

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
17th CONGRESS
Second Regular Session
House Bill No. **6407**

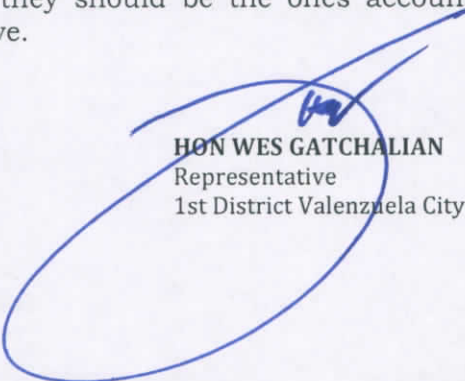


Introduced by Representative Wes Gatchalian

EXPLANATORY NOTE

It is always the case that innovative developments outpace the laws of the land. This of course is to be expected for what else is law other than the tedious attempt to regulate what is already a reality in the daily lives of the people. Inevitably therefore, game-changers, revolutionaries, and paradigm shifts would exist in a legal framework that is foreign to their existence. One such development is the very subject of this current bill, the development brought about by the phenomenon of ride-sharing applications like "Uber" and "Grab." This bill therefore now aims to undertake the monumental task of providing a novel legal framework for this phenomenon.

It is perhaps the proper measure of success in innovation that such changes the way the world works. Uber and Grab have both done this. Using these two platforms, it has changed the way people, especially in the metro, travel and commute from one place to another. It has also changed the consumer's attitude as regards to the purchase of vehicles. This is brought about by the undeniable ease and convenience of these two platforms allowing the rider to map out his route and be able to reliably predict his time of arrival as well as the cost of it. When it works, as it often does, these two platforms are as good as it gets in providing a truly satisfying riding experience. But this of course begs the question of what we make of those cases which are in the margins, such as in the instance of accidents causing damage to life, limb, and property? Thus the question of managing accountability inevitably arises. As it stands, it is staggeringly unclear whether or not a passenger can hold Uber or Grab liable in the event of an accident. As far as the representations of these two companies in a number of public statements, their claim is that no *ex contractu* liability can be enforced against them for there exists no contract of carriage to which they are the party to. Fundamentally what this law therefore does is to create a contract of carriage between Transportation Network Companies such as Grab and Uber and the passenger. It is submitted that this solution is but proper for precisely it is with the brand of service that these companies present which the public avails of. In truth and in fact when a passenger goes to Grab or Uber, it is the complete bevy of their package which a passenger avails of, what is more it is them who accredits the would be drivers. All these considered they should be the ones accountable to the passengers they profess to serve.


HON WES GATCHALIAN
Representative
1st District Valenzuela City

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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 5. *Liabilities.* -

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

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

SEC. 6. **Applicability of Existing Regulations.** - All memorandums and guidelines promulgated by the Board shall suppletorily apply to all claims in case of any breach by the TNC or the owner/operator of TNV on the contract of carriage without prejudice to any other administrative or court proceedings instituted by the aggrieved party.

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

CHAPTER 2

ACCREDITATION OF TRANSPORTATION NETWORK COMPANY

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

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

SEC 10. **Application for accreditation.** -

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

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

SEC. 11. **Term and Renewal of Accreditation.** -

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

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

CHAPTER 3

OPERATION OF TRANSPORT NETWORK COMPANIES

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

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

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

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

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

Each TNC driver shall maintain insurance coverage.

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

A TND shall carry proof of transportation network company insurance coverage with him or her at all times during his or her use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver shall provide the insurance coverage information to any other party involved in the accident, and to a police officer, upon request.

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

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

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

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

a) Every TNC shall:

- 1) Implement a zero-tolerance policy that prohibits a TND from using or being under the influence of illegal drugs and alcohol abuse; and,

2) Post in its internet website a notice of the policy and the procedures to report a complaint about a driver with whom a TNP was matched and who the TNP reasonably suspects was using or was under the influence of drugs or alcohol during the course of the trip.

b) Upon receipt of a complaint alleging a violation of the zero-tolerance policy, the TNC shall conduct an investigation into the reported incident and immediately suspend the TND's access to the company's digital network for the duration of the investigation.

c) Maintain records relevant to any complaint for a period of at least two years after receipt of the complaint.

SEC. 18. Driver Requirements. -

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

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

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

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

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

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

i) Evading arrest or detention;

ii) Reckless driving;

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

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

2) Has been convicted at any time of:

i) Fraud;

ii) A sexual offense; or

iii) Theft.

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

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

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

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

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

SEC. 22. **No Discrimination; Accessibility.** -

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

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

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

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

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

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

SEC. 24. **Personally Identifiable Information.** -

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

1) The passenger consents to the disclosure;

2) The disclosure is required by a legal obligation; or

3) The disclosure is required to protect or defend the terms of use of the service or investigate violations of those terms.

b) In addition to the disclosures authorized under paragraph (a), a TNC may share a TNP's name or telephone number with the TND providing transportation network services to the passenger to

facilitate correct identification of the TNP by the TND or to facilitate communication between the TNP and the TND.

CHAPTER 4

ENFORCEMENT

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

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

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

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

- 1) Makes a material misrepresentation or omission in any application or other information filed under this Act or rules of the Board;
- 2) Violates this Act or a rule or order of the Board;
- 3) Violates any law relating to the operation of a TNC; or
- 4) Fails to maintain the qualifications for an accreditation.

b) In addition to the authority under the preceding paragraph (a), the Board, after due notice and opportunity for hearing, may request that the Department of Justice (DOJ) bring an action against a person that has violated this Act or the rules promulgated by the Board pursuant to this Act to collect a fine in the amount not to exceed Fifty thousand pesos (P50,000.00) for each violation.

c) Each act as enumerated in paragraph (a) of this Section constitutes a violation and each day a violation continues will be considered a separate violation. In determining the amount of penalty, the Board shall consider:

- i. The seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public;
- ii. The economic damage to the public caused by the violation;
- iii. The history of previous violations;
- iv. The amount necessary to deter future violations;
- v. Efforts to correct the violation; and
- vi. Any other matter that justice may require.

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

a) A TNC shall establish and maintain a complaint procedure through which any TNP or another person using the transportation network TNS may submit a complaint with the Board about the company, the TNS, a TND, or another affiliate of the company;

b) A TNC shall provide a notice of the complaint procedure provided by this Section to each TNP and to each person that contacts the company to inquire about TNS;

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

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

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

CHAPTER 5

FINAL PROVISIONS

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

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

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

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

Approved,