



Province of Alberta

TRAFFIC SAFETY ACT

TRANSPORTATION NETWORK COMPANIES REGULATION

Alberta Regulation 100/2016

Extract

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ALBERTA REGULATION 100/2016

Traffic Safety Act

**TRANSPORTATION NETWORK
COMPANIES REGULATION**

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Interpretation

1(1) For the purposes of the Act and this Regulation, “transportation network company” means a corporation, partnership, sole proprietorship, association or other entity or individual that connects passengers with transportation network drivers for pre-arranged transportation exclusively through the offering, use or operation of a transportation network.

(2) In this Regulation,

- (a) “Act” means the *Traffic Safety Act*;
- (b) “for compensation” means that a transportation network driver is being paid for the transportation services that a transportation network automobile is being used to provide, but does not include any payment when the transportation network driver drives a motor vehicle, that is from time to time operated as a transportation network automobile, for the transportation of passengers on an incidental or occasional basis and receives payment in respect of that transportation of those passengers only in one or more of the following forms:
 - (i) as payment for the kilometres travelled at a rate not exceeding the limit of tax exempt allowance paid by

- employers to employees as prescribed in section 7306 of the *Income Tax Regulations* (Canada — CRC chapter 945);
- (ii) as straight reimbursement for out of pocket expenses directly related to the transportation, including, without limitation, gas, parking, gate passes and tolls;
 - (iii) in a case where the transportation network driver is party to an agreement to provide transportation to only the transportation network driver's family members, members of the transportation network driver's household or persons for whom the transportation network driver is a legal guardian, as compensation only to provide transportation to those persons;
- (c) "motor vehicle liability policy" means a motor vehicle liability policy under the *Insurance Act*;
 - (d) "transportation network" means an online enabled application, a digital platform, software, a website, or any other system offered, used or operated by a transportation network company and that is used by persons to pre-arrange the transportation of passengers for compensation by a transportation network driver;
 - (e) "transportation network automobile" means a motor vehicle with a manufacturer's seating capacity originally designed for 8 or fewer passengers, including the driver, used to provide pre-arranged transportation of passengers for compensation through the use of a transportation network, but does not include a taxi;
 - (f) "transportation network automobile insurance policy" means a contract of automobile insurance maintained by a transportation network company that specifically covers liabilities arising from a transportation network driver's use or operation of a transportation network automobile for transportation network services;
 - (g) "transportation network driver" means a person authorized by a transportation network company to operate a transportation network automobile to provide pre-arranged transportation of passengers for compensation through the use of a transportation network;
 - (h) "transportation network services" means

- (i) any time a transportation network driver operating a transportation network automobile is logged onto a transportation network for the purposes of accepting requests for transportation services for compensation from prospective passengers,
- (ii) any time from the moment a transportation network driver operating a transportation network automobile has accepted a ride request through a transportation network, continuing while that transportation network driver is en route to pick up prospective passengers to provide transportation services for compensation, and ending when the first passenger enters the transportation network automobile or a trip is cancelled, whichever is later, or
- (iii) any time from the moment a transportation network driver operating a transportation network automobile has passengers in a transportation network automobile, continuing while such passengers are being transported for compensation, and ending when the last passenger departs from the transportation network automobile.

Approval of transportation network company operation

2(1) A transportation network company shall not operate in Alberta without being authorized to do so by an approval granted by the Registrar for that purpose.

(2) A person who wishes to obtain an approval to operate as a transportation network company must apply to the Registrar for the approval and provide the following information in a form acceptable to the Registrar:

- (a) the transportation network company's name and principal place of business in Alberta;
- (b) if the transportation network company does not have a principal place of business in Alberta, the name and address of the transportation network company's resident agent or representative in Alberta;
- (c) the location in Alberta of the records referred to in section 4(1), (2), (3) and (6) or a location from which, on demand by a peace officer or the Registrar under section 5, the records can be produced;
- (d) the geographic scope of the transportation network company's operations in Alberta;

- (e) the number of the transportation network company's transportation network drivers in Alberta;
 - (f) any additional information or material that the Registrar considers appropriate to determine whether to grant the approval.
- (3)** The Registrar may, after considering an application for an approval,
- (a) issue to the applicant an approval, for a term of up to one year with or without terms and conditions, or
 - (b) refuse the application for an approval.
- (4)** The Registrar may refuse to issue an approval to a person if
- (a) the person or the person's agent makes a false statement or provides misleading information in the application for the approval,
 - (b) the person or the person's agent provides false information to the Registrar,
 - (c) the person or the person's agent refuses to provide the information required under this Regulation to the Registrar,
 - (d) the person has contravened any provision of the Act or the regulations and, in the Registrar's opinion, that contravention affects the person's fitness to hold an approval, or
 - (e) in the opinion of the Registrar, it is not in the public interest to issue an approval to the person.
- (5)** The Registrar shall
- (a) notify the applicant of the decision in writing,
 - (b) if the application is refused, give reasons for the refusal and notify the applicant of the applicant's right to appeal to the Board under section 3, and
 - (c) if terms and conditions are imposed, notify the applicant of the applicant's right to appeal to the Board under section 3.
- (6)** A transportation network company shall notify the Registrar immediately in writing if it ceases operations.

(7) On being notified under subsection (6), the Registrar shall cancel the approval of the transportation network company.

(8) Despite subsection (1), a transportation network company that is operating in Alberta on or before the date this Regulation comes into force that has not submitted an application for an approval under this Regulation and that complies with sections 4 and 5 is deemed to have been issued an approval by the Registrar under subsection (3)(a) and, subject to subsections (9) and (10), may operate as a transportation network company under this Regulation.

(9) The deemed approval under subsection (8) is in effect for 30 days from the coming into force of this Regulation, within which time the transportation network company referred to in subsection (8) shall submit an application for an approval under subsection (2).

(10) If the transportation network company referred to in subsection (8) does not submit an application for an approval within the time specified in subsection (9), or the Registrar does not issue an approval, the transportation network company shall cease operations.

(11) Subsections (8) to (10) are repealed 30 days after the coming into force of this Regulation.

Appeal

3(1) An applicant may appeal a refusal of an application for an approval or the imposition of terms and conditions on an approval to the Board.

(2) In determining an appeal commenced pursuant to this section, the Board may

- (a) confirm, vary or rescind the decision made by the Registrar, or
- (b) set aside the decision made by the Registrar and make any decision that the Registrar is empowered to make.

Requirements

4(1) A transportation network company shall ensure that all its transportation network drivers have a valid and subsisting Class 1, 2 or 4 operator's licence as referred to in the *Operator Licensing and Vehicle Control Regulation* (AR 320/2002) at all times that the transportation network drivers provide transportation network services.

(2) A transportation network company shall ensure that any person applying to it to be authorized as a transportation network driver has a police information check and a vulnerable sector search, reviewed by and acceptable to the transportation network company, prior to authorizing that person to perform transportation network services.

(3) A transportation network company shall ensure that at all times all its transportation network drivers have been issued a police information check within the previous 12 months.

(4) A transportation network company shall not authorize any person as a transportation network driver if during the 10 years immediately preceding the person's application to be authorized as a transportation network driver the person was convicted of an offence under the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada) that is related to the functions, duties or business of a transportation network company or a transportation network driver, including, without limitation,

- (a) any offence of a violent nature, including firearms and weapons offences,
- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching,
- (c) trafficking,
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion or theft, or
- (e) any offence relating to the unlawful operation of a motor vehicle.

(5) A transportation network company shall not maintain the authorization of any person as a transportation network driver if the person is charged with or convicted of an offence under the *Criminal Code* (Canada) or the *Controlled Drugs and Substances Act* (Canada) that is related to the functions, duties or business of a transportation network company or a transportation network driver, including, without limitation,

- (a) any offence of a violent nature, including firearms and weapons offences,
- (b) any offence involving sexual assault, sexual exploitation, sexual interference, procuring or invitation to sexual touching,

- (c) trafficking,
- (d) any offence involving fraud or fraudulent transactions, conspiracy to defraud, the use of false pretences, bribery, extortion or theft, or
- (e) any offence relating to the unlawful operation of a motor vehicle.

(6) A transportation network company shall ensure that its transportation network drivers and the transportation network automobiles they operate are covered at all times that the drivers and the automobiles provide transportation network services by either

- (a) a motor vehicle liability policy
 - (i) that complies with the *Insurance Act* and its regulations,
 - (ii) that provides for insurance coverage of not less than \$1 000 000 for liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property as a result of any single accident that arises any time that a transportation network driver or transportation network automobile is engaged in providing transportation network services as described in section 1(2)(h), and
 - (iii) that provides for passenger hazard coverage of not less than \$1 000 000 for liability resulting from bodily injury to or the death of one or more persons as a result of any single accident that arises any time that a transportation network driver or transportation network automobile is engaged in providing transportation network services as described in section 1(2)(h)(iii),

or

- (b) a motor vehicle liability policy or a transportation network automobile insurance policy
 - (i) that has been approved in accordance with the *Insurance Act*,
 - (ii) that complies with the *Insurance Act* and its regulations,
 - (iii) that provides for insurance coverage of not less than \$1 000 000 for liability resulting from bodily injury

to or the death of one or more persons and loss of or damage to property as a result of any single accident that arises any time that a transportation network driver or transportation network automobile is engaged in providing transportation network services as described in section 1(2)(h)(i), and

- (iv) that provides for insurance coverage of not less than \$2 000 000 for liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property as a result of any single accident that arises any time that a transportation network driver or transportation network automobile is engaged in providing transportation network services as described in section 1(2)(h)(ii) and (iii).

(7) The requirements of subsection (6) may be satisfied by any of the following:

- (a) insurance maintained by a transportation network company;
- (b) insurance maintained by a transportation network driver;
- (c) insurance maintained by the owner of a transportation network automobile;
- (d) any combination of the insurance referred to in clauses (a) to (c).

(8) If the transportation network company obtains the motor vehicle liability policy or the transportation network automobile insurance policy referred to in subsection (6), the transportation network company shall provide a copy of the policy, which may be in electronic form, to its transportation network drivers.

(9) If subsection (8) applies, the transportation network company shall disclose in writing to its transportation network drivers the types of insurance coverage and the liability limits for each type of insurance coverage provided under the motor vehicle liability policy or the transportation network automobile insurance policy referred to in subsection (6).

(10) The transportation network company shall advise its transportation network drivers in writing that the driver's own personal motor vehicle liability policy, having regard to its terms, may not provide any coverage while the transportation network driver is providing transportation network services.

(11) The transportation network company shall cooperate in respect of the investigation of any loss or claim, and produce in

writing to any insurers, to any peace officer, and to any directly affected parties, including anyone sustaining loss or injury, information or documents related to the loss or claim.

(12) The information and documents referred to in subsection (11) include the dates and times of an accident involving a transportation network driver and transportation network automobile and the precise times that the transportation network driver logged in and was logged out of the transportation network.

(13) A transportation network company shall ensure that its transportation network drivers do not solicit, accept or transport passengers other than through the use of a transportation network.

(14) If any of the information required to be submitted under section 2(2)(a) to (f) changes or is changed, the transportation network company shall notify the Registrar within 15 days after the change.

Records

5(1) The documents or copies of the documents required by section 4(1), (2), (3) and (6) must be maintained by the transportation network company

- (a) for a minimum of 5 years for every transportation network driver, and
- (b) for a minimum of 2 years after a former transportation network driver's last recorded trip for that transportation network company.

(2) The documents or copies of the documents required by section 4(1), (2), (3) and (6) and any documents relating to the transportation network company's operation must be produced by the transportation network company within 24 hours of a demand by a peace officer or the Registrar.

Contents of notices of administrative penalties

6(1) A notice of an administrative penalty imposed under section 129.2 of the Act must contain the following information:

- (a) the name of the person on whom the administrative penalty is imposed;
- (b) the provision of Part 6.1 of the Act or of the regulations the person has contravened or failed to comply with;
- (c) a brief description of the nature of the contravention or failure to comply identified under clause (b);

- (d) the amount of the administrative penalty imposed;
- (e) whether the penalty is fixed or accumulates for each day or part of a day that the contravention or failure to comply occurs or continues;
- (f) the date the notice of the administrative penalty is issued;
- (g) the date by which the penalty must be paid, unless the penalty is an accumulating penalty;
- (h) a statement describing the right of a person on whom the administrative penalty is imposed to appeal the administrative penalty to the Board, the addresses to which the appeal is to be sent, how the appeal is to be made and the date by which the appeal is to be made.

(2) The form of the notice of the administrative penalty, containing at least the information described in subsection (1), must be approved by the Registrar.

Manner of determining amount of administrative penalty

7(1) The Registrar is to determine the amount of the administrative penalty imposed on a person after considering the following factors and the considerations described in subsection (2):

- (a) the seriousness of the contravention or failure to comply;
- (b) the nature of the transportation network company operation;
- (c) whether an accident occurred or the danger that an accident could have occurred as a result of the contravention or failure to comply;
- (d) the history of contraventions of or failures to comply with Part 6.1 of the Act or the regulations by the person on whom the administrative penalty is imposed.

(2) The Registrar is to be guided by the following considerations:

- (a) the amount of the administrative penalty imposed should reflect the seriousness of the contravention or failure to comply;
- (b) the greater the danger or possibility that an accident could have occurred, or the greater the degree of risk to people or property that did occur as a result of the contravention or failure to comply, or the fact that an accident did occur, the higher the penalty should be;

- (c) the more times a person has previously been issued an administrative penalty the higher the penalty should be;
- (d) the greater the degree of wilfulness or neglect in the contravention or failure to comply, the higher the penalty should be.

Limitation period

8 An administrative penalty may be imposed only within 6 months of the date the Registrar first becomes aware of the contravention of or failure to comply with Part 6.1 of the Act or the regulation in respect of which the administrative penalty is to be imposed.

Coming into force

9 This Regulation comes into force on the coming into force of section 9 of the *Traffic Safety Amendment Act, 2016*.



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