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To: Members of the House Committee on Commerce and Economic Development  
From: Anthea Dexter-Cooper, Assistant City Attorney  
Date: March 23, 2018  
Subject: Regulation of Transportation Network Companies – H.143 and H.725

Thank you for taking the time to hear testimony from the City of Burlington on March 14, 2018, and inviting the City to submit written testimony on specific suggestions to the language proposed in H.143 and H.725. For ease of reference, the City will identify its proposed revisions by section, and page and line number in H.725. In general, the City would like to see language similar to this in any enacted statute. Additions are bolded and underlined and deletions are struck-through.

1. Based on the City's experience the City would suggest that Transportation Network Companies (TNCs) require drivers to submit proof of inspection if required by the state of vehicle registration. Accordingly, the City suggests modifying proposed § 752(a)(3) (page 10, line 7) as follows:

“(3) a copy of the registration, **and proof of inspection, if required by the state of vehicle registration,** for the TNC vehicle that the individual will use to provide prearranged rides; and”

2. Based on the City's experience the City would suggest that drivers be at least 21 years of age. Accordingly, the City suggests modifying proposed § 752(b)(1)(A) (page 10, lines 14–15) as follows:

“(A) confirms that the individual is at least **21** years of age, maintains a valid driver's license, and possesses proof of registration, **and inspection if required,** and automobile liability insurance for the vehicle to be used to provide prearranged rides;”

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 865-7145.

3. Based on the City's experience the City would suggest that there be some clarification on accreditation of the entity conducting the background checks. To the extent that H.143 proposes requiring that the background check include obtaining a Vermont criminal record from the Vermont Crime Information Center, the City believes that this requirement is unnecessary and creates increased barriers to entry for a state that is bordered by three other states and for which, in the City's experience, a number of drivers have lived, or currently live, out of state. The City does not currently require records be obtained from the Vermont Crime Information Center, but does require that the background check include national and local records. *See* Burlington Code of Ordinances § 30-10(b). Accordingly, the City suggests modifying proposed § 752(b)(1)(B) (page 10, lines 18 and 20) as follows:

“(B) conducts, or causes to be conducted, a local, State, and national background check **by the Vermont Crime Information Center or an entity accredited by the National Association of Professional Background Screeners (NAPBS)** of the individual, including the multistate-multijurisdiction criminal records locator or other similar commercial national database, and the U.S. Department of Justice national sex offender public website **and the Vermont sex offender registry**; and”

4. Based on the City's experience there are certain convictions which warrant a lifetime prohibition from operating as a vehicle for hire driver. Accordingly, the City suggests modifying proposed § 752(c)(3) (page 12, line 8) as follows:

“(3) is or has been required to register as a sex offender in any jurisdiction **or has ever been convicted of homicide, manslaughter, kidnapping, or sexual assault.**”

5. Based on the City's experience the two main national TNCs have been extremely cooperative. However, the City would suggest memorializing the expectation that TNCs will continue to be cooperative as it relates to inspection of records when there is a need. Accordingly, the City suggests modifying proposed § 753 to incorporate two new subparagraphs as (b) and (c), and to read as follows:

“(a) The Commissioner of Motor Vehicles or designee, not more frequently than once per year, may visually inspect a random sample of 25 drivers' records demonstrating compliance with the requirements of this chapter.

**(b) The Commissioner of Motor Vehicles or designee may visually inspect additional random samples of drivers' records if there is a reasonable basis to suspect that a company is not in compliance with this section.**

**(c) If the Commissioner of Motor Vehicles receives notice of a complaint against a company or an individual driver the company shall cooperate in investigating the complaint, including producing any necessary records.**

**(d) Any records, data . . .**”

6. The City greatly appreciates that both the House Committee on Commerce and Economic Development and TNC industry representatives recognize the need to have a portion of the regulation of vehicles for hire operating under a TNC platform be regulated on a local level. Accordingly, the City suggests modifying § 755 as follows:

“§ 755 PREEMPTION; SAVINGS CLAUSE

(a) It is the intent of the General Assembly to provide for uniformity of laws governing companies, drivers, and vehicles throughout the State **with respect to insurance requirements and background checks. A municipality shall not adopt or enforce an ordinance, resolution, or bylaw regulating companies, drivers and vehicles that is inconsistent with the requirements of this chapter.** ~~Companies, drivers, and vehicles are governed exclusively by State laws, including in any locality or other jurisdiction that enacted a law or created rules governing companies, except as provided in subsection (b) of this section, driver, or vehicles before the date of enactment of this chapter.~~

(b) Except as otherwise provided in this chapter, TNCs are governed exclusively by this chapter.

(c) **A county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision may:**

**(1) charge reasonable per ride pickup and drop off fees consistent with any pickup or drop off fees charged to other vehicles for hire;**

**(2) designate locations for staging, pickup, drop off or other operations; and**

**(3) otherwise regulate vehicles for hire in a way not inconsistent with this chapter.**

**(d)** A county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision shall not:

~~(1) impose a tax on, or require a license for, a company, a driver, or a vehicle if such tax or license relates to providing prearranged rides;~~

~~(2) subject a company, a driver, or a vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, or other local governmental entity or subdivision; or~~

**(1) require a company or a driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction; or**

**(2) charge any fees not permitted under § 755(c)(1).**

- ~~(d) This section does not prohibit an airport from charging reasonable pickup fees consistent with any pickup fees charged to taxicab companies at that airport for their use of the airport's facilities or prohibit the airport from designating locations for staging, pickup, and other similar operations at the airport.~~
- (e) ~~Subsection (a) of~~ This section shall not apply to a municipal ordinance, resolution, or bylaw regulating TNCs adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on April 1, 2019.

Thank you for your consideration of this matter. The City of Burlington continues to believe that there is a real need for all vehicles for hire—including TNCs and taxicabs—within Vermont's transportation network. In Burlington's experience, TNC's have become a critical element of our transportation infrastructure, providing hundreds of thousands of rides to Vermonters and visitors. It is crucial that any legislation support this growing segment of industry, while ensuring that the public is protected.