

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on)
Regulations Relating to Passenger)
Carriers, Ridesharing, and New Online-)
Enabled Transportation Services)
_____)

Docket No. R.12-12-011

COMMENTS ON PROPOSED MODIFICATIONS TO DECISION 13-09-045

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We respond to the Assigned Commissioner's Ruling requesting comment on proposed modifications to Decision 13-09-045 *Adopting Rules and regulations to Protect Public safety While Allowing New Entrants to the Transportation Industry*. In brief, TNCs should be required to maintain full-time primary commercial insurance on all vehicles registered with them for purposes of providing TNC services.

1. Definition of Providing TNC Services

The definition of "providing TNC services" needs to be expanded to recognize that the vehicle becomes a commercial vehicle as soon as the driver registers his or her vehicle with a TNC. The fact that a TNC vehicle may from time to time change state between commercial use and personal use is irrelevant. Taxicabs and other commercial vehicles, like TNCs, are sometimes used for personal purposes. For instance, a taxicab driver may use the vehicle to transport a family member or a personal friend to a doctor's appointment, or to transport groceries to his or her home from a supermarket. Even though such personal use is conducted without compensation, the vehicle does not momentarily become a personal vehicle for regulatory and insurance purposes.

To allow a commercial vehicle to operate under personal insurance, even just occasionally, is an open invitation to insurance fraud. Insurers rightly do not allow a vehicle to shift back and forth between commercial insurance and personal insurance based on the momentary state of the vehicle. Because commercial insurance is more

expensive than personal insurance, there would be a strong financial incentive to claim after any accident that the vehicle was in personal use at that precise moment, even though the vehicle may in fact have been in commercial use. By claiming personal use, the operator would thus transfer an expensive commercial liability to lower-cost personal insurance.

That is exactly what happens now under the TNC business model according to San Francisco Assistant District Attorney for Economic Crimes Conrad Del Rosario who testified in Sacramento on March 21 at the Insurance Commissioner's hearing on TNC insurance. He testified to multiple instances of claimant fraud and widespread rate evasion among TNC drivers.

Insurance companies have no practical way to determine the precise state of a vehicle's use at any given moment. That is why commercial vehicles are not allowed to momentarily change state, and it is why TNC vehicles must be treated the same way. They are in the business of "providing TNC services" as soon as the vehicle registers with a TNC for that purpose.

TNC executives testified in Sacramento that it is very difficult or impossible for them to determine the precise state of a TNC vehicle at the time of an accident. That inherent ambiguity is made even more complicated when drivers have multiple TNC apps running at the same time.

For these reasons, a vehicle must be recognized as “providing TNC services” from the moment it is registered with a TNC for that purpose.

2. Modifications to requirements that TNCs maintain commercial liability insurance policies

Personal insurance should not be involved with TNC vehicles in any way. They must have full-time primary commercial insurance, just like every other commercial vehicle. Any ambiguity will lead inevitably to insurance fraud, rate evasion, coverage questions, denial of claims, and a general erosion of public confidence in regulation of for-hire passenger transportation.

In conclusion, TNCs should be required to maintain full-time primary commercial insurance on all vehicles registered with them for purposes of providing TNC services. The insurance should not be excess or part time.

Dated April 7, 2014 at San Francisco, California

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