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SENATE

S.B. No. 729

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Introduced by SEN. WIN GATCHALIAN

**AN ACT
REGULATING TRANSPORTATION NETWORK SERVICES, IMPOSING AND
AUTHORIZING FEES, PROVIDING PENALTIES FOR VIOLATIONS THEREOF
AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

One of the reasons for the worsening traffic situation in the Philippines is the overpopulation of vehicles in the metropolitan area. Thousands of public utility vehicles (PUVs) and private vehicles clog the streets of Manila every day, which results in traffic jams along the main highways and major roads. As a consequence, not only is the transport of commuters delayed and their time wasted but the country as a whole suffers economic losses. According to Socioeconomic Planning Secretary Arsenio Balisacan, "the Philippines is losing P2.4 billion a day in potential income due to traffic congestion that eats up time that could have been used for productive pursuits." The National Economic and Development Authority (NEDA) proposes that the primary solution to the traffic situation is still the improvement of transportation infrastructure. However, we cannot standstill while waiting for the government to develop our transportation network. We must look for alternatives to alleviate the suffering of our people in their daily commute.

It is therefore high time that we recognize the potential of Transportation Network Services (TNS) to spur advancements in the transportation industry. The emergence of Transportation Network Vehicle Services (TNVS) such as Uber and Grab Taxi provides commuters more choices in their daily commute. The additional competition in the transportation industry will compel existing taxi operators to improve their service in terms of convenience, safety and efficiency. Furthermore, ridesharing will help decongest roads by encouraging vehicle owners to leave their car at home and utilize a transportation network service instead.

In lieu of this development, the DOTC issued Department Order No. 2005-011 (DO No. 15-011) to recognize the new nature of ridesharing services. It intends to modernize and improve transportation services by the innovative use of technology to facilitate ridesharing services between a Transportation Network Driver (TND) and a Transportation Network Passenger (TNP). DO No. 15-011 allowed Transportation Network Companies (TNC) to operate in the Philippines and facilitate transactions between a TND and a TNP. It also provides the guidelines for the selection and accreditation of drivers.

However, DO No. 15-011 has faced heavy opposition since its promulgation. Taxi operators allege that the said Order offers unfair competition in favor of TNCs and TNVs because they are not subject to the same regulation as that of taxis. Some Congressmen also expressed their reservation citing issues on liability and tax collection.

This bill seeks to address these questions by defining the nature of TNCs and TNVs. First and foremost is the classification of TNCs and Transportation Network Vehicles as a public utility. TNCs and TNVs are obligated under a contract of carriage once a passenger avails of their service. As a common carrier, liability attaches once the contract between a TNP, a TNV, and a TNC is executed. A TNC therefore cannot evade liability by contending that they are merely a technological platform to connect the TNP with the TND. The TNC is the means and method by which the transportation service is arranged and facilitated. Furthermore, they amass profit from facilitating the TNVS. The TNCs cannot have their cake and it eat too. They

must be responsible for the service they provide and be held liable for any breach on the contract of carriage.

This bill also provides the standards in the accreditation of transportation network service providers and ensure the qualification of their drivers. It also requires the TNDs to issue electronic receipts for passenger safety and taxation purposes.

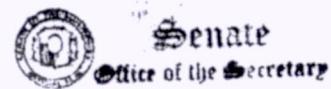
It is our intention to ensure that regulation is not a hindrance, but continues to be the safety net that the public can rely on for its protection.¹ In the interest of transportation development and public service, support for the passage and approval of this legislation is earnestly sought.



SHERWIN T. GATCHALIAN

¹ CPUC Decision 13-09-045

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session



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AN ACT

REGULATING TRANSPORTATION NETWORK SERVICES, IMPOSING AND
AUTHORIZING FEES, PROVIDING PENALTIES FOR VIOLATIONS THEREOF
AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

CHAPTER 1

GENERAL PROVISIONS

1 SECTION 1. ***Short Title.*** – This Act shall be known as the "Transportation
2 Network Service Act."

3 SEC. 2. ***Declaration of Policy.*** – It is hereby declared that the State shall
4 recognize and encourage alternative modes of transportation to provide the riding
5 public with more options and to spur advancements in the transportation industry.
6 Towards this end, the State shall enact measures for the development and
7 regulation of transportation network companies and vehicles and to ensure the
8 safety of both the driver and the riding public.

9 SEC. 3. ***Definition of Terms.*** – As used in this Act:

1 a) *Board* refers to the Land Transportation Franchising and Regulatory Board;

2 b) *Digital network* refers to any online-enabled application, software, website,
3 or system offered or used by a transportation network company that enable the
4 pre-arrangement of a ride with a transportation network driver;

5 c) *Transportation Network Services* refer to transportation provided by a
6 Transportation Network Driver (TND) to a Transportation Network Passenger
7 (TNP), beginning at the time the driver accepts a ride requested by the
8 passenger through a digital network controlled by a Transportation Network
9 Company (TNC), continuing while the driver transports the passenger, and
10 ending at the time the last requesting passenger departs from the driver's
11 transportation network vehicle;

12 d) *Transportation Network Company (TNC)* refers to an organization,
13 whether a corporation, partnership, sole proprietor, or other form, operating in
14 the Philippines that provides pre-arranged transportation services for
15 compensation using an online-enabled app or platform to connect passengers
16 with drivers using their personal vehicles.

17 e) *Transportation Network Driver (TND)* refers to an individual who:

18 i. Receives connections to potential TNP and related services from a
19 TNC in exchange for payment of a fee to the company; and

20 ii. Uses a TNV to offer or provide TNS to a TNP through a digital
21 network controlled by the company in exchange for compensation or payment of
22 a fee;

23 f) *Transportation Network Vehicle (TNV)* refers to a vehicle accredited by a
24 TNC and used by a TND to provide TNS;

25 g) *Transportation Network Vehicle Operators (TNVO)* refers to owners of
26 TNVS used by a TND to provide TNS.

1 *h) Transportation Network Passenger (TNP)* refers to an individual who uses
2 a TNC's digital network to connect with a TND who provides TNS to the individual
3 using a TNV between points chosen by the individual.

4 *i) Commercial Liability Insurance* refers to a standard insurance policy issued
5 to a TNC to cover any liability claims for breach, bodily injury, death and property
6 damage arising during the course of the TNS.

7 **SEC. 4. *Nature of Transportation Network Companies And Vehicles.*** –
8 TNCs offer, represent and/or engage themselves to carry TNPs who opt to avail of
9 their digital network service. TNCs are hereby declared as common carriers. A
10 contract of carriage commences from the time a TNP makes an pre-arranged ride
11 with the TNC and ends at time the TNV carrying the TNP arrives at the designated
12 location.

13 TNV operators are common carriers in the course of the TNS and are
14 responsible for any breach in the contract of carriage.

15 **SEC. 5. *Liabilities.*** –

16 a) The diligence required of TNCs and TNDs in the conduct of their business
17 is extra-ordinary diligence as defined by law. A TND is presumed to be negligent
18 when there is breach in the contract of carriage. The liability may include, but is
19 not limited to actual and moral damages as well as indemnity for loss of earning
20 capacity. The TNC and the owner/operator of the TNV shall be jointly and
21 solidarily liable with the TND.

22 b) Taxicabs, limousines, or similar for-hire vehicles which also avail of digital
23 networks to connect and provide transportation services to their passengers for
24 pre-arranged rides shall likewise be covered under the provisions of this Act and
25 remain liable under the conditions set forth under their Certificate of Public
26 Conveyance and Necessity and other existing laws, rules and regulations.

27 **SEC. 6. *Applicability of Existing Regulations.*** - All memorandums and
28 guidelines promulgated by the Board shall suppletorily apply to all claims in case of
29 any breach by the TNC or the owner/operator of TNV on the contract of carriage

1 without prejudice to any other administrative or court proceedings instituted by the
2 aggrieved party.

3 SEC. 7. **Regulatory Authority.** – TNCs and TNVOs shall be governed by the
4 provisions of this Act and other rules adopted by the Board pursuant to this Act.

5 **CHAPTER 2**

6 **ACCREDITATION OF TRANSPORTATION NETWORK COMPANY**

7 SEC. 8. **Accreditation.** – A person, firm or corporation shall only be allowed
8 to operate a TNC by obtaining and maintaining a permit to be issued by the Board
9 upon compliance with the requirements set forth by this Act and other reasonable
10 conditions as may be provided by the Board.

11 SEC 9. **Accreditation Fee.** – An accreditation fee to be set by the Board
12 shall be paid upon filing of the application and before the issuance of the Certificate
13 of TNC Accreditation.

14 SEC 10. **Application for accreditation.** –

15 a) An application for a TNC accreditation must be in a form prescribed by the
16 Board. The application shall contain information required by this Act and other
17 pertinent data that the Board may deem necessary to assess and identify the
18 applicant's qualifications to adequately serve the public.

19 b) The applicant shall notify the Board of any material change in the
20 information included in an application not later than ten (10) days after the
21 change occurs. The Board shall prescribe a form for the disclosure of material
22 changes.

23 SEC. 11. **Term and Renewal of Accreditation.** –

24 a) An accreditation issued under this Act is valid for two years unless sooner
25 revoked by the Board for reasonable cause. The Board shall prescribe the form
26 and requirements necessary for the renewal of an accreditation;

1 b) The Board shall notify each person holding an accreditation of the date of
2 its expiration and the amount of the fee required for the renewal. The Board shall
3 send the notice not later than thirty (30) days before the accreditation expires.

4 **CHAPTER 3**

5 **OPERATION OF TRANSPORT NETWORK COMPANIES**

6 SEC. 12. ***Agent.*** – A TNC shall maintain a resident agent for service of
7 process in the country.

8 SEC. 13. ***Fares.*** – A TNC charging a fare for its services shall disclose to the
9 TNP the fare calculation method within the company's software application service or
10 on the company's internet website and provide the TNP with the applicable rates
11 being charged for the service and the option to receive an estimated fare.

12 SEC. 14. ***Identification of Vehicles and Drivers.*** – The TNC's software
13 application or internet website must display a picture of the TND and the plate
14 number of the TNV.

15 SEC. 15. ***Insurance Coverage.*** - TNCs shall maintain a commercial liability
16 insurance policy to cover claims for incidents involving vehicle and drivers while they
17 are providing TNC services. It shall likewise cover claims of passengers for breach of
18 the contract of carriage per incident coverage.

19 The Board shall determine, upon consultation with stakeholders, the amount
20 that TNCs shall maintain during the validity of their accreditation.

21 Each TNC driver shall maintain insurance coverage.

22 Nothing in the TNC's Terms of Service can be used or relied on by the TNC to
23 deny insurance coverage, or otherwise evade the insurance requirements to be
24 determined by the Board.

25 A TND shall carry proof of transportation network company insurance
26 coverage with him or her at all times during his or her use of a vehicle in connection
27 with a transportation network company's online-enabled application or platform. In

1 the event of an accident, a participating driver shall provide the insurance coverage
2 information to any other party involved in the accident, and to a police officer, upon
3 request.

4 SEC. 16. ***Electronic Receipt.*** – Upon completion of a trip, a TNC shall
5 transmit an electronic receipt to the TNP that lists:

- 6 a) The origin and destination of the trip;
7 b) The total time and distance of the trip; and
8 c) An itemization of the total fare paid, if any.

9 Electronic receipts of each TND of all its transactions shall be recorded by the
10 TNC and reported to the Bureau of Internal Revenue (BIR) for purposes of taxation.

11 SEC. 17. ***Zero-tolerance Policy for Drug or Alcohol Use.*** –

- 12 a) Every TNC shall:
13 1) Implement a zero-tolerance policy that prohibits a TND from using or
14 being under the influence of illegal drugs and alcohol abuse; and,
15 2) Post in its internet website a notice of the policy and the procedures to
16 report a complaint about a driver with whom a TNP was matched and
17 who the TNP reasonably suspects was using or was under the influence of
18 drugs or alcohol during the course of the trip.
19 b) Upon receipt of a complaint alleging a violation of the zero-tolerance policy,
20 the TNC shall conduct an investigation into the reported incident and
21 immediately suspend the TND's access to the company's digital network for
22 the duration of the investigation.
23 c) Maintain records relevant to any complaint for a period of at least two years
24 after receipt of the complaint.

25 SEC. 18. ***Driver Requirements.*** –

- 26 a) Before allowing an individual to be a TND on its digital network, a TNC
27 shall:

1 1) Require the individual to submit an application to the TNC, which must
2 include information regarding the individual's address, age, driver's
3 license, driving history, motor vehicle registration, motor vehicle liability
4 insurance, and other information required by the company;

5 2) Conduct or have a third party conduct a local and national criminal
6 background check for each individual; and

7 3) Obtain and review the individual's driving record.

8 b) The TNC may not permit any individual to act as a TND on its digital
9 network when the individual:

10 1) Has been convicted of any of the following offenses in the preceding three
11 year period:

12 i) Evading arrest or detention;

13 ii) Reckless driving;

14 iii) Driving without a valid driver's license; or

15 iv) Driving under the influence of alcohol or prohibited drugs.

16 2) Has been convicted at any time of:

17 i) Fraud;

18 ii) A sexual offense; or

19 iii) Theft.

20 3) Does not possess a valid professional driver's license; and

21 4) Does not possess proof of registration for the TNV used to provide
22 transportation network services.

23 SEC. 19. **No Street Hails.** – A TND may only accept pre-arranged rides
24 made through a TNC's digital network or software application service and may not
25 solicit or accept street hails.

1 SEC. 20. ***No Cash Trips.*** – A TND shall not solicit nor accept cash payments
2 from TNPs. Payment for TNS may be made only electronically using the TNC’s digital
3 network or software application.

4 SEC. 21. ***No Fleet Service.*** - A TNC is not allowed to have its own fleet
5 service. Otherwise it shall be required to secure a Certificate of Public Convenience
6 and Necessity from the Board pursuant to the Public Service Law.

7 SEC. 22. ***No Discrimination; Accessibility.*** –

8 a) A TNC shall adopt policies concerning non-discrimination that comply with
9 national laws;

10 b) A TND shall follow all policies concerning non-discrimination and
11 accessibility in compliance with national laws;

12 c) A TNC may not impose additional charges for providing services to
13 persons with disabilities;

14 d) A TNC shall provide a TNP an opportunity to indicate whether they require
15 a wheel-chair accessible vehicle. If a TNC is unable to arrange wheelchair-
16 accessible TNS, the company shall direct the TNS to an alternate provider of
17 wheelchair-accessible TNS, if available;

18 e) A TND may not discriminate in the provision of transportation network
19 services based on the geographic location of a departure point or destination. A
20 TND may refuse a request for an extended ride beyond the pre-arranged
21 destination.

22 SEC. 23. ***Records.*** – All TNCs shall maintain individual trip records for at least
23 one (1) year after the date the trip was completed. TNCs shall also keep TND
24 records for at least one (1) year from the time a TND’s activation on the company’s
25 digital network has ended.

26 SEC. 24. ***Personally Identifiable Information.*** –

1 a) A TNC may not disclose a TNP's personally identifiable information to a
2 third party unless:

- 3 1) The passenger consents to the disclosure;
- 4 2) The disclosure is required by a legal obligation; or
- 5 3) The disclosure is required to protect or defend the terms of use of the
6 service or investigate violations of those terms.

7 b) In addition to the disclosures authorized under paragraph (a), a TNC may
8 share a TNP's name or telephone number with the TND providing transportation
9 network services to the passenger to facilitate correct identification of the TNP by
10 the TND or to facilitate communication between the TNP and the TND.

11 **CHAPTER 4**

12 **ENFORCEMENT**

13 SEC. 25. ***Record Audits.*** – The Board may audit the records of a TNC in
14 connection with the performance of its duties under this Act through investigations
15 of specific alleged violations or a random sample of the TNC's records related to
16 TND.

17 Failure to provide records as required by this Section constitutes a violation of
18 this Act.

19 SEC. 26. ***Disciplinary Action; Fine.*** –

20 a) The Board, after due notice and opportunity for hearing, may deny an
21 application for an accreditation or suspend or revoke an accreditation if the
22 applicant:

- 23 1) Makes a material misrepresentation or omission in any application or other
24 information filed under this Act or rules of the Board;
- 25 2) Violates this Act or a rule or order of the Board;
- 26 3) Violates any law relating to the operation of a TNC; or

- 1 4) Fails to maintain the qualifications for an accreditation.
- 2 b) In addition to the authority under the preceding paragraph (a), the Board,
3 after due notice and opportunity for hearing, may request that the Department of
4 Justice (DOJ) bring an action against a person that has violated this Act or the
5 rules promulgated by the Board pursuant to this Act to collect a fine in the
6 amount not to exceed Fifty thousand pesos (P50,000.00) for each violation.
- 7 c) Each act as enumerated in paragraph (a) of this Section constitutes a
8 violation and each day a violation continues will be considered a separate
9 violation. In determining the amount of penalty, the Board shall consider:
- 10 i. The seriousness of the violation, including the nature, circumstances,
11 extent, and gravity of any prohibited act, and the harm or potential harm
12 to the safety of the public;
- 13 ii. The economic damage to the public caused by the violation;
- 14 iii. The history of previous violations;
- 15 iv. The amount necessary to deter future violations;
- 16 v. Efforts to correct the violation; and
- 17 vi. Any other matter that justice may require.

18 SEC. 27. ***Complaint Procedure and Notice.*** –

- 19 a) A TNC shall establish and maintain a complaint procedure through which
20 any TNP or another person using the transportation network TNS may submit a
21 complaint with the Board about the company, the TNS, a TND, or another
22 affiliate of the company;
- 23 b) A TNC shall provide a notice of the complaint procedure provided by this
24 Section to each TNP and to each person that contacts the company to inquire
25 about TNS;

1 c) A TNC shall provide notice of the complaint procedure under this section
2 to each electronic receipt required under this Act;

3 d) The Board shall approve the content and manner of delivery of the notice
4 required by subsections (a), (b), and (c); and

5 e) Failure to provide notice as required by this Section is a violation of this
6 Act.

7 **CHAPTER 5**

8 **FINAL PROVISIONS**

9 SEC. 28. ***Implementing Rules and Regulations.*** – Within (60) days from
10 the effectivity of this Act, the Board shall promulgate the implementing rules and
11 regulations as may be necessary to ensure the efficient and effective implementation
12 of this Act.

13 SEC. 29. ***Separability Clause.*** – Should any part of this Act be declared
14 unconstitutional, the rest of the provisions of this Act shall continue to be in effect
15 and subsisting.

16 SEC. 30. ***Repealing Clause.*** – The pertinent provisions of the Land
17 Transportation and Traffic Code, in so far as they are inconsistent herewith, are
18 hereby amended or modified accordingly. The provisions of other laws, decrees,
19 executive orders, rules and regulations inconsistent with this Act are hereby
20 repealed, amended, or modified accordingly.

21 SEC. 31. ***Effectivity.*** – This Act shall take effect fifteen (15) days after its
22 publication in the *Official Gazette* or in at least two (2) national newspapers of
23 general circulation.

Approved,