

SF2319 - 0 - Transportation Network Company Driver Protections

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 Committee: **Labor**
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 Agency: **Labor and Industry Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings	X	
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	3	2	1.75	1.75
Total	-	3	2	1.75	1.75

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Restrict Misc. Special Revenue	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Restrict Misc. Special Revenue	-	3,302	4,403	4,403	4,403
Total	-	3,302	4,403	4,403	4,403
Biennial Total			7,705		8,806
2 - Revenues, Transfers In*					
Restrict Misc. Special Revenue	-	3,302	4,403	4,403	4,403
Total	-	3,302	4,403	4,403	4,403
Biennial Total			7,705		8,806

Bill Description

Establishes protections and resources for transportation network company drivers.

Section 1 defines terms relevant to this industry and profession deactivation, digital network, prearranged ride/package delivery, transportation network company (TNC), and transportation network driver.

Section 2 articulates obligations and duties including insurance requirements to be met by TNCs, that insurance fully covers injuries sustained by a driver and protects transporting vehicles and passengers, including third parties. Clarifies that insurance must cover the above between pickups or waiting for a new contact from the TNC.

Section 3 determines minimum compensation to be calculated on a per-trip basis (not combinable), and requires annual adjustment equal to the cost-of-living percentage published by the US DOL.

Section 4 articulates reimbursement of costs.

Section 5 provides requirements related to provision of rules for drivers so that they fully understand the circumstances under which they may be deactivated or sanctioned, either permanently or temporarily. This section also provides parameters for a driver’s appeal of deactivation or sanction and provides notice to drivers who have been deactivated since January 1, 2019; this notice is required by August 1, 2023, and dictates means of notice provision.

Section 6 provides a prohibition of retaliation against any drivers.

Section 7 requires equal access to assignment of rides or deliveries (prohibiting any favoring or disfavoring any driver for any reason).

Section 8 articulates the prohibition of discrimination due to race, national origin, color, religion, age, gender, disabilities, sexual orientation, or gender identity. This section also notes that nothing in the language would prohibit providing reasonable accommodations to people with disabilities, for religious reasons, due to pregnancy, or to remedy previous discriminatory behavior.

Section 9 articulates circumstances and detail related to civil action.

Section 10 articulates that DLI may initiate a revocation of a TNC’s license to operate which would then be carried out by the issuing local government.

Section 11 requires transparency related to the details of a potential assignment (estimated miles required and likely travel

time from driver's current location, indicated separately). This section also establishes requirements related to transmission of receipts, including details related to trips.

Section 12 clarifies that this chapter does not prohibit collective bargaining, nor does it serve as a basis to conclude whether a driver is an employee or independent contractor.

Section 13 requires provision of this chapter as an attachment to every contract for every driver in Minnesota.

Section 14 establishes driver resource center facilitated by the commissioner of labor and industry (DLI).

- Subdivision 1 clarifies responsibilities of the center, that it will assist in implementing the goals and purposes of this chapter, including providing outreach and education to TNC drivers regarding their rights and obligations and any applicable labor standards to support their ability to perform TNC driver services, consulting with drivers facing deactivation or other sanctions or violations of this chapter, educating drivers regarding other applicable federal, state, and local laws and regulations related to their role as drivers, providing culturally and linguistically appropriate services, outreach, and education.
- Subdivision 2 notes the mechanism for administration, limits to single nonprofit organization.
- Subdivision 3 clarifies the agreement between the TNC and the driver resource center.
- Subdivision 4 specifies start date (September 15, 2023) and rate of funding (\$0.25/trip), clarified as a pass-through from the passenger/customer (for deliveries) and notes that remittances collected must be tendered to fund by 15th day of the following month.
- Subdivision 5 creates the driver resource center fund account in the special revenue fund. Funds are appropriated to DLI to support the drivers through the driver resource center.
- Subdivision 6 requires monthly accounting reports from driver resource center.

Assumptions

The Minnesota Department of Labor and Industry (DLI) assumes that transportation network drivers are defined as those who use vehicles that are not provided by the TNC.

DLI assumes that transportation network drivers are distinct from other delivery drivers as having the ability to opt in to providing the delivery service based on the information (distance and estimated length of trip) provided through the digital network. This would exclude drivers on assigned delivery routes with no option to accept or decline the trip.

DLI's Labor Standards Unit assumes it will receive inquiries related to TNC drivers not being paid the required minimum rates as required under Section 3 (Minn. Stat. 181C.03). It is assumed based on the language of the bill that DLI and the Labor Standards division does not have 181.101 authority over the compensation outlined in the bill unless an employer/employee relationship has been established, which depends on the circumstances. The Labor Standards Unit would not have any further authority to issue compliance orders for violations of any other sections of this bill. DLI's Labor Standards unit would refer inquiries to the driver resource center.

DLI assumes that a "portion of a trip" applies if a transportation network driver has several stops to make in a single trip, and that would incur the \$0.25/portion of the trip.

The administration of the driver resource center shall be administered by a single nonprofit organization with 501c3 status that either is or is affiliated with an organization with experience advocating for the civil and economic rights of drivers, including those from disadvantaged socioeconomic groups.

DLI would have grant administration oversight of the driver resource center, which would comply with established grant management policies and procedures. The driver resource center would be established through a competitive request for proposals (RFP) from eligible nonprofit organizations. The contract will be awarded for up to five years, at which time a new RFP will be published, and contract awarded.

DLI assumes that it will take 4-6 months to write an RFP, post and allow responses, review responses, award the grant

and finalize a contract. It is assumed that the center will require advancement of funds to start the program before submitting monthly invoices for reimbursement. Startup costs include hiring staff, creating outreach materials, establishing administrative processes and necessary IT systems.

DLI grant administration will include monthly review of the driver resource center invoices, approval of reimbursement, the review and analysis of performance reports and annual monitoring visits.

This bill creates the driver resource center fund account in the special revenue fund. Moneys deposited into this fund are appropriated to the Commissioner of DLI to support drivers through the driver resource center. DLI assumes the driver resource center fund account will also support the costs incurred internally by DLI for the administration and oversight of the program.

DLI will need a way to validate all active TNC's operating in the State to ensure appropriate reporting.

This bill requires TNCs to transfer all remittances each month collected through trips. DLI assumes an online e-filing portal system would need to be created and made available to TNCs through DLI's website. This eservices portal would be managed through Minnesota IT Services Department (MNIT). MNIT estimates that an in-house system could be built for \$32,000 (400 hours X \$80/hr) which would fulfill the minimum requirements of the TNC reporting and remittance. Other factors that MNIT estimates may impact the cost to build the system include the amount of data being collected, if an administrative side may need to be built to accommodate the driver resource center, creating accounts with user logins for TNCs, and the short turn around to have the system operational by October 15th, 2023 (the first date TNCs are required to tender the collected remittances from fairs to the driver resource center fund at DLI).

TNC's will submit total trips travelled each month to DLI. DLI will have a system to collect reported information and use the information to calculate funds owed and due to DLI by the 15th of each month. In addition to monthly reporting, TNC's will be subject to financial audits to validate reported data.

DLI will require FTE to establish and solidify the newly created special revenue fund and launch the driver resource center. This breaks down across three positions:

DRC Program Coordinator:

This position will be responsible for overseeing the writing and publishing of the request for proposals, which will provide a competitive environment for the administrative entity (nonprofit organization) of the driver resource center. Because the revenue used to fund the DRC could be substantial (\$1M+) and the responsibilities of the DRC will be high profile, this contract will require strong oversight similar to that of a grant. This position will oversee the programmatic aspects of the services provided by the driver resource center, including receiving and tracking the monthly reports provided by the DRC. Outlining the purpose for the expenditures should link to the reported efforts by the DRC, including the number of drivers supported, any outreach and education to TNC drivers regarding their rights and obligations, consulting with drivers, educating drivers regarding other applicable federal, state, and local laws and regulations, and providing culturally and linguistically appropriate services, outreach, and education. The DRC Program Coordinator will be able to provide technical assistance to the DRC as necessary and can build collaborative partnerships to ensure the success of the DRC in positively impacted TNC drivers.

DRC Financial Analyst:

DLI's financial services unit will play a significant role in the management of the driver resource center fund. Duties performed by financial services will consist of accounting system (SWIFT) chart of accounts management, financial reporting, fund forecasting, annual operating budget preparation, biennial budget preparation, monthly manager budget review, purchasing, grant/contract review, grant/contract implementation, grant/contract reimbursement reviews, internal controls, policies, and procedures. DLI financial services also assumes responsibility of ensuring accurate reporting by each TNC for the monthly remittance's deposited in the fund. DLI assumes they will have access to the electronic reports required by Section 11. Transparency. To ensure the TNCs are collecting and remitting the correct amount of monies, the information required by section 11 of this bill would be used by DLI for the purposes of deposit verification, deposit reconciliation, and subsystem reconciliation. This position will also lead the information technology project that will communicate required contributions from TNCs and serve as a collection portal and repository of revenue. DLI estimates 1.0 FTE the first year and 0.5 FTE (Management Analyst 4 - MAPE 15L) each year after for the purposes identified and performed by the DRC financial analyst.

TNC Program Supervisor: This position will provide supervisory oversight of the transportation network company program, including the work of the DRC program coordinator and the DRC special revenue fund budget analyst. When necessary,

the supervisor will convene this team along with other internal and external subject matter experts (i.e. labor standards staff, colleagues with the Office of Administrative Hearings) to ensure strong administration of the program.

Revenue Estimates: Critical to note, there is very little reliable data to derive a revenue calculation. Using the limited data available and extrapolating as best as possible, DLI estimates a range of projected annual revenue. The calculation formula for revenues is shown below in the expenditure/revenue formula section. The low-end range is forecasted at \$1,961,875 each year, and the high-end forecasts at \$6,843,750 each year. For the purposes of this fiscal note, DLI presents the midpoint of the revenue range (\$4,402,813) shown in section 4.

Expenditure and/or Revenue Formula

Factor	Calculation low-end of range	Calculation high-end of range	Source
Daily vehicle miles traveled (VMT) in seven-county metropolitan area by 2030	86,000,000	86,000,000	https://www.dot.state.mn.us/metro/about.html
TNCs account for 1.0-2.9% of VMT	0.5%	1.0%	https://www.urbanismnext.org/resources/estimated-percent-of-total-driving-by-lyft-and-uber
Daily VMT by TNCs	430,000	860,000	
Estimated TNC VMT with passenger in vehicle	50%	50%	https://www.urbanismnext.org/resources/estimated-percent-of-total-driving-by-lyft-and-uber
Daily TNC VMT with passenger in vehicle	215,000	430,000	
Average VMT per trip in seven-county metro area	10	5.7	https://www.dot.state.mn.us/metro/about.html
Estimated trips	21,500	75,000	
Estimated passenger trips per year	7,847,500	27,375,000	
Fee per trip	\$0.25	\$0.25	
Annual Fee Revenue	\$1,961,875	\$6,843,750	

DRC Program Coordinator				
Management Analyst 4 (MAPE 15L)	2024	2025	2026	2027
FTE	1.00	1.00	1.00	1.00
Salary per FTE (midpoint)	79,230	84,054	84,054	84,054
Fringe Benefits (35% of Salary)	27,731	29,419	29,419	29,419
Indirect (22.89% of Salary/Fringe)	24,483	25,974	25,974	25,974
Salary/Fringe/Indirect	131,445	139,446	139,446	139,446
Non-Personnel Services	8,916	8,916	8,916	8,916
Cumulative Costs	140,360	148,362	148,362	148,362

TNC Program Supervisor				
State Program Admin Dir (MMA-21K)	2024	2025	2026	2027
FTE	1.00	0.50	0.25	0.25
Salary per FTE (midpoint)	87,813	93,158	93,158	93,158

Fringe Benefits (35% of Salary)	30,734	32,605	32,605	32,605
Indirect (22.89% of Salary/Fringe)	27,135	28,787	28,787	28,787
Salary/Fringe/Indirect	145,683	77,276	38,638	38,638
Non-Personnel Services	8,916	4,458	2,229	2,229
Cumulative Costs	154,598	81,733	40,867	40,867

DRC Finance Analyst				
Management Analyst (MAPE 15L)	2024	2025	2026	2027
FTE	1.0	0.5	0.5	0.5
Salary per FTE (midpoint)	79,230	84,054	84,054	84,054
Fringe Benefits (35% of Salary)	27,731	29,419	29,419	29,419
Indirect (22.89% of Salary/Fringe)	24,483	25,974	25,974	25,974
Salary/Fringe/Indirect	131,445	69,723	69,723	69,723
Non-Personnel Services	7,277	3,627	3,627	3,627
Cumulative Costs	138,721	73,350	73,350	73,350

Cumulative Expenditures	2024	2025	2026	2027
DRC Program Coordinator	140,360	148,362	148,362	148,362
TNC Program Supervisor	154,598	81,733	40,867	40,867
DRC Finance Analyst	138,721	73,350	73,350	73,350
MNIT - TNC Reporting System	32,000			
Grant to DRC	2,836,430	4,099,368	4,140,235	4,140,235
Cumulative Expenditures	3,302,110	4,402,813	4,402,813	4,402,813

Long-Term Fiscal Considerations

NA

Local Fiscal Impact

Local units of government that license TNCs may have added costs related to working with the Driver Resource Center, investigating complaints, and taking action on licensure suspensions.

References/Sources

University of Oregon: Urbanism Next - <https://www.urbanismnext.org/resources/estimated-percent-of-total-driving-by-lyft-and-uber>

MN Dept. of Transportation - <https://www.dot.state.mn.us/metro/about.html>

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