

SENATE FINANCE COMMITTEE  
May 16, 2017  
5:53 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 5:53 p.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair  
Senator Anna MacKinnon, Co-Chair  
Senator Click Bishop, Vice-Chair  
Senator Shelley Hughes  
Senator Peter Micciche  
Senator Donny Olson  
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Laura Stidolph, Staff, Representative Adam Wool; Senator Mia Costello; Anna Latham, Deputy Director, Division of Insurance, Department of Commerce, Community and Economic Development.

SUMMARY

CSHB 132(L&C)

TRANSPORTATION NETWORK COMPANIES

CSHB 132(L&C) was REPORTED out of committee with a "no recommendation" and with two previously published zero fiscal notes: FN1 (CED) and FN2 (LWF).

#hb132

CS FOR HOUSE BILL NO. 132(L&C)

"An Act relating to transportation network companies and transportation network company drivers; and providing for an effective date."

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LAURA STIDOLPH, STAFF, REPRESENTATIVE ADAM WOOL, explained that HB 132 allowed transportation network companies (TNC) to operate in Alaska by clarifying the workers' compensation act by exempting TNC drivers. She reviewed the Sectional Analysis for version I of the bill (copy on file):

Section 1: Describes legislative intent of the bill is to clarify the Alaska Workers' Compensation Act and its relationship to transportation network company drivers. No difference.

Section 2: Offers immunity to the state if civil action is taken against a transportation network company. No difference.

Section 3: Amends AS 21.96 by adding a new section 21.96.018 relating to transportation network company insurance provisions. Allows for automobile insurance writers to exclude any driver who is logged onto the digital network of a transportation network company or while a driver provides a ride. No difference.

Section 4: Amends AS 23.30.230(a) to exclude transportation network company drivers from the Alaska Workers' Compensation Act. No difference.

Section 5: Amends AS 23.30.230(c) by adding the definitions for "digital network," "prearranged ride," "transportation network company," and "transportation network company driver." No difference.

Section 6: Amends AS 28 by adding a new chapter, Chapter 23, Transportation Network Companies and Drivers. AS 28.23.010. Relates to fares collected by transportation network companies for services. No difference. AS 28.23.030. Governs identification required for transportation network vehicles and drivers. No difference. AS 28.23.040. Requires electronic receipts. No difference. AS 28.23.050. Sets

insurance requirements for transportation network companies and drivers. No difference.

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Senator Micciche asked about the "no difference" language.

Co-Chair MacKinnon explained that the bill was a companion bill and the comparison was between the two pieces of legislation.

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Ms. Stidolph continued addressing the Sectional Analysis:

AS 28.23.060. Requires transportation network companies to provide automobile insurance disclosures to drivers. No difference.

AS 28.23.070. Requires that transportation network companies to file a certificate of insurance with the division of insurance. No difference.

AS 28.23.080. Provides that transportation network companies are not employers and that drivers are independent contractors, not employees. Exempts this section if TNC is owned or operated by the state, a municipality, a federally recognized tribe, or entity that is exempt from federal taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code). Added language. This change was by request of the US Department of Labor, Employment and Training Administration, to the Alaska Department of Labor and Workforce Development for conformity to Federal unemployment compensation (UC) law. In order to preserve the tax credits now available to Alaska employers, this provision needed to be added to make it clear that the state unemployment tax must be paid for all employees of state and local governments, Indian tribes, and non-profit organization. Any exclusion from the definition of employment must not apply to these entities.

AS 28.23.090. Requires implementation of zero tolerance drug and alcohol policy. No difference.

AS 28.23.100. Sets transportation network company driver requirements. Requires local and national

criminal background check, multi-state or multi-jurisdiction criminal records locator, the US Dept. of Justice National Sex Offender public website (driver is disqualified if they are listed on this), and obtaining a driver history report. Disqualifies a driver if in the past seven years they have been convicted of: an unclassified, class A, or class B felony; a DUI while operating a motor vehicle, watercraft, or aircraft; refusal to submit to a chemical test; a violent crime against a person; not rendering assistance after an accident. Disqualifies a driver if in the past three years if they have been convicted of or forfeited bail for a third or subsequent moving traffic violation or been convicted of: driving without a license; failure to stop at the direction of a police officer; reckless or negligent driving. Added and amended language. Cleaned up language in the three year driving history look-back, and seven year criminal history look-back that was in SB14. The language that passed the Senate was very restrictive and would have prohibited someone who was found guilty of shoplifting to drive for a TNC. If a person has committed a violent crime, either felony or misdemeanor, in the past seven years they may not drive for a TNC. A conviction of any unclassified, class A, or class B felony in the past seven year will also disqualify a person as a driver. The new language makes it clear that a driver on the US DOJ National Sex Offender list may not drive for a TNC. Also, if a person has been convicted of driving under the influence while operating a vehicle or watercraft in the past seven years they may not drive for a TNC.

Driver must be 21 years of age. Added language. This change was made due to state statute regarding alcohol and marijuana, so if either substance was left in the car after a rider had disembarked the driver wouldn't be breaking state law by being in possession due to being underage.

Driver may not solicit a rider or accept a street hail, may only provide a prearranged ride through the TNC platform, or solicit or accept cash payments. Added language. The final language in this subsection was added to make clear that TNC drivers may only accept rides from the TNC platform, they do not operate like other for-hire vehicles by soliciting

riders or accepting street hails, and that the payment is through a cashless system. Payment in this section does not include tips, which can be cash.

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Ms. Stidolph continued to address the Sectional Analysis:

AS 28.23.105 19-point safety inspection required. Driver's car may not be older than 12 years old. Added language. This language, which is standard terms of services for major companies like Uber and Lyft, was added to statute so that every TNC operating in Alaska will be held to a high standard for vehicle safety and quality

AS 28.23.110. Relates to mandatory rules and policies governing non-discrimination and accessibility protected under AS 18.80.210. No difference.

AS 28.23.120. Provides for maintenance of records. Changed from one year of recordkeeping to two years.

AS 28.23.030. The Department of Transportation & Public Facilities may under AS 02.15, enter into a contract, lease, or other arrangement with a TNC for use of an international airport owned or operated by the state. The Department of Transportation approached the sponsor about this revision which will allow for DOT to enter into a contract, lease or other arrangement with TNCs at Ted Stevens International Airport and Fairbanks International Airport.

AS 29.23.180. Provides definitions for the chapter. No difference.

AS 28.23.190 States that the short title of the chapter may be cited as the "Transportation Network Companies Act." No difference.

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Ms. Stidolph addressed the remaining sections of the Sectional Analysis:

Section 7: Amends AS 29.10.200 to add paragraph (66), adding AS 29.35.148 (regulation of transportation network company or drivers) as home rule prohibitions on acting otherwise. No difference.

Section 8: Amends AS 29.35 by adding AS 29.35.148, which provides that the authority to regulate

transportation network companies and transportation network drivers is reserved to the state. Provides that an imposition of a municipal sales tax may be applied to a trip originating in the municipality on TNC drivers. Municipal traffic ordinances must be followed. Municipalities may by ordinance ratified by the voters in a regular municipal election prohibit TNCs from conducting activities. Added language. Allows for municipalities to impose a sales tax on the TNC driver. Ensures that municipal traffic ordinances must be followed. Allows for local-opt out with a vote of the people in a general election.

Section 9: This Act takes effect immediately. No difference.

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Senator Micciche had a difficult time believing that Section 8 was enforceable. He asked Ms. Stidolph to provide greater detail and background regarding the sales tax. He gave the example of a ride that begins within the municipality and ends outside the jurisdiction.

Ms. Stidolph articulated that the bill sponsor had spoken with the major companies involved in the legislation. She specified that it was possible through technology to identify where the trip originated and apply appropriate tax.

Senator Micciche asked if the language clarified that the point of origin defined the taxability of the fare.

Ms. Stidolph referred to page 14, line 7 of the bill:

...company driver that taxes a trip originating in the municipality in the same manner that other services are taxed in the municipality;

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Vice-Chair Bishop referred to a section requested by Department of Transportation and Public Facilities (DOT). He asked whether the department had indicated the reason for its request.

Ms. Stidolph considered that the primary concerns of the department had pertained to the Ted Stevens International Airport and controls over the traffic flow in the area.

Vice-Chair Bishop stated he would follow up directly with the department.

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Senator Hughes stated she was an early adopter of network services. She thought that transportation network companies would be very popular with people from the Palmer area and wanted to ensure that they could be dropped off close to the airport.

Ms. Stidolph thought that DOT had not been concerned with regulating the network. The language was done so that the department could have some amount of control but not to restrict it.

Co-Chair MacKinnon asked Vice-Chair Bishop, as the DOT operating budget subcommittee to enquire regarding Senator Hughes' question. She mentioned Senator Mia Costello's legislation regarding similar transport services. She asked Vice-Chair Bishop to speak with the commissioner on behalf of the committee to supply the relative regulations.

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Senator Micciche referred to page 14, "a municipality may by ordinance ratified by the voters in a regular municipal election prohibit transportation network companies from conducting activities under AS 28.23 within the municipality." He asked whether that included the terminus of the trip or whether the service could enter into a municipality that chose not to have those services.

Ms. Stidolph believed that a driver could drop a passenger within the municipality, but could not pick up a driver.

Senator Micciche thought it broke out the sales tax but not the example of a drop-off within a municipality that did not allow those services.

Co-Chair MacKinnon thought Senator Micciche had made a good point, and suggested that point of origin versus the drop-off point could be handled in regulation. She thought it

would be helpful to have a legal opinion on the matter. Her understanding was that a trip could be dropped off but not picked up within a municipality that did not allow those services.

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Co-Chair MacKinnon explained that Senator Mia Costello had a companion bill currently in the House Rules Committee.

SENATOR MIA COSTELLO, remarked that her position on the bill remained unchanged from her earlier testimony before the committee.

ANNA LATHAM, DEPUTY DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, discussed the fiscal notes. She communicated that the Division of Insurance had submitted a zero fiscal note. She explained that there had been no substantive changes between the [companion] Senate Bill [SB 14] and HB 132. Vice-Chair Bishop discussed that FN2 from the Department of Labor and Workforce Development, (OMB component number 344) was a zero fiscal note.

Vice-Chair Bishop MOVED to report CSHB 132(L&C) out of Committee with individual recommendations and the accompanying fiscal notes. There being NO OBJECTION, it was so ordered.

CSHB 132(L&C) was REPORTED out of committee with a "no recommendation" and with two previously published zero fiscal notes: FN1 (CED) and FN2 (LWF).

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AT EASE

[6:19:15 PM](#)

RECONVENED

Co-Chair MacKinnon reviewed the next day's calendar.

#

ADJOURNMENT

[6:20:00 PM](#)

The meeting was adjourned at 6:19 p.m.