I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 208-34 (COR)
As amended by the Committee on Education, Finance, and Taxation.

Speaker Antonio R. Unpingco Legislative Session Hall
May 1, 2018

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. **ADA**		√				
Senator FRANK B. **AGUON, JR.**	√					
Senator William M. **CASTRO**	√					
Speaker Benjamin J.F. **CRUZ**	√					
Senator James V. **ESPALDON**		√				
Senator Fernando Barcinas **ESTEVES**					√	√
Senator Régine Biscoe **LEE**	√	I				
Senator Tommy **MORRISON**	√					
Senator Louise B. **MUÑA**	√					
Senator Telena Cruz **NELSON**	√					
Senator Dennis G. **RODRIGUEZ, JR.**	√					
Senator Joe S. **SAN AGUSTIN**	√					
Senator Michael F.Q. **SAN NICOLAS**	√					
Vice Speaker Therese M. **TERLAJE**	√					
Senator Mary Camacho **TORRES**	√	I				
TOTAL:	**12**	**2**			**1**	**1**
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. 208-34 (COR)
As amended by the Committee on Education,
Finance, and Taxation.

*

Introduced by: Dennis G. Rodriguez, Jr.
Joe S. San Agustin

AN ACT TO *ADD* A NEW CHAPTER 28 TO TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "TRANSPORTATION/TAXICAB NETWORK COMPANY (TTNC) SERVICES ACT," AND PROVIDING FOR THE ADMINISTRATION OF THE ACT BY THE DEPARTMENT OF REVENUE AND TAXATION.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that an innovative transportation business model is sweeping the country and this innovation has substantial value to the people of Guam. *I Liheslaturan Guåhan* finds the increased traffic congestion, limited public transportation, and the rising cost of driving on Guam could be offset in part by enacting programs for transportation network services, whereby a personal vehicle is used by a transportation network company driver to transport passengers for a fee. This service is in addition to our current taxicab service and also allows these taxicab services to take advantage of this growing trend by establishing a taxicab transportation network following this new service model. Additionally, these transportation networks show themselves to be convenient to the consumer and a source of individual entrepreneurship thus

stimulating Guam's economy and attractiveness as a tourist destination with consumer amenities for visitors familiar with such ride sharing smartphone applications. Currently thirty-nine (39) states have enacted legislation to establish a statutory foundation for this concept to thrive while simultaneously protecting the public. This has proven to be cost-effective for passengers and operators in other municipalities and is growing in popularity around the world, including in Asian countries where most visitors to Guam originate from. Soon, if not already, the ride sharing application available to consumers on their smartphones will become the mainstream method for the public to access transport. Scheduling and modest payment for transportation is accomplished through a digital network utilizing an internet-supported application, software, program, website or system offered or utilized by a transportation/taxicab network company that enables safe and reliable arrangement of land transportation for passengers by transportation/taxicab network company drivers.

I Liheslaturan Guåhan finds that transportation barriers are often cited as barriers to healthcare access. Transportation barriers lead to rescheduled or missed appointments, delayed care, and missed or delayed medication use. Organizations currently provide "gas cards" to assist in alleviating this challenge. However, gas cards are not effective if you do not own or possess a personal vehicle. These consequences may lead to poorer management of chronic illness and thus poorer health outcomes. A New York University study shows evidence that transportation barriers are unnecessarily impeding access to healthcare, particularly for those with lower incomes or the under/uninsured. Public policy support in the form of legislation to accommodate the use of the transportation network should alleviate this barrier and improve the healthcare of the people. Increased access to transportation options through the transportation/taxicab network method will also

address the challenges faced by residents in the workforce without reliable transportation.

It is, therefore, the intent of *I Liheslaturan Guåhan* to facilitate the growth of this industry by providing an infrastructure that will both protect the community and allow these innovative organizations stimulating the smallest of entrepreneurs to thrive and therefore benefit all the people of Guam and its visitors. It is further the intent of *I Liheslaturan Guåhan* to facilitate our current taxicab industry to take advantage of this new business model, if so desired, which allows taxicab drivers to operate in both the marked Taxicab mode and the transportation network mode.

Section 2. A new Chapter 28 is *added* to Title 16, Guam Code Annotated, to read:

"**CHAPTER 28**

TRANSPORTATION/TAXICAB NETWORK COMPANY SERVICES ACT

§ 28101. Title.

This Chapter may be cited as the "*Transportation/Taxicab Network Company Services Act.*" The purpose of this Chapter is to provide for and promote the safety and welfare of the general public by regulating transportation by for-hire vehicles on Guam. This Chapter does not create or designate any particular class of persons who will or should be specifically protected by its terms. Nothing contained in this Chapter is intended nor shall be construed to create any liability on the part of the government of Guam or its employees for either any injury or damage resulting from the failure of the licensee to comply with the provisions of this Chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this Chapter.

§ 28102. Definitions.

As used in this Chapter:

(a) *Digital network* means an internet-supported application, software, program, website, or system offered or utilized by a transportation/taxicab network company (TTNC) that enables the prearrangement of land transportation by passengers with transportation/taxicab network company drivers.

(b) *Director* means the Director of the Guam Department of Revenue and Taxation.

(c) *Department* means the Guam Department of Revenue and Taxation.

(d) *For-hire vehicle* means any motor vehicle used for the transportation of passengers for compensation, including taxicabs and transportation/taxicab network company vehicles. *For-hire vehicles* do not include:

(1) school buses;

(2) vehicles used by nonprofit transportation providers solely for elderly or disabled persons, and their attendants;

(3) vehicles used to provide courtesy transportation at no charge to and from parking lots, hotels, and rental offices;

(4) vehicles licensed under, and used to provide "charter party carrier" and "excursion service carrier" services; and

(5) vehicles used to provide emergency ambulance services.

(e) *Operate, operated*, or *operating* means using a taxicab or transportation network company vehicle to at any time transport any passenger or item of property for compensation.

(f) *Personal vehicle* means a vehicle that is used by a transportation network company driver and is:

(1) owned, leased, or otherwise authorized for use by a transportation network company driver; and

(2) not another vehicle for-hire;

(g) *Prearranged ride* means transportation provided by a transportation/taxicab network company driver beginning when a driver accepts a transportation request through a digital network and continuing while the transportation/taxicab network company driver transports the requesting rider, and ending when the last requesting passenger has exited from the personal vehicle at the destination requested by the passenger. *Prearranged ride* does not include shared-expense vanpool or carpool arrangements, or transportation provided using a limousine or other vehicle for hire pursuant to the Motor Carrier Act as set forth in Chapter 5 of Title 16, Guam Code Annotated.

(h) *Taxi/Taxicab* means a vehicle that transports people for compensation and is licensed pursuant to 16 GCA § 11101, that is owned, leased, or authorized for use by a taxicab transportation network company driver, and the passenger controls the route or destination. These vehicles are painted one (1) solid color and have signs or lettering that includes the words "taxi", "cab" or "taxicab." The government of Guam sets rates for fares, which are recorded by a taxi meter. Taxicabs may use a dispatch system or service, or taxicabs can be hailed from the street. A taxicab is a motorized vehicle that is held out to the public as providing transportation to passengers or articles:

(1) where the route traveled, destination, or both route and destination, is controlled by the customer; and

(2) where the fare is based on an amount recorded and indicated on a taxi meter; and

(3) where the vehicle is not operating as a TTNC vehicle on a TTNC's digital network in accordance with this Chapter.

(i) *Taxicab company* means any entity operating one (1) or more taxicabs other than as a driver, regardless of the legal form of the entity and regardless of whether the taxicabs so operated are owned by the company, or leased, or owned by individual members of the entity.

(j) *Taxicab driver* is a person engaging in any combination of owning, leasing, advertising, driving, occupying or otherwise using a taxicab at any time to transport any passenger or item of property for compensation.

(k) *Transportation/Taxicab Network Company (TTNC)* means a corporation, limited liability company, partnership, sole proprietorship, or other entity that is licensed pursuant to this Transportation/Taxicab Network Company Services Act and lawfully operating in Guam that exclusively uses a digital network, but which *shall not* be deemed to control, direct, or manage the personal vehicles or transportation network company drivers that connect to its digital network except where agreed to by written contract. TTNC vehicles transport people for compensation. Unlike taxicabs and for-hire vehicles, they are intended to connect with passengers only through an online application using a device such as a smart phone or tablet. Fares are set by the TTNC and must be shown to passengers and paid through the online application. Transportation/Taxicab network company *shall* include a corporation, limited liability company, partnership, sole proprietorship or other entity that is operating in Guam that uses a digital network exclusively for licensed taxicabs to connect riders in Guam to contract for a prearranged ride but which *shall not* be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network except where agreed to by written contract.

(l) *Transportation Network Company (TNC)* means an organization that meets the criteria outlined in Subsection (k) of this Section, but does not simultaneously have a taxicab service.

(m) *Transportation/taxicab network company driver*, or *driver*, is an individual who:

(1) accepts a prearranged ride request through a digital network and for a fee paid by a transportation network company rider to the transportation network company; and

(2) *Transportation network company driver* or *driver* may include a taxicab driver who:

(A) accepts a prearranged ride requested through a digital network and for a fee paid by a transportation network company rider to the transportation network company that contracts exclusively with taxicabs; and

(B) uses a personal vehicle to provide a prearranged ride through a digital network.

(n) *Transportation network company insurance* means a liability insurance policy that specifically covers a transportation/taxicab network company driver's use of a transportation network company digital network.

(o) *Transportation network company rider*, or *rider*, means a person who uses a digital network for a prearranged ride.

§ 28103. Taxicab Company and Transportation Network Company License.

(a) The Director may issue a license to a taxicab company or transportation network company, provided that:

(1) the taxicab company or transportation network company provides proof of insurance coverage for the limits required in this Chapter for all employed or affiliated drivers; and

(2) the taxicab company or transportation network company submits an affidavit sworn under penalty of perjury that the taxicab company or transportation network company is in compliance with the driver requirements, vehicle requirements, insurance, and operational requirements under this Chapter.

(b) Licenses issued under this Chapter are effective upon approval and must be renewed through the Department annually on or before the expiration date of the license in order to continue operating after the expiration date.

(c) A person *shall not* operate a transportation network company or a taxicab transportation network company in Guam without first having obtained a license from the Director.

(d) A license issued to a transportation network company or a taxicab transportation network company by the Director *shall* be effective for one (1) year.

(e) The Director *shall* issue a license to a transportation network company or a taxicab transportation network company that meets the requirements set forth in this Transportation Network Company Services Act, and any rules adopted by the Director pursuant to the Administrative Adjudication Law - Article 3, Chapter 9, Title 5, Guam Code Annotated.

(f) No taxicab company or transportation network company license shall be issued or valid until the affidavit and proof of insurance coverage referenced in this Section has been approved and the fee prescribed in this Chapter has been paid.

(g) Drivers who are independent contractors and affiliated with licensed taxicab companies or transportation network companies *shall* obtain a business license.

§ 28104. Fees.

(a) The application fee *shall* vary based on the number of employed or contracted drivers operating for the company applying for the license. The fee amounts *shall* be as follows:

(1) $100.00 for companies employing or contracting with ten (10) or fewer drivers;

(2) $500.00 for companies employing or contracting with eleven (11) to twenty-one (21) drivers;

(3) $1000.00 for companies employing or contracting with twenty-two (22) to forty (40) drivers; and

(4) $1,500.00 for companies employing or contracting with forty-one (41) or more drivers.

(b) The application fee prescribed by this Section *shall* be paid to the Department at the time of submitting both the initial and the renewal of license applications.

§ 28105. Operational Requirements.

(a) Rates. Taxicab drivers *shall* prominently post rates in accordance with 16 GCA § 11102 for each vehicle and charge accordingly. Drivers who operate as TTNC drivers are exempt from this requirement.

(b) The TTNC's software application or website *shall* display for the passenger the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC vehicle.

(c) Records. TTNCs *shall* maintain the individual records of all trips made by all drivers for at least two (2) years from the date each trip was provided.

(d) Driver Information. Taxicab drivers *shall* display driver information in accordance with 16 GCA § 11102. The TTNC's software application or website *shall* display for the passenger, at a minimum, the first name and photograph of the TNC driver.

(e) Marking of Vehicles. All taxicabs *shall* be clearly marked as such and in accordance with 16 GCA § 11103. Vehicles operated solely by TNC drivers are exempt from the above marking requirements. The TNC's software application or website *shall* display for the passenger the make, model, and license plate number of the TNC vehicle. The TNC may display a placard of the company name on or within the TNC vehicle for ease of identification for the consumer.

(f) Method of Soliciting Rides. Only taxicab drivers are permitted to solicit or accept street hails. TTNC drivers *shall* accept only rides arranged through a TTNC's digital network and *shall not* solicit or accept street hails.

(g) Nothing in this Section shall prohibit a TTNC from using an internet online-enabled platform or application to connect passengers with drivers as long as all other requirements for taxicab companies, vehicles, and drivers are met.

§ 28106. Administration.

The Director of the Department of Revenue and Taxation, or his department and/or division designee within the Licensing Division, *shall* administer this Transportation/Taxicab Network Company Services Act.

§ 28107. Not Other Carriers.

(a) Transportation/Taxicab Network companies and transportation/taxicab network company drivers *shall not* be subject to the Motor Carrier Act or deemed to provide any transportation service pursuant to the Motor Carrier Act as set forth in Chapter 5 of Title 16, Guam Code Annotated.

(b) A transportation network company driver *shall not* be required to register a personal vehicle as a commercial vehicle or vehicle for hire, except that a taxicab transportation network company *shall* require a licensed taxicab driver to register such vehicle as a taxicab in accordance with the requirements of Chapter 11 of Title 16, Guam Code Annotated, as a condition for affiliation with the taxicab transportation network company.

§ 28108. Fare Collected for Services.

(a) On behalf of a transportation/taxicab network company driver, a transportation/taxicab network company may charge a fare for the services provided to riders; provided that, if a fare is collected from a rider, the transportation/taxicab network company *shall* disclose to the rider the fare calculation method, including the applicable rates and any fees, and *shall* provide an estimated fare before the rider enters a personal vehicle for a prearranged ride.

(b) In the rare event a rider pays for the fare in cash, the transportation company network driver *shall* immediately issue a receipt in the amount as agreed upon between the TTNC and the rider.

§ 28109. Electronic Receipt.

Immediately after the completion of a prearranged ride, a transportation/taxicab network company *shall* electronically transmit a receipt to the rider of the total fare paid. The following information *shall* be displayed within the network application: the origin and destination addresses of the

prearranged ride; and the total time elapsed of and distance of the prearranged ride.

§ 28110. Financial Responsibility of Transportation Network Companies; Transportation/Taxicab Network Companies.

(a) Either the TTNC driver, or the TTNC on the driver's behalf, *shall* maintain primary automobile insurance that acknowledges that the driver is a TTNC company driver, or otherwise uses a vehicle to transport riders for compensation and covers the driver:

(1) while the driver is logged on to the TTNC's digital network; or

(2) while the driver is engaged in a prearranged ride.

(b) While a TTNC driver is logged on to the TTNC's digital network, but is not engaged in a prearranged ride, the following minimum automobile insurance requirements *shall* apply:

(1) primary automobile liability insurance in the amount of at least Twenty-five Thousand Dollars ($25,000) for death and bodily injury of one (1) person, and Fifty Thousand Dollars ($50,000) total for death and bodily injury for two (2) or more persons per accident; and Twenty Thousand Dollars ($20,000) for property damage per accident mandatory insurance as set forth in 16 GCA § 19104.

(c) While a TTNC driver is engaged in a prearranged ride, the following minimum automobile insurance requirements *shall* apply:

(1) provide primary liability coverage of at least Fifty Thousand Dollars ($50,000) per injured person; One Hundred Thousand Dollars ($100,000) for all injuries in an accident; and Thirty Thousand Dollars ($30,000) for property damage.

(d) If insurance maintained by a TTNC driver has lapsed or does not provide the minimum coverage required by this Section, the insurance maintained by the TTNC *shall* provide the coverage required as the primary coverage.

(e) Insurance required by this Section *shall* be obtained from an insurer authorized to do business in Guam or with a surplus lines insurer or broker authorized pursuant to Chapter 15 of Title 22, Guam Code Annotated.

(f) Insurance satisfying the requirements of this Section *shall* be deemed to satisfy the insurance requirements of the Mandatory Financial Responsibility Act for a TTNC driver while engaged in a prearranged ride or logged onto a digital network.

(g) At all relevant times while a TTNC driver is logged onto a digital network, the driver *shall* possess digital and/or physical proof of coverage required by this Section.

(h) In the event of a motor vehicle accident involving a TTNC driver who is operating a motor vehicle, which occurs while the driver is logged on to the TTNC digital network or engaged in a prearranged ride, the driver *shall* provide the required proof of insurance coverage to all passengers, other drivers, injured persons, automobile insurers, and investigating law enforcement officers. The TTNC driver *shall* disclose upon request whether the driver was logged on to a digital network, or on a prearranged ride, at the time of an accident.

§ 28111. Insurance Coverage Disclosures.

(a) The TTNC *shall* disclose in writing to its TTNC drivers:

(1) the insurance coverage that the TTNC driver has while the driver is logged on to a digital network, including the types of coverage and the limits for each coverage; and

(2) that the TTNC driver's personal insurance policy might exclude coverage while the driver is logged on to the transportation network company's digital network or while engaged in a prearranged ride.

§ 28112. Automobile Insurance Provisions.

(a) Insurers that write automobile insurance in Guam may exclude any part or all coverage of and the duty to defend and indemnify an owner or operator of a personal vehicle or the owner or the driver of a taxicab for any loss or injury that occurs while a driver is logged on to a digital network or while engaged in a prearranged ride. Such exclusions *shall* apply notwithstanding requirements of the mandatory insurance for motor vehicle liability insurance required pursuant to Chapter 19 of Title 16, Guam Code Annotated.

(b) In a claims coverage investigation, a TTNC and any insurer providing coverage for the TTNC driver *shall* disclose the times that a TTNC driver logged on and off of the TTNC's digital network in the twelve (12)-hour period immediately preceding an accident, and in the twelve (12)-hour period immediately following the accident, and disclose all coverage, exclusions and policy limits provided for all insurance maintained under the Transportation/Taxicab Network Company Services Act.

§ 28113. Motor Vehicle Insurance Policy; Procedures.

(a) A motor vehicle insurance policy *shall*:

(1) designate by description or by appropriate reference all motor vehicles to which coverage is to be granted; and

(2) insure the person named in the policy and a person with permissive use of any such motor vehicle with the express or implied permission of the named insured against loss from the liability imposed

by law for damages arising out of the ownership, maintenance or use of the motor vehicle within the jurisdiction of Guam, subject to the requirement to provide evidence of financial responsibility pursuant to the required mandatory insurance in Chapter 19 of Title 16, Guam Code Annotated.

(3) A motor vehicle insurance policy *shall* insure a person named as insured against loss from the liability imposed upon the person by law for damages arising out of the use, with the express or implied permission of the owner or person in lawful possession, of a motor vehicle that the insured person does not own. The policy *shall* insure the person within the same territorial limits and in compliance with the requirement of evidence of financial responsibility as set forth in the mandatory insurance provisions of Chapter 19 of Title 16, Guam Code Annotated, with respect to a motor vehicle insurance policy.

(b) Permitted exceptions to coverage otherwise required by this Section may include the following if excluded by the motor vehicle insurance policy:

(1) an automobile business exclusion;

(2) a furnished for regular use exclusion;

(3) a vehicle rented for business use exclusion if the exclusion is contained in the motor vehicle insurance policy and is enforceable;

(4) an exclusion for any liability of the United States government or its agencies when the provisions of the Federal Tort Claims Act apply;

(5) an exclusion for liability of the insured under any workers' compensation law;

(6) an exclusion for damages to property owned by, rented to, in the charge of or transported by an insured; provided, however, that this exclusion *shall not* apply to damages to a residence or private garage rented by an insured; and

(7) an exclusion to apply when a vehicle is rented to others or used to carry persons for a charge, including when a vehicle is being used while logged on to a transportation network company's or a taxicab transportation network company's digital network or while a driver provides a prearranged ride; provided, however, that this exclusion *shall not* apply to use on a shared expense basis.

(c) The motor vehicle insurance policy *shall* state the name and address of the insured, the coverage afforded by the policy, the premium charged, the policy period and the limits of liability. The policy *shall* also contain an agreement or endorsement that states that the insurance is:

(1) provided in accordance with the coverage defined in the mandatory insurance provisions of Chapter 19 of Title 16, Guam Code Annotated, regarding bodily injury and death or property damage or both; and

(2) subject to all the provisions of Chapter 19 of Title 16, Guam Code Annotated.

(d) Every motor vehicle insurance policy *shall* be subject to the following provisions, which may be contained in the policy:

(1) The policy may not be canceled or annulled as to the liability of the insurance carrier with respect to the insurance required in the mandatory insurance provisions of Chapter 19 of Title 16, Guam Code Annotated, by an agreement between the insurance carrier and the insured after the occurrence of the injury or damage;

(2) The satisfaction by the insured of a judgment for injury or damage *shall not* be a condition precedent to the right or duty of the insurance carrier to pay on account of injury or damage;

(3) The insurance carrier has the right to settle a claim covered by the policy. If the settlement is made in good faith, the amount of the settlement is deductible from the limits of liability specified in the Mandatory Financial Responsibility Act;

(4) The policy, the declarations page, the written application and a rider or an endorsement that does not conflict with the provisions of the Mandatory Financial Responsibility Act constitute the entire contract between the parties; and

(5) A binder issued pending the issuance of a motor vehicle insurance policy is deemed to fulfill the requirements for the policy.

§ 28114. Zero Tolerance for Drug or Alcohol Use.

(a) The TTNC *shall* adopt and enforce a zero-tolerance policy regarding drug and alcohol use by TTNC drivers. The zero-tolerance policy *shall* prohibit any use or impairment due to intoxicating drugs or alcohol while a TTNC driver is providing prearranged rides or is logged on to the TTNC's digital network.

(b) The TTNC *shall* publish on its website notice of its zero-tolerance policy, as well as procedures for a rider to report a complaint about a driver suspected to have been under the influence of illegal drugs or alcohol during a prearranged ride.

(c) The TTNC *shall* conduct an investigation into every reported complaint of violation of its zero-tolerance policy, and the policy *shall* include procedures for suspension or termination of TTNC drivers.

(d) The TTNC *shall* maintain records relevant to the enforcement of the requirements of this Section for a period of at least four (4) years from the date that a rider complaint is received by the TTNC.

§ 28115. Transportation Network Company Driver Requirements.

(a) Before authorization of a TTNC driver to accept prearranged ride requests through a TTNC's digital network:

(1) the prospective driver *shall* submit an application to the TTNC that includes the individual's address, driver's license number, driving history, motor vehicle registration, and proof of the insurance required; and

(2) the TTNC *shall* request a local criminal background check from the prospective driver in the form of court clearances, police clearances, and traffic clearances, which *shall* include any and all reports of the government on the following subjects:

(A) multistate or multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation and primary source search; and

(B) a national sex offender registry; and

(C) the TTNC *shall* obtain and review a police, court, and traffic clearance for the prospective driver.

(b) The TTNC *shall not* permit a person to act as a TTNC driver who:

(1) has had more than three (3) moving violations in the preceding three (3)-year period, or one (1) violation in the preceding three (3)-year period involving any attempt to evade law enforcement, reckless driving, or driving on a suspended or revoked license;

(2) has been convicted and not pardoned nor expunged within the past seven (7) years of:

(A) a felony;

(B) misdemeanor driving under the influence, reckless driving, leaving the scene of an accident, or any other driving-related offense, or any misdemeanor violent offense or sexual offense; or

(C) more than three (3) misdemeanors of any kind;

(3) is identified by a national sex offender registry;

(4) does not possess a valid license;

(5) does not possess proof of registration for the motor vehicle or taxicab used to provide prearranged rides;

(6) does not possess proof of automobile liability insurance for the motor vehicle or taxicab used to provide prearranged rides; or

(7) does not have at least three (3) years' driving experience.

(c) The TTNC driver *shall* obtain a business license before being allowed to connect and log on to the TTNC's digital network for the purpose of providing the services for a prearranged ride or rides. The annual fee for the TTNC's driver's business license for each driver *shall* be Fifty Dollars ($50.00). If the vehicle the TTNC driver uses on a regular basis is ADA compliant/wheelchair accessible, the Fifty Dollars ($50.00) business license fee *shall* be waived.

(d) The TTNC driver *shall not* provide prearranged rides for more than twelve (12) hours out of any twenty-four (24)-hour period.

§ 28116. Vehicle Safety.

(a) The TTNC driver *shall not* be connected to the digital network or software application service of the TTNC if the motor vehicle operated by the driver to provide transportation services:

(1) is not in compliance with all federal and Guam laws concerning the operation and maintenance of the motor vehicle; or

(2) is designed to carry more than eight (8) passengers, including the driver.

(b) The TTNC *shall* inspect or cause to be inspected every motor vehicle used by a TTNC driver to provide transportation services before allowing the TTNC driver to provide prearranged rides, and the motor vehicle *shall* be inspected not less than once each year thereafter.

(c) The Director may promulgate rules and regulations setting forth the requirements of the annual inspection of a motor vehicle used by a transportation network company driver while logged on to a digital network or engaged in a prearranged ride.

§ 28117. No Street Hails.

A transportation/taxicab network company driver *shall not* solicit or accept street hails.

§ 28118. No Cash Trips; Exception.

(a) The TTNC *shall* adopt and enforce a policy prohibiting solicitation or acceptance of cash payments from riders. Any payment for prearranged rides *shall* only be made electronically by a digital network, unless the credit card used by the rider is denied.

(b) The TTNC may offer a prepaid card to those residents that do not possess a credit card.

§ 28119. Nondiscrimination--Accessibility.

(a) The TTNC *shall* adopt a written policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to TTNC drivers, riders and potential riders, and *shall* notify TTNC drivers of the policy.

(b) TTNC drivers *shall* comply with all applicable laws regarding nondiscrimination against TTNC drivers, riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.

(c) TTNC drivers *shall* comply with all applicable laws relating to accommodation of service animals.

(d) The TTNC *shall not* impose additional charges for providing services to persons with physical disabilities.

(e) The TTNC *shall* provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TTNC cannot arrange a wheelchair-accessible prearranged ride in any instance, it *shall* direct the rider to an alternate provider of wheelchair-accessible service, if available.

§ 28120. Records.

(a) The TTNC *shall* maintain:

(1) individual prearranged ride records for at least two (2) years from the date each ride was provided; and

(2) individual records of TTNC drivers for at least two (2) years after the driver's relationship with the TTNC driver has ended.

(b) A TTNC driver *shall not* use or disclose a TTNC rider's personal identifiable information to a third party unless the rider consents; disclosure

is required by court order; or disclosure is required to investigate violations of the Transportation/Taxicab Network Company Services Act.

§ 28121. Records Pursuant to Rules of the Director.

(a) A TTNC holding a license or permit issued by the Director *shall* maintain the records required pursuant to the Transportation/Taxicab Network Company Services Act to be collected by the TTNC, including records regarding transportation/taxicab network company drivers.

(b) In response to a specific complaint, the Director, or the motor vehicle or regulatory division employees of the Department, upon a duly issued written notice of at least ten (10) days, may inspect those records held by a TTNC for the investigation and resolution of the complaint.

(c) No more than semiannually and as determined by the Director, or the motor vehicle or the regulatory division supervisor of the Department, may, upon a duly issued written notice of at least ten (10) days, in a mutually agreed setting, inspect those records held by a TTNC whose review is necessary to ensure public safety; provided, that such review *shall* be on an audit rather than a comprehensive basis.

(d) Any proprietary records obtained by the Director, or the motor vehicle or the regulatory division supervisor of the Department, pursuant to this Section *shall not* be subject to disclosure by the Director, or the motor vehicle division or regulatory division supervisor.

§ 28122. Administrative Penalties.

(a) If the Director finds after an investigation that a provision of the Transportation/Taxicab Network Company Services Act or an order or rule of the Director is being, has been, or is about to be violated, the Director may issue an order specifying the actual or proposed acts, or omissions to act, that

constitute a violation and require that the violation be discontinued, rectified, or prevented.

(b) Notwithstanding the existence of any other penalties, the Director may assess an administrative fine of not more than Five Hundred Dollars ($500.00) for each violation of a provision of the Transportation/Taxicab Network Company Services Act or of a lawful rule or order of the Director. In the case of a continuing violation, each day's violation *shall* be deemed to be a separate and distinct offense.

(c) All penalties accruing under the Transportation/Taxicab Network Company Services Act *shall* be cumulative, and a suit for recovery of one (1) penalty *shall not* be a bar to or affect the recovery of any other penalty, or be a bar to any criminal prosecution.

§ 28123. Involuntary Suspension and Revocation.

(a) The Director *shall* immediately suspend, without notice or a hearing, the license or permit of a TTNC that:

(1) does not continuously maintain the insurance coverage prescribed by the Transportation/Taxicab Network Company Services Act;

(2) does not pay the fees owed by the TTNC; or

(3) operates in a manner that poses an immediate or imminent threat to public safety.

(b) When a license or permit of a TTNC is suspended, the TTNC may apply for reinstatement by requesting a public hearing before the Director, and *shall* establish that the basis for the suspension has been corrected.

§ 28124. Severability.

If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this law that can be given effect without the invalid provisions or application, and to this end the provisions of this law are severable."