



# The Commonwealth of Massachusetts

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## DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-81

**CORRECTED ORDER**

March 24, 2017

Investigation of the Department of Public Utilities, on its own motion, instituting a rulemaking pursuant to Chapter 187 of the Acts of 2016; G.L. c. 25, § 23; G.L. c. 30A, § 2; G.L. c. 159A½; and 220 C.M.R. §§ 2.00 et seq., establishing requirements for transportation network companies and the provision of transportation network services.

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**ORDER INSTITUTING RULEMAKING**

## I. INTRODUCTION

On August 5, 2016, Governor Charles D. Baker signed into law Chapter 187 of the Acts of 2016, an act regulating transportation network companies (“Act”). Section 4 of the Act amends the General Laws by establishing G.L. c. 159A½, which provides for regulation of transportation network companies (“TNCs”) and transportation network services (“Services”) within the Commonwealth. St. 2016, c. 187, § 4. In addition, section 2 of the Act amends G.L. c. 25 by establishing Section 23, which creates a division within the Department of Public Utilities (“Department”) to administer, implement, and enforce G.L. c. 159A½ and requires that said division promulgate rules and regulations in accordance with the Act’s provisions. St. 2016, c. 187, §§ 2, 4. The Department has designated this division as the Transportation Network Company Division (“Division”).

By this Order, and pursuant to the Act, G.L. c. 25, § 23, G.L. c. 30A, § 2, G.L. c. 159A½, and 220 C.M.R. §§ 2.00 et. seq., the Department institutes a rulemaking to implement the provisions of the Act. Accordingly, the Department proposes the regulations designated as 220 C.M.R. § 274.00: Transportation Network Companies.<sup>1</sup>

## II. PROPOSED REGULATIONS

The Legislature has vested authority in the Department to regulate TNCs and the provision of Services in the Commonwealth. For the safety and convenience of the general public, the Act establishes a regulatory framework to ensure public access to Services and to promote public safety in the provision of Services within the Commonwealth. To implement

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<sup>1</sup> Proposed Regulations 220 C.M.R. § 274.00 are attached to this Order as Appendix A.

the Act's provisions, the Department proposes the regulations designated as 220 C.M.R. § 274.00: Transportation Network Companies, to establish rules and requirements for the oversight of TNCs and the provision of Services in the Commonwealth.

Pursuant to the proposed regulations, a TNC shall apply to the Division for a permit to operate within the Commonwealth and shall apply annually to renew said permit.

Proposed Regulation 220 C.M.R. § 274.03(1)(b). The proposed regulations provide that the Division shall not grant or renew a permit unless the Division determines that it is consistent with the public interest for the TNC to render Services within the Commonwealth. Id.

Further, the proposed regulations provide that a TNC shall, at a minimum, have an established process to ensure the safety and convenience of all members of the public,<sup>2</sup> comply with related rules and regulations,<sup>3</sup> and facilitate the Division's efficient review of a TNC's permit application or renewal.<sup>4</sup> Id.

In furtherance of the public interest, the proposed regulations require that, in order to provide Services, each TNC driver shall pass a two-part background check<sup>5</sup> and maintain

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<sup>2</sup> A TNC shall have established oversight processes in accordance with the Act's requirements. Proposed Regulations 220 C.M.R. § 274.03(2).

<sup>3</sup> A TNC shall ensure compliance with, among other laws and regulations, G.L. c. 90, § 7A; G.L. c. 93H; G.L. c. 175, § 228; 803 C.M.R. §§ 2.00 et seq.; and 201 C.M.R. §§ 17.00 et seq.

<sup>4</sup> The proposed regulations provide for TNC record maintenance and retention and for Division inspection and audit. Proposed Regulations 220 C.M.R. § 274.12 and 220 C.M.R. § 274.13.

<sup>5</sup> The first background check shall be a nationwide background check conducted by a TNC and the second background check shall be a statewide background check conducted by the Division. Proposed Regulations 220 C.M.R. § 274.06. Each background check shall

compliance with the proposed regulations in order to continue to provide Services. Proposed Regulations 220 C.M.R. § 274.06(2)(c)-(d) and § 274.06(3)(d). Moreover, after a TNC driver passes the two-part background check, the proposed regulations provide that a driver's ability to provide Services shall be suspended or revoked should a TNC<sup>6</sup> or the Division learn of and verify a driver's arrest for a crime or citation for a driving infraction that would cause the driver to fail the two-part background check. Proposed Regulations 220 C.M.R. § 274.06(2)(c) and (3)(d). The proposed regulations further require a TNC to report to the Division any incidents or complaints by passengers, or instances in which a passenger or driver's personal or private information is subject to a security breach. Proposed Regulations 220 C.M.R. § 274.12(3) and (5). In addition, each driver will be obligated to comply with requirements related to insurance,<sup>7</sup> hours of service, and the Registry of Motor Vehicles. Proposed Regulations 220 C.M.R. § 274.07-09. Lastly, an enforcement process is set forth in the proposed regulations through which the Division may

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measure whether the driver satisfies the standard established in Proposed Regulation 220 C.M.R. § 274.19 and whether the driver is not otherwise prohibited from providing Services pursuant to a TNC's or the Division's suitability requirements. Proposed Regulations 220 C.M.R. § 274.06(2)(d) and (3)(b).

<sup>6</sup> A TNC shall report to the Division a driver suspension, revocation or termination. Proposed Regulations 220 C.M.R. §§ 274.06(2)(c). In addition, a TNC shall notify the Division of any driver violations of motor vehicle laws established by G.L. c. 159A½, § 3(c)(viii). Proposed Regulations 220 C.M.R. §§ 274.12(4).

<sup>7</sup> Within seven days of receiving authorization to provide Services, a driver shall disclose to the automobile insurance carrier, whose coverage applies to the vehicle(s) used by the driver to provide Services, that the vehicle is used to provide Services. Proposed Regulations 220 C.M.R. §§ 274.09.

penalize a TNC or deny a TNC authority to operate within the Commonwealth due to noncompliance with the regulations. Proposed Regulations 220 C.M.R. § 274.14.

### III. SOLICITATION OF COMMENTS

The proposed regulations are attached to this Order and may be inspected at the Department's offices: One South Station, 5<sup>th</sup> Floor, Boston, Massachusetts 02110. The Department seeks initial written comments on the proposed regulations no later than **5:00 p.m. on Tuesday, May 9, 2017**. Written comments shall be limited in length to a maximum of twenty one-sided, double-spaced typewritten pages. Any person who files written comments shall file two (2) copies of such written comments with Mark D. Marini, Secretary, Department of Public Utilities, One South Station, 5<sup>th</sup> Floor, Boston, Massachusetts, 02110.

All documents should also be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to [dpu.efiling@state.ma.us](mailto:dpu.efiling@state.ma.us) and the Division's Assistant General Counsel at [ryan.m.hawkins@state.ma.us](mailto:ryan.m.hawkins@state.ma.us); or (2) on a CD-ROM. The text of the e-mail or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 17-81); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. Documents filed with the Department will be available for public inspection at its offices during business hours and through our website, <http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber> (enter "17-81").

To provide further opportunity for comment, and pursuant to G.L. c. 30A, § 2, and 220 C.M.R. § 2.05, the Department will hold a public hearing on **Tuesday, May 23, 2017**, at **10:00 a.m.** at the State Transportation Building, Transportation Board Room, 2<sup>nd</sup> Floor, 10 Park Plaza, Boston, Massachusetts. Interested persons may present facts, opinions, or arguments related to the Proposed Regulations at the public hearing. Following the public hearing, written reply comments must be filed no later than **5:00 p.m.** on **Tuesday, June 6, 2017**. Reply comments should be limited in length to a maximum of ten one-sided, double-spaced typewritten pages.

By Order of the Department,

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/s/  
Angela M. O'Connor, Chairman

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/s/  
Jollette A. Westbrook, Commissioner

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/s/  
Robert E. Hayden, Commissioner

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 274.00: TRANSPORTATION NETWORK COMPANIES

Section

274.01: Purpose and Scope

274.02: Definitions

274.03: Transportation Network Company Permit Process

274.04: Transportation Network Driver Requirements

274.05: Transportation Network Driver Certificate

274.06: Transportation Network Driver Background Check

274.07: Hours of Service

274.08: Motor Vehicle Requirements

274.09: Insurance

274.10: Data Protection

274.11: Record Maintenance and Retention

274.12: Reporting Requirements

274.13: Inspection and Audit

274.14: Enforcement

274.15: Appeals

274.16: Notice

274.17: Severability

274.18: Waiver

274.19: Disqualifying Conditions

274.01: Purpose and Scope

(1) Purpose. 220 CMR 274.00 establishes rules and regulations governing the oversight of Transportation Network Companies and the provision of Transportation Network Services within the Commonwealth.

(2) Scope. 220 CMR 274.00 applies to every Transportation Network Company, Transportation Network Driver, and Transportation Network Vehicle within the Commonwealth.

274.02: Definitions

For the purposes of 220 CMR 274.00, the terms set forth in 220 CMR 274.02 shall be defined as follows, unless the context of 220 CMR 274.00 otherwise requires.

Background Check Clearance Certificate or Clearance Certificate means verification issued by the Transportation Network Company Division to a Transportation Network Driver and Transportation Network Company, electronically or otherwise, that a Transportation Network Driver successfully completed the two-part background check

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

pursuant to 220 CMR 274.06 and is suitable to provide Transportation Network Services.

Background Information means

- (a) Criminal Offender Record Information (CORI);
- (b) Warrant Management System information (WMS);
- (c) Sex Offender Registry Information (SORI); and
- (d) Registry of Motor Vehicles (RMV) driving record information.

Cruising means the driving of a Transportation Network Vehicle on the streets, alleys or public places of motorized travel in search of or soliciting hails from a person in the street.

Department means the Department of Public Utilities.

Digital Network means any online-enabled application, software, website or system offered or utilized by a Transportation Network Company that enables Pre-arranged Rides with Transportation Network Drivers.

Division means the Transportation Network Company Division established by the Department to implement, administer, and enforce M.G.L. c. 25, § 23(a) and c. 159A½.

Pre-arranged Ride or Ride means a period of time that begins when a Transportation Network Driver accepts a ride through a Digital Network, continues while the Transportation Network Driver transports the Transportation Network Rider, and ends when the Transportation Network Rider safely departs from the Transportation Network Vehicle.

Transportation Network Company or TNC means a corporation, partnership, sole proprietorship or other entity that uses a Digital Network to connect Transportation Network Riders to pre-arrange and provide transportation.

Transportation Network Company Permit or Permit means a document issued, electronically or otherwise, by the Division to a TNC authorizing the TNC to provide Transportation Network Services in the Commonwealth.

Transportation Network Driver or Driver means a driver certified by a TNC to provide Transportation Network Services, or a driver applying to a TNC to provide Transportation Network Services.



220 CMR: DEPARTMENT OF PUBLIC UTILITIES

Transportation Network Driver Certificate or Driver Certificate means the authorization to provide Transportation Network Services issued, electronically or otherwise, by a TNC to a Driver.

Transportation Network Rider or Rider means a passenger in a Pre-arranged Ride provided by a Driver, provided that the passenger personally arranged the ride or an arrangement was made on the passenger's behalf.

Transportation Network Services or Services means the offer and provision of Pre-arranged Rides for compensation or on a promotional basis to Riders or prospective Riders through a Digital Network, covering the period beginning when a Driver is logged onto a Digital Network and is available to receive a Pre-arranged Ride or while in the course of providing a Pre-arranged Ride.

Transportation Network Vehicle or Vehicle means a vehicle that is used by a Driver to provide Services.

274.03: Transportation Network Company Permit Process

(1) TNC Permit General Requirements.

(a) A TNC shall maintain a valid Permit in order to provide Services within the Commonwealth.

(b) A TNC shall, in a manner the Division prescribes, apply to the Division for a Permit and apply annually to the Division to renew its Permit. The Division shall not grant or renew a Permit unless the Division determines that it is consistent with the public interest for the TNC to render Services within the Commonwealth.

(c) To obtain a Permit, a TNC shall submit the following information to the Division:

1. Verification of an established oversight process pursuant to 220 CMR 274.03(2);
2. The proposed removable decal or trade dress it will issue to its Drivers;
3. The proposed document or means by which the TNC will use to obtain a Driver's consent for a Background Information check pursuant to 220 CMR 274.06(1)(b); and
4. Proof of adequate insurance as certified by the Massachusetts Division of Insurance in accordance with M.G.L. c. 159A½ and c. 228, § 175.

(d) The Division may request additional information from a TNC to determine whether to grant or renew a Permit.

(2) TNC Oversight Process.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

Consistent with the public interest of the Commonwealth, a TNC shall have an oversight process in place to:

- (a) Conduct Driver background checks in accordance with 220 CMR 274.06;
- (b) Ensure the safe pickup, transfer, and delivery of all Riders;
- (c) Ensure that its Drivers comply with 220 CMR 274.07 and 220 CMR 274.09;
- (d) Maintain a 24 hour toll-free customer service hotline, online webpage, and functionality within its Digital Network to respond to questions and complaints;
- (e) Ensure the security, protection, and privacy of Driver and Rider personal or private information in accordance with M.G.L. c. 93H, 201 CMR 17.00, and 220 CMR 274.10;
- (f) Ensure that the TNC and its Drivers do not discriminate against Riders or potential Riders with special needs or disabilities, which shall include but not be limited to ensuring that there are no additional charges or increased fares and that wheelchairs and service animals are accommodated;
- (g) Comply with the insurance requirements of G.L. c. 175, § 228 and 220 CMR 274.09;
- (h) Ensure that its Drivers' Vehicle(s) are in compliance with M.G.L. c. 90, § 7A;
- (i) Ensure that their Digital Network displays a clear and conspicuous total cost and price structure of each Ride before the Ride commences;
- (j) Prohibit the use of excessive minimum or base rates;
- (k) Ensure that its Drivers pay tolls at the commercial rate while providing Services;
- (l) Ensure that its Drivers maintain a valid Driver Certificate; and
- (m) Maintain a roster of Drivers who provide Services, which shall be updated monthly.

274.04: Transportation Network Driver Requirements

- (1) To provide Services, a Driver must:
  - (a) Be at least 21 years of age;
  - (b) Have a valid Clearance Certificate;
  - (c) Have a valid Driver Certificate;
  - (d) Have access to a Vehicle registered in the Commonwealth and inspected pursuant to M.G.L. c. 90, § 7A, or access to a Vehicle registered in another state that complies with the inspection requirements of that state; and
  - (e) Comply with RMV rules and regulations promulgated pursuant to M.G.L. c. 90, § 7A.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

- (2) A Driver shall only provide Rides through a Digital Network and shall not otherwise solicit, accept, arrange or provide Services through street hails, cruising or street solicitations.

274.05: Transportation Network Driver Certificate

- (1) A Driver shall not provide Services unless the Driver has been issued a valid Driver Certificate.
- (2) A TNC shall not issue a Driver Certificate to a Driver unless the TNC verifies that the Driver has:
- (a) A valid TNC background check pursuant 220 CMR 274.06(2);
  - (b) A valid Clearance Certificate pursuant to 220 CMR 274.06(3)(c);
  - (c) Adequate automobile insurance pursuant M.G.L. c. 175, § 228; and
  - (d) Complied with the motor vehicle requirements set forth in 220 CMR 274.08.
- (3) The Driver Certificate shall include:
- (a) Driver's Legal Name;
  - (b) Up-to-date facial image of the Driver; and
  - (c) Registration number of the Vehicle in use.
- (4) A Driver shall post their Driver Certificate, issued by the TNC for which the Driver is providing Services at the time of a Pre-arranged Ride, in the Vehicle so that it is clearly visible to the Rider while Services are provided.

274.06: Transportation Network Driver Background Check

- (1) Driver Background Check Process.
- (a) To provide Services, each Driver must successfully complete a two-part background check and not be otherwise deemed unsuitable. The first background check shall be completed by a TNC pursuant to 220 CMR 274.06(2) and the second background check shall be completed by the Division pursuant to 220 CMR 274.06(3).
  - (b) Prior to the Division background check, a TNC shall obtain a Driver's consent, consistent with 803 CMR 2.00, for the Division to conduct a background check of the Background Information of a Driver.
  - (c) After obtaining a Driver's consent for a background check of their Background Information, a TNC shall submit the following Driver information to the Division:
    - 1. Legal First Name;
    - 2. Legal Middle Name;
    - 3. Legal Last Name;
    - 4. Former Name(s);

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

5. Current Address;
6. Place of Birth (City and State);
7. Driver's License Number;
8. Driver's License State;
9. Date of Birth;
10. Last Six Digits of Social Security Number;
11. Electronic Mail Address; and
12. A Driver's consent, consistent with 803 CMR 2.00, to conduct a background check.

(d) If the two-part background check does not reveal a condition provided for pursuant to 220 CMR 274.19 and a Driver is not otherwise deemed unsuitable to provide Services, the Division shall issue a Clearance Certificate to the Driver and to each relevant TNC(s).

(2) TNC Background Check.

(a) A nationwide background check shall be conducted by a TNC and include a review of the following:

1. A multi-state/multi-jurisdictional criminal records locator or other similar commercial nationwide database with identity validation;
2. U.S. Department of Justice National Sex Offender Public website; and
3. A multi-state/multi-jurisdictional motor vehicle records locator or other similar commercial nationwide database with vehicle validation.

(b) A TNC shall conduct the nationwide background check not less than once every six months.

(c) If a TNC learns of and verifies a Driver's arrest for a crime or a citation for a driving infraction that would disqualify a Driver pursuant 220 CMR 274.19 from providing Services or render a Driver unsuitable pursuant the TNC's internal suitability requirements, the TNC shall immediately suspend or terminate the Driver's access to its Digital Network and immediately notify both the Driver and the Division.

(d) In addition to the requirements enumerated in 220 CMR 274.06(2), nothing shall prohibit a TNC from maintaining internal Driver background check and suitability requirements.

(3) Division Background Check.

(a) A statewide background check shall be conducted by the Division and shall include a review of the Background Information of a Driver to determine whether the Driver has any condition provided for pursuant to 220 CMR 274.19. If the Driver has any such condition, the Division will issue a negative determination of suitability to the Driver and relevant TNC(s).

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

- (b) The Division may also issue a negative determination of suitability if the statewide background check or any other reliable information demonstrates that a Driver:
1. Made an intentional or knowingly false statement on an application to provide transportation services; or
  2. Acted or is likely to act in a manner that has or may result in jeopardy to the health, safety, or welfare of any person.
- (c) The Division shall issue a Clearance Certificate to a Driver that has not been disqualified pursuant to 220 CMR 274.06(2) or (3).
- (d) If the Division learns of and verifies a Driver's arrest for a crime or a Driver's citation for a driving infraction that would render the Driver unsuitable to provide Services pursuant to 220 CMR 274.06(3), the Division shall immediately suspend or revoke the Driver's Clearance Certificate and notify the relevant TNC(s). If having been so notified, the TNC(s) shall immediately suspend or revoke the Driver's access to its Digital Network until the Division determines otherwise.
- (e) The Division shall conduct the background check pursuant to 220 CMR 274.06(3) not less than once annually.

274.07: Hours of Service

- (1) A Driver shall not offer or provide Services for more than 12 consecutive hours.
- (2) If a Driver is logged in to a Digital Network, the Driver will be presumed to be offering or providing Services.
- (3) A TNC shall adopt a policy designed to ensure that, after 16 cumulative hours logged into the Digital Network in a calendar day, the Driver shall log out of the Digital Network for not less than eight consecutive hours. For purposes of this provision, a Driver will not be presumed to have logged into the Digital Network if the login period does not exceed five minutes. The TNC shall enforce this policy through appropriate monitoring of available data and administration of disciplinary actions.
- (4) A TNC shall adopt a policy designed to ensure that no Driver is logged in to the Digital Network for more than 70 hours in a consecutive seven-day period. The TNC shall enforce this policy through appropriate monitoring of available data and administration of disciplinary actions. The TNC shall file the policy and any changes or updates with the Division.
- (5) Any Driver found by a TNC to have violated any requirement set forth in 220 CMR 274.07 shall be disconnected from the TNC's Digital Network for a period of not less than 24 consecutive hours.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

274.08: Motor Vehicle Requirements

- (1) A TNC shall issue a Division-approved removable decal or a trade dress to a Driver before the Driver provides Services. The Driver shall apply the removable decal or trade dress to the front and back panels of the Vehicle at all times while the Vehicle is used to provide Services. The removable decal or trade dress must be reflective, illuminated, or otherwise visible at night or in low-light environments.
- (2) A Driver who ceases to be certified to provide Services for any reason shall return the decal or trade dress to the respective TNC within 14 days, in a manner prescribed by the TNC.
- (3) Every Vehicle shall receive an annual inspection pursuant to M.G.L. c. 90, § 7A or registered in another state that complies with the inspection requirements of that state.
- (4) Every Vehicle shall comply with the insurance requirements set forth in M.G.L. c. 175, § 228.

274.09: Insurance

- (1) Proof of adequate insurance as certified by the Massachusetts' Division of Insurance, in accordance with M.G.L. c. 159A½ and c. 228, § 175, shall be required prior to a TNC receiving a Permit from the Department. Upon receipt of a Permit, and before a Driver can provide Services, a TNC shall clearly and conspicuously provide a Driver the following disclosures:
  - (a) A statement that the Driver's own automobile insurance policy might not provide coverage while the Driver provides Services.
  - (b) A statement of the automobile insurance coverage the TNC provides, including the types of coverage and the limits for each coverage, in each circumstance:
    1. A Driver logged onto the Digital Network and available to receive transportation requests, but not engaged in a Pre-arranged Ride;
    2. A Driver engaged in a Pre-arranged Ride; and
    3. A Driver not logged onto the Digital Network nor engaged in a Pre-arranged Ride.
- (2) Within seven days of receiving a Driver Certificate, a Driver shall disclose to the automobile insurance carrier, whose coverage applies to the Vehicle(s) used by the Driver to provide Services, that the Vehicle is used to provide Services.

274.10: Data Protection

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

- (1) A TNC shall protect from unauthorized disclosure any and all personal or private Rider or Driver information or data in its possession, including but not limited to:
  - (a) Name;
  - (b) Phone number;
  - (c) Address;
  - (d) Electronic mail address;
  - (e) Form and method of payment; and
  - (f) Global Positioning System (GPS) coordinates of a Pre-arranged Ride and for any time thereafter.
- (2) A TNC shall comply with the requirements of M.G.L. c. 93H and 201 CMR 17.00.
- (3) A TNC shall not provide personal or private information of a Rider or Driver to a third-party without prior express consent of the Rider or Driver.
- (4) A TNC shall maintain a policy that prohibits its employees and Drivers from accessing Rider or Driver personal or private information or data except for a legitimate, necessary business purpose.

274.11: Record Maintenance and Retention

- (1) A TNC shall maintain true and correct records. A TNC shall maintain such records in accordance with generally accepted accounting principles (GAAP), unless otherwise agreed to by the Division. A TNC, or third-party on behalf of a TNC, may maintain records in electronic format, provided that copies can be reproduced in their original format.
- (2) The following records shall, at a minimum, be maintained during a Driver's period of service and for one year thereafter:
  - (a) A Driver's application submitted to the TNC; and
  - (b) The disclosures provided to the Driver within the Driver's terms of service, including the Driver's acknowledgement of said terms.
- (3) The following records shall be maintained for a period of not less than three years:
  - (a) The following data for each Pre-arranged Ride:
    1. Driver's Vehicle registration number;
    2. Identity of Driver;
    3. Identity of Rider;
    4. Date and time of Ride;
    5. City or Town where Ride originated;
    6. Destination address;

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

7. Date and time of drop-off; and
8. Method of payment;
- (b) An up-to-date roster of Drivers authorized to provide Services, which shall include but not be limited to Driver information enumerated in 220 CMR 274.06(1)(c);
- (c) Records pertaining to accessibility of Rides, including but not limited to:
  1. Each Rider accommodated pursuant to 220 CMR 274.03(2)(f);
  2. A Driver's refusal to transport a Rider or potential Rider after the Driver and Rider or potential Rider were matched; and
  3. The monthly average price of Rides that accommodate individuals with special needs or disabilities; and
  4. Records pertaining to the price and base rate of Pre-arranged Rides.
- (4) The following records shall be maintained for a period of not less than seven years:
  - (a) Any suspension or revocation of a Driver Certificate, or any disciplinary actions taken against a Driver, and the reason(s) therefore;
  - (b) Incidents and complaints reported to a TNC relative to a Driver or Rider, including but not limited to:
    1. Specific nature of the incident or complaint;
    2. Date and Time;
    3. Trip origin, route, and drop-off location;
    4. Name of Driver;
    5. Name of Rider; and
    6. Actions taken and resolution; and
  - (c) Results of each Driver background check pursuant to 220 CMR 274.06(2).

274.12: Reporting Requirements

- (1) Pursuant to St. 2016, c. 187, § 8(b), by February 1<sup>st</sup> of each calendar year, a TNC shall submit to the Division a report for the number of Rides from the previous calendar year. The report shall include a clear and concise statement of the specific city or town where each Ride originated.
- (2) Pursuant to M.G.L. c. 25, § 23(b), by March 31<sup>st</sup> of each calendar year, a TNC shall report to the Division its intrastate operating revenues for the previous calendar year. A TNC's intrastate operating revenue shall include but not be limited to any Rider picked up at an airport, train station, bus terminal, or any other kind of port. If a TNC fails to report its intrastate operating revenues to the Division by



220 CMR: DEPARTMENT OF PUBLIC UTILITIES

March 31<sup>st</sup> of each calendar year, the Division may estimate a TNC's intrastate operating revenues.

- (3) A TNC shall provide to the Division a detailed monthly accounting of all complaints received pursuant to M.G.L. c. 159A½, § 3(c)(viii).
- (4) A TNC shall immediately notify the Division upon receipt of information that a Driver utilizing its Digital Network violated any aspect of M.G.L. c. 159A½ or 220 CMR 274.00.
- (5) A TNC shall immediately provide the Division with any incidents or complaints related to a violation of M.G.L. c. 93H, 201 CMR 17.00, or 220 CMR 274.10 by the TNC, its employee(s), or a third-party on behalf of a TNC. The information the TNC provides the Division shall include, but not be limited to:
  - (a) Specific nature of incident or complaint;
  - (b) Date and time of incident or complaint;
  - (c) Name of employee(s) or third-party vendor(s) directly involved;
  - (d) Name of Driver(s) and Rider(s); and
  - (e) Actions taken and resolution.
- (6) Within 30 days of a violation of either M.G.L. c. 93H or 201 CMR 17.00, a TNC shall verify with the Division that it has fulfilled the appropriate notification requirements pursuant to M.G.L. c. 93H, § 3.

274.13: Inspection and Audit

- (1) For the purpose of verifying that a TNC is in compliance with the requirements of M.G.L. c. 159A½ and 220 CMR 274.00, the Division may inspect a sample of records that the TNC is required to maintain. If, after this initial review, the Division has reasonable basis to conclude that the TNC is not in compliance with 220 CMR 274.00, the Division may, upon reasonable notice, conduct a supplemental audit of records.
- (2) In response to a complaint or incident, the Division may inspect any and all of the TNC's records related to the complaint or incident at issue.
- (3) The Division shall quarterly audit records relating to 220 CMR 274.06(2) and Driver certification by a TNC.
- (4) Within ten days of receiving a request from the Division pursuant to 220 CMR 274.13, the TNC shall transmit requested records to the Division via a secure delivery method, which may include use of encryption security.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

(5) If a Division audit is conducted by an agreed upon third-party, the expenses of the examination shall be borne and paid by the TNC that is under examination.

274.14: Enforcement

(1) If a Driver is cited for a violation for 220 CMR 274.08(1) or (2), the Division shall impose a \$500 fine on each respective TNC for which the Driver provides Services.

(2) If a TNC is found in violation of M.G.L. c. 159A½ or 220 CMR 274.00, the Division shall take appropriate enforcement action it deems necessary, including but not limited:

- (a) Abstaining from issuing Clearance Certificates;
- (b) Suspending, revoking, or denying renewal of a Permit; and
- (c) Issuing monetary penalties.

(3) In determining the amount of any monetary penalty, the Division shall consider, without limitation:

- (a) The size of the TNC based on the TNC's intrastate operating revenues for the previous calendar year, which shall include but not be limited to a Rider picked up at an airport, train station, bus terminal, or any kind of port;
- (b) The gravity of violation, which shall include but not be limited to the degree of the TNC's compliance with payment of tolls at the commercial rate pursuant to 220 CMR 274.03(2)(k);
- (c) The degree to which the TNC exercised good faith in attempting to achieve compliance or to remedy non-compliance; and
- (d) Any previous violations by the TNC cited by the Division.

274.15: Appeals

(1) If the Division suspends or revokes a Driver's Clearance Certificate pursuant to 220 CMR 274.06(3), said Driver shall have a right of appeal to the Division. A Driver aggrieved by a final order or decision of the Division shall have a right of appeal to Superior Court.

(2) Prior to taking any enforcement action pursuant to 220 CMR 274.14(2), the Division shall first provide a TNC notice and an opportunity for hearing. A TNC aggrieved by a final order or decision of the Division shall have a right of appeal to the Commission of the Department.

(3) Any claim of appeal, to the Division or the Commission of the Department, shall be submitted within 30 days from the date of the receipt of the decision for which the party is aggrieved and in a manner the Division prescribes. The claim of

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

appeal shall specifically set forth the grounds upon which the appellant claims to be aggrieved by the decision.

(4) The burden of proof shall be on the appellant to demonstrate that a decision should be modified or vacated.

(5) A Driver or TNC aggrieved by a final order or decision may appeal for judicial review in the Superior Court within 30 days after receipt of such order or decision. Any proceedings in the Superior Court shall, insofar as applicable, be governed by G.L. c. 30A, § 14, and may be instituted in the Superior Court for the county:

- (a) Where the parties or any one of the parties reside or have their principal place of business within the Commonwealth;
- (b) Where the Division has its principal place of business; or
- (c) Suffolk.

(6) An appeal by an aggrieved party of a decision shall, unless otherwise ordered by the Division, Commission of the Department, or a Court of competent jurisdiction, not operate as a stay of the decision.

274.16: Notice

Any notice sent to the physical or electronic mail address that the Division has on file for a party shall constitute prima facie evidence that the party received the notice.

274.17: Waiver

On its own motion, or for good cause shown, and not contrary to statute, the Department may waive any provision of 220 CMR 274.00.

274.18: Severability

The provisions of 220 CMR 274.00 shall be deemed severable if any particular provision(s) is (are) rendered invalid by judicial determination or by statutory amendment.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

274.19: Disqualifying Conditions

All of the offenses included in 220 CMR 274.19 are to be construed as including all violations of Massachusetts law or like/similar violation(s) of the law(s) of another state, the United States, a military, territorial or Native American tribal authority, or any other jurisdiction.

<b>DISQUALIFYING CONDITIONS</b>	
<b>Present Look Back Period</b>	
<b>Licensed Driver</b>	
Definition	If under 23 years of age, have not held a valid United States driver's license for not less than three years; or If 23 years of age or older, have not held a valid United States driver's license for not less than one year.
<b>Open/Unresolved Cases</b>	
Definition	Any outstanding or unresolved criminal proceedings, the disposition for which would result in a negative determination of suitability.
<b>Open/Unresolved Warrants</b>	
Definition	Any outstanding or unresolved warrant for arrest.
<b>Open/Unresolved Driving Infractions</b>	
Definition	Any outstanding or unresolved driving infraction(s) that would result in a negative determination of suitability.
<b>Lifetime Look Back Period</b>	
<b>Felony Robbery</b>	
Definition	M.G.L. c. 265, § 17 (armed robbery).
	M.G.L. c. 265, § 18 (assault to rob).
	M.G.L. c. 265, § 19 (unarmed robbery).
	M.G.L. c. 265, § 21 (stealing by confining or putting in fear).
	M.G.L. c. 265, § 21A (carjacking).
	M.G.L. c. 266, § 14 (armed burglary).

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

	Or attempt, solicitation, or conspiracy to commit these offenses, or being an accessory thereto.
Disposition	Conviction or continuation without a finding (CWOFF)

**Violent Crimes**

Definition	Any “violent crime,” as defined in M.G.L. c. 140, § 121, that is punishable by ten years or more in state prison (including attempt, solicitation, conspiracy, or accessory thereto).
Disposition	Conviction or CWOFF

**Sex, Abuse, and Exploitation Offenses**

Definition	Any “sex offense,” as defined in M.G.L. c. 6, § 178C (including attempt, solicitation, conspiracy, or accessory thereto).
	M.G.L. c. 265, § 13L (child endangerment).
	M.G.L. c. 265, § 43 (stalking).
	M.G.L. c. 265, § 43A (criminal harassment).
	M.G.L. c. 272, § 6 (owner of place inducing or suffering person to resort in such place for sexual intercourse).
	M.G.L. c. 272, § 7 (support from, or sharing, earnings of prostitute).
	M.G.L. c. 272, § 8 (soliciting for prostitute).
	M.G.L. c. 272, § 12 (procuring person to practice, or enter a place for, prostitution; employment office procuring person).
	M.G.L. c. 272, § 13 (detaining, or drugging to detain, person in place for prostitution).
	M.G.L. c. 272, § 16 (open and gross lewdness and lascivious behavior).
	M.G.L. c. 272, § 53 (indecent exposure).
	M.G.L. c. 272, § 53 (accosting or annoying another person).
	M.G.L. c. 272, § 53A (engaging in sexual conduct for a fee).
M.G.L. c. 272, § 105 (upskirting).	
Disposition	Conviction or CWOFF

**Sex Offender Registration**

Definition	Required to register as sex offender.
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220 CMR: DEPARTMENT OF PUBLIC UTILITIES

<b>Serious Bodily Injury Driving Offenses</b>	
Definition	M.G.L. c. 90, § 24(2)(a ½)(2) (leaving the scene of an accident causing death).
	M.G.L. c. 90, § 24G (operating under the influence (OUI) motor vehicle homicide).
	M.G.L. c. 90, § 24L (OUI causing serious bodily injury).
	M.G.L. c. 265, § 13½ (OUI manslaughter).
Disposition	Conviction or CWOFF
<b>Multiple Driving Offenses</b>	
Definition	Two or more convictions or CWOFFs for any OUI, any leaving the scene of personal injury or property damage, any offense under M.G.L. c. 90, § 24(2)(a), or any combination thereof.
Disposition	Conviction or CWOFF
<b>Seven Year Look Back Period</b>	
<b>Violent Crimes 2</b>	
Definition	Any “violent crime,” as defined M.G.L. c. 140, § 121; Any assault; Any assault and battery; Any threat to commit a crime; Any violation of a M.G.L. c. 209A order; or Any crime involving the illegal use or possession of weapons.
Disposition	Conviction or CWOFF
<b>Felony Convictions</b>	
Definition	Any offense with an available maximum penalty of more than two and one-half years’ imprisonment.
Disposition	Conviction

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

<b>Felony Fraud</b>	
Definition	<p>M.G.L. c. 266, §§ 30 (larceny – over \$250 only); 30B (unlawful possession of theft detection shielding device or deactivator); 30C (use of counterfeit receipt with intent to defraud); 30D (organized retail crime); 31 (obtaining signature by false pretenses); 32 (fraudulent conversion of property by captain of vessel); 33 (larceny by false pretenses relating to contracts, banking transactions or credit); 35A (false material statements in connection with mortgage lending); 37 (uttering fraudulent checks); 37C (fraudulent use of credit cards – felony form only); 39 (destruction or concealment of will); 40 (common and notorious thief); 50 (fraud or embezzlement by state treasury employee); 51 (fraud or embezzlement by city, town or county employee); 52 (fraud or embezzlement by bank officer or employee); 53A (misconduct by bank officer or employee); 55 (embezzlement by liquidating agent or receiver); 56 (embezzlement by broker or agent); 57 (embezzlement by fiduciary); 60A (buying or selling stolen trade secrets); 66 (fraudulent issue of stock); 67 (false entry in corporate books); 67A (false statement in procurement); 67B (presentation of false claims); 67C (false entry in records relating to capital construction projects); 73 (obtaining goods under false pretenses); 74 (fraudulent use of corporate credit); 75 (obtaining property by trick – over \$250 only); 76 (gross fraud or cheat at common law); 110 (false invoice of cargo); 111 (false affidavit or protest); and 111A, 111B, 111C (insurance fraud).</p>
	<p>M.G.L. c. 267, §§ 1 (false or forged records); 2 (forged tickets); 3 (forged seal of land court); 4 (forged railroad company stamp); 5 (uttering false record); 6 (uttering forged ticket); 7 (forged bill of credit issued by treasurer); 8 (forged bank bill or note); 9 (possession of ten or more counterfeit notes); 10 (uttering counterfeit note); 11 (common utterer); 12 (possession of counterfeit notes); 13 (possession of tools for counterfeiting); 17 (possession of ten or more counterfeit coins); 18 (possession of fewer than ten counterfeit coins); 19 (common utterer of counterfeit coins); 20 (tools for making counterfeit coin); 27 (possession of worthless bank notes); and 28 (uttering worthless bank notes).</p>
	<p>M.G.L. c. 268, §§ 1 (perjury); 2 (subornation of perjury); 3 (attempt to procure perjury); 6 (report before state departments); 13 (corrupting masters, auditors, jurors, arbitrators); 13B (willfully misleading to obstruct a criminal investigation); 13E (tampering with record document for use in judicial proceeding); 36 (compounding or concealing a felony); and 39 (perjury related to motor vehicle theft).</p>

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

	Or attempt, solicitation or conspiracy to commit these offenses, or being an accessory thereto.
Disposition	Conviction or CWOFF
<b>Operating Under the Influence (OUI)</b>	
Definition	M.G.L. c. 90, § 24 (OUI motor vehicle).
	M.G.L. c. 90B, §§ 8, 8A, 8B (OUI watercraft).
	M.G.L. c. 90F, § 11 (OUI by commercial operator).
Disposition	Conviction or CWOFF
<b>Reckless Operation of Motor Vehicle</b>	
Definition	Any offense under M.G.L. c. 90, § 24(2)(a).
	M.G.L. c. 90, § 24(2)(a ½)(1) (leaving the scene of an accident causing personal injury).
Disposition	Conviction or CWOFF
<b>Habitual Traffic Offender</b>	
Definition	M.G.L. c. 90, § 24 (habitual traffic offender).
<b>Suspension of Driver's License</b>	
Definition	Any suspension of driver's license for reasons related to the operation of a motor vehicle.
<b>Three Year Look Back Period</b>	
<b>Multiple Traffic Violations</b>	
Definition	More than four violations, in any combination, of the Traffic Laws and At Fault Accidents (pursuant to 211 CMR 134.00), and M.G.L. c. 159A½, § 7; or Any one Major Traffic Violation (pursuant to 211 CMR 134.00).

REGULATORY AUTHORITY

220 CMR 274.00: M.G.L. c. 25, § 23(a) and c. 159A½.