

Proposed Amendments to CB 118036

Full Council March 17, 2014

Proposed amendments 2-8 are presented in double strikethrough and double underlined.

Amendment #2 Removing Caps on Drivers

Sponsor: Rasmussen

Remove the cap on the number of TNC-endorsed vehicles active on its system at any one time.

Accordingly, amend Section 11 of the Bill (page 22) as follows

Section 11. A new Section 6.310.270 to Seattle Municipal Code is adopted, as follows:

6.310.270 Transportation network company (TNC) operating responsibilities

In addition to meeting the license application requirements set forth in Section 6.310.260, the TNC must:

~~B. Ensure that only 150 TNC endorsed drivers may be active on the TNC dispatch system at any given time. The data and records required to ensure compliance shall be prescribed by rules adopted by the Director. (revocation and Class C)~~

And renumber sections accordingly

AND, amend Section 29 of the Bill (page 62 in the markup) as follows

Section 29. Section 6.310.610 of the Seattle Municipal Code, which Section was last amended by Ordinance 122763, is amended as follows:

6.310.610 Suspension or revocation((:))

C. Revocation ((S))standards

3. Transportation network companies (TNC)

ii. The TNC, or any owner, officer, director, managing partner, general partner or principal of the TNC, receives a bail forfeiture, conviction or other final adverse finding involving crimes directly related to the applicant' s ability to operate a TNC, including but not limited to prostitution, gambling, fraud, larceny, extortion, income tax evasion. If an owner, officer, director, managing partner, general partner or principal of the TNC found in violation of this subsection is (a) removed immediately from all operational or management duties or authority and (b) is divested of all ownership in the TNC as soon as possible, the license may be reinstated;

~~iii. The TNC allows more than 150 TNC endorsed drivers to be active on the TNC dispatch system at any given time;~~

~~iv-iii. An affiliated vehicle is active on the TNC dispatch system that has not been inspected by an approved third party as required by 6.310.270;~~

And renumber Bill sections accordingly.

Amendment #3 Insurance & TNC Insurance Disclosure

Sponsors: O'Brien & Clark

Under state law, all for-hire drivers (including, by definition, TNC-endorsed drivers) are required to have commercial insurance providing personal injury liability of at least \$100,000/person and \$300,000/incident. And under City law they must also carry underinsured motorist liability coverage in the same amounts.

Section 9 of the Bill (page 17) adds a new section 6.310.260 to the SMC detailing the requirements TNCs must meet to be licensed by the City. Subsection 6.310.260.g requires that TNCs provide evidence that their affiliated drivers have the specified insurance coverage. As a possible substitute for the drivers having their own commercial insurance coverage, the code allows TNCs the option of meeting that requirement with a combination of the driver's personal insurance and the TNCs umbrella insurance. Subsequent language stipulates how that combination of personal and company insurance should operate.

There is a real danger that the code will miss some circumstance, or combination of circumstances, that results in a gap in insurance coverage. In light of that, it seems preferable just to require that the coverage meet the state requirements and leave it the TNCs to decide how best to accomplish that.

This amendment makes that change to the 6.310.260. It also adds language to 6.310.270 (Operating Rules) that requires the TNC itself to backfill coverage should the insurance be insufficient and requires it to disclose these two requirements to drivers.

Accordingly, amend Section 9 as follows:

Section 9. A new Section 6.310.260 to Seattle Municipal Code is adopted, as follows:

6.310.260 Transportation network company license eligibility and application

A. Any business or individual desiring to operate as a transportation network company within The City of Seattle shall file with the Director a signed and notarized transportation network company license application on forms provided by the Director.

1. To be eligible for a license, the transportation network company is limited to providing application dispatch services to transportation network company drivers meeting the requirements set forth in Section 6.310.452.

2. The license application shall include the following information:

a. The applicant transportation network company's name, business street address and post office box address (if any), business facsimile number, business phone number and business email address where the transportation network company representative can generally be reached between 9 a.m. and 5 p.m. on all nonholiday weekdays;

g. Evidence that each vehicle affiliated with a transportation network company has insurance in an amount no less than required by RCW 46.72.050 and commercial or equivalent underinsured motorist coverage indicating a minimum coverage of \$100,000 per person, and \$300,000 per accident, at any time while active on the TNC dispatch system. ~~This requirement may be met by either: 1) Providing an insurance policy or insurance binder meeting the requirements set by subsections 6.310.300(5)(a) - (d) and (6), demonstrating compliance with RCW 46.72 for each vehicle affiliated with a TNC; or 2) Providing an insurance policy or insurance binder demonstrating that the transportation network company has auto liability insurance that provides a minimum of \$1,000,000 per accident coverage for accidents involving a transportation network company driver and vehicle while active on the TNC dispatch system and meets state requirements per RCW 46.72.050. The Director may require a statement on Department of Licensing letterhead verifying that the policy meets state requirements. In addition, the Director shall review the insurance policies ~~to~~ to determine that ~~it~~ they adequately protects the public. The insurance policies ~~or~~ or insurance binder must be submitted to the Director, or the Director's designee, and shall:~~

i. Be issued by an admitted carrier in the State of Washington with an A.M. Best Rating of not less than A- VII; provided however, that the Director may temporarily suspend any or all of these requirements if no other viable insurance options are available to the industry,

ii. Name The City of Seattle as an additional insured,

iii. Provide that the insurer will notify the Director, in writing, of any cancellation and/or non-renewal at least 30 days before that cancellation and/or non-renewal takes effect, and

iv. Not include self-insured retention, nonstandard deductibles, aggregate limits, territorial restrictions, named driver requirements, or any other provisions that limit insurance coverage.

v. In the event the TNC driver fails to maintain personal auto insurance that covers commercial activity while active on the TNC dispatch system or commercial auto insurance or the TNC driver's insurer denies coverage for the claim, the transportation network company's auto insurance shall be exclusive and primary. In the event the limits of liability provided by the TNC driver's personal or commercial auto insurance are exhausted due to claim payment and/or settlement, the transportation network company's auto insurance will drop down over exhausted limits.

vi. Provides underinsured motorist coverage for bodily injury and property damages with limits no less than \$100,000 each person, and \$300,000 each accident or \$300,000 combined single limit of liability to any for-hire vehicle affiliated with the transportation network company.

And renumber accordingly.

AND amend Section 11 as follows (Disclosure):

Section 11. A new Section 6.310.270 to Seattle Municipal Code is adopted, as follows:

6.310.270 Transportation network company (TNC) operating responsibilities

In addition to meeting the license application requirements set forth in Section 6.310.260, the TNC must:

A. Maintain a business office in The City of Seattle that:

1. Is open and personally staffed all business days between 9 a.m. and 5 p.m.

(Class A);

Z. Determine whether a TNC driver, who has been the victim of a crime of assault or robbery, has reported the crime to 911. If not, the TNC shall call 911 and report the crime immediately (Class B).

AA. Maintain a TNC license to operate in The City of Seattle as issued under this chapter (revocation and Class C).

~~BB. TNCs shall provide a written insurance disclosure to TNC drivers. The written insurance disclosure must include the following: the TNC driver's personal auto insurance policy may not provide any insurance coverage when one is driving for a commercial purpose; therefore, the TNC driver should consider buying a commercial auto policy. In the event the TNC driver fails to maintain personal auto insurance that covers commercial activity while active on the TNC dispatch system or commercial auto insurance or the TNC driver's insurer denies coverage for the claim, the TNC's auto insurance shall be exclusive and primary. In the event the limits of liability provided by the TNC driver's personal or commercial auto insurance are exhausted due to claim payment and/or settlement, the TNC's auto insurance will drop down over exhausted limits. In the event of an accident the insurance provided by the TNC may not provide any, or sufficient, insurance coverage for all matters, including but not limited to the TNC driver's bodily injuries, TNC driver's vehicle damage, and the TNC driver's legal defense costs. The written insurance disclosure must be signed by the TNC driver. To the extent that the TNC's insurance coverage is insufficient to satisfy the requirements of SMC 6.310.260.A.2.g, the TNC itself shall assume liability, including the costs of defense and indemnification, for a TNC driver's claim(s) in an amount up to the minimum insurance coverage requirements per RCW 46.72.050 and minimum underinsured motorist coverage of \$100,000 per person and \$300,000 per accident. (Class B and 14 day suspension.)~~

CC. TNCs shall provide a written insurance disclosure to TNC drivers. The written insurance disclosure must include the following language: "[insert full corporate name and designation of TNC] confirms, in accordance with SMC 6.310.260.A.2.g, that while driver [insert driver's full name] is active on its TNC dispatch system as defined by SMC 6.310.110, the driver's vehicle is insured as required by RCW 46.72.050 and SMC 6.310.260.BB." This disclosure to be signed by the driver and an officer of the TNC. No additional language in the disclosure will contradict or in any way diminish the force of the required language. (Class B.)

Amendment #4 Director Reporting Responsibilities

Sponsors: Clark, Godden, O'Brien

This amendment clarifies the reporting requirements of the Director of FAS. It:

- (a) Amend section 6.310.100.B to (i) require the Director to take certain factors into account when considering a moratorium on the issuance of new TNC endorsements or TNC licenses, and (ii) add reporting requirements should the Director determine it is necessary to issue a moratorium.
- (b) Adds a new subsection 6.310.100.C setting reporting requirements for the period of the pilot program.

Amend Section 2 of CB 118036, beginning page 3, as follows:

Section 2. Section 6.310.100 of the Seattle Municipal Code, last amended by Ordinance 118341, is amended as follows:

6.310.100 Purpose((-))

B. The Director may issue a moratorium suspending the issuance of TNC vehicle endorsements or TNC licenses upon finding that the continued issuance of TNC vehicle endorsements or TNC licenses threatens public safety or raises substantial consumer protection concerns. In making such a finding the Director ~~may~~ shall consider, but is not limited to considering: consumer complaints, the stability of the market for taxi and for-hire transportation services, consumer demand for transportation services, and the financial viability of transportation service providers. Where the issuance of TNC vehicle endorsements or TNC licenses has been suspended pursuant to this subsection, the suspension shall last no more than 180 days. At least 30 days in advance of issuing a moratorium, the Director shall notify the Council in writing of the intent to do so and the reasons for doing so.

C. Within 60 days of the effective date of this ordinance, and within every 60 days thereafter through June 30, 2016, the Director shall report to chair of the Taxi, For-hire, and Limousine Regulations Committee of the Seattle City Council on the response, behavior, and experience of the different segments of the for-hire market.

Amendment #5 Delegating Authority to Adjust/Lift Caps

Sponsors: Clark, Godden

At the February 27, 2014 meeting, the Committee was divided on how best to manage the cap of 150 TNC-endorsed drivers on a TNC's system at the end of the first year of the pilot.

This amendment would delegate the authority to adjust or lift the cap to the Director of FAS. The Director would be required to consider certain factors in making a determination and to report to Council at least 60 days prior to any proposed action.

Amend Section 2 of CB 118036, beginning page 3, to add a new subsection D as follows:

Section 2. Section 6.310.100 of the Seattle Municipal Code, last amended by Ordinance 118341, is amended as follows:

6.310.100 Purpose(())

D. No earlier than one year after the effective date of this ordinance, the Director may increase, decrease, or remove the limit on the number of TNC-endorsed vehicles that may be concurrently active on a TNC system. In changing the limit the Director shall consider, but is not limited to considering: consumer complaints and other feedback, the stability of the market for taxi and for-hire transportation services, consumer demand for transportation services, data from TNCs on the use of their systems, and the financial viability of transportation service providers. At least 60 days in advance of increasing, decreasing or removing the limit the Director shall notify the Council in writing of the intent to do so and the reasons for doing so.

Amendment #6 Retaining Authority to Adjust/Lift Caps

Sponsor: O'Brien

At the February 27, 2014 meeting, the Committee was divided on how best to manage the cap of 150 TNC-endorsed drivers on a TNC's system at the end of the first year of the pilot.

This amendment would retain that authority for the Council. It would require the Director of FAS to make a recommendation to the Council at the end of the first year of the pilot to adjust or lift the cap based on consideration of specified factors.

Amend Section 2 of CB 118036, beginning page 3, to add a new subsection D as follows:

Section 2. Section 6.310.100 of the Seattle Municipal Code, last amended by Ordinance 118341, is amended as follows:

6.310.100 Purpose((-))

D. If, upon review of the market for for-hire transportation, the Director finds that it is in the public interest that the cap on the number of TNC-endorsed vehicles that may be concurrently active on a TNC system should be adjusted or removed, the Director will submit the findings to the Council in writing and seek legislative authority to change or remove the cap.

Amendment #7 Lower the Grade of Insurance Providers

Sponsor: O'Brien

Section 9 of the Bill (page 17) adds a new section 6.310.260 to the SMC detailing the requirements TNCs must meet to become licenses by the City. 6.310.260.g.i specifies that the insurance provider must be "an admitted carrier in the State of Washington with an A.M. Best Rating of not less than A- VII". Lowering the grade to B+ would allow a larger pool of qualified insurers for drivers and companies to choose from and possibly lower price while maintaining the quality of insurance carriers.

Accordingly, amend Section 9 as follows:

6.310.260 Transportation network company license eligibility and application

i. Be issued by an admitted carrier in the State of Washington with an A.M. Best Rating of not less than ~~A-~~ B+ VII; provided however, that the Director may temporarily suspend any or all of these requirements if no other viable insurance options are available to the industry,

And add a new section 46 in the Bill as follows:

Section 46. Section 6.310.300, which was last amended by Ordinance 122763, is amended as follows:

~~((SMC))~~ 6.310.300 Taxicab and for-hire vehicle license application.

C. The taxicab or for-hire vehicle license application shall include the following information:

5. Insurance policy or insurance binder proving compliance with Chapter 46.72 RCW, as now or hereafter amended, for each taxicab or for-hire vehicle for which a license is sought. The insurance policy or insurance binder shall:

a. Be issued by an admitted carrier in the State of Washington with an A.M. Best's Rating of not less than ~~A-~~ B+ and be not less than A.M. Best's Financial Size Category

VII; provided however, that the Director may temporarily suspend any or all of these requirements if no other viable insurance options are available to the industry,

b. Name The City of Seattle as an additional insured,

c. Provide that the insurer will notify the Director, in writing, of any cancellation at least thirty (30) days before that cancellation takes effect, and

d. Not include self-insured retention, nonstandard deductibles, aggregate limits, territorial restrictions, named driver requirements, or any other provisions that limit insurance coverage.

And renumber Bill sections accordingly.

Amendment #8 Code Clarification

Sponsor: O'Brien

These items were originally identified by the Law Department and Central Staff as technical amendments that could be encapsulated in a technical clean-up substitute version of the ordinance. However, they did not make it into the Consent Package before the Council today. Therefore, I am moving these changes to the ordinance as a standalone amendment.

Accordingly, amend Section 11 as follows:

Section 11. A new Section 6.310.270 to Seattle Municipal Code is adopted, as follows:

6.310.270 Transportation network company (TNC) operating responsibilities

In addition to meeting the license application requirements set forth in Section 6.310.260, the TNC must:

F. Ensure that TNC drivers driving a TNC endorsed vehicle do not take trips not dispatched by the TNC. (revocation and Class C);

G. Require that passengers be able to view a picture of the driver and vehicle license plate number on their smart phone, tablet or other mobile device used to connect with the TNC dispatch application before the trip is initiated. (Class B);

H. May maintain a rating platform for TNC drivers and passengers to rate each other following a trip. TNCs shall ensure that such ratings are not based on unlawful discrimination, and that drivers do not discriminate against passengers or potential passengers on the basis of geographic endpoints of the ride, race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation/identity. (Class B);

I. One year from the effective date of this ordinance, the TNC shall submit to the Director a report detailing all rides that were requested but not accepted by TNC drivers. The report shall include the location and zip code of each rejected ride. (Class A);

Q. Notify the Director within five working days of any change in the affiliation status of a TNC driver or vehicle, including any TNC driver joining the TNC, and any suspension,

termination, nonrenewal or revocation of a TNC driver's access to the TNC dispatch application,
for-hire license or TNC vehicle endorsement. (Class A);

R. Comply with all regulations promulgated pursuant to this chapter (see applicable
rules for penalties or actions);
