

## CHAPTER 39-34 TRANSPORTATION COMPANY NETWORKS

### **39-34-01. Agent.**

The transportation network company or delivery network company must maintain a registered agent with the secretary of state for service of process in this state.

### **39-34-02. Fare or fee charged for services.**

The transportation network company or delivery network company shall provide passengers or customers with the applicable rates being charged and the option to receive an estimated fare or fee before the passenger enters the transportation network company driver's vehicle or before the customer finalizes the delivery request.

### **39-34-03. Transportation driver requirements.**

1. Before permitting an individual to act as a transportation network company driver on its digital platform, the transportation network company shall:
  - a. Require the individual to submit an application to the transportation network company, which includes information regarding the individual's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the transportation network company;
  - b. Conduct, or have a third party conduct, a local and national criminal background check for each applicant that must include:
    - (1) Multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation; and
    - (2) National sex offender registry database; and
  - c. Obtain and review a driving history research report for the individual.
2. The transportation network company may not permit an individual to act as a transportation network company driver on its digital platform who:
  - a. Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including attempting to evade the police, reckless driving, or driving on a suspended or revoked license;
  - b. Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a felony, a crime involving property damage, theft, an act of violence, or an act of terror;
  - c. Is a match in the national sex offender registry database;
  - d. Does not possess a valid driver's license;
  - e. Does not possess proof of registration for the motor vehicle used to provide transportation network company services;
  - f. Does not possess proof of automobile liability insurance for the motor vehicle used to provide transportation network company services; or
  - g. Is not at least twenty-one years of age.

### **39-34-03.1. Transportation network company driver - Independent contractor.**

1. As used in this section:
  - a. "Transportation network company" means a person that:
    - (1) Maintains a digital network to facilitate services by transportation network company drivers to a person seeking those services; and
    - (2) Accepts requests from the public only through the organization's digital network and not by telephone, facsimile, or in person at a retail location.
  - b. "Transportation network company driver" does not include a person transporting freight, sealed or closed envelopes, boxes, parcels, or other similar sealed or closed containers for compensation. The term means a person that:
    - (1) Enters a written agreement with a transportation network company to use the transportation network company's digital network to connect with an

- individual seeking services offered by the transportation network company driver;
- (2) Performs services for a person through a transportation network company's digital network in exchange for compensation or payment; and
  - (3) Does not perform services at a physical business location operated by the transportation network company in the state.
2. A transportation network company driver is an independent contractor and not an employee of a transportation network company if the transportation network company:
- a. Enters an agreement with the transportation network company driver that the transportation network company driver is an independent contractor and not an employee of the transportation network company.
  - b. Does not unilaterally prescribe specific hours during which the transportation network company driver must be available to accept service requests submitted through the transportation network company's digital network.
  - c. Does not prohibit the transportation network company driver from engaging in outside employment or performing services through other transportation network companies except while the transportation network company driver is engaged in performing services through the transportation network company's digital network.
  - d. May not terminate the contract of the transportation network company driver for a driver's refusal to accept a specific transportation service or delivery service request.
  - e. Does not prohibit the transportation network company driver from using a vehicle with an internal combustion engine.

**39-34-04. Personally identifiable information.**

A transportation network company or delivery network company may not disclose any personally identifiable information of a transportation network company passenger or delivery network company customer, except pursuant to the publicly disclosed terms of the transportation network company's or delivery network company's privacy policy. For any other disclosure not governed by the privacy policy, the transportation network company or delivery network company must obtain the passenger's consent before the company may disclose the passenger's or customer's personally identifiable information.

**39-34-05. Transportation network company reporting requirements - Legislative management report - Penalty.**

Repealed by S.L. 2021, ch. 301, § 1.

**39-34-06. Controlling authority.**

1. Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter, chapter 26.1-40.1, and any rules adopted consistent with this chapter and adopted by the insurance commissioner under chapter 26.1-40.1.
2. A political subdivision may not impose a tax on, or require a license for, a transportation network company, transportation network company driver, delivery network company, or a delivery network company driver or subject a transportation network company or delivery network company to the political subdivision's rate, entry, operational, or other requirements.
3. This chapter may not be construed to limit the ability of a commercial service airport or the governing body of a commercial service airport to enter an operating agreement with a transportation network company which authorizes operational access to the commercial service airport. An operating agreement entered under this subsection may provide guidelines for entry, pick-up, drop-off, fees, and other airport operational procedures required by the commercial service airport for the transportation network company to be allowed operational access to the commercial service airport. As used

in this subsection, "commercial service airport" means a public airport that has at least two thousand five hundred passenger boardings per calendar year and receives scheduled passenger aircraft service.

**39-34-07. Delivery network driver - Independent contractor.**

1. As used in this chapter:
  - a. "Delivery network company" has the same meaning as provided under section 26.1-40.2-01.
  - b. "Delivery network driver" has the same meaning as provided under section 26.1-40.2-01.
2. A delivery network driver is an independent contractor and not an employee of a delivery network company if the delivery network company:
  - a. Enters an agreement with the delivery network driver that the delivery network driver is an independent contractor and not an employee of the delivery network company;
  - b. Does not unilaterally prescribe specific hours during which the delivery network driver must be available to accept service requests submitted through the delivery network company's digital network; and
  - c. Does not prohibit the delivery network driver from engaging in outside employment or performing services through other delivery network companies except while the delivery network driver is engaged in performing services through the delivery network company's digital network.
3. A delivery network company may not terminate the contract of the delivery network company driver for a driver's refusal to accept a specific delivery request.