

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

First Regular Session

House Bill No. 4024



Introduced by **HON. ROZZANO RUFINO B. BIAZON**

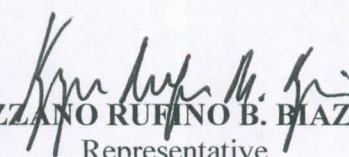
EXPLANATORY NOTE

Advancements in technology have affected our daily lives in ways we haven't even dreamt of. The invention and development of the internet or the world wide web have been the ultimate game-changer in terms of innovation. Nowadays, almost everything could be accessed remotely through the internet with just a tap of a finger on a data-connected smart phone. The transport sector for instance have also gone on-line in keeping up with the trend. Digital platform or App-based Transport Network Services or TNS have emerged. With the lack of decent mass public transport in the country specially in highly urbanized cities, TNS are fast becoming the preferred mode of transport of the commuting public.

For a certain period, this new player in the transportation industry was unregulated and unchecked since there were questions and issues raised with regard to the nature of their operations. For a time being, Transport Network Companies or TNC's have enormously benefitted from this kind of set-up without regulation from the government. TNC's rely on Transport Network Vehicles or TNV partner drivers to do the work for them. From accreditation to actual operation, TNV partner drivers undergo a screening process, the mechanism of which was created by the TNC's themselves. Interests of the riding public were at stake. It was only later that the then Department of Transportation and Communications (DOTC) through the Land Transportation Franchising and Regulatory Board (LTFRB) took cognizance of the issue by promulgating Department Order No. 2015-11 on May 8, 2015.

An excerpt from the said Department Order reads; "*Regarding the TNVS, considering that an accreditation by the TNC is required of the TNVS applicant, the LTFRB is further directed to accredit the TNCs **while waiting guidance from the legislature** regarding regulation of this new industry and to promulgate the guidelines for their accreditation.*" Thus, this bill aims to see to fruition the said provision by laying out the policies, rules and regulations governing TNC's and TNS's.

With the above-mentioned premises, immediate approval of this bill is earnestly sought.


ROZZANO RUFINO B. BIAZON
Representative
Lone District of Muntinlupa

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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 I
GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "*Transportation Network Services 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 Platform* refers to any online-enabled application, software, website, or system offered or used by a Transportation Network Company that enable the digital arrangement of a ride with a TNV Partner;
- C. *Transportation Network Services (TNS)* refer to services provided by a Transportation Network Company to the general public, by either enabling an accredited TNV Partner to transport people from a pre-determined pick up point to a pre-determined drop off point;
- D. *Transportation Network Company (TNC)* refers to an organization, whether a corporation, partnership, sole proprietor, or other form, operating in the Philippines and having a pool of accredited transportation vehicles whose accessibility to the public is facilitated through digitally arranged transportation for compensation

using internet-based technology application or digital platform technology, which may be in the form of text, telephone and/or cellular calls, email, mobile applications or by other means.

- E. *TNV Partner* refers to an operator or driver of a Transportation Network Vehicle who receives bookings from a Transportation Network Company to transport people for payment of a fee to the company;
- F. *Transportation Network Vehicle (TNV)* refers to motor vehicles accredited by a Transportation Network Company that transports people, which includes but not limited to scooters, motorcycles, tricycles, cars, sedans, hatchbacks, wagons, pick-ups, minivans, vans, MPVs, Sport Utility Vehicles, Asian Utility Vehicles, mini-buses, buses, coaches, coasters, electric vehicles, trucks, buses, railed vehicles such as trains or trams, ferries, boats, airplane, helicopter, and any other similar crafts.
- G. *Commercial Liability Insurance* refers to a standard comprehensive insurance policy issued to a TNV Partner prior to the issuance of a Certificate of Public Convenience by the Board to cover any liability claims for breach, bodily injury, death, theft, robbery and property damage arising during the course of the Transportation Network Services.

Sec. 4. *Nature of Transportation Network Companies and Vehicles.* – A Transportation Network Company shall obtain a Certificate of Accreditation from the Board in accordance with Section 8 of this Act. Such Certificate of Accreditation is not equivalent to a CPC and does not qualify the Transportation Network Company as a common carrier.

A Transportation Network Vehicle shall be issued a Certificate of Public Convenience and shall be considered a common carrier. A contract of carriage between a Transportation Network Vehicle and a passenger commences from the time the passenger makes a digitally arranged booking for the transport of people using the digital platform of a Transportation Network Company and ends at time the Transportation Network Vehicle carrying the passenger arrives at the designated location.

Sec. 5. *Liabilities.* – The Transportation Network Company shall exercise due diligence and reasonable care in accrediting TNV Partners. The Transportation Network Company shall be liable for failure to exercise due diligence and reasonable care, except if such non-compliance is due to acts or omissions outside of the Transportation Network Company's control. However, such liability shall not extend to actions of TNV Partners, who are independent contractors who provide the transportation services directly to passengers.

TNV Partners are common carriers in the course of providing the Transportation Network Services and are responsible for any breach in the contract of carriage. Therefore, the diligence required of TNV Partners in the conduct of their business is extraordinary diligence as defined by law. A TNV Partner is presumed to be negligent when there is a breach in the contract of carriage. The liability may include, but is not limited to actual and moral damages as well as taxicabs, limousines, or similar for-hire vehicles which also avail of digital networks to connect and provide transportation services to their passengers for prearranged rides shall likewise be covered under the provisions of this Act and remain liable under the conditions set forth under their

Certificate of Public Convenience and Necessity and other existing laws, rules and regulations.

Sec. 6. *Applicability of Existing Regulations.* - All memoranda and guidelines promulgated by the Board shall suppletorily apply to all claims in case of any breach by the Transport Network Company or the TNV Partner or driver of Transportation Network Vehicle on the contract of carriage without prejudice to any other administrative or court proceedings instituted by the aggrieved party.

Sec. 7. *Route Measured Capacity.* - Considering that there are part time TNV Partners and there exists a high attrition rate in this kind of industry, there shall be no maximum route measured capacity on this mode of transportation. Transport Network Companies may therefore accredit and activate an unlimited number of TNV Partners as the public demands.

CHAPTER II

REGULATION OF TRANSPORTATION NETWORK COMPANY

Sec. 8. *Issuance of Certificate of Accreditation to TNCs.* - A person, natural or juridical shall not be permitted to operate a Transportation Network Company without first obtaining a Certificate of Accreditation from 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. *Application for Certificate of Accreditation.* - An Application for the Issuance of a Certificate of Accreditation shall be made in writing on a form provided by the Board, and signed and sworn to by the applicant, or if the applicant is a juridical entity, by its duly authorized representative. Each Application, in addition to other documents that are required, shall submit at a minimum the following:

A. If the applicant is an individual:

- i. Full Name;
- ii. Residence Address;
- iii. Business Address;
- iv. Business E-mail Address;
- v. Business Telephone Number;
- vi. Business Name Registration duly issued by the Department of Trade and Industry; and,
- vii. Proof that the Applicant is at least Eighteen (18) Years of Age.

B. If the applicant is a domestic juridical entity:

- i. Corporate/Partnership Name;
- ii. Business Address;
- iii. Business E-mail Address;
- iv. Business Telephone Number;
- v. Certification of Registration of Incorporation/Partnership issued by the Securities and Exchange Commission (SEC);
- vi. Articles of Incorporation/Partnership and By-Laws;
- vii. Secretary's Certificate of the Board/Partnership Resolution authorizing

- the representative to sign the Application for Accreditation for and on behalf of the corporation/partnership; and,
- viii. Secretary's Certificate of Incumbent Corporate/Partnership Officers and List of Directors/Partners;

C. If the applicant is a resident foreign juridical entity:

- i. Corporate/Partnership Name;
- ii. Business Address;
- iii. Business E-mail Address;
- iv. Business Telephone Number;
- v. Authenticated Copy of the Articles of Incorporation/Partnership with an English Translation thereof if in foreign language other than English;
- vi. License To Do Business in the Philippines duly issued by the SEC;
- vii. Authenticated Copy of the Board Resolution authorizing the establishment of a Branch/Representative Office in the Philippines;
- viii. List of Incumbent Officers and Directors;
- ix. Authenticated Copy of the Board/Partnership Resolution authorizing the representative to sign the Application for Accreditation for and in behalf;
- x. Authenticated Copy of the Board/Partnership Resolution designating the Resident Agent to whom summonses and other legal processes may be served in behalf of corporation/partnership;
- xi. Authenticated Copy of the Board/Partnership Resolution stipulating that in the absence of such Agent or upon cessation of its business in the Philippines, any summons or legal process may be served to SEC as if the same is made upon the corporation at its home office.

Sec. 10. *Other Requirements for Accreditation*, - The following shall also be attached upon filing of the Application for Accreditation:

- A. Complete Description of Business Model;
- B. Business Permit duly issued by the local government where the applicant's principal place of business is located;
- C. Certificate of Registration duly issued by the Bureau of Internal Revenue;
- D. Sample Copy of the Electronic Receipt issued to the passenger at the completion of a ride;
- E. Process of Accrediting/Affiliating TNV;
- F. Process of Accrediting/Affiliating TNVS drivers;
- G. Terms of Service for Passengers;
- H. Terms of Service for TNV Partners;
- I. The Trade Dress;
- J. The Proposed Fare Rates and Service Charges;
- K. The Proposal for the Establishment of a Drivers' Training Program;
- L. Proof of applicant's financial capability to pay all judgments and awards that may be rendered for any cause arising out of the operation of a TNC business;
- M. Undertaking of the applicant to comply with the Terms and Conditions for a Certificate of TNC Accreditation;
- N. Complaint Mechanism against vehicle owners or drivers.

Sec. 11. *Material Change in the Application* – The applicant shall notify the Board of any material change in the information included in an application not later than fifteen

(15) working days after the change occurs. The Board shall prescribe a form for the disclosure of material changes.

Sec. 12. *Term and Renewal of Certificate of Accreditation.* –The Certificate of Accreditation shall be issued to any applicant, who/that complies with all the requirements prescribed above, for a period of two (2) years from issuance thereof and may be renewed, unless sooner revoked by the Board for any of the causes provided under Section 25 of this Act.

The Certificate of Accreditation shall be non-transferable.

CHAPTER III OPERATION OF TRANSPORT NETWORK COMPANIES

Sec. 13. *Requirements for Transportation Network Companies.* – A Transportation Network Company shall:

- A. Create an application process for a person to apply for registration as a TNV Partner;
- B. Maintain an updated database of the Transportation Network Company's TNV Partner;
- C. Maintain a website with the following information:
 - i. The TNC's customer service telephone number and/or electronic mail address;
 - ii. The TNC's zero tolerance policy established under Section 14 of this Act;
 - iii. The procedure for reporting a complaint about a TNV Partner;
- D. Conduct, or have a third-party conduct, a safety inspection of the motor vehicle that a TNV Partner will use before it may be used to provide Transportation Network Services and ensure compliance with the TNC's vehicle safety policy established under Section 18 of this Act; and
- E. Ensure that all its accredited TNV Partners maintain a comprehensive insurance policy as required under Section 17 of this Act.

Sec. 14. *Zero Tolerance for Drug or Alcohol Use.* – Each Transport Network Company shall develop and implement a policy prohibiting any TNV Partner from using drugs or alcohol or any other substance that may render the TNV Partner incapable of driving safely while the TNV Partner is engaged in Transportation Network Services. The Transportation Network Company shall:

- A. Establish the complaint procedures for reports of suspected violations of the zero-tolerance policy;
- B. Conduct an investigation upon receipt of a complaint that the TNV Partner violated the zero-tolerance policy required under this Section and immediately suspend a TNV Partner's access to its digital platform for

the duration of the investigation; and

- C. Maintain records relevant to any complaint for a period of at least two (2) years after receipt of the complaint.

Sec. 15. *Fare Mechanism and Disclosure.* – A Transportation Network Company is hereby authorized to set fares but shall disclose the fare calculation method, the applicable rates being charged, and the upfront fares to a passenger before the passenger confirms a booking with a TNV Partner.

For purposes of availing discounts for Senior Citizens, Persons with Disabilities and Students, they must be the actual passengers of the Transport Network Vehicle and must present a valid government issued identification card. With the use of a digital platform for booking, fares are set by the system and not manually determined by the TNV Partner. To minimize the possibility of fraud or “gaming” of the system, and ensure ease of implementation and to guarantee that they are pre-enrolled into the system, the Transportation Network Company may require Senior Citizens, Persons with Disabilities and Students to undertake on one-time registration to avail of special discounts.

If a Transportation Network Company utilizes dynamic pricing to give incentives to its TNV Partners in an effort to maximize the supply of available vehicles on the digital platform to match the demand for rides and increase reliability, the digital platform must:

- A. Provide clear and visible indication that dynamic pricing is in effect prior to requesting a trip;
- B. Include a feature that requires passengers to confirm that they understand that dynamic pricing will be applied in order for the trip request to be completed; and
- C. Provide a fare estimator that enables the user to estimate the cost under dynamic pricing prior to requesting the trip.

Notwithstanding the preceding paragraph, dynamic pricing may be suspended during abnormal market disruptions, such as but not limited to any change in the ground transportation market, whether actual or imminently threatened, resulting from severe weather disturbances and natural calamities, failure or shortage of electric power or other source of energy, strike, civil disorder, war, military action, national or local emergency, or other cause of an abnormal disruption of the market resulting in a disaster or the declaration of a state of emergency.

Sec. 16. *Identification of Vehicles and TNV Partners.* The accredited Transportation Network Company shall ensure that passengers can view the accredited TNV Partner’s name and photograph, the vehicle’s license plate number, and the case number issued by the Board on the device used to connect with the digital technology application before the trip is initiated.

Sec. 17. *Insurance Coverage,* - TNV Partners accredited by the Transportation Network Companies shall maintain a commercial liability insurance policy to cover claims for incidents involving vehicle and drivers while they are providing Transportation Network Services. It shall likewise cover claims of passengers for

breach of the contract of carriage per incident coverage.

A TNV Partner shall carry proof of comprehensive insurance coverage with him or her at all times during his or her use of a Transportation Network Vehicle. In the event of an accident, a TNV Partner shall provide the insurance coverage information to any other party involved in the accident, and to a police officer upon request.

Sec. 18. *Vehicle Safety Policy.* – Transportation Network Companies shall adopt a vehicle safety policy to ensure the comfort and security of the public availing of Transportation Network Services. Such policy shall observe the following minimum standards:

- A. The transportation of passengers in numbers exceeding the manufacturers designed seating capacity shall be prohibited.
- B. The vehicle must be road-worthy and compliant with vehicle emission standards but, in any case, must be at least three (3) years old but not be more than ten (10) years old from date of manufacture; and
- C. The vehicle must be equipped with an interior video recording device with corresponding memory-saving card together with proper tools and equipment.

Sec. 19. *Complaint Mechanism.* – The digital technology application must include a complaint mechanism through which passengers can register complaints or report lost or damaged items. It must also include the Hotline Number of the Board.

Sec. 20. *Electronic Receipt.* - Upon completion of a booking, a Transportation Network Company shall transmit an electronic receipt to the passenger that lists:

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

Electronic receipts of each TNV Partner of all its transactions shall be recorded by the Transportation Network Company

Sec. 21. *Confidentiality of Passenger Information.* – Transportation Network Companies shall not disclose a passenger's personal information to any other person unless:

- A. The passenger consents to the disclosure;
- B. The disclosure is required by a legal obligation; and
- C. The disclosure is necessary to protect or defend the terms of use of the service or to investigate a violation of those terms.

In addition, a Transportation Network Company shall be permitted to share a passenger's name as it appears on the platform's application with a TNV Partner for the sole purpose of confirming the identity of the passenger to facilitate the bookings. Transportation Network Companies shall prohibit the use by TNV Partners of a passenger's name, or other personal information for any purpose other than those listed in this Section.

Sec. 22. *Driver Requirements.* — Before allowing an individual to be a TNV Partner on its digital platform, a Transportation Network Company shall warrant that:

- A. The applicant shall possess a current and unexpired Provisional Authority or Certificate of Public Convenience from the Land Transportation Franchising and Regulatory Board to operate a Transportation Network Vehicle Service.
- B. The applicant shall submit an application to the Transportation Network Company, which must include information regarding the individual's address, age, driver's license, driving history, motor vehicle registration, comprehensive motor vehicle liability insurance, and other information required by the company.
- C. The applicant has submitted a notarized Statement of Financial Capability to address potential liabilities.
- D. The applicant possesses a valid professional Driver's License.
- E. The applicant has demonstrated the ability to read, write, and speak Filipino and English languages.
- F. It has conducted or a third party has conducted a local and national criminal background check for each applicant.
- G. It has obtained and reviewed the applicant's driving record.
- H. The applicant has not 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.
- I. The applicant has not been convicted at any time of any crime involving moral turpitude.

Sec. 23. *Modes of Payment.* — The payment of fares by the passengers may be made through the same digital platform or may be made to the driver of the vehicle directly and may be paid for in cash, debit card, credit card, mobile payment or any other acceptable mode of payment.

Sec. 24. *Fleet Service.* — A TNV Partner may be allowed to operate a fleet service not exceeding fifteen (15) motor vehicles.

Sec. 25. *TNV Partners as Independent Contractors.* — TNV Partners shall be considered independent contractors and not employees of the Transportation Network Company if all of the following conditions are met:

- A. The Transportation Network Company does not prescribe specific hours during which a TNV Partner must be logged into the Transportation Network

Company digital platform.

- B. The Transportation Network Company does not assign a TNV Partner particular territory in which to operate.
- C. The Transportation Network Company does not restrict a TNV Partner from engaging in any other occupation or business; and
- D. The Transportation Network Company and the TNV Partner agree in writing that the driver and/or operator is an independent contractor of the Transportation Network Company.

Sec. 26. *No Discrimination; Accessibility.* – A Transportation Network Company shall:

- A. Adopt policies concerning non-discrimination that comply with national laws;
- B. Follow all policies concerning non-discrimination and accessibility in compliance with national laws;
- C. Not impose additional charges for providing services to persons with disabilities;
- D. Provide a passenger an opportunity to indicate whether they require a wheel-chair accessible vehicle. If a Transportation Network Company is unable to arrange wheelchair-accessible TNS, the company shall direct the passenger to an alternate provider of wheelchair-accessible TNS, if available;

Sec. 27. *Tax Treatment.* – The Bureau of Internal Revenue shall determine and provide the appropriate taxation guidelines for TNC's and TNS's, including industry-specific guidelines on applicable VAT on apps revenues, withholding taxes on driver payments, and other required documentation/substantiation for tax compliance purposes.

CHAPTER IV ENFORCEMENT

Sec. 28. *Regulatory Authority.* – The authority of the Board shall be limited to the issuance of the Certificate of Accreditation and regulation of Transportation Network Companies to ensure compliance by Transportation Network Companies with the provisions of this Act. Such authority shall not include jurisdiction to adjudicate private causes of action arising from the provision of Transportation Network Services.

Sec. 29. *Disciplinary Proceedings.* – The Board, after due notice and hearing, may deny an application for a Certificate of Accreditation, limit, suspend, or revoke a permit if the Transportation Network Company:

- A. Makes a material misrepresentation in any application filed under this Act or rules of the Board;
- B. Fails to comply with the provisions of this Act or any rule promulgated pursuant to this Act;
- C. Violates any other law that substantially relates to the operation of

Transportation Network Company;

- D. Fails to cooperate with the Board, or fails to timely respond to a request for information by the Board, in connection with an investigation pursuant to this Act; or
- E. Fails to maintain the qualifications for the Certificate of Accreditation.

In addition to denial of application or other action under the immediately preceding paragraph, the Board may assess against a Transportation Network Company for each violation enumerated thereunder, a fine not exceeding One Hundred Thousand Pesos (P100,000.00).

Sec. 30. *Penalties.* – The Board shall determine the amount of the administrative penalty to be imposed on a person, firm, corporation or entity found violating the provisions of this Act, after considering the following factors:

- A. The seriousness of the violation or failure to comply, including the nature, circumstances, extent, and gravity of the violations, and the harm or injury that may arise as a result of the violation;
- B. The history of contraventions of or failure to comply;
- C. The efforts made to correct the violation; and
- D. Any other factor that may be just and reasonable under the circumstances.

Sec. 31. *Fees and Other Charges.* – The Transportation Network Companies shall be subject to an annual supervision fee, to be determined by the Board and subject to the approval of the Secretary of the Department of Transportation. The Board shall promulgate rules and regulations governing the collection of such fees, which shall likewise be reviewed periodically and any proposed increase shall be published in two (2) newspapers of general circulation.

Sec. 32. *Records.* – All Transportation Network Companies shall maintain passenger trip records for at least one (1) year from the date the booking was completed. Transportation Network Companies shall also maintain all records concerning each TNV Partner for at least two (2) years after the date on which the TNV Partner ceases to engage in Transportation Network Services for the Transportation Network Company.

The Board shall have the authority to examine records of Transportation Network Companies, for the purpose of enforcement of this Act, including a random sample of the Transportation Network Companies records related to its prearranged bookings and its TNV Partners. However, such examinations shall be conducted during working hours and shall not occur more than two times per year unless necessary to investigate a complaint. Records obtained by the Board, pursuant to this Section shall be kept confidential as mandated by the Data Privacy Act.

Sec. 33. *Reportorial Requirement.* – A Transportation Network Company shall transmit a quarterly report to the Board providing an accounting of the number of vehicles it has

accredited to operate, number of trips provided, estimated number of passengers served, and any other information that the Board may deem necessary for the effective enforcement of this Act.

CHAPTER V FINAL PROVISIONS

Sec. 34. *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. 35. *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. 36. *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. 37. *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.