of new medallion systems in all other parts of the state.
 - Create an effective enforcement mechanism and system to insure a level playing field and the public’s safety.
- Vehicle inspections for limousines are currently conducted by the Georgia Department of Public Safety’s Motor Carrier Compliance Division. The carriers pay a one-time fee and subsequently receive annual safety inspections free of charge.
 - The law requires that all vehicles be safe for public road travel currently. Should the state place the burden of ensuring a safe vehicle on the individual or the company and impose clear penalties for operating unsafe vehicles?

- Truth in fare, pricing policies and payment options need to be addressed.
 - Surge pricing is a current practice with the new industry; consumers should be aware of price differences and should have disclosed to them the cost of a ride before the initiation of the trip.
 - Should the state set a ceiling on fares as to taxis and allow local government or the private carrier to discount the ceiling fares to allow for price competition among the different types of carriers?
 - Should the state also remove the floor on fares for taxis? (They are already removed for limousine carriers). Currently, taxis cannot offer discounts that go below their regulated rates set by the local government
 - Should credit card options be available on all forms of for hire transportation?
- Zero tolerance and disclaimer of rights.
 - Place the burden of reporting any DUI or felony charges to DDS on the licensee and have the license suspended.
 - Do not allow companies to employ limited liability provisions in their agreements which results in their customers perhaps unknowingly signing away their rights.
 - Eliminate regulatory requirement that a driver in order to receive a chauffeur's endorsement must be affiliated with a limousine carrier. The law should allow an individual to receive a chauffeur's endorsement without a carrier affiliation.

Committee Recommendations

1. “Level the playing field” across this industry and provide parity among the market participants. Deregulate the industry as much as possible while maintaining public safety for consumers.
2. For public safety, require all for-hire drivers to be issued a chauffeur’s license or endorsement, as issued by the Department of Driver Services. Maintain existing requirements for obtaining such licenses for all for-hire drivers, including background checks and fingerprint submissions. Also require all chauffeur / for-hire endorsement holders to report any past felony convictions to the Department of Driver Services.
3. For parity in taxation, abolish the sales tax on transportation services and transition to a decal system with annual fees. This will simplify collection of such revenues, as decals are more easily recognized and enforced.
4. For both public safety and marketplace parity, require all transportation companies (taxis, limos, transportation referral companies [TRCs]) to register with Department of Public Safety, just like any other business registration. This would facilitate law enforcement in knowing which companies are operating in Georgia, as well as facilitate revenue collection (i.e., income taxes for the third-party TRC drivers).
5. For deregulation, remove the requirement for vehicle safety inspections. Limousines are currently inspected annually, and taxis are inspected semi-annually. State law already requires that vehicles driven on public roads be in safe, operational order. The committee believes the burden of keeping a vehicle or fleet of vehicles in proper condition is the responsibility of the company or individual.
6. For further deregulation, remove the floor placed on fares. In addition, this committee understands that “price-gouging” has been an increasing complaint of various consumers of TRCs. This committee desires to allow the free market to operate as efficiently as possible, without government intervention. As such, we suggest that TRCs make every reasonable effort to provide an accurate fare estimate to the consumer, within 10% of the actual fare. We further suggest this issue be monitored by state authorities and addressed if not properly dealt with by any transportation carriers.
7. For insurance matters of TRCs, we understand the Georgia House of Representatives' Insurance Committee is addressing this issue separately. As such, we will defer to their findings and recommendations to address this issue and introduce legislation for all commercial vehicles.
8. This committee expresses great concern on consumers waiving their right to liability from TRCs, but acknowledges free market decisions between buyers and sellers. If any limitation of liability is permitted, it should be knowingly and willingly done by the consumer and not hidden within the fine print of an agreement.

Georgia General Assembly House Budget and Research Office

This report is submitted pursuant to the following resolution,

HR 1805,

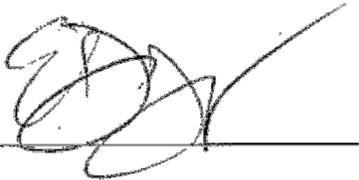
*which created the House Study Committee on For-Hire Transportation Services,
to which members were appointed by the Speaker of the House of Representatives*



Representative Alan Powell, Chairman



Representative John Carson



Representative Emory Dunahoo



Representative Lynne Riley



Representative Dale Rutledge