

Passenger Carrier Study

2017 Report

12/1/2017

Virginia Department of Motor Vehicles

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Executive Summary

On March 7, 2017, Senate Transportation Committee Chairman William Carrico requested that the Department of Motor Vehicles (DMV) “examine...opportunities to streamline the regulatory structure and licensing process, license plate and identification marker requirements, insurance requirements, and any related issues” to passenger carrier transportation services. In addition, Senator Carrico asked DMV to study and, where necessary, address several items listed in the Department’s 2016 Transportation Network Companies Annual Report. He requested that the stakeholders include representatives from the taxi, limousine, and charter carrier industries, TNCs, law enforcement agencies, local governments, the insurance industry, trial attorneys, and other government agencies, as well as any other stakeholders with an interest in the topics identified for review.

Finally, Chairman Carrico requested that the Department report back the results of this study, along with any recommended legislation, to the Senate Transportation Committee no later than December 1, 2017.

In response to the Chairman’s request, DMV assembled an internal team to organize and manage the study. Invitations to participate were extended to stakeholders, and a series of meetings were held between April and September, 2017. An initial meeting was held with representatives from Virginia localities and taxi regulators to obtain an understanding of the models currently used by the localities to regulate taxis and to hear what changes they have facilitated or, believe may be needed, and what actions they would support and oppose. A second meeting was held with all stakeholders for them to provide the group with what each believed should be achieved by the study.

A final stakeholder meeting was held to discuss multiple ideas and suggestions made by DMV or by stakeholders in previous meetings. In addition to these three meetings, DMV facilitated a call between interested localities and a private company that performs background checks for passenger carrier drivers. This session provided localities with information on the process used by these private companies. The key goals of the study as articulated to stakeholders were to update and simplify the regulatory structure, to limit regulation to public safety and consumer protection, and to provide a fair and equitable regulatory structure.

After the initial stakeholder meetings in the spring of 2017, DMV considered how to address the comments of the stakeholders and the request made in Senator Carrico’s charge letter. After considerable review, DMV’s initial proposal was sent to stakeholders on August 1. It proposed consolidating the 11 current operating authorities into four, and proposed consistent insurance and operational requirements. The DMV proposal was designed to address regulatory fairness as requested by stakeholders by reducing many regulatory requirements that no longer hold value or meaning in the current market, and to ensure public safety by standardizing insurance requirements and requiring all for-hire drivers to undergo background and driving record screening prior to providing service.

The DMV proposal would have allowed passenger carriers to create and bring to market new business practices without the need for prior approval from DMV, reduced overall interaction

with DMV in starting and maintaining a legitimate passenger carrier business, and otherwise allowed the market to dictate the services offered by any licensed carrier in the Commonwealth.

However, DMV's initial proposals were met with deep skepticism by a majority of the stakeholders. Their comments focused on the utility they see in maintaining the current 11 operating authorities and the absence, from their perspective, of any benefit from consolidation. Numerous comments focused on the inequities they see in the 2015 and 2017 regulatory changes to the passenger carrier market, and the belief that the current operating authorities should not be amended in any fundamental way.

Given these comments from stakeholders, DMV issued a revised proposal on September 21. This proposal jettisoned the concept of consolidating operating authorities, but maintained several aspects of the August 1 proposal. The September 21 proposal included the elimination of the passenger carrier Broker authority, an increase in taxi insurance, and clarifications to the operating requirements of Contract Passenger Carriers. These additional items were also rejected by a majority of stakeholders. Consequently, DMV revised the draft a third time and sent it to stakeholders in October. Detailed discussion of the issues rejected by stakeholders can be found in Chapter 1 of this report.

While not universally supported and not taking advantage of all “opportunities to streamline the regulatory structure and licensing process” as requested in the charge letter and envisioned by DMV staff, the following recommendations attempt to balance the study objectives with key concerns voiced by various stakeholders.

Study Recommendations

Changes to Operating Authorities:

- Convert all non-certificated carriers (those obtaining Permits) to a Certificate of Fitness standard
- Eliminate the requirement that excursion train operators obtain a Certificate of Fitness from DMV

Changes to Licensing Requirements:

- Eliminate for all passenger carriers the requirement to file a bond with DMV
- Eliminate requirement to submit proof of zoning compliance to DMV with application for operating authority (carriers will certify on the application to DMV that local zoning requirements have been met)
- Require notification to DMV within 30 days of any change in company principals listed on application (DMV will administratively implement this change)
- Eliminate public protest period for Certificates of Fitness and Licenses
- Update place of business and records provisions of § 46.2-2011.11 to reflect the electronic business environment

Changes to Operational Requirements:

- DMV will no longer require carriers to submit an application to use a rental vehicle
 - DMV will require a copy of the rental contract to be carried in the vehicle at all times
 - Rental contract must be in the name of the licensed motor carrier, or a TNC partner
- Codify (but not change) current requirements imposed administratively for motor carriers using leased vehicles
- Switch all passenger carrier vehicles (except TNC Partner Vehicles) to permanent for-hire plates
 - DMV is not proposing any changes in for-hire plate design, other than changes to remove indicators for placement of month and year decals. Carriers will continue to receive the for-hire plate they currently have, but without decals.
- Eliminate the requirement for regular and irregular route common carriers to file tariffs with DMV
 - Carriers must publish rates to the public

Changes to Driver Screening Requirements:

- All Carriers must conduct a criminal and driving record check on all potential and existing drivers
 - The criminal history check must be performed every other year
 - The driving record check must be performed yearly
- Screening of drivers' criminal history can be performed by a Consumer Reporting Agency, as defined by the Fair Credit Reporting Act (FCRA).
- Driving history check must be done by reviewing a record obtained from DMV or the driver licensing agency in another state
- There will be barrier offenses on both the criminal and driving record checks that will bar drivers from providing service
 - Barrier offenses will mirror those in the TNC statute
 - A motor carrier whose operators are subject to local background checks, and have proof that they are permitted to operate by that locality, would be deemed to have satisfied the background check requirements in law for those operators
 - Localities will retain authority to establish background check requirements for operators within their jurisdiction
- Carriers will be required to maintain evidence of all completed driver background checks and driving record checks for three years
- DMV may request records pursuant to § 46.2-2011.16 to verify that carriers have complied with screening requirements

Additional Change Recommended:

- Eliminate taxi title branding
- Require an agent for service of process in Virginia

Discussion on Recommendations for Changes to Existing Operating Authorities and Operating Requirements

The individual changes listed above cover a wide range of issues that currently affect passenger carriers, both in the manner in which they employ drivers, and the manner in which they operate their businesses.

The recommendation to eliminate the requirement for Regular and Irregular Route Common Carriers to file tariffs, and the requirement for certificated carriers to post a bond, are designed to reduce needless burdens on current and future market participants. The same holds true for the recommendation to facilitate carrier use of rental vehicles, removing the brand from taxi titles, and the elimination of the requirement to put month and year decals on for-hire passenger carrying vehicle plates. These changes are recommended as ways to relieve unnecessary regulatory burdens on passenger carriers. They will increase efficiency in the market and create a more equal regulatory environment for a majority of the operating authorities.

In addition, the recommendation to eliminate the public comment period for Certificates of Fitness and Licenses removes a significant unnecessary delay in the licensing process. This will be beneficial to new entrants to the passenger transportation industry and assures the taxi industry continued quick turnaround on state licensing as taxis are elevated to a Certificate of Fitness standard.

Perhaps the most significant recommendation is to place in statute requirements for all passenger carriers to perform background checks on their drivers. Under current law, only TNCs are required to screen drivers' criminal backgrounds and driving records prior to allowing an individual to offer services in Virginia. While stakeholders made it clear that many carriers do screen their drivers as a business practice, it is not currently required by law. Stakeholders agreed that the Commonwealth should set minimum standards for driver screening, while accepting background checks performed by localities that regulate passenger transportation. A complete discussion of this and the other changes to operational requirements can be found in Chapter 2 of this report.

The Department has also committed to setting up a tri-jurisdiction working group to examine plating requirements for passenger carriers that operate in Virginia, Maryland, and the District of Columbia. This group will look at the permitting, registration, and plating requirements for passenger carriers in each jurisdiction, and determine how to facilitate the operations of carriers providing service in more than one jurisdiction. This working group would include Virginia localities and the Virginia State Police. A multi-state approach will hopefully produce fair and equitable results for carriers operating in multiple states regardless of where the business is based.

Finally, there are several issues that DMV believes deserve individual attention outside of the current study. This includes a discussion of the importance to localities of Regular Route Common Carriers, and whether these carriers should continue to be subject to rolling stock tax in lieu of tangible personal property tax. DMV recommends that these issues be studied by the State Corporation Commission (which administers the rolling stock tax) and the localities that rely on transportation service from Regular Route Common Carriers.

Chapter 1. Initial DMV Proposal

As mentioned in the Executive Summary, DMV’s initial proposals to stakeholders included a consolidation of operating authorities, elimination of passenger carrier Brokers, an increase in taxi insurance, as well as clarification to the Contract Passenger Carrier statute. While these changes were opposed by a majority of the stakeholders, their discussion was central to the study process, and consequently, important to share with the General Assembly and the traveling public. Department staff examined the records of previous studies of passenger transportation and the current practices in the industry in arriving at the initial proposals. The sections in this chapter provide a discussion of these issues.

Stakeholders did not offer specific data supporting their concerns about the initial proposals, relying on their experience operating regulated passenger carrier businesses over the past several decades. While these stakeholder assertions were speculative in nature, and there were other stakeholders that supported consolidation, it is always the Department’s goal to produce recommendations that reflect broad consensus among stakeholders. While several aspects of DMV’s initial proposals are included as recommendations from this study, the topics discussed in Chapter 1 of this report did not enjoy enough support. Motor carriers will continue to obtain the current range of operating authorities and provide services pursuant to the requirements of each.

Comments from all stakeholders on DMV’s initial proposals can be found in their entirety in Appendix D and Appendix E.

1.1 Previous Stakeholder Studies and the Nature of Regulation

The Department has undertaken numerous studies of, and made revisions to, passenger carrier rules since regulatory responsibility was transferred from the State Corporation Commission in 1995. Regulation of for-hire passenger transportation in the past met the needs of a market where providers offered distinct services in defined areas with little overlap between the operations of different carriers.

The studies discussed in this section were typically the result of industry requesting changes to operating authorities to reflect current market practices, so changes occurred periodically. However, until recently, the nature of the industry always led to Virginia law segregating passenger carriers into distinct operating authorities. As the reader will see, numerous past studies have consolidated operating authorities, eliminated some outright, and added new ones.

The first significant rewrite of passenger carrier laws resulted from a Motor Carrier Task Force hosted by DMV in 2000. Prior to this study, all passenger carrier regulations were in the Virginia Administrative Code.

The legislation resulting from the 2000 study included consolidation of operating authorities. For instance, “Executive Sedan”, “Limousine”, and “Special or Charter Party” authorities were collapsed into “Contract Passenger Carrier” authority. It was this legislation that also required these authorities to obtain a Certificate of public convenience and necessity. A “Contract Bus” authority was created as a result of a federal preemption applying to states regulating “charter buses”, a term DMV eventually defined as a vehicle with a seating capacity of 32 passengers or more. In addition

to consolidation, several operating authorities were eliminated, including “Special or Charter Party” and “Sight-Seeing” boat operators and “Motor Launches,” but the requirement for insurance remained in force. The resulting legislation placed all requirements for motor carriers in statute under Chapter 20 of Title 46.2.

The requirement for Contract Passenger Carriers to obtain a Certificate of Public Convenience and Necessity was a significant burden for these businesses, as they had to demonstrate a need for their services, and face challenges by incumbent carriers. This requirement was eliminated in 2011 when Contract Passenger Carriers were required to obtain a Certificate of Fitness instead.

Legislation in 2011 established the Non-Emergency Medical Transportation (NEMT) authority. Prior to 2011, these carriers were required to obtain irregular route common carrier authority, a time-consuming and complex process that the applicants struggled to complete. Both the Department of Medical Assistance Services (DMAS) and LogistiCare (a transportation broker that contracts with DMAS to provide NEMT services) voiced their concerns to DMV because the application process prohibited them from filling a need in a timely fashion. In response, DMV established a memorandum of understanding with DMAS that allowed for quicker approval.

Legislation in 2012 eliminated the “Contract Bus” authority by including it in the definition of Contract Passenger Carrier.

Finally, a lengthy study in 2014 led to the creation of the TNC operating authority. There was intense discussion among stakeholders over the nature of TNC service and whether it differed significantly from others in the industry. Some existing businesses argued that TNCs were providing a service no different than taxis. TNCs countered that their service used personal vehicles, different technology, and part-time drivers, leading to the need for a separate authority. The General Assembly ultimately adopted legislation that established a separate operating authority for TNCs, although with significant operating requirements for the company, its drivers, and vehicles.

Throughout these studies and resulting legislation, operating authorities were expanded and contracted based on input from stakeholders, but always maintaining distinct criteria that differentiated business models. In the initial meeting with all stakeholders in 2017, representatives from the various industries explained the current state of the market from their perspective. These comments demonstrated that the market has changed such that carriers have expanded services outside of the restrictions of a single operating authority.

A comprehensive review of the passenger carrier laws nationwide was outside the scope of this study; however, DMV looked for examples of carrier classifications in other states. The Department found that several states still differentiate between contract and common carriers. Department staff could not find any other state with as many carrier categories as Virginia, nor could it find any state with a classification like our “irregular route common carrier.”

The Department found that one state recently undertook an effort to level the playing field in response to having recently created legislation to allow for TNCs. That state was Arizona, which consolidated several requirements under a new “vehicle for hire” designation. The research compiled by DMV showed very little distinction between the services provided by “contract carriers” versus “common carriers” in Virginia law or other state laws. It should also be noted that

the federal government eliminated these classifications with the ICC Termination Act¹ and subsequent pieces of legislation.

1.2 Initial Stakeholder Meeting with Virginia Localities

The first stakeholder session was a meeting with representatives from Virginia localities and the officials responsible for setting and administering taxi regulations. Participants included representatives from the cities of Arlington, Alexandria, Norfolk, Newport News and Charlottesville, and from Chesterfield, Fairfax and Loudoun counties, as well as representatives from the Virginia Association of Counties. The Department scheduled this group first because regulation of passenger carriers is a responsibility that DMV shares with local authorities. The DMV study team was particularly interested in hearing about localities' experiences with regulatory reform of the taxicab industry, and in learning whether localities saw any additional opportunities for changes in local or state regulation of taxis and other types of passenger carriers.

This meeting demonstrated that localities such as Arlington, Alexandria, and Fairfax, have in recent years undertaken serious revisions to local taxi ordinances, usually at the request of taxi operators. While the modifications in each jurisdiction differed, some of the common changes made included the following:

- Increasing the maximum age of a taxi
- Reducing the frequency of vehicle inspections
- Increasing the maximum mileage for a taxi
- Permitting GPS-based metering and changing the minimum fare structure
- Streamlining driver training programs to make it easier to get drivers approved to provide service
- Removing the need for roof signs and lighting to indicate that a vehicle is in service

While these changes to local ordinances were considerable, local representatives also informed DMV that they offered to address even more areas of taxi regulation, such as relaxing or eliminating fixed fare rates, the number of taxi permits allowed in a specific jurisdiction, and the requirement for those wishing to obtain a taxi Permit to prove public convenience and necessity. These regulations can be considered the foundation of local regulation of taxis: setting the number of vehicles that can provide the service and mandating the rates that must be charged by all carriers. These regulations effectively limit competition in numbers, allow current competitors to play a role in admitting new businesses to the marketplace, and eliminate any competition based on price.

Despite the localities' willingness to address and even modify these requirements, the local officials indicated that taxi companies did not favor making such changes. The locality representatives did not speculate why taxi companies were not interested in such changes, but noted that in the view of local governments, these were the most onerous regulations on the industry.

The fact that localities had taken significant steps to relax taxi regulations, and in many cases offered to make more dramatic changes to local ordinances, was instructive to DMV staff. If the primary

¹Public Law 104-88: <https://www.gpo.gov/fdsys/pkg/PLAW-104publ88/pdf/PLAW-104publ88.pdf>

regulator of taxis undertook a process of reform to increase competition in the industry, state law should be viewed through this prism. The actions of the localities also tracked with the goals set forth in the Chairman's charge letter. With this information, DMV began discussions with stakeholders on multiple issues, which helped produce the initial recommendation to consolidate operating authorities to achieve efficiency and regulatory equity on the state level.

1.3 Recommendation to Consolidate Operating Authorities

The key aspect of the current regulatory market that led to discussion of consolidation was the fact that, while current law creates specific definitions around each operating authority, a single motor carrier is free to obtain multiple Licenses, Certificates, and Permits. This allows any carrier to offer essentially any service requested by the public. One stakeholder demonstrated this type of business model with the following hypothetical example: a company that in previous years operated solely as a Regular Route Common Carrier using busses on fixed routes now offers numerous services in multiple vehicle types. In order to do this, the company obtains Contract Passenger Carrier, Irregular Route Common Carrier, Broker, and Sightseeing Carrier authorities. This allows one carrier to offer a variety of service packages to customers, each with its own pricing model. It should be noted; however, each service package must be offered under a single operating authority.

If a Contract Passenger Carrier could also get a Certificate to operate as an Irregular Route Common Carrier, and a Sightseeing Carrier, DMV asked stakeholders what utility there was in requiring that company to obtain multiple operating authorities. If the market dictates that a single company needs to be able to offer multiple services to remain competitive, the initial proposal suggested that state law should reflect that reality and simplify the major regulatory hurdles by issuing a single General Passenger Carrier operating authority for nearly every type of business². In essence, consolidation would address the three goals identified by stakeholders as most important: public safety, regulatory equity, and the ability to innovate quickly to meet market demands.

The uniform requirements for all businesses that would have obtained the new General Passenger Carrier authority would have ensured regulatory equity. All such companies would be subject to the same insurance and driver screening requirements. In addition, localities would have retained their current regulatory authority. These factors would have ensured that companies providing for-hire services will follow the same set of regulations.

While DMV believed consolidation was the logical conclusion to the data presented on the current market for passenger transportation, a majority of stakeholders did not agree. Chief among the concerns were responses from the Taxis and Irregular Route Common Carriers that consolidation would have adverse effects on their business models, increase their costs, and allow for unregulated services in many localities that regulate taxi services. Specifically, taxis argued that other types of carriers would act like taxis but circumvent local regulation, and IRCC holders believed that their service to some underserved populations would be endangered without a specific operating authority.

² The initial proposal would have left Regular Route Common Carriers, TNCs, and TNC Brokers as separate operating authorities

This led to a discussion on the key differences between a taxi and an IRCC. A key distinction is the Public Convenience and Necessity (PC&N) requirement. While some localities place restrictions on the number of taxi permits issued and subject new applicants to standards of quality, the localities create those thresholds and appear to apply them uniformly among taxi applicants. Conversely, the state-level PC&N requirement for IRCC applicants is regularly used by private parties (existing carriers and applicants) as a mechanism for designating market share. DMV is not well suited to analyze the public need for IRCC service in various Virginia locales; therefore, hearings to determine PC&N are primarily triggered by a protest to an application from existing carriers. These protests regularly result in the parties negotiating before the hearing to restrict the new entrant's operations. These restrictions often include limiting service to a certain geographical area, limits on the types of vehicles used, and further restrictions to ensure that the vehicles do not provide services in the same manner as, and in competition with, taxis.

The objections of Taxis and IRCCs notwithstanding, it was evident that, even though Virginia law sets out requirements for individual operating authorities, motor carriers can legally obtain enough of those authorities to essentially eliminate any true distinction between them. If the silos created by state law didn't clearly delineate the market such that businesses are essentially limited in the services they can provide, DMV reasoned that the market and its participants would benefit from state law acknowledging this fact and reforming the *Code* to reflect actual business practices.

As part of the initial meetings, DMV provided stakeholders with data illustrating the current state of passenger carrier regulation. These charts showed the significant overlap in operating authority requirements, and demonstrated the impact of increased insurance requirements on taxi cabs. The Department believed that the data showed that there was sufficient overlap between authorities that consolidation could be achieved without a significantly negative impact on any single type of business model.

1.4 Recommendation to Eliminate Passenger Carrier Brokers

In Virginia, a Broker (separate from a TNC Broker) contracts service with licensed passenger carriers. Brokers must obtain and maintain a copy of the Certificate of Public Convenience and Necessity issued to a carrier through which broker arranges services. A Broker cannot be an employee or agent of any such motor carrier, who, as principal or agent, sells or offers for sale any transportation subject to Virginia's passenger carrier laws, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation. In addition, Brokers must maintain a \$25,000 bond.

During discussion with stakeholders, it became evident to DMV that the original purpose of the Broker authority no longer has meaning in the current market. This authority was created primarily as a means to protect passenger carriers that worked with Brokers to arrange transportation. In the event that a Broker declined to pay the motor carrier for the services provided, the bond would provide the carrier an opportunity to recover some or all of its costs. However, DMV informed stakeholders that a Broker's bond has never been used for this or any other purpose. If one of the primary purposes of establishing the Broker authority has not been used in recent memory, DMV suggested that the authority itself is no longer needed.

It is also worth noting that federal regulators have been barred from licensing passenger brokers since at least 1995; however, they have had opportunity to require bonds and insurance if they

determined that such requirements were necessary. Federal regulators have made no such determination – in fact, the 2012 Moving Ahead for Progress in the 21st Century Act (MAP-21) required regulators to specifically study that question. That study decided against creating the requirement.

Despite the information provided, stakeholders felt that there was still utility in keeping this operating authority. Taxi and IRCC stakeholders felt that a specific authority ensured that the public and motor carriers had a way to recover costs if a Broker failed to arrange transportation as agreed or provide payment for those services. These stakeholders felt this requirement was necessary, despite the fact that DMV has no evidence of a Broker's bond ever being used by a customer or another motor carrier for these purposes.

In addition, IRCC operators stated that the elimination of the Broker authority could imperil operations with DMAS that provide service to the disabled community. The Department reviewed the relevant sections of *Code*, and determined that if Broker authority were to be repealed, DMAS would not be required to arrange service through a DMV licensed entity, and could potentially have more flexibility in arranging for Brokers to serve its clients. Still, the lack of agreement from stakeholders on eliminating this authority necessitates keeping it in Virginia law.

1.5 Recommendation to Increase Minimum Taxi Insurance

Insurance coverage is the most recognizable public protection, not only for the general public, but in for-hire passenger carriage as well. Department staff provided information to stakeholders illustrating several aspects of insurance requirements. A majority of stakeholders, with the exception of Taxis and TNCs, are required to obtain the same levels of insurance:

- \$350,000 for vehicles designed to carry no more than 6 passengers
- \$1.5 million for vehicles designed to carry between 7 and 15 passengers
- \$5 million for vehicles designed to carry more than 15 passengers

These levels reflect the requirements for interstate motor carriers set by the federal government. Virginia law was amended to mirror these laws in 2002 to provide consistency with federal law for companies that provided both inter and intrastate services, and to establish reasonable limits for carriers operating solely within Virginia.

Insurance for Taxi Cabs

The exception to these limits are those set in state law for taxis, which are required to carry a minimum of \$125,000 in coverage. While this is considerably lower than the minimum coverage required for other operating authorities using the same size vehicles, it should be noted that many localities that regulate taxi services require additional coverage above the state minimum.

The Department noted that taxis use the same size and types of vehicles used by other passenger carriers, and asked whether it made sense to create equity by making the minimum requirement uniform for all.

Taxi operators and representatives from the Virginia Association of Counties noted that an increase in the minimum taxi coverage could have an impact on the localities that either have no insurance

requirement for taxis, or adhere to the state requirement. Localities that mirror the state requirement may feel the need to amend their ordinances, and localities that have no regulation may feel the need to institute the state minimum. In either case, this would lead to increased costs for small and medium size taxi companies.

The Department noted this concern, and worked with the State Corporation Commission's Bureau of Insurance to examine the impact on premiums if the state minimum requirement were increased. The SCC has tables showing the likely difference in premiums based on a required level of coverage. These charts estimated that an increase in coverage from \$125,000 to \$350,000 as recommended in the study would result in an approximately 21 percent increase in annual premiums.

In response, the Virginia Taxicab Association stated in part that, "The proposed increase in the minimum insurance limit for taxicabs is going to put 'mom and pop' taxicab operators in smaller communities and other individual taxicab operators out of business. Optimal insurance limits in Alexandria are not the same as those in Grundy. The cost of obtaining the proposed insurance limits may eliminate the only transportation service available in some less urban areas. Additionally, such increase can threaten the existence of larger companies, because it will as much as double what is already one of their largest operating costs. Even the change from already-higher local split limit requirements to 'combined single limit' coverage at the level proposed by DMV would significantly increase the cost of insurance with adverse effects on these essential local services."

However, taxicab operators did not produce data bearing out these concerns. While they assert that the taxi model differs from those companies that are required to carry higher levels of insurance, DMV staff noted that taxis use vehicles with similar or identical seating capacities as those used by carriers with higher insurance requirements. In addition, taxis are by their nature on the road for significant amounts of time, whereas other companies may not have vehicles in service at all times. Yet, all other passenger carriers are subject to the higher insurance requirements.

Despite the above discussion, nearly every stakeholder objected to the increase in taxi insurance. Without stakeholder agreement, DMV determined that an increase in taxi insurance should be eliminated from the final recommendations.

1.6 Recommendation to Clarify Contract Passenger Carrier Statute

The initial DMV proposals also recommended clarifying in *Code* a specific provision of the requirements for Contract Passenger Carriers (§ 46.2-2099.1) that limits vehicles to, "a minimum of one-hour per vehicle trip..." Stakeholders have voiced confusion over this requirement, believing that a contract must be for a minimum of one hour, but that the vehicle can be used again if the customer no longer needs the vehicle. For example, if a customer books a vehicle from 10:00 to 11:00 am (the one hour minimum), but no longer needs the vehicle after 10:30, some CPCs believe that the vehicle can then be used to provide service prior to the expiration of the contract at 11:00 am. This is not an accurate reading of the requirements of § 46.2-2099.1. Under the above scenario, the vehicle that transported the customer under contract cannot take a different passenger until the one hour trip specified in the contract has ended.

The one-hour minimum requirement was discussed with stakeholders, and DMV law enforcement indicated that this is how it has enforced this provision of *Code* since it was enacted. Despite this discussion, CPCs did not support any clarification of this section. In addition, the other stakeholders

did not take a position on this recommendation, as the one-hour minimum only affects the CPC operating authority. As such, Va. Code § 46.2-2099.1 will remain unchanged, along with DMV's long-standing interpretation of this section.

Chapter 2: Recommended Changes to Existing Operating Authorities and Operating Requirements

After the August 1 and September 21 proposals failed to reach consensus, the Department focused on the areas of study that had garnered majority or universal support. This chapter discusses these issues, which include changes to operating authorities, licensing requirements, driver screening, and more.

2.1 Changes to Authority Types

Permitted Carriers Required to Obtain Certificate of Fitness

While stakeholders did not support the concept of consolidating operating authorities as a means to streamlining state regulation and enhancing market flexibility, the final report does recommend requiring all motor carriers that currently receive a Permit (limited to insurance monitoring), to pass a fitness exam in order to obtain operating authority. This will impact the following operating authorities: Taxis, Non-Profit/Tax Exempt Carriers, and Employee Haulers.

The requirements to obtain a Permit are less stringent than the standards required to be issued a Certificate of Fitness. The Department performs a fitness examination of applicants applying for a Certificate of Fitness, a Certificate of Public Convenience and Necessity, or a Broker's License. Va Code section 46.2-2011 states things that may be considered and § 19.2-389(30) authorizes DMV to receive criminal history information for the purpose of evaluating these certificate and license applicants. DMV routinely performs the following background checks:

- Criminal history record check (required elements: name, date of birth, and social security number),
- Better Business Bureau,
- Office of Attorney General Consumer Affairs,
- Complaints filed with DMV Motor Carrier Services,
- Driver transcripts, and
- Search of Federal Motor Carrier Safety Administration records if applicable.

Those subject to the background checks include:

- The owner of a sole proprietorship,
- Each partner of a partnership,
- Each member and manager of a limited liability company,
- Each officer of a corporation.

In addition, certificate and license applicants must file either a surety bond or letter of credit with their application. This requirement was one of the results of a Motor Carrier Reform Task Force hosted by DMV in 2000 and was intended to establish financial fitness in addition to offering protection to the public in the event of fraudulent activity.

Stakeholders discussed the nature of the operations of these carriers and the individuals being transported. These carriers are often charities and religious organizations using volunteer drivers to provide transportation to its members (Non-Profit/Tax Exempt Carriers), or the carrier is transporting a company's employees for hire (Employee Haulers), or providing taxi services. Given the public safety goals of the study, the populations served by these companies and the fact that not all localities regulate taxis, DMV advocated for imposing the higher Certificate of Fitness standard on these carriers. This will ensure that carriers and their drivers meet standards ensuring the safety of those they are transporting. This will also create regulatory equity among passenger carriers, as all will now be required to obtain a Certificate of Fitness.

Taxi representatives expressed reservations about this recommendation, primarily based upon concern that the time required to complete the Certificate of Fitness application process would make it difficult to quickly approve drivers to provide service and compete in the market. To help alleviate this concern DMV suggested eliminating the existing two-week period for public comment for applicants for a Certificate of Fitness. Under current law, the two-week period allows the public to protest a Certificate based solely on the applicant's fitness. This differs from protests of public convenience and necessity, which are based around the number of operators providing service in a given area.

Historical experience suggests that the public comment period rarely, if ever, reveals information that was not already available to the Department or that is not revealed during the Department's evaluation process. Therefore, eliminating the public protest period would have no negative impact on public safety and would eliminate an unnecessary lengthy delay in the application process for carriers currently subject to a Certificate of Fitness requirement as well as those proposed to move to that standard.

With the suggested mitigating strategy, the taxi industry voiced no objections to this recommendation. Limousine representatives also objected to the idea of moving Permit authority types to a Certificate of Fitness standard, expressing concern that the change "would upend the local regulation already in place."

A representative of the Virginia Association for Centers of Independent Living (VACIL) an organization representing seventeen centers for independent living, expressed appreciation for the advantages of ensuring public safety through a fitness standard for Non-Profit/Tax Exempt Carriers, but cautioned that some smaller non-profits may resist the proposed change if there were cost implications. Shifting these operators to a Certificate of Fitness would not result in additional costs associated with licensing requirements.

Other stakeholders did not weigh in on this particular recommendation. Notwithstanding the reservations expressed by the limousine industry, DMV is recommending that the permitted carriers that are currently subject solely to insurance monitoring at the state level be subjected to a fitness standard. This would ensure that all companies providing passenger transportation services would be subject to a fitness examination, including taxis operating in localities that do not regulate taxis. This becomes more important with the adoption of a requirement for all companies to conduct background checks on their drivers. Many companies are small owner/operators where the owner of the company is also a driver. Subjecting the company to a fitness examination closes a potential loophole to this important public safety protection.

Concerns voiced by the taxi industry about potential licensing delays and increased costs associated with the fitness standard are addressed by the additional recommendations to eliminate the public protest period for Certificate of Fitness applicants and to eliminate the current bond requirement imposed on these carriers. The recommendation associated with bonding requirements is discussed later in this report.

Concerns voiced by the limousine industry about upending existing local regulation appear to be unfounded. Localities would retain their current regulatory authority and any applicant for state authority that could demonstrate that they had undergone background screening at the local level would not be subject to duplicative examination.

The public safety benefits of ensuring that all Taxi, Employee Hauler and Non-Profit/Tax Exempt Carriers are screened for fitness appear to outweigh the potential concerns shared by the stakeholders; therefore, it is recommended that these carriers be shifted to a Certificate of Fitness standard.

Elimination of excursion train certification

The *Code* (§ 46.2-2099.41) requires operators of Excursion Trains to obtain a Certificate of Fitness from DMV to provide service. During the study, DMV informed stakeholders that to the best of the agency's knowledge there are currently no Excursion Trains operating under a certificate issued by either DMV or SCC (which had regulatory responsibility for excursion trains until 1995, when that responsibility was shifted to DMV). The Department does not have any information on how many trains operating in Virginia may meet the statutory definition of an Excursion Train. Given that public safety and consumer protection appear to be adequately ensured by statutory rules regarding excursion train insurance, assignment of liability, and required notices to passengers, the final recommendation is that Excursion Train operators should no longer be required to obtain a Certificate from the Department.

2.2 Recommendations for Driver Screening Requirements

Universal Driver Screening for Passenger Carriers

Perhaps the most significant recommendation in this report is a requirement for all passenger carriers to conduct background checks on drivers transporting people for-hire. The Department began discussion of this topic by noting that under Virginia law, the only passenger carrier drivers that are currently required to undergo a background check are those driving for TNCs. There is no similar requirement for drivers for any of the other carriers regulated by DMV. While taxi drivers are not required to undergo a background check under state law, many localities subject these drivers to screening. In addition, many stakeholders that are not required by law to perform background checks on drivers indicated that they do so as a business practice.

Despite the fact that many businesses are screening drivers, stakeholders felt it was important for Virginia law to contain minimum standards to cover all passenger carriers. Stakeholders also felt it important that state law accept any background screening of drivers performed by localities. The importance of setting baseline requirements in statute was universally accepted. There was general agreement that drivers should be subject to both a criminal and a driving history check. Reviewing and meeting standards for both will ensure that the most complete picture of a driver's history can

be reviewed. Stakeholders also agreed that in order to best protect the public, the driving history check should be completed once a year and the criminal check every two years.

Background Screening Methods

After agreeing to the screening of drivers and the frequency of the background checks, discussion moved to which methods are more thorough and return the most accurate results: background checks by fingerprint, or background checks by third party vendor. Taxi and Irregular Route Common Carrier representatives favored the fingerprint background check. Many taxi drivers are required by local ordinance to undergo a fingerprint background check performed by the Virginia State Police (VSP). Drivers for Irregular Route Common Carriers that contract with local governments to provide transportation services are often required to undergo fingerprint background checks. However, drivers for other carriers do not utilize fingerprint background checks.

It is important to note that direct access to a criminal history report from state and FBI databases must be authorized by both state and federal law. Most passenger carriers are not authorized to directly receive these reports. Rather, a local or state agency that directly regulates the driver may have access to a criminal history report. Passenger carrier companies that wish to directly review a driver's criminal history without going through a government agency have two options: (1) have the driver obtain their own FBI Identity History Summary (often called a "rap sheet") and submit it to the carrier or (2) obtain a criminal history report from a third party vendor. Since the results of a fingerprint background check are not available to private businesses, these companies often employ one or more vendors that screen drivers against multiple databases to get a picture of their record.

The strengths and weaknesses of the types of background checks were discussed in detail when the General Assembly considered the TNC legislation in 2015. During the committee process, VSP representatives noted that no background check process was fool-proof; each had strengths and weaknesses. Fingerprint checks are the most accurate method to establish an individual's identity; however, checks performed by vendors are also satisfactory to establish identity and often obtain a more complete history of someone's background.

Some stakeholders, primarily those regulated by localities that have been using drivers subject to fingerprint checks, supported making this a requirement for all passenger carriers, including TNCs. This view was not shared by other stakeholders, who noted that they have returned comparable results with vendor checks. At the end of the discussion on this aspect of background screening, those that favored requiring fingerprint based checks acknowledged that, while they still believe that to be the best system, this issue was discussed and addressed by the General Assembly in 2015, and is not likely to change.

Given that there are pros and cons to each method, the final recommendation is to establish barrier crimes that disqualify drivers from operating in a for-hire capacity, and then permitting passenger carriers to use either a fingerprint based check or a third party vendor check to screen drivers. Drivers that are required to be screened through the VSP will be deemed to have met the minimum standards. This is necessary to ensure that drivers are not subject to multiple screening procedures. In addition, stakeholders recommended that the Commonwealth deem the screening criteria of local governments to meet the state minimum standard. Otherwise, localities would be compelled to modify their procedures, or DMV would have to examine each locality's procedures to determine if

it is equivalent to the state standard. Neither of these scenarios is feasible; therefore, DMV was in agreement with this recommendation.

Barrier Offenses

As stated above, stakeholders recommended that the barrier crimes contained in the TNC statute regarding both criminal history and driving history apply to all other motor carriers that are not regulated by local governments. These barrier offenses were reviewed, and determined to be an appropriate baseline standard. Some carriers may choose to check their drivers against a higher standard, and in fact some stakeholders indicated that they already do so under contracts to operate at sensitive locations such as military installations and naval shipyards. The barrier offenses set forth in Va. Code § 46.2-2099.49 cover a wide range of violations that should bar a person from providing for-hire passenger carrier service. While some localities and institutions may require different standards, the public can be assured that passenger carriers that meet the recommended standard here will have thoroughly screened its drivers.

The Department also recognizes that some drivers for commercial passenger carriers may operate vehicles that require a commercial driver's license (CDL). As certain vehicles require this type of license to operate, the recommended legislation includes having a disqualified CDL as a barrier offense. However, DMV also recognizes that a revoked CDL should not be a barrier to drivers operating vehicles for which this license is not required. Therefore, a disqualified CDL will only be a barrier offense to a driver operating vehicles for which that license is required.

The recommended legislation also contains language that will require a driver to notify their employer if their CDL has been revoked. For drivers operating vehicles for which a CDL is required, employers must be notified immediately if they are no longer qualified to operate these vehicles. This will also apply for drivers who require a permit from a locality to operate a taxi. If a locality revokes a driver's ability to operate in that jurisdiction, the driver will be required to notify their employer immediately.

Standards for Background Check Vendors

Another issue stakeholders addressed was the standards that must be met by vendors performing background checks. Under the TNC statute, those companies that use a third party vendor must use one that is certified by the National Association of Professional Background Screeners (NAPBS) or a comparable entity approved by the Department. This requirement was put into law to ensure that the companies being used adhered to readily-identifiable standards, including the methods of returning records, and adherence to privacy protections. As this type of screening was new to Virginia passenger carriers, the General Assembly felt it important to set this standard.

Stakeholders representing the Consumer Data Industry Association (CDIA) addressed this requirement in the TNC statute in its comments on the August 1 proposal. They argued that the Fair Credit Reporting Act (FCRA) established in federal law sets forth policies and procedures for producing consumer reports such as background screenings, and as such, should be accepted as an adequate standard for screening TNC and other passenger carrier drivers. The FCRA rules, argued CDIA, are robust, contain numerous protections for the individual being screened, and have been in place since before the NAPBS formed to accredit screening companies. CDIA's comments, a complete copy of which can be found in Appendix D, state that the Commonwealth should not rely

upon a single association to set screening standards. Rather, the market would be enhanced with additional competition from vendors following the FCRA requirements. They believed that this would allow more vendors to access Virginia's passenger transportation markets, while still protecting public safety and consumer privacy.

In response to CDIA's comments, DMV reviewed the criteria for obtaining NAPBS accreditation and determined that there are no criteria that pertain to the breadth of the background check. Therefore, the accreditation does not assure anything further than the FCRA requirements as they pertain to the level of detail obtained in a background check. Since a goal of the study is to reduce regulatory burdens on passenger carriers, the final report recommends allowing motor carriers, to use a Consumer Reporting Agency as defined by the FCRA to conduct background checks.

Motor carriers screening drivers through a vendor will be required to maintain evidence of each driver's completed background check for three years and make them available to DMV staff pursuant to § 46.2-2011.16.

2.3 Changes to Licensing Requirements

Elimination of Bonding Requirement

Under current law, all applicants for an original License or Certificate must file a surety bond or irrevocable letter of credit in the amount of \$25,000. This bond is to remain in effect for the first three years of operation for passenger carriers. Brokers must maintain a bond indefinitely. The bonding requirement for passenger carriers was initially adopted as a means of establishing a company's financial fitness. Prior to the bond requirement, DMV staff examined an applicant's financial records to determine financial viability. This was not an area in which DMV staff had specialized knowledge, so the bond requirement was adopted as a way to prove that a company had the financial resources necessary to stay in business. In addition, the bond ensures that there is money available if a motor carrier or broker takes money from customers and then fails to provide services.

The bonding requirement was discussed with the stakeholders. Taxi and IRCC representatives stated that they saw the bond requirement as a useful public protection in the event that a Broker or motor carrier takes deposits but does not provide service. In response, DMV staff noted that there are no instances on record of a customer making a claim against a bond filed by a motor carrier or Broker since this requirement was placed in Virginia law.

Secondly, DMV staff stated that the bond requirement is no longer a meaningful demonstration of a company or individual's ability to provide service. In lieu of the bond requirement, DMV suggested that a company's ability to obtain the minimum level of insurance should be sufficient to ensure continued operation. The lowest insurance required by current law is \$125,000 for taxi operators. This level increases significantly for other motor carriers, and reaches a maximum of \$5 million in coverage required for vehicles designed to carry more than 15 passengers. In all cases, the cost of meeting the minimum insurance requirement far exceeds the cost of the \$25,000 bond.

Elimination of the bond requirement also alleviates concerns expressed by the taxi industry regarding shifting taxi operators from a Permit based authority to a Certificate of Fitness. Those

concerns centered on additional costs and barriers to entry. Removing the bond requirement provides relief from this unnecessary requirement for all carriers.

Notification of Changes to Company Operators

The Department requires background screening for the principals of companies wishing to obtain a License or Certificate. This is done to ensure that those operating a company do not have criminal convictions that make them unfit to provide service to Virginia residents. Several stakeholders noted that many passenger carriers are owned by national or multinational companies, and that the owners and operators change more frequently than in previous years.

Given the importance of screening those in control of a company's operations, the final report recommends a requirement that a passenger carrier notify DMV within 30 days when there is a change in ownership or managers with operational control. This will ensure that DMV has the opportunity to ensure that the new owners and operators have a suitable background to provide service in Virginia. It should be noted that TNCs did not support this recommendation, as they did not see any utility in screening those that are not in direct control of daily operations.

Local Zoning Compliance

The next recommendation of this section pertains to the requirement for applicants to provide documentation to DMV showing their established place of business meets all local zoning requirements in order to obtain operating authority. Stakeholders voiced the opinion that this requirement was in place to ensure that motor carriers didn't park for-hire vehicles in a residential neighborhood when the established place of business was a personal residence.

Department staff noted that there is no prohibition from a motor carrier using a residential address as a place of business, and that the Code Enforcement authorities in each locality are responsible for where for-hire vehicles can be parked when not in service. Since there appeared to be no benefit to either passenger carriers, local governments, or the public in having local officials certify that a carrier's business address was appropriately zoned, DMV proposed that applicants for Certificates or Licenses simply self-certify that they have met local zoning requirements. This change eliminates a time-consuming step in the application process, while still ensuring that passenger carriers abide by local zoning requirements. This recommendation has been implemented by DMV, since it did not require statutory change.

Physical Business Location Requirements

Stakeholders also discussed the requirement to retain business records at a physical location, noting that in many cases the nature of business has changed to electronic records. Discussion centered on the language in § 46.2-2011.11 that states that a business's physical location, "Houses all records of the motor carrier..." Stakeholders noted that many companies store business documents in electronic format. The Department noted the importance of state law adapting to meet the current market environment, including electronic records.

The final report recommends changing this section to note that a business must be able to produce records at its physical location instead of "housing" records at that location. This will ensure that

current business practice meets state law, and that DMV is able to review business records when necessary.

2.5 Operational Requirements and Limitations

Tariffs

Stakeholders and DMV staff also identified numerous operating requirements for motor carriers that, if modified or eliminated, would reduce burdens on the industry. Chief among these is the recommendation to eliminate the requirement that Common Carriers (both Regular and Irregular Route) file all tariffs with DMV, and the requirement to notify the Department prior to making changes to tariffs. These requirements, when set in law, ensured that the traveling public was aware of any price increases or service changes, especially with regular route bus services. However, these requirements were set before many of the modern technologies that allow customers to review price and schedule information on demand.

Motor carriers as a business practice post this information on company websites and in advertising and promotional material. Given that customers are far more likely to turn to one of these sources for rate and schedule information, having to provide DMV with this information does not provide any useful public protection.

Passenger Carriers' Use of Rental and Leased Vehicles

During the study, several stakeholders noted that the current process for registering a rental vehicle for temporary for-hire use was cumbersome and expensive. Specifically, the rental form requires the Vehicle Identification Number (VIN). Stakeholders noted that the VIN could only be obtained after the vehicle is picked up, but that the rental form had to be returned to DMV prior to the vehicle providing service. For weekend trips where a rental vehicle was needed, motor carriers indicated they had to reserve and pick up vehicles in advance, incurring extra costs, so they could complete the DMV form.

In addition to the extra time and cost associated with this process, motor carriers noted that the process for TNCs use of rental vehicles was abolished when the General Assembly ended the vehicle registration requirement. Requiring non-TNC carriers to complete a rental form while no such requirement exists for TNCs created an unequal playing field. To create the regulatory parity suggested by the charge letter, DMV proposed eliminating the application process for carriers' use of a rental vehicle. While the application will no longer be required, the rental contract must be in the name of the licensed motor carrier or TNC partner, and the rental agreement must be carried in the vehicle at all times.

Motor carriers are also permitted to use leased vehicles in their fleets. If a vehicle is not owned or registered in the name of the holder of the intrastate operating authority Certificate or Permit, a lease agreement must be executed for the vehicle to be used in the operation of the business. For a lease agreement to be valid, the following requirements must be met:

- The leased vehicle must be insured by the carrier's fleet coverage policy
- The licensed carrier must maintain operational control of the leased vehicle

- The for-hire registration card for the leased vehicle must reflect the Permit or Certificate number of the licensed carrier
- A copy of the lease agreement must be in the vehicle at all times

The primary purpose of this policy is to ensure that lease arrangements are not made to evade the requirement to obtain operating authority. For example, there have been cases where an individual who is unable to obtain operating authority will arrange to “lease” a Certificate from a licensed individual. This clearly violates the letter and intent of the law, whereby the individual intending to provide for-hire service must obtain operating authority.

During the study process, DMV suggested this would be the proper time to codify this procedure. This would ensure that there is statutory authority for the use of leased vehicles, and make it clear in law that “leasing” someone else’s operating authority will remain unlawful in Virginia.

Eliminate Decals on For-Hire Plates

Virginia passenger carriers are also required to display for-hire license plates. This requirement can be found in § 46.2-711 (B). This section authorizes separate for-hire plates for taxis, passenger carrying vehicles, among others. For-hire plates are linked to the operating carrier’s operating authority and are revoked if the carrier’s authority is no longer valid. These plates easily show both the traveling public and law enforcement that a vehicle is operating in a specific for-hire capacity.

Virginia law also permits some passenger carriers to obtain “permanent” for-hire plates. These plates bear the legend, “For Hire,” but do not require the month and year decal seen on most Virginia license plates. Permanent plates do not exempt the vehicle owner from paying yearly registration fees based on the vehicle’s classification, it simply means that month and year decals are not required. This is favored by many motor carriers whose vehicles operate over large areas of the Commonwealth. For such vehicles, it may not be easy for the managers to get decals to that vehicle at the time of renewal. Permanent plates accomplish three goals: first, it identifies the vehicle as being for-hire; second, it ensures that yearly registration fees are paid, and third, it eases a regulatory function for businesses that choose these plates.

Considering the benefits of permanent for-hire plates as opposed to for-hire plates with month and year decals, stakeholders discussed moving all passenger carriers to the permanent category. This will provide the added benefit of streamlining DMV procedures for registering and plating for-hire vehicles. It should be noted here that this recommendation does not include re-design of any for-hire plates currently issued. For instance, taxis will still receive a “Taxi” plate, and Non-Emergency Medical Transportation providers will still receive the current NEMT plate. The only recommended change is to issue all these carriers a permanent version of their current plate design without month and year decals.

2.6 Miscellaneous Changes

In addition to the recommendations above, there were additional issues discussed by the study group that met with approval, but did not fit into one of the aforementioned categories. These recommendations, while not all affecting each operating authority, were suggested by stakeholders or DMV staff as a way to further regulatory equity in Virginia law.

Taxi Branding

The *Code of Virginia* (§ 46.2-624) states that anyone wishing to sell a vehicle that has been used as a taxi must brand the vehicle's title providing this information. This requirement is in place to notify potential buyers in the secondary market that a vehicle has been used to transport the public. Readers of this section will notice that a similar requirement is not applied to other for-hire passenger carriers, representing a clear regulatory inequity. Vehicles used by other for-hire passenger carriers see an equal amount of use by the general public as taxis, so requiring taxis to be branded but not others makes little regulatory sense. Consequently, the final report recommends eliminating the requirement that taxis be branded.

Agent for Service of Process

Under Virginia law, motor carriers are required to have an established place of business; however, that place of business does not have to be in the Commonwealth. Many carriers are owned by national or even multinational companies with headquarters in multiple locations across the country. The Department shared its view with stakeholders that it was important to be able to contact these businesses with official requests. After additional research, DMV determined that under Virginia law many businesses, whether incorporated in or out of Virginia, are required by Virginia law to appoint a registered agent in Virginia to accept service of process on their behalf if they operate in Virginia. Accordingly, it was determined that DMV could serve the registered agent that has already been appointed for businesses incorporated outside the commonwealth.

The main exception to the requirement that a business has a registered agent is if the business is an unincorporated sole proprietor or partnership. DMV believes that most unincorporated carriers are located within Virginia, and so could be served at their Virginia address, but DMV believes that there are a small number of unincorporated carriers which are based outside of Virginia but operate in Virginia pursuant to authority granted by DMV. Because Virginia law does not already require these carriers to appoint a registered agent, there was concern that requiring these carriers to appoint a registered agent could be expensive and administratively burdensome, putting those carriers at a disadvantage to Virginia domiciled carriers.

Instead, DMV believes it is more appropriate to enact language stating that DMV notices would be deemed served whenever they are mailed to the last known address in the records of the Department. This gives DMV the ability to effectively serve these carriers while sparing them the hassle and expense of having to appoint a registered agent in Virginia which they are not otherwise required to have.

Additional Provisions

Through the study process and development of the corresponding proposed legislation DMV identified areas within the *Code* that could benefit from minor adjustments to address shortcomings. Among these changes is the removal of references to painted vehicle identification markers previously authorized by the State Corporation Commission and the defunct single state registration system.

Recommended changes to §§ 46.2-608 and 46.2-609 will ensure that DMV has the authority to reject, suspend or revoke the for-hire vehicle registration for all for-hire vehicles (except TNC

Partner Vehicles) operated by a passenger carrier that has been prohibited from operating by the Federal Motor Carrier Safety Administration due to public safety concerns. The current statute limits such actions to vehicles designed or used to transport more than 15 passengers, including the driver.

Areas for Further Study

During the study process, DMV and stakeholders determined that there were three important issues related to this study that will ultimately have an impact on passenger carrier services; however, the time and resources needed to fully examine these issues was outside the ability of this stakeholder study to complete. Therefore, the recommendation is to address these three issues in separate studies.

Dual Plate Requirement

There are numerous passenger carriers that operate in Virginia, Maryland, and the District of Columbia. If a carrier operates intrastate in multiple jurisdictions the carrier may be required to obtain and display license plates from each jurisdiction. Also, depending on where the company is headquartered and where the drivers reside and park the vehicle overnight, carriers are often required to display multiple license plates in order to operate legally. For instance, a passenger carrying vehicle that is titled and registered in Maryland, but whose driver lives in Virginia and parks the vehicle in Virginia overnight is required to display a for-hire plate from Maryland and a passenger plate from Virginia.

This raises two concerns. The first is that passenger carriers are required to obtain and display multiple license plates during regular service. The second is that the Virginia State Police discourages the display of multiple plates on a single vehicle. In addition, VSP is concerned that drivers may stop on the side of the road and change license plates when crossing jurisdictional lines, which is a safety hazard.

To address the issue of multiple plates, DMV recommended hosting a regional meeting with officials from Maryland and the District of Columbia to discuss this issue and determine if uniform indicia can be agreed to that will permit operations across jurisdictional lines without having to display more than one plate.

Rolling Stock Tax and Regular Route Common Carriers

Department staff also reviewed the importance of Regular Route Common Carriers to the localities they serve, and the tax treatments afforded to them for providing those services. Regular Route Common Carriers are eligible for the Rolling Stock tax, which is an assessment on the vehicles in a Regular Route Common Carrier's fleet. Under § 58.1-2652, carriers that qualify for this tax are subject to the rate of \$1 on each \$100 of assessed value. In addition, carriers paying this tax are subject to an additional levy of .02 percent of gross business receipts under § 58.1-2660. Carriers that do not qualify for Rolling Stock tax are subject to tangible personal property tax on their fleet set by localities.

When DMV first examined the possibility of consolidating operating authorities, stakeholders identified this tax treatment as critical to the businesses that provide regular route services to many

localities. With the importance of this service to residents in many communities, and the associated tax treatment to the companies providing the service, DMV suggested that this issue deserved a more complete review. Staff suggested that these issues be addressed through a study led by the State Corporation Commission, which administers the Rolling Stock Tax, and the localities that rely on regular route transportation services. Other interested stakeholders can participate as desired.

Regional Taxi Cooperation

The final issue raised by stakeholders during the study that deserves additional review is regional taxi cooperation. Most of the large metropolitan areas of the Commonwealth regulate taxi services, including northern Virginia (Arlington, Alexandria, and Fairfax), Central Virginia (Richmond, Henrico, and Chesterfield), and the Tidewater (Virginia Beach, Hampton Roads, and Norfolk). Regional cooperation among taxi regulators has been discussed previously, with some success. Stakeholders noted that Richmond, Henrico, and Chesterfield have a regional agreement on taxi regulation. Still, cooperation has not been explored in other areas or in greater depth.

In previous stakeholder meetings, and during discussions with taxi operators, this issue has emerged as one that can hinder business success. A single company that wishes to provide taxi services in Arlington, Alexandria and Fairfax must apply for three separate licenses and obey three different regulatory regimes. Stakeholders suggested that regional cooperation on taxi regulations might ease this burden. Localities and taxi representatives agreed that further examination of this issue would be beneficial in determining whether regional cooperation were desirable and if so, possible.

Based on these comments, DMV suggested that an independent group comprised of local governments, the Virginia Municipal League, and the Virginia Association of Counties, along with taxi company owners review these issues.

Appendix A: Charge Letter from Senator Carrico

SENATE OF VIRGINIA



C.W. "BILL" CARRICO, SR.
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COMMITTEE ASSIGNMENTS:
TRANSPORTATION, CHAIR
EDUCATION AND HEALTH
FINANCE
RULES

March 7, 2017

Mr. Richard D. Holcomb
Commissioner
Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond, VA 23269

Dear Commissioner Holcomb:

I want to begin by expressing my appreciation to you and your staff for the comprehensive 2016 Transportation Network Companies Annual Report that describes the outcomes and developments that followed the 2015 legislation. That legislation authorized transportation network companies (TNCs) such as Uber and Lyft to provide passenger transportation in Virginia. I found the report both informative and helpful.

In your report, you discuss ongoing changes in the passenger transportation marketplace, and that continued study of issues related to passenger transportation services may be warranted. You provided a rather lengthy list of items for potential consideration within the report. Some of the topics have been raised by constituents in the passenger transportation industry, primarily limousine and taxi operators that have expressed interest in addressing their operating requirements.

These businesses have expressed a particular interest in ensuring that any study address competitive fairness in Virginia passenger transportation laws and to that end, some of these stakeholders requested legislation for the 2017 Session regarding license plate requirements for taxi cabs. This was one issue discussed in my letter to you of February 2. I understand that, during the 2014 study of TNCs, stakeholders did not respond favorably to the possibility of broad reform of the regulatory structure for the passenger transportation industry. Based on the continued evolution of technology and these services, and the fact that some segments of the passenger carrier industry are seeking changes, I believe your recommendation for continued study is well founded. This study should address the issues in the recent letter, and where possible, administrative solutions that are available should be taken expeditiously.

Commissioner Holcomb

March 7, 2017

Page Two

To that end, I am asking DMV to convene a stakeholder study to examine the issues outlined in section 11 of your report and those listed within the second recommendation found in section 12 of the report, including opportunities to streamline the regulatory structure and licensing process, license plate and identification marker requirements, insurance requirements, and any related issues you believe are relevant to the study. In undertaking this study, I ask that you include representatives from taxi, limousine, and charter services, TNCs, law enforcement agencies, local governments, the insurance industry, trial attorneys, other government agencies, and any other stakeholders you deem appropriate.

I request that you report back to the Senate Transportation Committee no later than December 1, 2017. As part of this report, please provide recommendations regarding any actions to be taken. Also, please include any proposed legislation that may be necessary to implement the recommendations. I have the utmost confidence that, as DMV Commissioner, you will make every possible effort to ensure that the views of all stakeholders are considered and addressed.

I appreciate your assistance, and look forward to the results of this study.

Sincerely,

A handwritten signature in cursive script that reads "Charles Carrico". The signature is written in dark ink and is positioned above the printed name.

Charles W. Carrico, Sr.

Chairman, Senate Transportation Committee

Appendix B: Recommended Legislation

1 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF VIRGINIA:**

2 **1. That §§ 46.2-608, 46.2-609, 46.2-624, 46.2-694, 46.2-712, 46.2-2000, 46.2-2001, 46.2-**
3 **2001.1, 46.2-2001.2, 46.2-2001.3, 46.2-2005, 46.2-2005.1, 46.2-2011.3, 46.2-2011.5,**
4 **46.2-2011.6, 46.2-2011.10, 46.2-2011.11, 46.2-2011.14, 46.2-2011.16, 46.2-2011.17,**
5 **46.2-2011.20, 46.2-2011.22, 46.2-2011.23, 46.2-2011.24, 46.2-2011.25, 46.2-2011.26,**
6 **46.2-2011.27, 46.2-2011.28, 46.2-2011.29, 46.2-2053, 46.2-2054, 46.2-2056, 46.2-2059,**
7 **46.2-2068, 46.2-2069, 46.2-2070, 46.2-2071, 46.2-2073, 46.2-2081, 46.2-2099.18, 46.2-**
8 **2099.19, 46.2-2099.41, and 58.1-2259 are amended and reenacted, and new sections**
9 **numbered §§ 46.2-2001.4, 46.2-2001.5, 46.2-2044, 46.2-2045, and 46.2-2090.1 are**
10 **enacted, as follows:**

11 **§ 46.2-608. When application for registration or certificate of title rejected.**

12 The Department may reject an application for the registration of a motor vehicle, trailer, or
13 semitrailer or certificate of title when:

- 14 1. The applicant for registration is not entitled to it under the provisions of this title or Title 43;
- 15 2. The applicant has neglected or refused to furnish the Department with the information
16 required on the appropriate official form or other information required by the Department;
- 17 3. The required fees have not been paid;
- 18 4. The vehicle is not equipped with equipment required by this title or the vehicle is equipped
19 with equipment prohibited by this title;
- 20 5. The applicant, if not a resident of the Commonwealth, has not filed with the Commissioner a
21 power of attorney appointing him the applicant's authorized agent or attorney-in-fact upon whom
22 process or notice may be served as required in § 46.2-601;

23 6. There is reason to believe that the application or accompanying documents have been altered
24 or contain any false statement;

25 7. The vehicle is a commercial motor vehicle and is being operated by a motor carrier that has
26 been prohibited to operate by a federal agency;

27 8. The vehicle is a commercial motor vehicle and the vehicle has been assigned for safety to a
28 motor carrier that has been prohibited from operating by a federal agency or a motor carrier
29 whose business is operated, managed, or otherwise controlled or affiliated with a person who is
30 ineligible for registration, including the owner or a relative, family member, corporate officer, or
31 shareholder; or

32 9. The vehicle is a commercial motor vehicle and the applicant has applied on behalf of or for the
33 benefit of the real party in interest who has been issued a federal out of service order or if the
34 applicant's business is operated, managed, or otherwise controlled or affiliated with a person who
35 is ineligible for registration, including the applicant or an entity, relative, family member,
36 corporate officer, or shareholder.

37 For purposes of this section, the terms "commercial motor vehicle" and "motor carrier" shall be
38 as defined in § 52-8.4, and shall also include vehicles and carriers which operate or should
39 operate under a certificate issued pursuant to Chapter 20 of this title except for a TNC partner
40 vehicle as that term is defined in § 46.2-2000.

41 **§ 46.2-609. When registration may be suspended or revoked.**

42 A. The Department may revoke the registration of a motor vehicle, trailer, or semitrailer and may
43 revoke the registration card, license plates, or decals whenever the person to whom the
44 registration card, license plates, or decals have been issued makes or permits to be made an

45 unlawful use of any of them or permits their use by a person not entitled to them, or fails or
46 refuses to pay, within the time prescribed by law, any fuel taxes or other taxes or fees required to
47 be collected or authorized to be collected by the Department regardless of whether the fee
48 applies to that particular vehicle.

49 B. The Department may suspend or revoke the registration card, license plates, or decals issued
50 to a commercial motor vehicle if the motor carrier responsible for safety of the vehicle has been
51 prohibited from operating by a federal agency. For purposes of this subsection, the terms
52 "commercial motor vehicle" and "motor carrier" shall be as defined in § 52-8.4, and shall also
53 include vehicles and carriers which operate or should operate under a certificate issued pursuant
54 to Chapter 20 of this title except for a TNC partner vehicle as that term is defined in § 46.2-2000.

55

56 **§ 46.2-624. Information required on transfer of ~~titles of taxicabs or~~ vehicles damaged by**
57 **water.**

58 ~~A. Unless there is attached to the certificate of title of the vehicle a statement signed by the~~
59 ~~owner to the effect that the vehicle has been used as a taxicab, it shall be unlawful for any person~~
60 ~~knowingly to sell, transfer, or otherwise dispose of any motor vehicle that has been used as a~~
61 ~~taxicab.~~

62 ~~B. Violation of subsection A shall constitute a Class 1 misdemeanor.~~

63 EA. When a vehicle has been damaged by water to such an extent that the insurance company
64 insuring it has paid a claim of \$3,500 or more because of this water damage, the insurance
65 company shall report the payment of such claim to the Department.

66 ~~DB. On receipt of a certificate of title to which the information required in subsection A is~~
67 ~~attached or upon~~ Upon receipt of information from an insurance company pursuant to subsection
68 ~~EA~~, the Commissioner shall, on issuing a new certificate of title, place an appropriate indicator
69 upon such certificate in order to convey that information to the new owner of the motor vehicle.

70 **§ 46.2-694. (Contingent expiration date -- see note*) Fees for vehicles designed and used for**
71 **transportation of passengers; weights used for computing fees; burden of proof.**

72 A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used
73 for the transportation of passengers on the highways in the Commonwealth are:

74 1. Thirty-three dollars for each private passenger car or motor home if the passenger car or motor
75 home weighs 4,000 pounds or less, provided that it is not used for the transportation of
76 passengers for compensation and is not kept or used for rent or for hire, or is not operated under
77 a lease without a chauffeur; however, the fee provided under this subdivision shall apply to a
78 private passenger car or motor home that weighs 4,000 pounds or less and is used as a TNC
79 partner vehicle as defined in § 46.2-2000.

80 2. Thirty-eight dollars for each private passenger car or motor home that weighs more than 4,000
81 pounds, provided that it is not used for the transportation of passengers for compensation and is
82 not kept or used for rent or for hire, or is not operated under a lease without a chauffeur;
83 however, the fee provided under this subdivision shall apply to a private passenger car or motor
84 home that weighs more than 4,000 pounds and is used as a TNC partner vehicle as defined in
85 § 46.2-2000.

86 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a
87 motorcycle with a normal seating capacity of more than 10 adults, including the driver, if the

88 private motor vehicle is not used for the transportation of passengers for compensation and is not
89 kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case
90 shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle
91 weighs more than 4,000 pounds.

92 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee
93 be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more
94 than 4,000 pounds.

95 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for
96 human beings.

97 6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor vehicle,
98 trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or
99 interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay
100 the fees prescribed in subdivision 7 on submission to the Commissioner of a declaration of
101 operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor
102 vehicle weighs more than 4,000 pounds.

103 7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor vehicle,
104 trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be
105 licensed under this subsection. An additional \$5 shall be charged if the motor vehicle weighs
106 more than 4,000 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor carrier of
107 passengers, operating two or more vehicles both within and outside the Commonwealth and
108 registered for insurance purposes with the Surface Transportation Board of the U.S. Department
109 of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated

110 registration. Upon the filing of such application, in such form as the Commissioner may
111 prescribe, the Commissioner shall apportion the registration fees provided in this subsection so
112 that the total registration fees to be paid for such vehicles of such carrier shall be that proportion
113 of the total fees, if there were no apportionment, that the total number of miles traveled by such
114 vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by
115 such vehicles within and outside the Commonwealth. Such total mileage in each instance is the
116 estimated total mileage to be traveled by such vehicles during the license year for which such
117 fees are paid, subject to the adjustment in accordance with an audit to be made by representatives
118 of the Commissioner at the end of such license year, the expense of such audit to be borne by the
119 carrier being audited. Each vehicle passing into or through Virginia shall be registered and
120 licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be
121 less than \$33. For the purpose of determining such apportioned registration fees, only those
122 motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth
123 shall be subject to inclusion in determining the apportionment provided for herein.

124 8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor vehicle,
125 trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur
126 for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle
127 weighs more than 4,000 pounds. This subdivision does not apply to vehicles used as common
128 carriers or as TNC partner vehicles as defined in § 46.2-2000.

129 9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with
130 a chauffeur for the transportation of passengers, and which operates or should operate under
131 ~~permits~~ a certificate of fitness issued pursuant to Chapter 20 of this title by the Department as
132 required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000

133 pounds. This subdivision does not apply to vehicles used as common carriers or as TNC partner
134 vehicles as defined in § 46.2-2000.

135 10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a
136 surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

137 10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special
138 fund to be used to meet the expenses of the Department.

139 10b. Eighteen dollars for an autocycle.

140 11. Twenty-three dollars for a bus used exclusively for transportation to and from church school,
141 for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty
142 weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

143 12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other passenger-
144 carrying vehicles.

145 13. An additional fee of \$4.25 per year shall be charged and collected at the time of registration
146 of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12. All funds
147 collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be set aside as a
148 special fund to be used only for emergency medical services purposes. The moneys in the special
149 emergency medical services fund shall be distributed as follows:

150 a. Two percent shall be distributed to the State Department of Health to provide funding to the
151 Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting
152 volunteer recruitment, retention, and training activities;

153 b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency
154 medical services training programs (excluding advanced life support classes); (ii) advanced life
155 support training; (iii) recruitment and retention programs (all funds for such support shall be used
156 to recruit and retain volunteer emergency medical services personnel only, including public
157 awareness campaigns, technical assistance programs, and similar activities); (iv) emergency
158 medical services system development, initiatives, and priorities based on needs identified by the
159 State Emergency Medical Services Advisory Board; (v) local, regional, and statewide
160 performance contracts for emergency medical services to meet the objectives stipulated in
161 § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved
162 emergency preparedness and response. Any funds set aside for distribution under this provision
163 and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad
164 Assistance Fund;

165 c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

166 d. Ten percent shall be available to the State Department of Health's Office of Emergency
167 Medical Services for use in emergency medical services; and

168 e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is
169 registered, to provide funding for training of volunteer or salaried emergency medical services
170 personnel of nonprofit emergency medical services agencies that hold a valid license issued by
171 the Commissioner of Health and for the purchase of necessary equipment and supplies for use in
172 such locality for emergency medical services provided by nonprofit emergency medical services
173 agencies that hold a valid license issued by the Commissioner of Health.

174 All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008 Session of
175 the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only
176 to pay for the costs associated with the certification and recertification training of emergency
177 medical services personnel.

178 The Comptroller shall clearly designate on the warrant, check, or other means of transmitting
179 these funds that such moneys are only to be used for purposes set forth in this subdivision. Such
180 funds shall be in addition to any local appropriations and local governing bodies shall not use
181 these funds to supplant local funds. Each local governing body shall report annually to the Board
182 of Health on the use of the funds returned to it pursuant to this section. In any case in which the
183 local governing body grants the funds to a regional emergency medical services council to be
184 distributed to the nonprofit emergency medical services agency that holds a valid license issued
185 by the Commissioner of Health, the local governing body shall remain responsible for the proper
186 use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the
187 locality pursuant to this section for that year has not been received from a local governing body,
188 any funds due to that local governing body for the next fiscal year shall be retained until such
189 time as the report has been submitted to the Board.

190 B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-
191 646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this
192 section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent,
193 multiplied by the number of months in the registration period for such motor vehicles, trailers,
194 and semitrailers.

195 C. The manufacturer's shipping weight or scale weight shall be used for computing all fees
196 required by this section to be based upon the weight of the vehicle.

197 D. The applicant for registration bears the burden of proof that the vehicle for which registration
198 is sought is entitled by weight, design, and use to be registered at the fee tendered by the
199 applicant to the Commissioner or to his authorized agent.

200 **§ 46.2-694. (Contingent effective date -- see note*) Fees for vehicles designed and used for**
201 **transportation of passengers; weights used for computing fees; burden of proof.**

202 A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used
203 for the transportation of passengers on the highways in the Commonwealth are:

204 1. Twenty-three dollars for each private passenger car or motor home if the passenger car or
205 motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of
206 passengers for compensation and is not kept or used for rent or for hire, or is not operated under
207 a lease without a chauffeur; however, the fee provided under this subdivision shall apply to a
208 private passenger car or motor home that weighs 4,000 pounds or less and is used as a TNC
209 partner vehicle as defined in § 46.2-2000.

210 2. Twenty-eight dollars for each private passenger car or motor home that weighs more than
211 4,000 pounds, provided that it is not used for the transportation of passengers for compensation
212 and is not kept or used for rent or for hire, or is not operated under a lease without a chauffeur;
213 however, the fee provided under this subdivision shall apply to a private passenger car or motor
214 home that weighs more than 4,000 pounds and is used as a TNC partner vehicle as defined in
215 § 46.2-2000.

216 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a
217 motorcycle with a normal seating capacity of more than 10 adults, including the driver, if the
218 private motor vehicle is not used for the transportation of passengers for compensation and is not

219 kept or used for rent or for hire or is not operated under a lease without a chauffeur. In no case
220 shall the fee be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle
221 weighs more than 4,000 pounds.

222 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee
223 be less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more
224 than 4,000 pounds.

225 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for
226 human beings.

227 6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor vehicle,
228 trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or
229 interstate. Interstate common carriers of interstate passengers may elect to be licensed and pay
230 the fees prescribed in subdivision 7 on submission to the Commissioner of a declaration of
231 operations and equipment as he may prescribe. An additional \$5 shall be charged if the motor
232 vehicle weighs more than 4,000 pounds.

233 7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor vehicle,
234 trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be
235 licensed under this subsection. An additional \$5 shall be charged if the motor vehicle weighs
236 more than 4,000 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor carrier of
237 passengers, operating two or more vehicles both within and outside the Commonwealth and
238 registered for insurance purposes with the Surface Transportation Board of the U.S. Department
239 of Transportation, Federal Highway Administration, may apply to the Commissioner for prorated
240 registration. Upon the filing of such application, in such form as the Commissioner may

241 prescribe, the Commissioner shall apportion the registration fees provided in this subsection so
242 that the total registration fees to be paid for such vehicles of such carrier shall be that proportion
243 of the total fees, if there were no apportionment, that the total number of miles traveled by such
244 vehicles of such carrier within the Commonwealth bears to the total number of miles traveled by
245 such vehicles within and outside the Commonwealth. Such total mileage in each instance is the
246 estimated total mileage to be traveled by such vehicles during the license year for which such
247 fees are paid, subject to the adjustment in accordance with an audit to be made by representatives
248 of the Commissioner at the end of such license year, the expense of such audit to be borne by the
249 carrier being audited. Each vehicle passing into or through Virginia shall be registered and
250 licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be
251 less than \$33. For the purpose of determining such apportioned registration fees, only those
252 motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth
253 shall be subject to inclusion in determining the apportionment provided for herein.

254 8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor vehicle,
255 trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur
256 for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle
257 weighs more than 4,000 pounds. This subdivision does not apply to vehicles used as common
258 carriers or as TNC partner vehicles as defined in § 46.2-2000.

259 9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with
260 a chauffeur for the transportation of passengers, and which operates or should operate under
261 ~~permits~~ a certificate of fitness issued pursuant to Chapter 20 of this title by the Department as
262 required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000

263 pounds. This subdivision does not apply to vehicles used as common carriers or as TNC partner
264 vehicles as defined in § 46.2-2000.

265 10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a
266 surcharge of \$3, which shall be distributed as provided in § 46.2-1191.

267 10a. Fourteen dollars for a moped, to be paid into the state treasury and set aside as a special
268 fund to be used to meet the expenses of the Department.

269 10b. Eighteen dollars for an autocycle.

270 11. Twenty-three dollars for a bus used exclusively for transportation to and from church school,
271 for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty
272 weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

273 12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other passenger-
274 carrying vehicles.

275 13. An additional fee of \$4.25 per year shall be charged and collected at the time of registration
276 of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12. All funds
277 collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be set aside as a
278 special fund to be used only for emergency medical services purposes. The moneys in the special
279 emergency medical services fund shall be distributed as follows:

280 a. Two percent shall be distributed to the State Department of Health to provide funding to the
281 Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting
282 volunteer recruitment, retention and training activities;

283 b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency
284 medical services training programs (excluding advanced life support classes); (ii) advanced life
285 support training; (iii) recruitment and retention programs (all funds for such support shall be used
286 to recruit and retain volunteer emergency medical services personnel only, including public
287 awareness campaigns, technical assistance programs, and similar activities); (iv) emergency
288 medical services system development, initiatives, and priorities based on needs identified by the
289 State Emergency Medical Services Advisory Board; (v) local, regional, and statewide
290 performance contracts for emergency medical services to meet the objectives stipulated in
291 § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved
292 emergency preparedness and response. Any funds set aside for distribution under this provision
293 and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad
294 Assistance Fund;

295 c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

296 d. Ten percent shall be available to the State Department of Health's Office of Emergency
297 Medical Services for use in emergency medical services; and

298 e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is
299 registered, to provide funding for training of volunteer or salaried emergency medical services
300 personnel of nonprofit emergency medical services agencies that hold a valid license issued by
301 the Commissioner of Health and for the purchase of necessary equipment and supplies for use in
302 such locality for emergency medical services provided by nonprofit or volunteer emergency
303 medical services agencies that hold a valid license issued by the Commissioner of Health.

304 All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008 Session of
305 the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only
306 to pay for the costs associated with the certification and recertification training of emergency
307 medical services personnel.

308 The Comptroller shall clearly designate on the warrant, check, or other means of transmitting
309 these funds that such moneys are only to be used for purposes set forth in this subdivision. Such
310 funds shall be in addition to any local appropriations and local governing bodies shall not use
311 these funds to supplant local funds. Each local governing body shall report annually to the Board
312 of Health on the use of the funds returned to it pursuant to this section. In any case in which the
313 local governing body grants the funds to a regional emergency medical services council to be
314 distributed to the emergency medical services agency that holds a valid license issued by the
315 Commissioner of Health, the local governing body shall remain responsible for the proper use of
316 the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality
317 pursuant to this section for that year has not been received from a local governing body, any
318 funds due to that local governing body for the next fiscal year shall be retained until such time as
319 the report has been submitted to the Board.

320 B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-
321 646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this
322 section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent,
323 multiplied by the number of months in the registration period for such motor vehicles, trailers,
324 and semitrailers.

325 C. The manufacturer's shipping weight or scale weight shall be used for computing all fees
326 required by this section to be based upon the weight of the vehicle.

327 D. The applicant for registration bears the burden of proof that the vehicle for which registration
328 is sought is entitled by weight, design, and use to be registered at the fee tendered by the
329 applicant to the Commissioner or to his authorized agent.

330 **§ 46.2-712. Requirements of license plates and decals.**

331 A. Every license plate shall display the registration number assigned to the motor vehicle, trailer,
332 or semitrailer and to the owner thereof, the name of the Commonwealth, which may be
333 abbreviated, and the year or the month and year, which may be abbreviated and in the form of
334 decals, for which it is issued. Subject to the need for legibility, the size of the plate, the letters,
335 numerals, and decals thereon, and the color of the plate, letters, numerals, and decals shall be in
336 the discretion of the Commissioner. Decals shall be placed on the license plates in the manner
337 prescribed by the Commissioner, and shall indicate the month and year of expiration. On the
338 issuance of the decals, a new registration card shall be issued with the same date of expiration as
339 the decals.

340 B. Notwithstanding any other provision of this title, the Department may issue permanent license
341 plates without decals and without a month and year of expiration for all trailers and semitrailers,
342 regardless of weight, ~~and~~ trucks and tractor trucks with a gross vehicle weight rating or gross
343 combination weight rating of more than 26,000 pounds; The Department shall issue permanent
344 license plates without decals and without a month and year of expiration for all vehicles which
345 are issued license plates designed pursuant to subsections B 1, B 2, B 3, B 5, and B 6 of § 46.2-
346 711 or other motor vehicles performing a taxicab service; and common carrier vehicles operated
347 for hire, both of the latter as defined in § 46.2-2000 that are in compliance with the requirements
348 of Chapter 20 (§ 46.2-2000 et seq.) of this title. In addition, the Department may issue permanent
349 license plates without decals and without a month and year of expiration for trucks and tractor

350 trucks with gross vehicle weight ratings or gross combination weight ratings of at least 7,501
351 pounds but not more than 26,000 pounds, provided that such vehicles are for business use only,
352 and for farm vehicles registered with the Department pursuant to § 46.2-698.

353 ~~C. Notwithstanding any contrary provision of this section, any person who, pursuant to former~~
354 ~~§ 56-304.3, repealed by Chapters 744 and 803 of the Acts of Assembly of 1995, obtained from~~
355 ~~the State Corporation Commission an exemption from the marker or decal requirements of~~
356 ~~former § 56-304, 56-304.1 or 56-304.2, and who has painted or, in the case of newly acquired~~
357 ~~vehicles, who paints an identifying number on the sides of any vehicle with respect to which~~
358 ~~such exemption applies and, in all other respects, continues to comply with the requirements of~~
359 ~~former § 56-304.3, shall be deemed to be in compliance with § 46.2-2011.23 and subdivision 18~~
360 ~~of § 46.2-2011.24.~~

361

362 **§ 46.2-2000. Definitions.**

363 Whenever used in this chapter unless expressly stated otherwise:

364 "Authorized insurer" means, in the case of an interstate motor carrier whose operations may or
365 may not include intrastate activity, an insurer authorized to transact business in any one state, or,
366 in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the
367 Commonwealth.

368 "Broker" means any person not included in the term "motor carrier" and not a bona fide
369 employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any
370 transportation subject to this chapter except for transportation pursuant to Article 15 (§ 46.2-
371 2099.45 et seq.), or negotiates for, or holds himself out by solicitation, advertisement, or
372 otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

373 "Carrier by motor launch" means a common carrier, which carrier uses one or more motor
374 launches operating on the waters within the Commonwealth to transport passengers.

375 "Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

376 "Certificate of fitness" means a certificate issued by the Department to a contract passenger
377 carrier, a sight-seeing carrier, a transportation network company, a nonprofit/tax-exempt
378 passenger carrier, an employee hauler, the operator of a taxicab or other vehicle performing a
379 taxicab service, or a nonemergency medical transportation carrier.

380 "Certificate of public convenience and necessity" means a certificate issued by the Department of
381 Motor Vehicles to certain common carriers, but nothing contained in this chapter shall be
382 construed to mean that the Department can issue any such certificate authorizing intracity
383 transportation.

384 "Common carrier" means any person who undertakes, whether directly or by a lease or any other
385 arrangement, to transport passengers for the general public by motor vehicle for compensation
386 over the highways of the Commonwealth, whether over regular or irregular routes, including
387 such motor vehicle operations of carriers by rail or water under this chapter. "Common carrier"
388 does not include nonemergency medical transportation carriers, transportation network
389 companies, or TNC partners as defined in this section.

390 "Contract passenger carrier" means a motor carrier that transports groups of passengers under a
391 single contract made with one person for an agreed charge for such transportation, regardless of
392 the number of passengers transported, and for which transportation no individual or separate
393 fares are solicited, charged, collected, or received by the carrier. "Contract passenger carrier"
394 does not include a transportation network company or TNC partner as defined in this section.

395 “Daily rental vehicle” has the meaning given to that term in § 58.1-1735.

396 "Department" means the Department of Motor Vehicles.

397 "Digital platform" means any online-enabled application, software, website, or system offered or
398 utilized by a transportation network company that enables the prearrangement of rides with TNC
399 partners.

400 "Employee hauler" means a motor carrier operating for compensation and exclusively
401 transporting only bona fide employees directly to and from the factories, plants, office or other
402 places of like nature where the employees are employed and accustomed to work.

403 "Excursion train" means any steam-powered train that carries passengers for which the primary
404 purpose of the operation of such train is the passengers' experience and enjoyment of this means
405 of transportation, and does not, in the course of operation, carry (i) freight other than the personal
406 luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the
407 passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers who are
408 traveling to their final destination solely for business or commercial purposes.

409 "Financial responsibility" means the ability to respond in damages for liability thereafter incurred
410 arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts
411 provided for in this chapter.

412 "Highway" means every public highway or place of whatever nature open to the use of the public
413 for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns
414 and cities.

415 "Identification marker" means a decal or other visible identification issued by the Department to
416 show one or more of the following: (i) that the operator of the vehicle has registered with the
417 Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of
418 Title 58.1; (ii) proof of the possession of a certificate ~~or permit~~ issued pursuant to this chapter; or
419 (iii) proof of compliance with the insurance requirements of this chapter.

420 "Interstate" means transportation of passengers between states.

421 "Intrastate" means transportation of passengers solely within a state.

422 "License" means a license issued by the Department to a broker or a TNC broker.

423 "Minibus" means any motor vehicle having a seating capacity of not less than seven nor more
424 than 31 passengers, including the driver, and used in the transportation of passengers.

425 "Motor carrier" means any person who undertakes, whether directly or by lease, to transport
426 passengers for compensation over the highways of the Commonwealth.

427 "Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for
428 the carriage of passengers for compensation, with a capacity of six or more passengers, but not in
429 excess of 50 passengers. "Motor launch" does not include sight-seeing vessels, special or charter
430 party vessels within the provisions of this chapter. A carrier by motor launch shall not be
431 regarded as a steamship company.

432 "Nonemergency medical transportation carrier" means a motor carrier that exclusively provides
433 nonemergency medical transportation and provides such transportation only (i) through the
434 Department of Medical Assistance Services; (ii) through a broker operating under a contract with
435 the Department of Medical Assistance Services; or (iii) as a Medicaid Managed Care

436 Organization or through a contractor of a Medicaid Managed Care Organization contracted with
437 the Department of Medical Assistance Services to provide such transportation.

438 "Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or
439 existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as
440 defined in §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code, as amended, who
441 undertakes, whether directly or by lease, to control and operate minibuses exclusively in the
442 transportation, for compensation, of members of such organization if it is a membership
443 corporation, or of elderly, disabled, or economically disadvantaged members of the community if
444 it is not a membership corporation.

445 "Operation" or "operations" includes the operation of all motor vehicles, whether loaded or
446 empty, whether for compensation or not, and whether owned by or leased or rented to the motor
447 carrier who operates them or causes them to be operated.

448 "Operation of a TNC partner vehicle" means (i) any time a TNC partner is logged into a digital
449 platform and is available to pick up passengers; (ii) any time a passenger is in the TNC partner
450 vehicle; and (iii) any time the TNC partner has accepted a prearranged ride request through the
451 digital platform and is en route to a passenger.

452 "Operator" means the employer or person actually driving a motor vehicle or combination of
453 vehicles.

454 ~~"Permit" means a permit issued by the Department to carriers operating as employee haulers or~~
455 ~~nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing~~
456 ~~taxicab service under this chapter.~~

457 "Person" means any individual, firm, copartnership, corporation, company, association, or joint-
458 stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

459 "Personal vehicle" means a motor vehicle that is not used to transport passengers for
460 compensation except as a TNC partner vehicle.

461 "Prearranged ride" means passenger transportation for compensation in a TNC partner vehicle
462 arranged through a digital platform. "Prearranged ride" includes the period of time that begins
463 when a TNC partner accepts a ride requested through a digital platform, continues while the
464 TNC partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits
465 the TNC partner vehicle.

466 "Restricted common carrier" means any person who undertakes, whether directly or by a lease or
467 other arrangement, to transport passengers for compensation, whereby such transportation
468 service has been restricted. "Restricted common carrier" does not include a transportation
469 network company or TNC partner as defined in this section.

470 "Route," when used in connection with or with respect to a certificate of public convenience and
471 necessity, means the road or highway, or segment thereof, operated over by the holder of a
472 certificate of public convenience and necessity or proposed to be operated over by an applicant
473 therefor, whether such road or highway is designated by one or more highway numbers.

474 "Services" and "transportation" include the service of, and all transportation by, all vehicles
475 operated by, for, or in the interest of any motor carrier irrespective of ownership or contract,
476 expressed or implied, together with all facilities and property operated or controlled by any such
477 carrier or carriers and used in the transportation of passengers or the performance of any service
478 in connection therewith.

479 "Sight-seeing carrier" means a restricted common carrier authorized to transport passengers
480 under the provisions of this chapter, whereby the primary purpose of the operation is the
481 passengers' experience and enjoyment or the promotion of tourism.

482 "Sight-seeing carrier by boat" means a restricted common carrier, which restricted common
483 carrier uses a boat or boats operating on waters within the Commonwealth to transport
484 passengers, and whereby the primary purpose of the operation is the passengers' experience and
485 enjoyment or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as
486 steamship companies.

487 ~~"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367~~
488 ~~evidencing that the carrier has the required insurance and paid the requisite fees to the~~
489 ~~Commonwealth and other qualified jurisdictions.~~

490 "Special or charter party carrier by boat" means a restricted common carrier which transports
491 groups of persons under a single contract made with one person for an agreed charge for such
492 movement regardless of the number of persons transported. Special or charter party carriers by
493 boat shall not be regarded as steamship companies.

494 "Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a
495 seating capacity of not more than six passengers, excluding the driver, not operating on a regular
496 route or between fixed terminals used in the transportation of passengers for hire or for
497 compensation, and not a common carrier, restricted common carrier, transportation network
498 company, TNC partner, or nonemergency medical transportation carrier as defined in this
499 chapter.

500 "TNC broker" means any person who (i) is not a transportation network company or TNC
501 partner and (ii) is not a bona fide employee or agent of a transportation network company or
502 TNC partner, and who contracts or enters into an agreement or arrangement, with a
503 transportation network company and who, in accordance with such contract, agreement or
504 arrangement, arranges any transportation subject to Article 15 (§ [46.2-2099.45](#) et seq.) or
505 negotiates for or holds himself out by solicitation, advertisement, or otherwise as one who
506 arranges for such transportation but does not control the manner in which such transportation is
507 provided.

508

509 "TNC broker insurance" means a motor vehicle liability insurance policy that specifically covers
510 liabilities arising while the TNC partner is en route to a passenger pursuant to arrangements
511 made by a TNC broker.

512 "TNC insurance" means a motor vehicle liability insurance policy that specifically covers
513 liabilities arising from a TNC partner's operation of a TNC partner vehicle.

514 "TNC partner" means a person authorized by a transportation network company to use a TNC
515 partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

516 "TNC partner vehicle" means a personal vehicle authorized by a transportation network company
517 and used by a TNC partner to provide prearranged rides on an intrastate basis in the
518 Commonwealth.

519 "Trade dress" means a logo, insignia, or emblem attached to or visible from the exterior of a
520 TNC partner vehicle that identifies a transportation network company or digital platform with
521 which the TNC partner vehicle is affiliated.

522 "Transportation network company" means a person who provides prearranged rides using a
523 digital platform that connects passengers with TNC partners.

524 **§ 46.2-2001. Regulation by Department; reports; prevention of discrimination; regulation**
525 **of leasing of motor vehicles.**

526 The Department shall supervise, regulate and control all motor carriers,~~carriers by rail~~, TNC
527 brokers, and brokers not exempted under this chapter doing business in the Commonwealth, and
528 all matters relating to the performance of their public duties and their charges therefor as
529 provided by this chapter, and shall correct abuses therein by such carriers; and to that end the
530 Department may prescribe reasonable rules, regulations, forms and reports for such carriers and
531 brokers in furtherance of the administration and operation of this chapter; and the Department
532 shall have the right at all times to require from such motor carriers,~~carriers by rail~~, TNC brokers,
533 and brokers special reports and statements, under oath, concerning their business.

534 The Department shall make and enforce such requirements, rules and regulations as may be
535 necessary to prevent unjust or unreasonable discriminations by any carrier, TNC broker, or
536 broker in favor of, or against, any person, locality, community or connecting carrier in the matter
537 of service, schedule, efficiency of transportation or otherwise, in connection with the public
538 duties of such carrier, TNC broker, or broker. The Department shall administer and enforce all
539 provisions of this chapter, and may prescribe reasonable rules, regulations and procedure looking
540 to that end.

541 The Department may prescribe and enforce such reasonable requirements, rules and regulations
542 in the matter of leasing of motor vehicles as are necessary to prevent evasion of the Department's
543 regulatory powers.

544 The Department shall work in conjunction with the Department of State Police and local law-
545 enforcement officials to promote uniform enforcement of the laws pertaining to motor carriers
546 and the rules, regulations, forms, and reports prescribed under the provisions of this chapter.

547 **§ 46.2-2001.1. License, ~~permit~~, or certificate required.**

548 A. It shall be unlawful for any person to operate, offer, advertise, provide, procure, furnish, or
549 arrange by contract, agreement, or arrangement to transport passengers for compensation as a
550 TNC broker, broker, or motor carrier ~~or excursion train operator~~ without first obtaining a license,
551 ~~permit~~, or certificate, unless otherwise exempted, as provided in this chapter.

552 B. ~~Beginning July 1, 2014, any~~ Any person making application for a license, ~~permit~~, or
553 certificate pursuant to this chapter who has violated § 46.2-2001.1, either as a result of a
554 conviction or as a result of an imposition of a civil penalty, shall be denied such license, ~~permit~~,
555 or certificate for a period of 12 months from the date the final disposition of the conviction or
556 imposition of the civil penalty has been rendered.

557 The Department of Motor Vehicles shall require applicants for a license, ~~permit~~, or certificate to
558 report any conviction or imposition of civil penalties for violations of § 46.2-2001.1.

559 **§ 46.2-2001.2. Identification marker required.**

560 Each motor carrier shall be issued an identification marker; unless the operation is interstate in
561 nature ~~and the carrier has been issued a single state registration receipt by the Department or~~
562 ~~other qualified jurisdiction~~. The identification marker issued by the Department shall be
563 displayed on each vehicle except a TNC partner vehicle or daily rental vehicle as prescribed by
564 the Department and shall be valid for the period of time prescribed by the Department.

565 **§ 46.2-2001.3. Application; notice requirements.**

566 A. Applications for a license, ~~permit~~, certificate, or identification marker or renewal of a license,
567 ~~permit~~, certificate, or identification marker under this chapter shall be made to the Department
568 and contain such information and exhibits as the Department shall require. Such information
569 shall include, in the application or otherwise, the matters set forth in § 46.2-2011.24 as grounds
570 for denying licenses, ~~permits~~, and certificates, and other pertinent matters requisite for the
571 safeguarding of the public interest.

572 Notwithstanding any other provision of this chapter, the Commissioner may require all or certain
573 applications for a license, ~~permit~~, certificate, or identification marker to be filed electronically.

574 B. An applicant for any original certificate of public convenience and necessity issued under this
575 chapter, or any request for a transfer of such certificate, unless otherwise provided, shall cause a
576 notice of such application, on the form and in the manner prescribed by the Department, on every
577 motor carrier holding the same type of certificate issued by the Department and operating or
578 providing service within the area proposed to be served by the applicant.

579 C. For any application for an original certificate of public convenience and necessity ~~or license~~
580 issued under this chapter, or any request for a transfer of such certificate of public convenience
581 and necessity ~~or license~~, the Department shall publish a notice of such application on the
582 Department's public website in the form and in the manner prescribed by the Department.

583 D. An applicant for any original certificate of public convenience and necessity issued under this
584 chapter, or any request for a transfer of such certificate of public convenience and necessity,
585 shall cause a publication of a summary of the application to be made in a newspaper having a
586 general circulation in the proposed area to be served or area where the primary business office is
587 located within such time as the Department may prescribe.

588 **§ 46.2-2001.4. Use of leased vehicles by motor carriers.**

589 A. Leased vehicles shall be insured in the name of the licensed motor carrier by an insurance
590 policy which complies with the provisions of § 46.2-2053.

591 B. A leased vehicle shall at all times be under the operational control of the motor carrier
592 who has leased it. All advertising for and contracting of service to be provided by the
593 leased vehicle shall be controlled by the motor carrier who has leased the vehicle.

594 C. Prior to operating a leased vehicle, the lessor or motor carrier shall apply to register the
595 vehicle with the Department. The application shall include a copy of the lease
596 agreement, the fee required under § 46.2-694, and the fee required by § 46.2-2011.6
597 along with such other information as the Department may require.

598 D. If the Department approves the application it shall issue license plates and a registration
599 card for the vehicle with the motor carrier's certificate number printed thereon. The
600 license plates shall be affixed to the vehicle and the registration card and a copy of the
601 lease shall be carried in the vehicle at all times.

602 E. The provisions of this section shall not apply to the operation of daily rental vehicles or
603 TNC partner vehicles.

604 **§ 46.1-2001.5. Use of daily rental vehicles.**

605 A. A motor carrier, other than a transportation network company, operating a daily rental
606 vehicle shall carry in the vehicle at all times a rental contract issued in the name of the
607 licensed motor carrier operating the vehicle and shall ensure that the vehicle is insured
608 pursuant to the provisions of § 46.2-2053.

609 B. A TNC partner operating a daily rental vehicle shall carry in the vehicle, at all times that
610 the vehicle is being operated as a TNC partner vehicle, a rental contract issued in the
611 name of the TNC partner. A daily rental vehicle shall be insured in compliance with the
612 provisions of §§ 46.2-2099.19:1 and 46.2-2099.52 at all times when those sections apply
613 to the operation of the daily rental vehicle.

614 **k§ 46.2-2005. Action on applications; hearings on denials and protests.**

615 A. The Department may act upon any application required under this chapter for a certificate of
616 public convenience and necessity without a hearing, unless such application is protested by any
617 aggrieved party, except that no protest shall be heard in such cases whereby the applicant has
618 received a notice of intent to award a contract under the Virginia Public Procurement Act (§ 2.2-
619 4300 et seq.) for irregular route common carrier service to or from a public-use airport located in
620 the City of Norfolk or the County of Henrico. Aggrieved parties may protest an application by
621 submitting written grounds to the Department setting forth (i) a precise statement of the party's
622 interest and how the party could be aggrieved if the application were granted; (ii) a full and clear
623 statement of the facts that the person is prepared to provide by competent evidence; (iii) a
624 statement of the specific relief sought; (iv) the case number assigned to the application; and (v) a
625 certification that a copy of the protest was sent to the applicant.

626 ~~B. The Department may act upon any application required under this chapter for a license or~~
627 ~~certificate of fitness without a hearing, unless such application is protested by any party based~~
628 ~~upon fitness allegations. Parties may protest an application by submitting written grounds to the~~
629 ~~Department setting forth (i) a precise statement of the party's objections to the application being~~
630 ~~granted; (ii) a full and clear statement of the facts that the person is prepared to provide by~~
631 ~~competent evidence; (iii) the case number assigned to the application; and (iv) a certification that~~

632 a copy of the protest was sent to the applicant. The Department shall have full discretion as to
633 whether a hearing is warranted based on the merits of any protest filed.

634 ~~C. B.~~ Any applicant denied ~~without a hearing~~ an original license, ~~permit~~, or certificate ~~under~~
635 ~~subsection A or B of this section or subsection B of § 46.2-2001.1~~, or any request for a transfer
636 of such a license or certificate, shall be given a hearing at a time and place determined by the
637 Commissioner or his designee upon the applicant's written request for such hearing made within
638 30 days of denial.

639 **§ 46.2-2005.1. Determination for issuance for license, ~~permit~~, or certificate.**

640 If the Department finds the applicant for a license, ~~permit~~, or certificate has met all the
641 requirements of this chapter, it shall issue a license, ~~permit~~, or certificate to the applicant, subject
642 to such terms, limitations, and restrictions as the Department may deem proper.

643 **§ 46.2-2011.3. Issuance, expiration, and renewal of license, ~~permit~~, and certificate.**

644 All licenses, ~~permits~~, and certificates issued under this chapter shall be issued for a period of
645 twelve consecutive months except, at the discretion of the Department, the periods may be
646 adjusted as necessary. Such licenses, ~~permits~~, and certificates shall expire if not renewed
647 annually. Such expiration shall be effective thirty days after the Department has provided the
648 licensee, ~~permittee~~, or certificate holder notice of non-renewal. If the license, ~~permit~~, or
649 certificate is renewed within thirty days after notice of non-renewal, then the license, ~~permit~~, or
650 certificate shall not expire.

651 **§ 46.2-2011.5. Filing and application fees.**

652 A. Unless otherwise provided, every applicant, other than a transportation network company, for
653 an original license, ~~permit~~, or certificate issued under this chapter and transfer of a license or

654 certificate under the provisions of this chapter shall, upon the filing of an application, deposit
655 with the Department, as a filing fee, a sum in the amount of \$50.

656 B. An applicant for a certificate under § 46.2-2099.45 shall elect and remit to the Department
657 one of the following fees:

658 1. An annual fee of \$100,000 to accompany an application for an original certificate or a fee of
659 \$60,000 to accompany an application for renewal thereof; or

660 2. A fee of \$20 per report to accompany payment for each driving history research report the
661 applicant obtains from the Department pursuant to subdivision B 2 of § 46.2-2099.49, which fee
662 shall be in addition to any other fees that are authorized for such reports.

663 A transportation network company may change its election under this subsection when applying
664 for renewal of its certificate.

665 If the Department does not approve an application for an original certificate, the Department
666 shall refund to the applicant \$90,000 of the application fee paid under subdivision 1.

667 C. The Department shall collect a fee of \$3 for the issuance of a duplicate license, ~~permit,~~ or
668 certificate issued under this chapter.

669 **§ 46.2-2011.6. Vehicle fees.**

670 A. Every person, ~~other than a TNC partner,~~ who operates a passenger vehicle for
671 compensation over the highways of the Commonwealth, unless such operation is
672 exempted from this chapter, shall be required to pay an annual fee of \$3 for each such
673 vehicle so operated, ~~unless~~ except as provided in subsection B.

674 B. The fee imposed in subsection A is not payable if:

- 675 1. ~~a~~A vehicle identification marker fee has been paid to the Department as to such
676 vehicle for the current year under the provisions of Chapter 27 (§ 58.1-2700 et
677 seq.) of Title 58.1. ~~Such fee shall be paid through the single state registration~~
678 ~~system established pursuant to 49 U.S.C. § 14504 and 49 C.F.R. Part 367 or~~
- 679 2. A fee has been paid through the unified carrier registration system established
680 pursuant to 49 U.S.C. § 14504a and the federal regulations promulgated
681 thereunder for carriers registered pursuant to those provisions for the vehicle for
682 the current year. ~~No more than one vehicle fee shall be charged or paid as to any~~
683 ~~vehicle in any one year under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and~~
684 ~~this chapter, including payments made pursuant to the single state registration~~
685 ~~system or the unified carrier registration system.~~
- 686 3. The vehicle is a TNC partner vehicle.
- 687 4. The vehicle is a daily rental vehicle.

688

689 **§ 46.2-2011.10. Advertisements.**

690 A. No person shall advertise or permit to be advertised by any means a transportation service
691 unless such person first obtains a license, ~~permit~~, or certificate as provided in this chapter.

692 Whenever any licensee, ~~permittee~~, or certificate holder places an advertisement in any newspaper
693 or publication advertising a transportation service, there shall appear within such advertisement
694 the license, ~~permit~~, or certificate number. If multiple licenses, ~~permits~~, or certificates are held,
695 only one number must appear.

696 B. It shall be unlawful for any licensee, ~~permittee~~, or certificate holder to knowingly advertise by
697 any means any assertion, representation, or statement of fact that is untrue, misleading, or
698 deceptive relating to the conduct of the business for which a license, ~~permit~~, or certificate is held.

699 ~~C. The requirement of subsection A of this section to include a license, permit, or certificate
700 number in advertisements shall not apply to excursion train operators.~~

701 **§ 46.2-2011.11. Established place of business.**

702 A. No license or certificate shall be issued to any applicant that does not have an established
703 place of business, owned or leased by the applicant, where a substantial portion of the activity of
704 the motor carrier, TNC broker, or broker business will be routinely conducted and that:

705 1. Satisfies all applicable local zoning regulations;

706 2. ~~Houses~~ Is a location where all records that the motor carrier, TNC broker, or broker is required
707 to maintain by this chapter or by regulations promulgated pursuant to this chapter are available in
708 original form or in film, magnetic, or optical media, including microfilm, microfiche, a
709 computerized record keeping system, or other electronic media. Records shall be kept in a
710 manner that permits systematic retrieval upon the request of the Department.

711 3. ~~Is equipped with~~ Has access to a working telephone listed or advertised in the name of the
712 motor carrier, TNC broker, or broker.

713 4. Notwithstanding the provisions of subsection A 3 of this section, the established place of
714 business of an applicant for a certificate of fitness for a taxicab only needs to comply with
715 subsections A 1 and A 2 of this section.

716 B. Every licensee and certificate holder shall maintain an established place of business in
717 accordance with subsection A of this section and keep on file a physical address with the

718 Department. Every licensee and certificate holder shall inform the Department by certified letter
719 or other manner prescribed by the Department of any changes to the motor carrier, TNC broker,
720 or broker's mailing address, physical location, telephone number, and legal status, legal name of
721 company, company principals, or trade name of company within 30 days of such change.

722 C. Any licensee or certificate holder that relocates his established place of business shall confirm
723 to the Department that the new established place of business conforms to the requirements of
724 subsection A.

725 **§ 46.2-2011.14. Notice of abandonment of service.**

726 Every motor carrier, TNC broker, or broker, ~~or excursion train operator~~ who ceases operation or
727 abandons his rights under a license, or certificate, ~~or permit issued~~ shall notify the Department
728 within 30 days of such cessation or abandonment.

729 **§ 46.2-2011.16. Reports, records, etc.**

730 A. The Department is hereby authorized to require annual, periodical, or special reports from
731 motor carriers, except such as are exempt from the operation of the provisions of this chapter; to
732 prescribe the manner and form in which such reports shall be made; and to require from such
733 carriers specific answers to all questions upon which the Department may deem information to
734 be necessary. Such reports shall be under oath whenever the Department so requires. The
735 Department may also require any motor carrier to file with it a true copy of each or any contract,
736 agreement, or arrangement between such carrier and any other carrier or person in relation to the
737 provisions of this chapter.

738 B. The Department may, in its discretion, prescribe (i) the forms of any and all accounts, records,
739 and memoranda to be kept by motor carriers and (ii) the length of time such accounts, records,

740 and memoranda shall be preserved, as well as of the receipts and expenditures of money. The
741 Department or its employees shall at all times have access to all lands, buildings, or equipment of
742 motor carriers used in connection with their operations and also all accounts, records, and
743 memoranda, including all documents, papers, and correspondence now or hereafter existing, and
744 kept, or required to be kept, by motor carriers. The Department and its employees shall have
745 authority to inspect and examine any and all such lands, buildings, equipment, accounts, records,
746 and memoranda, including all documents, papers, and correspondence now or hereafter existing
747 and kept or required to be kept by such carriers. These provisions shall apply to receivers of
748 carriers and to operating trustees and, to the extent deemed necessary by the Department, to
749 persons having control, direct or indirect, over or affiliated with any motor carrier.

750 C. As used in this section the term "motor carriers" includes TNC brokers, and brokers, ~~and~~
751 ~~excursion train operators.~~

752 **§ 46.2-2011.17. Certificate, or license, ~~or permit~~ holder not relieved of liability for**
753 **negligence.**

754 Nothing in this chapter shall relieve any holder of a certificate, or license, ~~or permit~~ issued by
755 and under the authority of the Department from any liability resulting from his negligence,
756 whether or not he has complied with the requirements of this chapter.

757 **§ 46.2-2011.20. Unlawful use of registration and identification markers.**

758 It shall be unlawful for any person to operate or cause to be operated on any highway in the
759 Commonwealth any motor vehicle that (i) does not carry the proper registration and
760 identification that this chapter requires, (ii) does not display an identification marker in such
761 manner as is prescribed by the Department, or (iii) bears registration or identification markers of

762 persons whose license, ~~permit~~, or certificate issued by the Department has been canceled,
763 revoked, or suspended or whose renewal thereof has been denied in accordance with this chapter.

764 **§ 46.2-2011.22. Violation; criminal penalties.**

765 A. Any person knowingly and willfully violating any provision of this chapter, or any rule or
766 regulation thereunder, or any term or condition of any certificate, ~~permit~~, or license, for which a
767 penalty is not otherwise herein provided, is guilty of a misdemeanor and, upon conviction, shall
768 be fined not more than \$2,500 for the first offense and not more than \$5,000 for any subsequent
769 offense. Each day of such violation shall constitute a separate offense.

770 B. Any person, whether carrier, TNC broker, broker, or any officer, employee, agent, or
771 representative thereof, or a TNC partner, who knowingly and willfully by any such means or
772 otherwise fraudulently seeks to evade or defeat regulation as in this chapter shall be deemed
773 guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$500 for the first
774 offense and not more than \$2,000 for any subsequent offense.

775 C. Any motor carrier, TNC broker, broker, ~~or excursion train operator~~ or any officer, agent,
776 employee, or representative thereof, or a TNC partner, who willfully fails or refuses to make a
777 report to the Department as required by this chapter or to keep accounts, records, and
778 memoranda in the form and manner approved or prescribed by the Department, or knowingly
779 and willfully falsifies, destroys, mutilates, or alters any such report, account, record, or
780 memorandum, or knowingly and willfully files any false report, account, record, or
781 memorandum, is guilty of a misdemeanor and, upon conviction, be subject for each offense to a
782 fine of not less than \$100 and not more than \$5,000.

783 **§ 46.2-2011.23. Violations; civil penalties.**

784 The Department may impose a civil penalty not exceeding \$1,000 if any person has:

785 1. Made any misrepresentation of a material fact to obtain proper operating credentials as
786 required by this chapter or other requirements in this Code regulating the operation of motor
787 vehicles;

788 2. Failed to make any report required in this chapter;

789 3. Failed to pay any fee or tax properly assessed against him; or

790 4. Failed to comply with any provision of this chapter or lawful order, rule or regulation of the
791 Department or any term or condition of any certificate, ~~permit~~, or license.

792 Any such penalty shall be imposed by order; however, no order issued pursuant to this section
793 shall become effective until the Department has offered the person an opportunity for an
794 administrative hearing to show cause why the order should not be enforced. Instead of or in
795 addition to imposing such penalty, the Department may suspend, revoke, or cancel any
796 license, ~~permit~~, certificate, registration card or identification marker issued pursuant to this title.
797 If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the
798 Department shall enter order therefor.

799 For the purposes of this section, each separate violation shall be subject to the civil penalty.

800 **§ 46.2-2011.24. Grounds for denying, suspending, or revoking licenses, ~~permits~~, or**
801 **certificates.**

802 A license, ~~permit~~, or certificate issued pursuant to this chapter may be denied, suspended, or
803 revoked on any one or more of the following grounds, where applicable:

804 1. Material misstatement or omission in application for license, certificate, ~~permit~~, identification
805 marker, or vehicle registration;

- 806 2. Failure to comply subsequent to receipt of a written warning from the Department or any
807 willful failure to comply with a lawful order, any provision of this chapter or any regulation
808 promulgated by the Department under this chapter, or any term, condition, or restriction of a
809 license, ~~permit~~, or certificate;
- 810 3. Failure to comply with zoning or other land use regulations, ordinances, or statutes;
- 811 4. Use of deceptive business acts or practices;
- 812 5. Knowingly advertising by any means any assertion, representation, or statement of fact that is
813 untrue, misleading, or deceptive relating to the conduct of the business for which a license,
814 certificate, ~~permit~~, identification marker, or vehicle registration is held or sought;
- 815 6. Having been found, through a judicial or administrative hearing, to have committed fraudulent
816 or deceptive acts in connection with the business for which a license, ~~permit~~, or certificate is held
817 or sought or any consumer-related fraud;
- 818 7. Having been convicted of any criminal act involving the business for which a license, ~~permit~~,
819 or certificate is held or sought;
- 820 8. Failure to comply with § 46.2-2056 or any regulation promulgated pursuant thereto;
- 821 9. Improper leasing, renting, lending, or otherwise allowing the improper use of a license,
822 certificate, ~~permit~~, identification marker, or vehicle registration;
- 823 10. Having been convicted of a felony;
- 824 11. Having been convicted of any misdemeanor involving lying, cheating, stealing, or moral
825 turpitude;
- 826 12. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the
827 Department;

- 828 13. Failure to furnish the Department information, documentation, or records required or
829 requested pursuant to statute or regulation;
- 830 14. Knowingly and willfully filing any false report, account, record, or memorandum;
- 831 15. Failure to meet or maintain application certifications or requirements of public convenience
832 and necessity, character, fitness, and financial responsibility pursuant to this chapter;
- 833 16. Willfully altering or changing the appearance or wording of any license, ~~permit~~, certificate,
834 identification marker, license plate, or vehicle registration;
- 835 17. Failure to provide services in accordance with license, ~~permit~~, or certificate terms,
836 limitations, conditions, or requirements;
- 837 18. Failure to maintain and keep on file with the Department motor carrier liability insurance,
838 issued by a company licensed to do business in the Commonwealth, or a bond, certificate of
839 insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this
840 chapter, with respect to each motor vehicle operated in the Commonwealth;
- 841 19. Failure to comply with the Workers' Compensation Act of Title 65.2;
- 842 20. Failure to properly register a motor vehicle under this title;
- 843 21. Failure to comply with any federal motor carrier statute, rule, or regulation;
- 844 22. Failure to comply with the requirements of the Americans with Disabilities Act or the
845 Virginians with Disabilities Act (§ 51.5-1 et seq.);
- 846 23. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle
847 registered to operate under such certificate ~~or permit~~ for a period of greater than three months; ~~or~~

848 24. Failure to comply with any provision regarding the filing and registered agent requirements
849 set forth in Title 13.1.; or

850 25. That the business of the licensee, certificate holder, or license or certificate applicant is or
851 will be operated, managed, or controlled by a person who is ineligible for the license or
852 certificate sought or held, including the licensee, certificate holder, or applicant or an entity,
853 relative, family member, or corporate officer of the licensee, certificate holder, or applicant.

854 **§ 46.2-2011.25. Altering or amending licenses, ~~permits~~, or certificates.**

855 The Department may alter or amend a license, ~~permit~~, or certificate at the request of a
856 licensee, ~~permittee~~, or certificate holder, or upon a finding by the Department that a
857 licensee, ~~permittee~~, or certificate holder failed to observe any of the provisions within this
858 chapter, or any of the rules or regulations of the Department, or any term, condition, or limitation
859 of such license, ~~permit~~, or certificate.

860 **§ 46.2-2011.26. Suspension, revocation, and refusal to renew licenses, ~~permits~~, or**
861 **certificates; notice and hearing.**

862 A. Except as provided in subsection D of this section, unless otherwise provided in this chapter,
863 no license, ~~permit~~, or certificate issued under this chapter shall be suspended or revoked, or
864 renewal thereof refused, unless the licensee, ~~permittee~~, or certificate holder has been furnished a
865 written copy of the complaint against him and the grounds upon which the action is taken and
866 has been offered an opportunity for an administrative hearing to show cause why such action
867 should not be taken.

868 B. The order suspending, revoking, or denying renewal of a license, ~~permit~~, or certificate shall
869 not become effective until the licensee, ~~permittee~~, or certificate holder has, after notice of the
870 opportunity for a hearing, had thirty days to make a written request for such a hearing. If no

871 hearing has been requested within such thirty-day period, the order shall become effective and no
872 hearing shall thereafter be held. A timely request for a hearing shall automatically stay operation
873 of the order until after the hearing.

874 C. Notice of an order suspending, revoking, or denying renewal of a license, ~~permit~~, or certificate
875 and an opportunity for a hearing shall be mailed to the licensee, ~~permittee~~, or certificate holder
876 by registered or certified mail at the address as shown on the license, ~~permit~~, or certificate or
877 other record of information in possession of the Department and shall be considered served when
878 mailed.

879 D. If the Department makes a finding, after conducting a preliminary investigation, that the
880 conduct of a licensee, ~~permittee~~, or certificate holder (i) is in violation of this chapter or
881 regulations adopted pursuant to this chapter and (ii) such violation constitutes a danger to public
882 safety, the Department may issue an order suspending the license, ~~permit~~, or certificate. Notice
883 of the suspension shall be in writing and mailed in accordance with subsection C of this section.
884 Upon receipt of a request for a hearing appealing the suspension, the licensee, ~~permittee~~, or
885 certificate holder shall be afforded the opportunity for a hearing within thirty days. The
886 suspension shall remain in effect pending the outcome of the hearing.

887 **§ 46.2-2011.27. Basis for reinstatement of suspended licenses, ~~permits~~, or certificates;**
888 **reinstatement fees.**

889 A. The Department shall reinstate any license, ~~permit~~, or certificate suspended pursuant to this
890 chapter provided the grounds upon which the suspension action was taken have been satisfied
891 and the appropriate reinstatement fee and other applicable fees have been paid to the
892 Department.

893 B. The reinstatement fee for suspensions issued pursuant to this chapter shall be fifty dollars. In
894 the event multiple credentials have been suspended under this chapter for the same violation,
895 only one reinstatement fee shall be applicable.

896 C. In addition to a reinstatement fee, a fee of \$500 shall be paid for failure of a motor carrier to
897 keep in force at all times insurance, a bond or bonds, in an amount required by this chapter. Any
898 motor carrier who applies for a new license,~~permit~~, or certificate because his prior
899 license,~~permit~~, or certificate was revoked for failure to keep in force at all times insurance, a
900 bond or bonds, in an amount required by this chapter, shall also be subject to a fee of \$500.

901 **§ 46.2-2011.28. Basis for relicensure after revocation of licenses, ~~permits~~, or certificates;**
902 **fees.**

903 The Department shall not accept an application for a license,~~permit~~, or certificate from an
904 applicant where such credentials have been revoked pursuant to this chapter until the period of
905 revocation imposed by the Department has passed. The Department shall process such
906 applications under the same provisions, procedures, and requirements as an original application
907 for such license,~~permit~~, or certificate. The Department shall issue such license,~~permit~~, or
908 certificate provided the applicant has met all the appropriate qualifications and requirements, has
909 satisfied the grounds upon which the revocation action was taken, and has paid the appropriate
910 application or filing fees to the Department.

911 **§ 46.2-2011.29. Surrender of identification marker, license plate, and registration card;**
912 **removal by law enforcement; operation of vehicle denied.**

913 A. It shall be unlawful for a licensee,~~permittee~~, or certificate holder whose license,~~permit~~, or
914 certificate has expired or been revoked, suspended, or canceled or whose renewal thereof has

915 been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department
916 license plates, identification markers, and registration cards issued under this title.

917 B. It shall be unlawful for a vehicle owner who is not the holder of a valid ~~permit~~ or certificate or
918 whose vehicle is not validly leased to a motor carrier holding an active ~~permit~~ or certificate to
919 fail or refuse to surrender to the Department on demand license plates, identification markers,
920 and registration cards issued under this title.

921 C. If any law-enforcement officer finds that a vehicle bearing Virginia license plates or
922 temporary transport plates is in violation of subsection A or B, such law-enforcement officer
923 may remove the license plate, identification marker, and registration card. If a law-enforcement
924 officer removes a license plate, identification marker, or registration card, he shall forward the
925 same to the Department.

926 D. When informed that a vehicle is being operated in violation of this section, the driver shall
927 drive the vehicle to a nearby location off the public highways and not remove it or allow it to be
928 moved until the motor carrier is in compliance with all provisions of this chapter.

929 **§ 46.2-2044. Requirements for Drivers**

930 For the purposes of this section, the term “motor carrier” does not include a transportation
931 network company.

932 A. Before authorizing an individual to act as a driver, a motor carrier shall confirm that the
933 individual is at least 21 years old and possesses a valid driver's license.

934 B. 1. Before authorizing an individual to act as a driver, and at least once every two years after
935 authorizing an individual to act as a driver, a motor carrier shall obtain a national criminal
936 history records check of that individual. The background check shall include (i) a Multi-

937 State/Multi-Jurisdiction Criminal Records Database Search or a search of a similar nationwide
938 database with validation (primary source search) and (ii) a search of the Sex Offender and
939 Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offender
940 Public Website. The person conducting the background check shall be a consumer reporting
941 agency as that term is defined in 15 U.S.C. § 1681a.

942 2. Before authorizing an individual to act as a driver, and at least once annually after authorizing
943 an individual to act as a driver, a motor carrier shall obtain and review a driving history research
944 report on that person from the individual's state of licensure.

945 3. Before authorizing an individual to act as a driver, and at least once every two years after
946 authorizing a person to act as a driver, a motor carrier shall verify that the person is not listed on
947 the Sex Offender and Crimes Against Minors Registry or on the U.S. Department of Justice's
948 National Sex Offender Public Website.

949 C. A motor carrier shall not authorize an individual to act as a driver if the criminal history and
950 driving records check required under subsection B reveals that the individual:

951 1. Is a person for whom registration with the Sex Offender and Crimes Against Minors Registry
952 is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or is listed on the U.S.
953 Department of Justice's National Sex Offender Public Website;

954 2. Has ever been convicted of or has ever pled guilty or nolo contendere to a violent felony
955 offense as listed in subsection C of § 17.1-805, or a substantially similar law of another state or
956 of the United States;

957 3. Within the preceding seven years has been convicted of or has pled guilty or nolo contendere
958 to any of the following offenses, either under Virginia law or a substantially similar law of

959 another state, or of the United States: (i) any felony offense other than those included in
960 subdivision 2; (ii) an offense under § 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or (iii) any
961 offense resulting in revocation of a driver's license pursuant to § 46.2-389 or 46.2-391; or
962 4. Within the preceding three years has been convicted of or has pled guilty or nolo contendere to
963 any of the following offenses, either under Virginia law or a substantially similar law of another
964 state, or of the United States: (i) three or more moving violations; (ii) eluding a law-enforcement
965 officer, as described in § 46.2-817; (iii) reckless driving, as described in Article 7 (§ 46.2-852 et
966 seq.) of Chapter 8; (iv) operating a motor vehicle in violation of § 46.2-301; or (v) refusing to
967 submit to a chemical test to determine the alcohol or drug content of the person's blood or breath,
968 as described in § 18.2-268.3 or 46.2-341.26:3.

969 5. If the driver is employed to drive a vehicle which requires a commercial driver's license to
970 operate, that the person does not hold a commercial driver's license of the required class or has
971 had his commercial driver's license disqualified.

972 D. Notwithstanding subsections B and C of this section, if a motor carrier's drivers are subject
973 to local regulation pursuant to §§ 46.2-2062 through 46.2-2067, and the locality has permitted a
974 motor carrier's driver to operate in that locality pursuant to an ordinance enacted pursuant to the
975 authority granted by those statutes, then the motor carrier will be deemed to have complied with
976 subsections B and C of this section with respect to that driver for as long as the driver is
977 permitted to operate in the locality. The motor carrier shall obtain proof that the driver is
978 permitted to operate in the locality and shall keep such proof in its records for a period of three
979 years from the date that the proof is received.

980 E. A motor carrier shall employ a zero-tolerance policy with respect to the use of drugs and
981 alcohol by operators and shall include a notice concerning the policy on its website.

982 F. A driver shall inform each motor carrier that has authorized him to act as a driver of any event
983 that may disqualify him from continuing to act as an operator, including any of the following: the
984 revocation, suspension, cancellation, or restriction of the individual's driver's license; the
985 disqualification of the individual's commercial driver's license if the person drives a vehicle
986 requiring such a license to operate; a motor vehicle moving violation; a criminal arrest, plea,
987 conviction, or the suspension or revocation of a driver's permission to operate in a locality which
988 has enacted an ordinance pursuant to §§ 46.2-2062 through 46.2-2067 if the driver requires such
989 permission.

990 G. Every motor carrier shall maintain evidence that all criminal history and driving records
991 checks required under subsection B have been completed for a period of three years from the
992 date that the motor carrier receives the evidence.

993 H. This statute shall not preempt, supersede, or affect in any way the authority of the governing
994 body of any county, city, or town to issue local ordinances pursuant to §§ 46.2-
995 2062 through 46.2-2067.

996 **§ 46.2-2045. Notice.**

997 Whenever any provision of this chapter requires that the Department give notice to a licensee,
998 certificate holder, or applicant for a license or certificate, the notice shall be mailed to the
999 licensee, certificate holder, or applicant at the address as shown on the license, certificate, or
1000 other record of information in possession of the Department and shall be considered served when
1001 mailed.

1002 **§ 46.2-2053. Surety bonds, insurance, letter of credit, or securities required prior to**
1003 **issuance of registration; amounts.**

1004 A. No certificate, ~~permit~~, identification marker, registration card, or license plate shall be issued
1005 by the Department to any vehicle operated by a motor carrier until the motor carrier certifies to
1006 the Department that the vehicle is covered by:

1007 1. An insurance policy or bond;

1008 2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or
1009 bond covers the liability of such motor carrier in accordance with the provisions of this article, is
1010 issued by an authorized insurer, or in the case of bonds, is in an amount approved by the
1011 Department. The bonds may be issued by the Commonwealth of Virginia, the United States of
1012 America, or any municipality in the Commonwealth. Such bonds shall be deposited with the
1013 State Treasurer and the surety shall not be reduced except in accordance with an order of the
1014 Department;

1015 3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount
1016 approved by the Department. The letter of credit shall be in effect so long as the motor carrier
1017 operates motor vehicles in the Commonwealth; or

1018 4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle
1019 registration applications, a statement that the registrant has, before leasing a vehicle, obtained
1020 from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance
1021 policy or bond and can make available said proof of insurance coverage upon demand.

1022 ~~Vehicles operated by carriers who have filed proof of financial responsibility in accordance with~~
1023 ~~the single state registration system authorized by 49 U.S.C. § 14504 or the Unified Carrier~~
1024 ~~Registration System authorized by 49 U.S.C. § 14504a are deemed to have fulfilled the~~
1025 ~~requirements of this article for insurance purposes, provided there is on board the vehicle a copy~~

1026 ~~of an insurance receipt issued pursuant to the federal regulations promulgated pursuant to 49~~
1027 ~~U.S.C. § 14504 or 14504a. The Department is further authorized to issue single state registration~~
1028 ~~system or unified carrier registration system receipts to any qualified carrier as well as to collect~~
1029 ~~and disperse the fees for and to qualified jurisdictions.~~

1030 B. All motor carriers shall keep in force at all times insurance, a bond or bonds, in an amount
1031 required by this section. Except for taxicabs, the minimum financial responsibility requirements
1032 for motor carriers operating intrastate shall be based on the number of passengers a vehicle is
1033 designed or manufactured to transport, including the driver, and shall be as follows: one to six
1034 passengers -- \$350,000; seven to 15 passengers -- \$1,500,000; 16 or more passengers --
1035 \$5,000,000. All motor carriers operating exclusively taxicabs or other motor vehicles performing
1036 a taxicab service shall maintain liability insurance of at least \$125,000.

1037 ~~C. The minimum insurance for motor carriers operating in interstate commerce shall equal the~~
1038 ~~minimum required by federal law, rule, or regulation. Any motor carrier that meets the minimum~~
1039 ~~federal financial responsibility requirements and also operates in intrastate commerce may~~
1040 ~~submit, in lieu of a separate filing for its intrastate operation, proof of the minimum federal~~
1041 ~~limits, provided that both interstate and intrastate operations are insured.~~

1042 **§ 46.2-2054. Policies or surety bonds to be filed with the Department and securities with**
1043 **State Treasurer.**

1044 A. Each motor carrier shall keep on file with the Department proof of an insurance policy or
1045 bond in accordance with this article. Record of the policy or bond shall remain in the files of the
1046 Department six months after the certificate, registration card, license plate, or identification
1047 marker ~~or permit~~ is canceled for any cause. If federal, state, or municipal bonds are deposited

1048 with the State Treasurer in lieu of an insurance policy, the bonds shall remain deposited until six
1049 months after the registration card, license plate, certificate, ~~permit~~ or identification marker is
1050 canceled for any cause unless otherwise ordered by the Department.

1051 B. The Department may, without holding a hearing, suspend a ~~permit~~ or certificate if the
1052 ~~permittee~~ or certificate holder fails to comply with the requirements of this section.

1053 **§ 46.2-2056. Effect of unfair claims settlement practices on self-insured motor carriers.**

1054 The provisions of subdivisions 4, 6, 11, and 12 of subsection A of § 38.2-510 shall apply to each
1055 holder of a certificate or ~~permit~~ issued by and under the authority of the Department who, in lieu
1056 of filing an insurance policy, has deposited with the State Treasurer state, federal or municipal
1057 bonds or has filed an unconditional letter of credit issued by a bank. The failure of any such
1058 holder of a certificate or ~~permit~~ to comply with the provisions of § 38.2-510 shall be the cause
1059 for revocation or suspension of the certificate or ~~permit~~.

1060 **§ 46.2-2059. ~~Permit~~ Certificate of fitness required for taxicab service.**

1061 It shall be unlawful for any taxicab or other motor vehicle performing a taxicab service to
1062 operate on an intrastate basis on any public highway in the Commonwealth outside the corporate
1063 limits of incorporated cities or towns without first obtaining from the Department a ~~permit~~
1064 certificate of fitness in accordance with the provisions of this chapter.

1065 **§ 46.2-2068. Required ~~permit~~ certificate of fitness.**

1066 No employee hauler, unless otherwise exempted, shall transport passengers on any highway
1067 within the Commonwealth on an intrastate basis without first having obtained from the
1068 Department a ~~permit~~ certificate of fitness authorizing such operation.

1069 **§ 46.2-2069. Application; requirements.**

1070 An applicant for a ~~permit~~ certificate of fitness issued pursuant to this article shall furnish, at the
1071 time the application is made, a statement in writing signed by the applicant (i) setting forth the
1072 names and locations of the factories, plants, offices or other places of like nature to and from
1073 which the applicant proposes to operate and (ii) stating that such applicant will transport only
1074 bona fide employees of such factories, plants, offices or like places to and from work.

1075 **§ 46.2-2070. ~~Permit~~ Certificate of fitness restrictions.**

1076 A ~~permit~~ certificate of fitness issued under this article shall authorize the holder named in
1077 the ~~permit~~ certificate to transport bona fide employees solely to and from the factories, plants,
1078 offices or other places of like nature specified at the time of application.

1079 **§ 46.2-2071. Required ~~permit~~ certificate of fitness.**

1080 No nonprofit/tax-exempt passenger carrier, unless otherwise exempted, shall transport
1081 passengers on any highway within the Commonwealth on an intrastate basis without first having
1082 obtained from the Department a ~~permit~~ certificate of fitness authorizing such operation.

1083 **§ 46.2-2073. Exemption from certificate filing fees.**

1084 The original ~~permit~~ certificate filing fee collected pursuant to this chapter shall not be applicable
1085 to non-profit/tax-exempt passenger carriers.

1086 **§ 46.2-2081. Schedule required.**

1087 Every common carrier operating pursuant to this chapter shall file with the Department time
1088 schedules. ~~A common carrier shall not deviate from its time schedule and can only amend such~~
1089 ~~schedule in accordance with § 46.2-2082.~~

1090 **§ 46.2-2090.1. Publication of rates, fares, and charges.**

1091 Every common carrier regulated pursuant to this article shall publish its rates, fares, and charges
1092 within its schedules, terminals, and website, and shall make information about such rates, fares,
1093 and charges available to any person upon request.

1094 **§ 46.2-2099.18. Broker's license required.**

1095
1096 No person shall for compensation sell or offer for sale transportation subject to this chapter or
1097 shall make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for
1098 such transportation or shall hold himself out by advertisement, solicitation, or otherwise as one
1099 who sells, provides, procures, contracts, or arranges for such transportation, unless such person
1100 holds a TNC broker's license or broker's license issued by the Department to engage in such
1101 transactions; however, the provisions of this section shall not apply to any carrier holding a
1102 certificate ~~or permit~~ under the provisions of this chapter or to any bona fide employee or agent of
1103 such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or
1104 jointly with other motor carriers holding like certificates or permits.

1105 **§ 46.2-2099.18:1. Application for TNC Broker's License**

1106 In addition to all other requirements set out by law, an applicant for a TNC broker's license shall
1107 submit with its application proof of its contract, agreement, or arrangement with a transportation
1108 network company. The Department shall verify the applicant's contract, agreement, or
1109 arrangement with the transportation network company prior to issuing the license.

1110 **§ 46.2-2099.19. Broker's license not substitute for other certificates ~~or permits~~ required.**

1111 No person who holds a TNC broker's license or broker's license under this article shall engage in
1112 transportation subject to this chapter unless he holds a certificate ~~or permit~~ as provided in this
1113 chapter. In the execution of any contract, agreement, or arrangement to sell, provide, procure,

1114 furnish, or arrange for such transportation, it shall be unlawful for a broker to employ any carrier
1115 by motor vehicle who is not the lawful holder of an effective certificate ~~or permit~~ issued as
1116 provided in this chapter or when such certificate ~~or permit~~ does not authorize the carrier to
1117 perform the service being acquired.

1118 A person holding a broker's license shall obtain and maintain a copy of the certificate of public
1119 convenience and necessity issued to those carriers through which the broker arranges
1120 transportation services. A person holding a TNC broker's license shall obtain and maintain a
1121 copy of the credential issued by the transportation network company pursuant to subsection H of
1122 § 46.2-2099.48 to those TNC partners through which the broker arranges transportation services.
1123 A person holding a TNC broker's license shall, for each TNC partner for whom it arranges
1124 transportation, either:

- 1125 1. Verify that a TNC partner meets all requirements set forth in §§ 46.2-2099.49 and 46.2-
1126 2099.50 and obtain all documentation that a transportation network company is required to
1127 obtain pursuant to those sections; or
- 1128 2. Obtain a certification from the transportation network company that authorized the TNC
1129 partner that the TNC partner has satisfied all requirements set forth in §§ 46.2-2099.49 and 46.2-
1130 2099.50.

1131

1132 **§ 46.2-2099.41. Certification Operational requirements.**

1133 A. ~~A person may apply to the Department for certification as an~~ The operator of an excursion
1134 train. ~~The Department shall certify an applicant if the Department determines that the applicant~~
1135 ~~will operate a passenger train that:~~

1136 ~~1. Is primarily used for tourism or public service; and~~

1137 ~~2. Leads to the promotion of the tourist industry in the Commonwealth.~~

1138 ~~B. An application for certification shall include:~~

1139 ~~1. The name and address of each person who owns an interest of at least 10 percent of the~~
1140 ~~excursion train operation;~~

1141 ~~2. An address in the Commonwealth where the excursion train is based;~~

1142 ~~3. An operations plan, including the route to be used and a schedule of operations and stops~~
1143 ~~along the route; and~~

1144 ~~4. Evidence of insurance that meets the requirements of subsection C.~~

1145 ~~C. The Department shall not certify to a person under subsection A unless the person files with~~
1146 ~~the Department evidence shall maintain a policy of insurance providing coverage of liability~~
1147 ~~resulting from injury to persons or damages to property in the amount of at least \$10 million for~~
1148 ~~the operation of the train.~~

1149 ~~D. The Department shall not certify an applicant under subsection A if the applicant or B.~~
1150 ~~Neither the operator of the excursion train nor any other person owning interest in the excursion~~
1151 ~~train shall also owns or operates a regularly scheduled passenger train service with interstate~~
1152 ~~connection.~~

1153 **§ 58.1-2259. Fuel uses eligible for refund of taxes paid for motor fuels.**

1154 A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any
1155 time shall be granted in accordance with the provisions of § 58.1-2261 to any person who

1156 establishes to the satisfaction of the Commissioner that such person has paid the tax levied
1157 pursuant to this chapter upon any fuel:

- 1158 1. Sold and delivered to a governmental entity for its exclusive use;
- 1159 2. Used by a governmental entity, provided persons operating under contract with a
1160 governmental entity shall not be eligible for such refund;
- 1161 3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision
1162 2 of § 58.1-2250 for its exclusive use in the operation of an aircraft;
- 1163 4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-
1164 2250 for its exclusive use in the operation of an aircraft, provided persons operating under
1165 contract with such an organization shall not be eligible for such refund;
- 1166 5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed
1167 exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax
1168 applicable in the destination state has been paid, provided a refund shall not be granted pursuant
1169 to this section on any fuel which is transported and delivered outside of the Commonwealth in
1170 the fuel supply tank of a highway vehicle or an aircraft;
- 1171 6. Used by any person performing transportation under contract or lease with any transportation
1172 district for use in a highway vehicle controlled by a transportation district created under the
1173 Transportation District Act of 1964 (§ 33.2-1900 et seq.) and used in providing transit service by
1174 the transportation district by contract or lease, provided the refund shall be paid to the person
1175 performing such transportation;

1176 7. Used by any private, nonprofit agency on aging, designated by the Department for Aging and
1177 Rehabilitative Services, providing transportation services to citizens in highway vehicles owned,
1178 operated or under contract with such agency;

1179 8. Used in operating or propelling highway vehicles owned by a nonprofit organization that
1180 provides specialized transportation to various locations for elderly or disabled individuals to
1181 secure essential services and to participate in community life according to the individual's
1182 interest and abilities;

1183 9. Used in operating or propelling buses owned and operated by a county or the school board
1184 thereof while being used to transport children to and from public school or from school to and
1185 from educational or athletic activities;

1186 10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being
1187 used to transport children to and from such school or from such school to and from educational
1188 or athletic activities;

1189 11. Used by any county or city school board or any private, nonprofit, nonreligious school
1190 contracting with a private carrier to transport children to and from public schools or any private,
1191 nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier
1192 performing such transportation;

1193 12. Used in operating or propelling the equipment of volunteer firefighting companies and of
1194 volunteer emergency medical services agencies within the Commonwealth used actually and
1195 necessarily for firefighting and emergency medical services purposes;

- 1196 13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if
1197 actually used in public activities;
- 1198 14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or
1199 aircraft;
- 1200 15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose,
1201 which is used on a job site and the movement of which on any highway is incidental to the
1202 purpose for which it was designed and manufactured;
- 1203 16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with tax-
1204 paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but
1205 excluding fuel lost through personal negligence or theft;
- 1206 17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;
- 1207 18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment
1208 used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner
1209 or lessee of such vehicles and not operated on or over any highway for any purpose other than to
1210 move it in the manner and for the purpose mentioned. The amount of refund shall be equal to the
1211 amount of the taxes paid less one-half cent per gallon on such fuel so used which shall be paid by
1212 the Commissioner into the state treasury to the credit of the Virginia Agricultural Foundation
1213 Fund;
- 1214 19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal
1215 to the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which
1216 shall be paid by the Commissioner into the state treasury to be credited as provided in subsection

1217 D of § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state
1218 treasury, to the credit of the Game Protection Fund, the entire tax paid by such applicant for the
1219 purposes specified in subsection D of § 58.1-2289. If any applicant who is an operator of
1220 commercial watercraft so requests, the Commissioner shall pay into the state treasury, to the
1221 credit of the Marine Fishing Improvement Fund, the entire tax paid by such applicant for the
1222 purposes specified in § 28.2-208;

1223 20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle
1224 if the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel
1225 tank used to propel the highway vehicle, and the highway vehicle is mechanically incapable of
1226 self-propulsion while fuel is being used from the auxiliary tank;

1227 21. Used in operating or propelling recreational and pleasure watercraft; or

1228 22. Used in operating or propelling highway vehicles owned by any entity that is exempt from
1229 taxation under § 501(c)(3) of the Internal Revenue Code, as amended or renumbered, and
1230 organized with a principal purpose of providing hunger relief services or food to the needy, if
1231 such vehicle is used solely for the purpose of providing hunger relief services or food to the
1232 needy.

1233 B.1. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix
1234 concrete highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is
1235 mechanically or hydraulically driven by an internal combustion engine that propels the vehicle,
1236 is entitled to a refund in an amount equal to 35 percent of the tax paid on such fuel. For purposes
1237 of this section, a "bulk feed delivery truck" means bulk animal feed delivery trucks utilizing

1238 power take-off (PTO) driven auger or air feed discharge systems for off-road deliveries of animal
1239 feed.

1240 2. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted
1241 solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals,
1242 or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal
1243 combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55
1244 percent of the tax paid on such fuel.

1245 C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid
1246 may apply for a refund of the tax if such fuel was consumed by a highway vehicle used in
1247 operating an urban or suburban bus line or a taxicab service. This refund also applies to a
1248 common carrier of passengers which has been issued a certificate pursuant to § 46.2-
1249 2075 or 46.2-2099.4 providing regular route service over the highways of the Commonwealth.

1250 No refund shall be granted unless the majority of the passengers using such bus line, taxicab
1251 service or common carrier of passengers do so for travel of a distance of not more than 40 miles,
1252 one way, in a single day between their place of abode and their place of employment, shopping
1253 areas or schools.

1254 If the applicant for a refund is a taxicab service, he shall hold a valid ~~permit~~ certificate of fitness
1255 from the Department to engage in the business of a taxicab service. No applicant shall be denied
1256 a refund by reason of the fee arrangement between the holder of the ~~permit~~ certificate of fitness
1257 and the driver or drivers, if all other conditions of this section have been met.

1258 Under no circumstances shall a refund be granted more than once for the same fuel. The amount
1259 of refund under this subsection shall be equal to the amount of the taxes paid, except refunds

1260 granted on the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax
1261 paid less \$0.01 per gallon on the fuel used.

1262 Any refunds made under this subsection shall be deducted from the urban highway funds
1263 allocated to the highway construction district, pursuant to Article 5 (§ 33.2-351 et seq.) of
1264 Chapter 3 of Title 33.2, in which the recipient has its principal place of business.

1265 Except as otherwise provided in this chapter, all provisions of law applicable to the refund of
1266 fuel taxes by the Commissioner generally shall apply to the refunds authorized by this
1267 subsection. Any county having withdrawn its roads from the secondary system of state highways
1268 under provisions of § 11 of Chapter 415 of the Acts of 1932 shall receive its proportionate share
1269 of such special funds as is now provided by law with respect to other fuel tax receipts.

1270 D. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted
1271 solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals,
1272 or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal
1273 combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55
1274 percent of the tax paid on such fuel.

1275 E. Any person purchasing diesel fuel used in operating or propelling a passenger car, a pickup or
1276 panel truck, or a truck having a gross vehicle weight rating of 10,000 pounds or less is entitled to
1277 a refund of a portion of the taxes paid in an amount equal to the difference between the rate of
1278 tax on diesel fuel and the rate of tax on gasoline and gasohol pursuant to § 58.1-2217. For
1279 purposes of this subsection, "passenger car," "pickup or panel truck," and "truck" shall have the
1280 meaning given in § 46.2-100. Notwithstanding any other provision of law, diesel fuel used in a

1281 vehicle upon which the fuels tax has been refunded pursuant to this subsection shall be exempt
1282 from the tax imposed under Chapter 6 (§ 58.1-600 et seq.).

1283 F. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the
1284 amount of tax paid for the fuel less discounts allowed by § 58.1-2233.

1285 G. Any person who is required to be licensed under this chapter and is applying for a refund shall
1286 not be eligible for such refund if the applicant was not licensed at the time the refundable
1287 transaction was conducted.

1288 **2. That §§ 46.2-107, 46.2-2011.4, 46.2-2011.9, 46.2-2011.15, 46.2-2090, 46.2-2091, 46.2-2092,**
1289 **46.2-2093, and 46.2-2094 are repealed.**

1290 **3. That the Department of Motor Vehicles may continue to issue license plates authorized**
1291 **pursuant to subsection B of § 46.2-712 as it existed prior to the enactment of this act until**
1292 **its supply of such license plates is exhausted.**

1293 **4. That all persons holding a permit that expires on or after July 1, 2018, and that was**
1294 **issued pursuant to Chapter 20 of Title 46.2 as it existed prior to the enactment of this act**
1295 **shall be issued a replacement certificate of fitness effective July 1, 2018. Permit holders**
1296 **shall not be required to apply for a replacement certificate, and the replacement certificate**
1297 **shall have the same expiration date as the permit it replaces.**

Appendix C: Stakeholder Comments on August 1 Proposal

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Dunston, David \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Penny, Thomas \(DMV\)](#)
Subject: FW: Passenger Carrier Study - draft concept paper
Date: Friday, August 11, 2017 1:27:20 PM

fyi

From: Bongiovi, James [James.Bongiovi@norfolk.gov]
Sent: Friday, August 11, 2017 11:20 AM
To: Smoot, Janet (DMV)
Subject: Re: Passenger Carrier Study - draft concept paper

My question is how will combining all these groups into one authority affect enforcement? By having only one operating authority, how will we be able to differentiate between a taxi, non-emergency medical transport or contract passenger carrier? If they are going to be broken down into subgroups then I don't see a reason to combine them. Also, the window tinting law only gives an exemption for contract passenger carriers and sight seeing carriers. If they are all combined into one authority will the window tinting law change to exempting general passenger carriers which will now allow all these other groups to have darker window tint?

Officer J.V. Bongiovi
Norfolk Police Department
Traffic Unit
(757)823-4464

From: Smoot, Janet (DMV) <janet.smoot@dmv.virginia.gov>
Sent: Thursday, August 10, 2017 9:03:52 AM
To: cduvall@lindlcorp.com; cking@redtopcab.com; judyswystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virginiawmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectrecorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@jamesrivertrans.com; paul@getsetgo.us; James Brown; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiasheriffs.org; Schrad, Dana; Maxey, Ronald (VSP); Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP); Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlerch@vaco.org; LYNCHBURG LA-SECONDARY (DMV); lland@vaco.org; Bellamy, Yovonda; Hollowell, Maureen (DBHDS); jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov; jgwilson@nngov.com; Nexsen, Mary Lou; sudad@chesterfield.gov; durette@charlottesville.org; Bongiovi, James; roger@heftywiley.com;

adelabarrera@arlingtonva.us; kokeefe@arlingtonva.us; Bellamy, Yovonda; jbaugh@oag.state.va.us; Woods, Michael W.; David Robinson; cparrish@oag.state.va.us

Subject: RE: Passenger Carrier Study - draft concept paper

Stakeholders,

This is a reminder that we need feedback on the concept paper by COB tomorrow, August 11th.

Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |

www.dmvNOW.com

[Confidentiality Statement](#)

From: Smoot, Janet (DMV)

Sent: Tuesday, August 01, 2017 1:56 PM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jlliss@virginianewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rmailimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectrecorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginiasheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org'; 'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'lland@vaco.org'; 'yovonda.bellamy@norfolk.gov'; 'mhollowell@endependence.org'; 'jayers@vtla.com'; 'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov'; 'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com'; 'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com'; 'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org'; 'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us'; 'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael W.'; 'David Robinson'; 'cparrish@oag.state.va.us'

Subject: Passenger Carrier Study - draft concept paper

Stakeholders,

Enclosed are two documents for your review and feedback. The first is a draft concept paper encompassing the two areas we discussed in our

meeting on June 28th: "Public Safety" and "Streamlining Authority Types". The second document contains most of the same information, but presents it in a different format.

We would like your written feedback on this drafted concept by Friday, August 11th. We have scheduled a follow-up meeting for further discussion for Wednesday, August 23rd from 9:00 – noon at the DMV Headquarters Building. The DMV team will review all of your feedback prior to the meeting on the 23rd.

Should you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |
www.dmvNOW.com
[Confidentiality Statement](#)

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Dunston, David \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Amy, Latrice \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Penny, Thomas \(DMV\)](#)
Subject: FW: Passenger Carrier Study - draft concept paper
Date: Thursday, August 10, 2017 5:00:58 PM
Attachments: [Passenger Carrier Study Draft Proposal 8-1-17.docx](#)
[Proposed Passenger Carrier Detail Matrix 8-1-17 \(2\).docx](#)

fyi

From: Maxey, Jr., Ronald C., Captain [mailto:Ron.Maxey@vsp.virginia.gov]
Sent: Thursday, August 10, 2017 4:59 PM
To: Smoot, Janet (DMV)
Subject: FW: Passenger Carrier Study - draft concept paper

I appreciate the opportunity to provide comment on the attached Study Draft Proposal and Detail Matrix. I would like to provide the following thoughts:

* In the Vehicle Limitations section of the Detail Matrix for TNCs, it reads "Virginia or approved safety inspection from another state." This may be clearer if it was to read "Virginia or safety inspection from another state approved by the Virginia Department of State Police."

* In the Vehicle Limitations section of the Detail Matrix for TNCs, I have concerns with the word "illuminated" in the sentence reading, "Visible from 50 feet in daylight and reflective, *illuminated*, or otherwise visible in darkness." There are sections of the Code of Virginia, Virginia Administrative Code, and Virginia Official Safety Inspection Manual, which either prohibit or allow various types of lighting on vehicles. These laws and regulations currently prohibit the illumination of trade dress. If this is the intent, then there will need to be discussion as to color, type, location, etc., as any lighting device on a vehicle would need approval of the Superintendent and revision to Code.

* I do not see any language stating that this only applies to those vehicles designed to transport eight (8) or fewer passengers, including the driver. Any higher number and it will be considered a commercial vehicle under the federal definition, and therefore subject to all applicable federal regulations, which may differ from those in this proposal.

I remain available to discuss any portion of my response in further detail, should anyone have questions.

Captain Ronald C. Maxey, Jr.
Virginia State Police – Safety Division

7700 Midlothian Turnpike, North Chesterfield, VA 23235

Office: 804-674-2827 | Fax: 804-674-2916

ron.maxey@vsp.virginia.gov



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From: Smoot, Janet (DMV)

Sent: Tuesday, August 01, 2017 1:56 PM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jliss@virginianewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rmalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectreCorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginiaSheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org'; 'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'land@vaco.org'; 'yovonda.bellamy@norfolk.gov'; 'mhollowell@endependence.org'; 'jayers@vtla.com'; 'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov'; 'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com'; 'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com'; 'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org'; 'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us'; 'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael W.'; 'David Robinson'; 'cparrish@oag.state.va.us'

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Should you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
[Confidentiality Statement](#)



Points in Support of Name-Based and Private Sector Criminal Background Checks

Summary

This paper, supported by third-party research, studies, reports, and media stories, examines how and why criminal background checks performed by the private sector are more comprehensive and better at protecting the public than fingerprint checks from either the FBI or a state fingerprint database. The paper can be broken down into several key parts: (1) The FBI database is incomplete; (2) While there are plenty of federal and state consumer protections for background checks conducted by commercial searches, there are no similar accuracy requirements placed on the government; (3) Fingerprint only searches of state government databases often suffer the same failings as the FBI database.

1. The FBI database is insufficient for a complete criminal check

A. Fingerprints searches are incomplete

While many people think the FBI and state law enforcement criminal history databases are the touchstones for all criminal history information, it is not. “The fingerprint identification process has what UCLA Law Professor Jennifer Mnookin describes as ‘enormous cultural power,’ exerting seemingly incontrovertible influence over juries, judges, and even innocent defendants”¹ as well as fans of television shows like CSI. While

[f]ingerprint identification, long regarded as ‘the gold standard for identifying criminals,’ might be better analogized as an ‘emperor with no clothes.’ The reliability of fingerprint identification has never been comprehensively tested...Nor has the fingerprint-identification process's error rate been established or even estimated. Yet for the better part of a century, fingerprint identification has been accepted and admitted in court, remarkably without

¹ Note: *Fingerprint Identification: How “The Gold Standard of Evidence” Could Be Worth Its Weight*, 32 Am. J. Crim. L. 265, 266 (citing Jennifer Mnookin, *A Blow to the Credibility of Fingerprint Evidence*, Boston Globe, Feb. 2, 2004, at A14).

question.²

Checking the FBI database alone offers an incomplete picture into someone's criminal history. While the FBI database can be a source for criminal history information it should not be the only source. According to a U.S. Attorney General's report on background screening,

The fact is that there is no single source of complete information about criminal history records. A check of both public and commercial databases and of primary sources of criminal history information such as county courthouses would, perhaps, provide the most complete and up-to-date information.³

The FBI database is not a case management system and frequently has only limited information; its best use is as a pointer for *possible* criminal records. The intent of the FBI database was to provide investigative leads based on fingerprint evidence, and not to produce employment screening reports.

The access to FBI records is through state agencies or via FBI approved entities, called "channelers". While these channelers can provide access to FBI data to entities that have statutory authorization to view that data, channelers themselves are not able to view FBI data. Employers are also not able to access FBI fingerprint systems.

The FBI keeps identifying information voluntarily submitted by many state and local criminal justice agencies in a database known as the Interstate Identification Index ("III" or "Triple I"). According to a report from the U.S. Attorney General,

Contrary to common perception, the FBI's [III, or Triple I] system is not a complete national database of all criminal history records in the United States. Many state records, whether from law enforcement agencies or courts, are not included or have not been updated. For example, not all the state criminal history records...meet the standards for inclusion in the III. Because of inconsistent state reporting requirements, some criminal history records involve offenses that are not submitted to the FBI. Other records that were submitted to the FBI do not have fingerprints of sufficient quality to be entered into the system. Moreover, many criminal history records may contain information regarding an arrest, but are missing the disposition of that arrest. Currently, only 50 percent of III arrest records have final dispositions.⁴

² *Id.*

³ The Attorney General's Report on Criminal History Background Checks, U.S. Dep't. of Justice, Office of the Att'y. Gen. (June 2006), 54, http://www.bjs.gov/content/pub/pdf/ag_bgchecks_report.pdf.

⁴ *Id.*, 16-17; See also 3.

The report added that

[c]ommercial databases...offer other information that may not be available through state and FBI repository checks. A search of commercially available databases may reveal charges and dispositions not reported to the state or national repositories [and] records relating to some offenses are not reported to the FBI...Even state repositories may not have records on less serious offenses that have not been forwarded by local law enforcement agencies. Some of this information may be available through certain commercial databases.⁵

Name-based searches are critical to a criminal background checks and are superior to a finger-print only search. Commercial vendors rarely have access to fingerprint searches. Name-based searches can help identify attempted fraud or misrepresentation where an applicant attempts to circumvent their criminal history via the submission of false or incomplete information. In fact, in 2014, 43 states performed over 19.4 million name-based criminal background checks for non-criminal justice purposes.⁶

In 2008, Congress found that “[n]early 21 [million] criminal records are not accessible by NICS [the National Instant Criminal Background Check System] and millions of criminal records are missing critical data, such as arrest dispositions, due to data backlogs...The primary cause of delay in NICS background checks is the lack of...updates and available State criminal disposition records...and automated access to information concerning [misdemeanor convictions].”⁷

At a Congressional hearing in 2007, Assistant Attorney General for Legal Policy, Rachel L. Brand testified that the FBI’s Triple I System has just 75% of all crimes committed in the U.S. and a mere 44% of that 75% have a final disposition.⁸ That means that of all crimes in the U.S. only 33% of final dispositions are available from the FBI Triple I System.

⁵ *Id.*, 54.

⁶ *Survey of State Criminal History Information Systems, 2014*, U.S. Dep’t. of Justice, Office of Justice Programs, Bureau of Justice Statistics, Criminal Justice Information Policy, 10, <https://www.ncjrs.gov/pdffiles1/bjs/grants/249799.pdf> (“DOJ Survey, 2014”).

⁷ Pub. L. 110-180, § 2 (Jan. 8, 2008). NICS “is a computerized system that queries several national databases simultaneously in order to process a name-based background check. The databases checked include...the Interstate Identification Index (III or ‘Triple I’), a database of criminal history records [and] the National Crime Information Center (NCIC). *Lethal Loopholes; Deficiencies in State and Federal Gun Purchase Laws: Hearing Before the Comm. on Oversight and Gov’t. Reform*, 110th Cong. 1 (May 10, 2007), Serial No. 110-9 (Statement of Assist. Att’y. Gen. for Legal Policy, Rachel L. Brand) (“Lethal Loopholes”), 125.

⁸ *Lethal Loopholes*, 146.

Attempts to fix the FBI's background check system are not working. Even though Congress passed the NICS Improvement Amendments Act of 2007, the proposed improvements "has never come close to the amounts called for by the [members of Congress]" and an unnamed source in the Justice Department said that the NICS record improvement had "gone to seed."⁹

Public policy tends to over-emphasize the value of FBI data at the expense of multi-jurisdictional searches performed by private background checks. The benefits of multi-state, multi-access points was shown in a 2011 GAO report. When the GAO looked at transportation security in 2011 at our nation's sea and airports, it found that "[s]tate repositories are considered more comprehensive sources of state criminal history than that maintained by FBI databases."¹⁰

The GAO also found that the Transportation Security Administration's

visibility to applicant criminal history records [from the FBI] is often incomplete because the provided information excludes details regarding dispositions, sentencing, release dates, and probation or parole violations, among others. TSA reported that this lack of visibility to additional criminal history record information via the FBI's Interstate Identification Index system hinders its ability to fulfill its homeland security mission and conduct Security Threat Assessments with more detailed and complete information for its credentialing programs.¹¹

In connection with its national transportation security review, the TSA told the GAO that it, the TSA, "conducted over 3 million Security Threat Assessments requiring a criminal history record check" and just north of 40 percent of the cases "included associated criminal records identified during automated FBI database".¹² This is a very low hit rate for a criminal database.

⁹ Alex Yablon, *What Happened to the \$1.3 Billion Congress Approved to Improve Federal Gun Background Checks?* The NICS Improvement Amendment Act of 2008 was intended to improve lapses in state record keeping that have allowed dangerous people like Dylann Roof to get a gun. Here's why almost 90 percent of that money has never been spent, *The Trace*, July 27, 2015, <http://www.thetrace.org/2015/07/nics-background-check-congress-spending/>.

¹⁰ General Accountability Office, *Transportation Security: Actions Needed to Address Limitations in TSA's Transportation Worker Security Threat Assessments and Growing Workload*, GAO-12-60 (Dec. 8, 2011), 22, <http://www.gao.gov/assets/590/586757.pdf> ("GAO-12-60").

¹¹ *Id.*, 30-31.

¹² *Id.*, n. 54.

The GAO's concerns from 2011 did not go away when the GAO testified before Congress three years later. In congressional testimony in 2015, the GAO noted looked back at its 2011 report on transportation security and said that

In December 2011, we found that, according to TSA, limitations in its criminal history checks increased the risk that the agency was not detecting potentially disqualifying criminal offenses as part of its Aviation Workers security threat assessments for airport workers. Specifically, we reported that TSA's level of access to criminal history record information in the FBI's Interstate Identification Index excluded access to many state records such as information regarding sentencing, release dates, and probation or parole violations, among others.¹³

The GAO added in that testimony that

TSA and FBI officials, concluded that the risk of incomplete information did exist and could be mitigated through expanded access to state-supplied records. TSA officials reported that the FBI has since taken steps to expand the criminal history record information available to TSA when conducting its security threat assessments for airport workers and others.¹⁴

Not enough steps have been taken apparently. In 2014, the U.S. Department of Justice's Bureau of Justice Statistics ("BJS") found that:

- Twenty-nine states representing 59% of U.S. offenders reported that they are missing 40% of dispositions for arrests made in the preceding five years.
- For arrests older than five years, 31 states, representing 65% of all offenders in the nation's criminal history records, report that they are missing dispositions for over 40% of the arrests in their systems.¹⁵

Reporting dispositions is not improving. This BJS report from 2014 noted a 12% decrease in dispositions reported since the last report was issued in 2012.¹⁶

¹³ *Hearing on Transportation Security: Are Our Airports Safe?: Before the House Committee on Oversight and Government Reform, House of Representatives, May 13, 2015 (114th Cong.)* (statement of Jennifer Grover, Director, Homeland Security and Justice, Gov't. Accountability Office) (citing GAO-12-60), <https://oversight.house.gov/wp-content/uploads/2015/05/Ms.-Jennifer-Grover-Testimony-Bio1.pdf>.

¹⁴ *Id.*

¹⁵ DOJ Survey, 2014, 2-3.

¹⁶ *Id.*, 6.

This report also looked at state participation in the FBI's National Fingerprint File (NFF). Here, 14 states that are NFF participants have elected not to forward to the FBI disposition information on second and subsequent offenses.¹⁷

In those cases where dispositions are reported to a central repository, the 2014 BJS found that 20 states have backlogs in entering court disposition data into their criminal history databases and at the time of the report, there were over 3 million unprocessed or partially processed court disposition forms from 19 states.¹⁸

The more one looks, the more one finds flaws in the FBI fingerprint database enhancing the need for name-based checks from the private sector. A 2012 congressional investigation revealed that "statewide databases that [the Office of Personnel Management] has approved [for national security clearance background checks] provide only cursory information, including the date of offense, charge, and disposition. These databases do not include information about the underlying facts that lead to an arrest."¹⁹

B. FBI Flaws Laid Bare: The Case of Dylann Roof

FBI database searches are not conducted in real time. Arrest information can take as much as 24 days to appear in the FBI system and court disposition information can take over a month, if it shows up at all. The private sector can generally respond to criminal background check requests much more quickly than the government can. This combination of speed and reliability places the right people in the right jobs in the right time.

The failures of the FBI database can have tragic consequences. CNN reported in June 2015 that

Dylann Roof, the man who allegedly killed nine people in a Charleston church last month, should not have been able to buy a gun, the FBI has now determined, contradicting earlier assertions that the background check was done properly, a law enforcement official tells CNN and FBI's director told reporters in Washington.

¹⁷ *Id.*, 6.

¹⁸ *Id.*, 9.

¹⁹ *Slipping Through the Cracks: How the D.C. Navy Yard Shooting Exposes Flaws in the Federal Security Clearance Process*, Staff Report, U.S. House Comm. on Oversight and Government Reform, Feb. 11, 2014 (citing, Transcribed Interview of Merton Miller, Associate Director, Federal Investigative Services (Jan. 8, 2014) at 201, <https://oversight.house.gov/wp-content/uploads/2014/02/Aaron-Alexis-Report-FINAL.pdf>).

...

Due to a prior arrest when Roof admitted to possessing drugs, he should not have been permitted to buy the gun he used in the massacre. However, the NICS agent who was performing the background check on Roof was unable to determine which county the arrest had been made in and whether Roof had been convicted of the crime.

The CNN report also noted that the FBI check “took longer than three days to complete”.²⁰

2. Consumers are unprotected by FBI searches.

When a criminal background check is done by a private company, that search is protected by the federal Fair Credit Reporting Act (FCRA) and state FCRA laws. Since 1971, the FCRA has served employers and applicants alike by acknowledging vibrant and lawful use of criminal history information, requiring reasonable procedures to ensure maximum possible accuracy, and requiring substantial systems to correct any inaccuracies that occur. The FCRA is “an intricate statute that strikes a fine-tuned balance between privacy and the use of consumer information.”²¹ When a criminal background check is done by the government, consumers get no such protections. There are no comprehensive, national accuracy, notice, or correction rights for consumers when a background check is done by the government. This lack of protection leaves consumers wondering how, when, and if they can see the result of the background check, and how, when and if they can get any errors corrected.

3. Commercial searches are superior to state government-only fingerprint searches

Similar to the discussion above regarding FBI fingerprint searches there are problems with state-only searches, as well. The Florida Department of Law Enforcement conducted a head-to-head comparison of fingerprints and name-based searches. The Department found that

The accuracy of the name hits is surprisingly high. This is particularly true because of the limitation that FDLE did not conduct name and demographic searches of alias names listed on the fingerprint card. . .The data shows that the

²⁰ Pamela Brown, Evan Perez, and Don Lemon, *FBI says Dylann Roof should not have been cleared to purchase a weapon*, CNN, July 10, 2015, <http://www.cnn.com/2015/07/10/politics/dylann-roof-fbi-gun-south-carolina/>.

²¹ Remarks of FTC Chairman Tim Muris, October 4, 2001 before the Privacy 2001 conference in Cleveland, Ohio. When a check is done by the FBI, no FCRA protections exist for consumers.

extremely high accuracy rate of the name searches makes these searches sufficient. . .When the IAFIS [Integrated Automated Fingerprint Identification System] or other automated fingerprint systems allow for very quick responses and low costs, fingerprint comparison will be the best option. Until then, name searches are the only practical option for determining criminal past.²²

The value of information from the commercial sector is proven in many quarters beyond the U.S. Department of Justice. While not related specifically to criminal background checks the Texas Attorney General's office states, "[w]e need the private sector to help protect consumers and help combat identity fraud. Moreover, we also need the private sector to assist law enforcement."²³

In March 2015, the GAO issued a [report](#) following over a year's worth of study on criminal background checks. According to the GAO, "[t]he use of private companies to conduct criminal history record checks appears to be increasing because [these checks] can provide benefits, such as faster response times."²⁴

Then-FBI Director Louis Freeh testified before Congress in 1999 and noted that in 1998, his agency made more than 53,000 inquiries to commercial on-line databases "to obtain public source information regarding individuals, businesses, and organizations that are subjects of investigations." This information, according to Director Freeh, "assisted in the arrests of 393 fugitives, the identification of more than \$37 million in

²² Martha Wright, Chief of the User Services Bureau, Criminal Justice Information Services, Florida Department of Law Enforcement, *The Efficacy of Name-Based Searches For Other than Criminal Justice Purposes*, Florida Department of Law Enforcement, <https://www.fdle.state.fl.us/Content/getdoc/e78560cd-8d70-4ac6-b24a-63a98d21d8ce/Wright.aspx>, 10 ("FDLE Report"). In the study, the FDLE established

[a] pilot program to test the efficacy of name-based searches. [In this pilot,] name-based searches and fingerprint searches were run on the same persons. There were 62,545 out of 62,545 cases (99.8%) where the resulting identification of a record was exactly the same regardless of which method of search and identification was used. When the Integrated Automated Fingerprint Identification System or other automated fingerprint systems allow for very quick responses and low costs, fingerprint comparison will be the best option. Until then, name searches are the only practical option for determining criminal past for persons who will have access to potential victims.

Id., 6.

²³ *Amicus Argument of James Ho for State of Texas, Taylor v. Acxiom Corp.*, U.S. Court of Appeals (5th Cir.) Case Nos. 08-41083, 41180, 41232, (Nov. 4, 2009).

²⁴ *Criminal History Records: Additional Actions Could Enhance the Completeness of Records Used for Employment-Related Background Checks*, GAO 15-162, i, <http://www.gao.gov/assets/670/668505.pdf>.

seizable assets, the locating of 1,966 individuals wanted by law enforcement, and the locating of 3,209 witnesses wanted for questioning.”²⁵

As stated by the Department of Homeland Security: “[W]e often get more accurate data from the commercial sector. In addition, the processes by which government agencies manage data often makes it difficult to acquire and needs [a] great deal of labor intensity into making it usable and accessible to other entities.”²⁶

4. Fingerprints are not foolproof

A. Fingerprints are vulnerable to hacking and spoofing

When the infamous bank robber, Willie Sutton, was asked why he robbed banks, he replied simply, “because that’s where the money is.”²⁷ If fingerprints are Coronado’s illusive “gold standard”²⁸ than Fort Knox was robbed in 2015. The Washington Post reported that “[o]ne of the scariest parts of the massive cybersecurity breaches at the Office of Personnel Management just got worse: The agency now says 5.6 million people’s fingerprints were stolen as part of the hacks.”²⁹

²⁵ *Hearing before the Senate Comm. on Appropriations Subcomm. for the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies, March 24, 1999 (Statement of Louis J. Freeh, Director of the Federal Bureau of Investigation).*

²⁶ *The Privacy Office, Department of Homeland Security, Privacy and Technology Workshop, Official Transcript at 6 (Sept. 8-9, 2005) (comments of Grace Mastalli Principal Deputy Director for the Information Sharing and Collaboration Program at DHS), available at http://www.au.af.mil/au/awc/awcgate/dhs/privacy_wkshop_panel1_sep05.pdf.*

²⁷ See, <https://www.fbi.gov/about-us/history/famous-cases/willie-sutton>.

²⁸ See, Jonathan Saltzman, *Lawyer Cites Trouble With Fingerprints As Evidence*, *Boston Globe*, Feb. 6, 2004, at B1. See also Howard Manly, *Prints Snafu in Cowans Case Almost Criminal*, *Boston Herald*, Jan. 25, 2004, at 8 (describing how fingerprints “all but guaranteed the conviction of a suspect if his prints were near a victim or crime scene”).

²⁹ Andrea Peterson, *OPM says 5.6 million fingerprints stolen in cyberattack, five times as many as previously thought*, *Washington Post*, <https://www.washingtonpost.com/news/the-switch/wp/2015/09/23/opm-now-says-more-than-five-million-fingerprints-compromised-in-breaches/>. In 2015, the General Accountability Office wrote that

Federal agencies’ information and systems remain at a high risk of unauthorized access, use, disclosure, modification, and disruption. These risks are illustrated by the wide array of cyber threats, an increasing number of cyber incidents, and breaches of PII occurring at federal agencies. Agencies also continue to experience weaknesses with effectively implementing security controls, such as those for access, configuration management, and segregation of duties. OMB and federal agencies have initiated actions intended to enhance information security at federal agencies. Nevertheless, persistent weaknesses at agencies and breaches of PII demonstrate the need for improved security. Until agencies correct longstanding control deficiencies and address the hundreds of recommendations that we and agency inspectors general have made, federal systems will remain at increased and unnecessary risk of attack or compromise.

OPM is not the only fingerprint database subject to hacking. A recent major security flaw was exposed in Android phones allowing hackers access to fingerprint information on these devices.³⁰ In 2013, “[t]he biometrics hacking team of the Chaos Computer Club (CCC) has successfully bypassed the biometric security of Apple's TouchID using easy everyday means.”³¹ In 2002, [a] Japanese cryptographer has demonstrated how fingerprint recognition devices can be fooled using a combination of low cunning, cheap kitchen supplies and a digital camera.”³²

B. Fingerprints are not as one-size-fits-one as people think

Dave Aitel, a former computer scientist for the National Security Agency who specializes in offensive security for Wall Street financial firms, Fortune 500s and manufacturers, wrote in USA Today that “biometrics are often seen as a military-grade security technology. But in high security environments, biometrics are only a small part of the security puzzle. . . [F]ingerprint identification technology is not perfect - on a large enough database you will inevitably get collisions.” Aitel added that “concerns about the statistical probability of false matches have been expressed by the National Academies of Science, National Institute of Standards and Technology, US Department of Justice, International Association for Identification, and more.”³³

New research is showing the weaknesses of fingerprint matching. “The language of certainty that examiners are forced to use hides a great deal of uncertainty,” said the U.K.’s Lord Justice Leveson put it when addressing the Forensic Science Society. The scientific uncertainty of fingerprint matching is highlighted in a Pacific

General Accountability Office, *Federal Information Security: Agencies Need to Correct Weaknesses and Fully Implement Security Programs*, GAO-15-714 (Sept. 2015), 54.

³⁰ Thomas Fox-Brewster, *Samsung Galaxy S5 Flaw Allows Hackers To Clone Fingerprints, Claim Researchers*, Forbes, April 21, 2015, <http://www.forbes.com/sites/thomasbrewster/2015/04/21/samsung-galaxy-s5-fingerprint-attacks/>.

³¹ Chaos Computer Club, *Chaos Computer Club breaks Apple TouchID*, <http://ccc.de/en/updates/2013/ccc-breaks-apple-touchid>, Sept. 21, 2013.

³² T. Matsumoto, H. Matsumoto, K. Yamada, S. Hoshino, “Impact of Artificial Gummy Fingers on Fingerprint Systems,” *Proceedings of SPIE Vol. #4677, Optical Security and Counterfeit Deterrence Techniques IV*, 2002, <http://spie.org/Publications/Proceedings/Paper/10.1117/12.462719>. . See, also, a 2003 presentation by T. Matsumoto at the Massachusetts Institute of Technology, <http://web.mit.edu/6.857/OldStuff/Fall03/ref/gummy-slides.pdf>.

³³ Dave Aitel, Special for CyberTruth, *Why fingerprints, other biometrics don't work*, USA Today, Sept. 12, 2013, <http://www.usatoday.com/story/cybertruth/2013/09/12/why-biometrics-dont-work/2802095/>

Standard article backed up with research from the U.C.L.A. Law Review, university professors, and report by the National Academy of Sciences.³⁴

5. Limits of state law enforcement searches

Private-sector background screening ensures that the search is conducted across state lines and jurisdictions. This comprehensive searching is essential to ensuring that, for example, a violent crime in one state is not ignored when the same individual applies for a job in another state. One state agency search of crimes committed in that one state is of limited value in a country where people move across states with ease and frequency. A resident of one state may have been convicted of an offense in a second state and is now applying for a job with a company in a third state. A criminal background check conducted by a state government limited by the borders of its own state may, depending on the employer and the position, be considered to be inadequate and unsafe. For example,

Florida conducts over 600,000 name-based record checks per year, but FDLE is authorized to access Florida information only. With the great mobility of our population today, a criminal history check of one state is very limiting. Name-based record checks should be examined to determine if the uses should be expanded to include nationwide information.³⁵

In **Ohio**, law enforcement is stymied when clerks don't report convictions. In that state "thousands of convictions, which police officers and public and private employers hope to detect during background checks, are missing from the state database." A number of counties in the state "have not turned in the most-serious offenses — felony convictions — for three months and perhaps much longer, according to the May 1 audit." It was discovered during an "an investigation by WBNS-TV (Channel 10) and The Columbus Dispatch discovered major flaws in a criminal background-check system that periodically reports that felons have clean records."³⁶

Ohio is not the only state law enforcement agency with issues. A 2011 audit of the **Texas** Department of Public Safety (DPS) showed that

³⁴ Sue Russell, Why Fingerprints Aren't the Proof We Thought They Were, Pacific Standard, Sept. 20, 2012, <http://www.psmag.com/politics-and-law/why-fingerprints-arent-proof-47079>.

³⁵ FDLE Report, 9.

³⁶ Randy Ludlow, *Law enforcement is stymied when clerks don't report convictions*, Columbus Dispatch, May 10, 2015, <http://www.dispatch.com/content/stories/local/2015/05/10/law-enforcement-stymied-when-clerks-dont-report-convictions.html>.

the 73.68 percent submission rate indicates that data in DPS's Computerized Criminal History System is not complete, and users may not receive a reliable result from criminal history background checks that are conducted based on the data in that system. DPS also should improve the timeliness and accuracy of the data in its Computerized Criminal History System.

...

A significant number of prosecutor and court records are not reported to DPS, which impairs the quality of information that DPS uses to conduct criminal history background checks. For example, 1,634 (7.65 percent) of 21,351 offenders whom TDCJ admitted to jail, prison, or probation in November 2010 did not have corresponding prosecutor and court records in DPS's Computerized Criminal History System. In addition, information that DPS provides as part of its criminal history background checks does not include probation records.³⁷

"Washington's criminal history records database is incomplete" so says a June 2015 [audit](#) by the Washington State Auditor's Office.³⁸

The Washington State Auditor's Office [audit](#) showed that "[one-]third of the dispositions for charges reported in the Judicial Information System (JIS) in 2012 were missing from [the Washington State Identification System] WASIS." The audit also found that "more than half of the individuals with missing dispositions had at least one missing disposition for an offense on the state's Department of Social and Health Services' list of disqualifying offenses. These offenses include such crimes as harassment, child molestation and domestic violence."³⁹ More than one-in-ten of the missing dispositions were for felonies and 89% were gross misdemeanors, which also include offenses like stalking, shoplifting, animal cruelty.

The number one reason cited by the audit as to why "criminal history records are incomplete" is because "fingerprints are not taken".⁴⁰ The audit said that

One reason fingerprints are not taken is a state law that does not require law enforcement entities to fingerprint individuals arrested for gross misdemeanors if they are not taken into custody. We also found that even when fingerprints are

³⁷ *An Audit Report on The Criminal Justice Information System at the Department of Public Safety and the Texas Department of Criminal Justice*, State Auditor's Office, SAO Report No. 12-002, Sept. 2011, available at <http://www.sao.state.tx.us/reports/main/12-002.pdf>.

³⁸ *Performance Audit: Improving the Completeness of Washington's, Criminal History Records Database*, Wash. State Auditor's Office, 11, June 15, 2015, http://www.sao.wa.gov/state/Documents/PA_Criminal_History_Records_ar1013675.pdf.

³⁹ *Id.*, 3-4.

⁴⁰ *Id.*, 4.

taken, dispositions may not make it to WASIS because JIS allows dispositions to be entered without the [Process Control Number] PCN.⁴¹

There are other reasons why criminal history records are incomplete. The “[State] Patrol relies on hundreds of independent, local law enforcement agencies, courts and county clerks to provide the information needed to keep the state’s criminal history records database...complete.”⁴² Yet, this diffusion of responsibility leads to incomplete records.

The incompleteness of these state records affects people. The audit points to an April 2015 incident where a bus driver, “carrying senior citizens on a day trip”, “was arrested for [DUI]. He turned out to have a prior arrest for the same offense, which would have disqualified him from driving the bus. He did not mention the earlier arrest on his application and it did not appear on his background check because the offense was not in WASIS. This happened because he was cited and released for the prior offense; he was not booked into jail and fingerprints were not taken, resulting in the arrest not being entered into WASIS.”⁴³

“It turns out the State Patrol wasn’t required to report the 2014 incident because the charge is a gross misdemeanor – and Maier wasn’t taken to jail.”⁴⁴

According to an account of an investigation in 2014 in **Florida**,

The Florida Department of Law Enforcement’s troubled five-year-old automatic fingerprint identification system (AFIS) has cost far more to maintain than it did to design and build because of technical problems. It is now so unstable that it is causing delays during investigations and arrests across the state.

...

The most critical problems the internal reports document were related to the system’s accuracy rates and response time. . . That meant the system

⁴¹ *Id.*, 4.

⁴² *Id.*, 6.

⁴³ *Id.*, 15.

⁴⁴ Steve Kiggins, *How did a volunteer shuttle bus driver with DUI charge pass background check?*, KCPQ-TV, April 9, 2015, <http://q13fox.com/2015/04/09/how-did-a-volunteer-shuttle-bus-driver-with-a-dui-charge-pass-a-state-background-check/>.

was missing as many as 13 prints in a batch of 1,300, which could add up to hundreds of prints in a day.⁴⁵

Like Washington State, “the completeness of arrest and subsequent case disposition data in the ACCH [Arizona Computerized Criminal History] continues to be a concern among criminal justice stakeholders in **Arizona**.” A 2013 report by the Arizona Criminal Justice Commission looked at

the latest [Arizona Computerized Criminal History system] ACCH extract received...from [the state Department of Public Safety], 65.7 percent of arrest counts resulting from arrests made in calendar year 2009 had associated case disposition data attached to the record by the end of calendar year 2010 [and the percentage of 2003 arrest counts...with associated case disposition information in the ACCH by the end of 2004 was 59.4 percent. Despite an increase over the seven-year period, there is still a large percentage of arrest counts entered each year that have not completed the case disposition process within the 180-day timeframe as outlined by the Arizona Supreme Court.⁴⁶

The Arizona report noted the same challenge in inputting data for “cite and release” arrests as Washington State. The Arizona report noted that

[m]any Arizona law enforcement agencies are faced with the task of patrolling a vast rural landscape within each of Arizona’s 15 counties. As a result, many agencies are citing and releasing the arrestee in lieu of transporting the arrestee to a booking location. When a law enforcement officer issues an arrest citation and releases the arrestee, the arrestee is not fingerprinted, and the creation of a record of the arrest in the ACCH is delayed.⁴⁷

A report issued in 2014 exposed a serious threat to public safety in Nevada. According to a study, “more than 800,000 criminal cases, some going back 20 years...were not forwarded by **Nevada** law enforcement agencies and the courts for entry into the state criminal information repository.”⁴⁸

⁴⁵ Tristram Korten, *State Fingerprint System Flawed, More Expensive To Maintain Than To Build*, blog, Florida Center for Investigative Reporting, March 9, 2014, <http://fcir.org/2014/03/09/state-fingerprint-system-flawed-more-expensive-to-maintain-than-to-build-bondi-moye-barati-fdle-lave/>.

⁴⁶ Arizona Criminal Justice Commission, *Identity Theft Arrest and Case Processing Data: An Analysis of the Information in Arizona’s Computerized Criminal History Record System*, March 2013, 4, http://www.jrsa.org/webinars/presentations/az_id_theft.pdf (internal citations omitted).

⁴⁷ *Id.*

⁴⁸ Las Vegas Review-Journal, Report: Nevada repository missing thousands of criminal records, June 14, 2014, <http://www.reviewjournal.com/news/nevada/report-nevada-repository-missing-thousands-criminal-records>.

About the Consumer Data Industry Association (CDIA)

www.cdiaonline.org

CDIA is an international trade association, founded in 1906, of more than 130 corporate members. Its mission is to enable consumers, media, legislators and regulators to understand the benefits of the responsible use of consumer data which creates opportunities for consumers and the economy. CDIA members provide businesses with the data and analytical tools necessary to manage risk. They help ensure fair and safe transactions for consumers, facilitate competition and expand consumers' access to a market which is innovative and focused on their needs. CDIA member products are used in more than nine billion transactions each year.

December 2016

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Dunston, David \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Penny, Thomas \(DMV\)](#)
Subject: FW: Passenger Carrier Study - draft concept paper
Date: Thursday, August 10, 2017 3:51:05 PM

fyi

From: Chris Lagow [mailto:chris@lagowlobby.com]
Sent: Thursday, August 10, 2017 3:39 PM
To: Smoot, Janet (DMV); cduvall@lindlcorp.com; cking@redtopcab.com; judydswystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virgini anewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectrecorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@jamesrivertrans.com; paul@getsetgo.us; James Brown; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginia sheriffs.org; Schrad, Dana; Maxey, Ronald (VSP); Rebecca.Nichols@scc.virginia.gov; rsavage@eckertseamans.com; Jones, Ted (VSP); Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlerch@vaco.org; LYNCHBURG LA-SECONDARY (DMV); liland@vaco.org; yovonda.bellamy@norfolk.gov; Hollowell, Maureen (DBHDS); jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov; jpgwilson@nngov.com; marylou.nexsen@norfolk.gov; sudad@chesterfield.gov; durrette@charlottesville.org; james.bongiovi@norfolk.gov; roger@heftywiley.com; adelabarrera@arlingtonva.us; kokeefe@arlingtonva.us; yovonda.bellamy@norfolk.gov; jbaugh@oag.state.va.us; Woods, Michael W.; David Robinson; cparrish@oag.state.va.us
Cc: Micaela Isler (micaela.isler@pciaa.net)
Subject: RE: Passenger Carrier Study - draft concept paper

Thank you for the opportunity to provide input to the concept papers on the Passenger Carrier Study. I am writing on behalf of my client, PCI.

Although neither the matrix or the summary mentions any changes to the insurance requirements for Passenger Carriers that the insurance industry objects to, I want to offer a brief comment that expands upon the discussion we had at the last meeting about the possibility of allowing taxi cabs to have both a commercial auto policy when they are operating commercially, or only when they have passengers in the taxi, and a personal auto policy on the same vehicle when they might use the vehicle for personal purposes.

Insurers recognize the differences between taxi companies that own their own fleet of vehicles, have driver/employees, keep the vehicle in operation all day and/or night, or who lease their vehicles to a driver over the course of a typical work shift, or who might own and operate their vehicle both on a

commercial basis and on a personal basis. These differences are accounted for in the underwriting process. The owner operator who does not lease out his vehicle to someone else to operate (on a commercial basis) is rated differently than the operator whose business model is to keep the vehicle in commercial operation all day every day. Different risk characteristics should be reflected in different amounts of premium being charged.

The marketplace seems to be working with regard to the insurance requirements imposed on Passenger Carriers. The differences in the various business models and the widely different technologies employed by each make the suggestion of a “dual” policy approach for owner/operators of taxis pretty impractical, and unnecessary in light of the pricing differences they already enjoy.

Thank you again for the opportunity to provide Comments.

Chris LaGow

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]

Sent: Thursday, August 10, 2017 9:04 AM

To: cduvall@lindlcorp.com; cking@redtopcab.com; judydswystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virginianewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectreCorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@jamesrivertrans.com; paul@getsetgo.us; James Brown; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiasheriffs.org; Schrad, Dana; Maxey, Ronald (VSP); Rebecca.Nichols@scc.virginia.gov; Chris Lagow; rsavage@eckertseamans.com; Jones, Ted (VSP); Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlerch@vaco.org; LYNCHBURG LA-SECONDARY (DMV); liland@vaco.org; yovonda.bellamy@norfolk.gov; Hollowell, Maureen (DBHDS); jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov; jgwilson@nngov.com; marylou.nexsen@norfolk.gov; sudad@chesterfield.gov; durette@charlottesville.org; james.bongiovi@norfolk.gov; roger@heftywiley.com; adelabarrera@arlingtonva.us; kokeefe@arlingtonva.us; yovonda.bellamy@norfolk.gov; jbaugh@oag.state.va.us; Woods, Michael W.; David Robinson; cparrish@oag.state.va.us

Subject: RE: Passenger Carrier Study - draft concept paper

Stakeholders,

This is a reminder that we need feedback on the concept paper by COB tomorrow, August 11th.

Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |

www.dmvNOW.com

[Confidentiality Statement](#)

From: Smoot, Janet (DMV)

Sent: Tuesday, August 01, 2017 1:56 PM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jliss@virginiانewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rmalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectreCorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginiaSheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org'; 'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'land@vaco.org'; 'yovonda.bellamy@norfolk.gov'; 'mhollowell@endependence.org'; 'jayers@vtla.com'; 'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov'; 'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com'; 'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com'; 'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org'; 'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us'; 'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael W.'; 'David Robinson'; 'cparrish@oag.state.va.us'

Subject: Passenger Carrier Study - draft concept paper

Stakeholders,

Enclosed are two documents for your review and feedback. The first is a draft concept paper encompassing the two areas we discussed in our

meeting on June 28th: "Public Safety" and "Streamlining Authority Types". The second document contains most of the same information, but presents it in a different format.

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Should you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |

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From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Dunston, David \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#)
Subject: FW: Passenger Carrier Study - draft concept paper
Date: Thursday, August 10, 2017 2:57:53 PM

Fyi. Doug Douglas's response to the employee hauler loss of rolling stock tax.

From: doug210@verizon.net [mailto:doug210@verizon.net]
Sent: Thursday, August 10, 2017 12:33 PM
To: Smoot, Janet (DMV)
Subject: Fwd: Passenger Carrier Study - draft concept paper

-----Original Message-----

From: doug210 <doug210@verizon.net>
To: sstory <sstory@jamesrivertrans.com>
Sent: Thu, Aug 10, 2017 12:30 pm
Subject: Re: Passenger Carrier Study - draft concept paper

Morning Steve, Years ago I conducted an informal survey of VMA member (employee haulers) state wide. Employee Haulers back then reported 8,000.+ passengers daily to/from their work place. Recall, I had Del. Dick Cranwell patron legislation (passed) allowing "dead heading" in the restricted lanes.....for repeated trips. Employee Haulers loss of the Rolling Stock Tax will increase vehicle traffic congestion on I-95/495. Doug

-----Original Message-----

From: Stephen Story <sstory@jamesrivertrans.com>
To: 'Smoot, Janet (DMV)' (DMV) <janet.smoot@dmv.virginia.gov>
Cc: 'Doug' <doug210@verizon.net>; Stephen Story <sstory@jamesrivertrans.com>
Sent: Thu, Aug 10, 2017 9:26 am
Subject: RE: Passenger Carrier Study - draft concept paper

Good Morning Janet,

Thanks for this reminder. I have been out of town this week would have probably missed the deadline.

Overall, I believe DMV did a very good job of listening to all stakeholders and consolidating their input.

I have a few comments as it pertains to Virginia Motorcoach Association members.

Employee Haulers – Although there is a small number of carriers utilizing this category, if it is consolidated into the General Passenger Carrier section, the carriers may lose an important tax advantage (Rolling Stock) that provides critical assistance to this vital service. There may be others way to ensure the tax structure remains for these carriers and we are open to discussing this. I did not see information about tariffs or pricing in the Draft Concept. As noted in previous discussions, we feel this requirement does not provide any meaningful benefit to consumers anymore.

Thanks again for including us in this process. Please pass along my compliments to the DMV team for their hard work.

Stephen W. Story

President
James River Transportation
915 N Allen Ave
Richmond, VA 23220
804.342.7300 ext 1740
ssstory@JamesRiverTrans.com
www.JamesRiverTrans.com



From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Thursday, August 10, 2017 9:04 AM
To: cduvall@lindlcorp.com; cking@redtopcab.com; judydswystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virgini anewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectrecorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; Stephen Story; paul@getsetgo.us; James Brown; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginia sheriffs.org; Schrad, Dana; Maxey, Ronald (VSP); Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP); Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlarch@vaco.org; LYNCHBURG LA-SECONDARY (DMV); lland@vaco.org; yovonda.bellamy@norfolk.gov; Hollowell, Maureen (DBHDS); jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov; jgwilson@nngov.com; marylou.nexsen@norfolk.gov; sudad@chesterfield.gov; durette@charlottesville.org; james.bongiovi@norfolk.gov; roger@heftywiley.com; adelabarrera@arlingtonva.us; kokeefe@arlingtonva.us; yovonda.bellamy@norfolk.gov; jbaugh@oag.state.va.us; Woods, Michael W.; David Robinson; cparrish@oag.state.va.us
Subject: RE: Passenger Carrier Study - draft concept paper

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Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 |

janet.smoot@dmv.virginia.gov | www.dmvNOW.com

[Confidentiality Statement](#)

From: Smoot, Janet (DMV)
Sent: Tuesday, August 01, 2017 1:56 PM
To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judydswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jliss@virgini anewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rmalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectrecorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'ssstory@jamesrivertrans.com'; 'paul@getsetgo.us'; James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginia sheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org';

'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'lland@vaco.org';
'yovonda.bellamy@norfolk.gov'; 'mhollowell@endependence.org'; 'jayers@vtla.com';
'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov';
'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com';
'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com';
'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org';
'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us';
'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael
W.'; 'David Robinson'; 'cparrish@oag.state.va.us'

Subject: Passenger Carrier Study - draft concept paper

Stakeholders,

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Should you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 |

janet.smoot@dmv.virginia.gov | www.dmvNOW.com

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August 11, 2017

Richard D. Holcomb
Commissioner, Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond, VA 23269

Commissioner Holcomb,

On behalf of Lyft, I want to thank you for including us in the stakeholder group for the Passenger Carrier Study currently underway at DMV. We have received the “Public Safety” and “Streamlining Authority Types” draft concept papers and have no position on the proposals in those documents.

If there is anything else you need from us in the future, please do not hesitate to ask.

Sincerely

A handwritten signature in black ink, appearing to read "Funsho Owolabi". The signature is written over a horizontal line that extends across the width of the signature.

Funsho Owolabi
Public Policy Manager
[\(347\) 620-5886](tel:(347)620-5886)

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); tom.penny@dmv.virginia.gov; [Ampy, Latrice \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Kerns, Rachel \(DMV\)](#)
Subject: FW: Passenger Carrier Study - draft concept paper
Date: Friday, August 11, 2017 10:24:58 AM

fyi

From: Robert Matthias [RMatthia@vbgov.com]
Sent: Friday, August 11, 2017 10:03 AM
To: Smoot, Janet (DMV)
Subject: FW: Passenger Carrier Study - draft concept paper

Robert R. Matthias
Assistant to the City Manager
Office of the City Manager
2401 Courthouse Drive, Bld 1, Rm 234
Virginia Beach, VA 23456
(757) 385-4242 (main)
(757) 373-6999(m)
rmatthia@vbgov.com

From: James A. Cervera
Sent: Thursday, August 10, 2017 12:25 PM
To: Sean Adams <SAdams@vbgov.com>; Robert Matthias <RMatthia@vbgov.com>
Cc: Steven R. Cover <Scover@vbgov.com>; William T. Dean <WTDean@vbgov.com>; Jim D. Price <JPrice@vbgov.com>; William E. Hodges <WHodges@vbgov.com>
Subject: RE: Passenger Carrier Study - draft concept paper

Bob:
After review I am good with the comments. You can forward as appropriate.

Sean, Billy, Jim:
Thanks for the quick review and response.

James A. Cervera
Chief of Police
Virginia Beach Police Department
2509 Princess Anne Road
Municipal Center, Building 11
Virginia Beach, VA 23456
Phone (757) 385-4141
Fax (757) 427-9163

From: Sean Adams

Sent: Thursday, August 10, 2017 11:48 AM
To: James A. Cervera; Robert Matthias
Cc: Steven R. Cover; William T. Dean; Jim D. Price; William E. Hodges
Subject: FW: Passenger Carrier Study - draft concept paper

Chief,

After review of the documents, we offer the following comments for consideration:

1. From the Driver Screening Requirements section... Driver screening of criminal history can be performed by a fingerprint based check or through a third party vendor: if the screening is done through a 3rd party vendor, code should establish some criteria to assure that the check is thorough and accurate.
2. From the Insurance Requirements section...the proposed amount of insurance for passenger motor carriers is increased to \$350,000; currently, Virginia Beach requires a minimum of \$300,000 total per single incident deaths and damage. This has been the VB City Code (36-69) since 2000 and an increase in insurance coverage is probably overdue.
3. From the Use of Rental Vehicles section... DMV will no longer require carriers to submit an application to use a rental vehicle: currently, when a passenger carrier submits an application to DMV to use a rental vehicle, it is approved the same day (if a week day) and a computer entry for the registration is noted. This notation on the registration provides LEOs making a traffic stop the information that it is a "for hire" vehicle and subject to passenger motor carrier codes. If the requirement to apply to DMV is jettisoned, we suggest at least requiring notification to DMV of the rental and its use.

Captain Sean Adams
Virginia Beach Police Department
Special Operations
2667 Leroy Drive
Virginia Beach, Virginia 23456
Spec Ops (757) 385-4606
Direct (757) 385-8957
Fax (757) 385-4406

From: James A. Cervera
Sent: Wednesday, August 09, 2017 11:16 AM
To: Sean Adams
Subject: FW: Passenger Carrier Study - draft concept paper

Pls see what we can make of this and respond accordingly. Copy me, Bob Matthias and DCM

James A. Cervera
Chief of Police
Virginia Beach Police Department
2509 Princess Anne Road
Municipal Center, Building 11

Virginia Beach, VA 23456
Phone (757) 385-4141
Fax (757) 427-9163

From: Robert Matthias [<mailto:RMatthia@vbgov.com>]
Sent: Wednesday, August 09, 2017 10:25 AM
To: James A. Cervera
Subject: FW: Passenger Carrier Study - draft concept paper

Robert R. Matthias
Assistant to the City Manager
Office of the City Manager
2401 Courthouse Drive, Bld 1, Rm 234
Virginia Beach, VA 23456
(757) 385-4242 (main)
(757) 373-6999(m)
rmatthia@vbgov.com

From: Wilson, Jerri G. [<mailto:jgwilson@nnva.gov>]
Sent: Wednesday, August 9, 2017 9:45 AM
To: 'Angie Bezik' (abezik@principle-advantage.com) <abezik@principle-advantage.com>; Robert Matthias <RMatthia@vbgov.com>; Laura Bateman <batemanconsultingllc@gmail.com>
Subject: FW: Passenger Carrier Study - draft concept paper

FYI

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Tuesday, August 01, 2017 1:56 PM
Subject: Passenger Carrier Study - draft concept paper

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Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |
www.dmvNOW.com
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From: [Smoot, Janet \(DMV\)](#)
To: [Whitham, Craig \(DMV\)](#)
Subject: FW: Passenger Carrier Study - Revised Concept
Date: Thursday, September 21, 2017 3:22:40 PM
Attachments: [Jonathan S. Trainum: 6.28.17 Passenger Carrier Study Input.pdf](#)
[FW_DMV Comments Werth Attachments.msg](#)
[VTA - Comments on DMV Passsenger Carrier Study Proposal Final 8-11-17-1.doc](#)
[Stakeholder_email_responses_to_Concept_Paper.docx](#)
[Re Passenger Carrier Study - draft concept paper.msg](#)
[Passenger Carrier Study Revised Proposal 9-20-17.docx](#)
[FWD_DMV_response.msg](#)
[VA - Letter to Commish Holcomb .pdf](#)

Don't know why you didn't get it. Maybe it is in your outbox?

From: Smoot, Janet (DMV)
Sent: Thursday, September 21, 2017 2:37 PM
To: Hussey, Rena (DMV); Harrison, Patrick (DMV); Owens, Andrew (DMV); Boisvert, Gabriel (DMV); Kerns, Rachel (DMV); Mey, Michael (DMV); Penny, Thomas (DMV); Arkwright, Barbara (DMV); Ampy, Latrice (DMV); Dunston, David (DMV); Whitham, Craig (DMV)
Subject: FW: Passenger Carrier Study - Revised Concept

fyi

From: Smoot, Janet (DMV)
Sent: Thursday, September 21, 2017 2:27 PM
To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jlliss@virginianewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rmalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectreCorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginiasheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org'; 'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'land@vaco.org'; 'yovonda.bellamy@norfolk.gov'; 'mhollowell@endependence.org'; 'jayers@vtla.com'; 'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov'; 'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com'; 'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com'; 'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org'; 'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us'; 'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael W.'; 'David Robinson'; 'cparrish@oag.state.va.us'; 'henri.steinmccartney@fairfaxcounty.gov'; 'susan.hafeli@fairfaxcounty.gov'; 'katherine.leigey@fairfaxcounty.gov'
Subject: Passenger Carrier Study - Revised Concept

Dear Stakeholders,

We have reviewed the feedback that many of you sent to us on the Passenger Carrier "Concept Paper" which was emailed to you on August 1st. Based on all of your feedback we now have a "Revised Concept Paper". I have enclosed this new concept paper as well as the feedback that we received from stakeholders on the August 1 concept paper.

If you would like to provide feedback on this Revised Concept please provide that to me by COB Tuesday, October 3rd.

After reviewing any feedback received on this revised concept we will finalize our study report and associated legislation. This will also be distributed to you.

Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |

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To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#)
Subject: FW: Passenger Carrier Study - draft concept paper
Date: Thursday, August 10, 2017 9:30:56 AM
Attachments: [Passenger Carrier Study Draft Proposal 8-1-17.docx](#)
[Proposed Passenger Carrier Detail Matrix 8-1-17 \(2\).docx](#)
[A9E29EA0-1465-4117-924B-A392586966BC\[9\].png](#)
[WMATC Safety Regulations.docx](#)

Here is the electronic version of Robbie Werth's submittal.

From: Robert Werth [mailto:robbiew5264@gmail.com]
Sent: Tuesday, August 08, 2017 11:04 PM
To: Smoot, Janet (DMV)
Cc: Hussey, Rena (DMV); Crawford, Judith; Foster, Mark
Subject: FW: Passenger Carrier Study - draft concept paper

Good Evening Ms. Smoot:

Thank you for forwarding Diamond Transportation/National Express the Passenger Carrier Study Draft Proposal. Also, thank you for including me as a member of the Passenger Carrier Task Force as the positions of Irregular Route authority that Diamond holds in the state of Virginia. Diamond/National Express can support some of the elimination of unnecessary rules and regulations, the company humbly requests that "common carrier" status be maintained.

As you are aware the DMV proposal does away with the irregular route "common carrier" (IRCC) designation that has historically allowed companies that contract with local, state and regional governmental agencies to operate on a point to point basis and gain access to HOV lanes without passengers. This is a very limited authority in Northern Virginia with few companies meeting the standards to obtain licensing by the Virginia DMV and the Washington Metropolitan Area Transportation Commission.

In the DMV's proposal there is little or no mention of safety to the public as we commonly see as the basis for making changes to operating authority.. To this end, in order to operate between Alexandria, Arlington, Fairfax County, Fairfax City, the city of Falls Church and either Washington or points in Maryland, Diamond must carry the WMATC authority and meet the safety standards as outlined in the attached document.

The contracts that Diamond operates specifically require for the efficient and effective movement of paratransit vehicles through out localities in Northern Virginia to reach customers with disabilities in a timely and safe fashion.

If IRCC is eliminated, jurisdictions will be required to operate more vehicles in order to maintain the same standards. Specifically, companies like Diamond have been proactive in making sure that access to HOV and HOT lanes do not hinder the direct progression of accessible vehicles, that are limited in nature, to arrive according to jurisdictional agency acceptable and required standards. We have had support of local and state elected officials in this regard as the present HOV exemptions were carried forward in the HOT lane considerations. Furthermore, this issue has been discussed at great lengths at the Washington Metropolitan Council of Governments as a priority for the Access For All committee in terms of

accessibility transportation standards for the regions. To that end, Diamond has been a company in Northern Virginia that has met the standard of 100% wheelchair accessibility, but as we are all aware there is a limited overall supply of wheelchair accessible for hire vehicles. Elimination of "common carrier" status would cause great delays in service delivery to persons with disabilities.

DMV is proposing to create three (3) operating authorities; (1) regular route, (2) general passenger carriers and (3) TNCs. Eliminating the IRCC authority that Diamond currently has would do great harm to the disability community and the company itself that currently holds long term contracts with WMATA, Arlington, Alexandria, Fairfax and the State of Virginia that were bid with our current operating authority in place. Furthermore, this legislation maintains the TNC operating authority while stripping IRCC's of theirs. It also codifies the TNC's ability to use private cars in their operating authority while dismantling IRCC's ability to do the same.

I once again implore you to consider allowing current IRCC's to maintain their operating authority, through Grandfather methodology or otherwise. As I felt this request should be sent immediately on behalf of Diamond, the contracted agencies we serve and the regional disability community I will present comments on the proposed legislation under separate cover.

Thank you for your attention to this extremely important matter. Please feel free to contact me at any time.

Respectfully,

Robert Werth, Founder/Project Manager MetroAccess
Diamond Transportation

national express

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From: Janet Smoot <janet.smoot@dmv.virginia.gov>

Date: Tuesday, August 1, 2017 at 1:56 PM

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Subject: Passenger Carrier Study - draft concept paper

Stakeholders,

Enclosed are two documents for your review and feedback. The first is a draft concept paper encompassing the two areas we discussed in our

meeting on June 28th: "Public Safety" and "Streamlining Authority Types". The second document contains most of the same information, but presents it in a different format.

We would like your written feedback on this drafted concept by Friday, August 11th. We have scheduled a follow-up meeting for further discussion for Wednesday, August 23rd from 9:00 – noon at the DMV Headquarters Building. The DMV team will review all of your feedback prior to the meeting on the 23rd.

Should you have any questions feel free to contact me.

Janet Smoot

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[Confidentiality Statement](#)

40. PUBLIC AUTO CLASSIFICATIONS

Paragraphs **D.2. and D.3.** are replaced by the following:

D. Primary Classifications

2. Use Class

a. Taxicab

A metered or unmetered auto, other than a Car Service or Limousine, with a seating capacity of eight or less that is operated for hire by the named insured or an employee, but does not pick up, transport or discharge passengers along a route. The auto must be licensed by the appropriate licensing authority, as required by law, based on the territory of operation. A Taxicab-Owner-driver means an individual owner of a single taxicab operated by the individual owner or spouse.

b. Car Service

An unmetered auto, other than a Taxicab or Limousine, with a seating capacity of eight or less that is operated for hire by the named insured or an employee, and operates from a central base station. The auto must be licensed by the appropriate licensing authority, as required by law, based on the territory of operation.

c. Limousine

An unmarked luxury auto, other than a Taxicab or a Car Service, that is operated for hire by the named insured or an employee, and is used on a pre-arranged basis for special or business functions, weddings, funerals or similar purposes. The auto and driver must be in attendance at the beginning and end of the function, and the auto must be licensed by the appropriate licensing authority, as required by law, based on the territory of operation. If the auto is the only limousine owned by or registered in the name of an individual named insured and is operated only by the individual named insured, multiply the liability premiums for a limousine by the following factor:

Factor
.75

Table 40.D.2.c. Individually Owned Limousine Liability Coverage Factor

d. School Bus

An auto that carries students or other persons to and from school or any school activity including games, outings and similar school trips.

(1) Separate codes and rating factors apply to:

(a) School buses owned by political subdivisions or school districts.

(b) All others, including independent contractors, private schools and church-owned buses.

(2) A policy covering a school bus may be written on an annual term for liability and collision coverages with premium prorated to reflect the actual school term. However, do not give credit for Saturdays, Sundays or holidays or for any other periods of lay-up during the school term.

(3) If a publicly owned school bus is used for special trips unrelated to school activities, refer to company for additional charge.

e. Church Bus

An auto used by a church to transport persons to or from services and other church-related activities. This classification does not apply to public autos used primarily for daily school activities.

f. Inter-city Bus

An auto that picks up and transports passengers on a published schedule of stops between stations located in two or more towns or cities.

g. Urban Bus

An auto that picks up, transports and discharges passengers at frequent local stops along a prescribed route. This classification applies only to vehicles operated principally within the limits of a city or town and communities contiguous to such city or town, and includes scheduled express service between points on that route.

h. Airport Bus Or Airport Limousine

An auto for hire that transports passengers between airports and other passenger stations or motels.

i. Charter Bus

An auto chartered for special trips, touring, picnics, outings, games and similar uses.

j. Sightseeing Bus

An auto accepting individual passengers for a fare for sightseeing or guided tours, making occasional stops at certain points of interest and returning the passengers to the point of origin.

k. Transportation Of Athletes And Entertainers

An auto owned by a group, firm or organization that transports its own professional athletes, musicians or other entertainers.

(1) If it is used to transport other professional athletes or entertainers, rate as a charter bus.

(2) An auto owned by a group, firm or organization to transport its own non-professional athletes, musicians or entertainers, rate as a public auto not otherwise classified.

l. Van Pools

An auto of the station wagon, van, truck or bus type used to provide prearranged commuter transportation for employees to and from work and is not otherwise used to transport passengers for a charge.

(1) Employer Furnished Transportation

Transportation is held out by the employer as an inducement to employment, a condition of employment or is incident to employment.

(a) Employer Owned Autos

Autos owned, or leased for one year or more, by an employer and used to provide transportation only for his employees.

(b) Employee Owned Autos

Autos owned, or leased for one year or more, by an individual employee and used to provide transportation only for fellow employees. For autos with seating capacities up to 15, the "employer furnished" rating factors do not apply. To compute the premiums, use the "all other" rating factors and codes.

(2) All Other

Autos which do not meet the eligibility requirements of preceding Paragraph (1).

m. Transportation Of Employees - Other Than Van Pools

Autos of any type used to transport employees other than in van pools.

(1) Autos owned, or leased for one year or more, by an employer and used to transport only his own employees.

(a) For private passenger autos, charge rates shown in the state company rates/ISO loss costs for private passenger types (Class Code 5851).

(b) For all other autos, rate as a van pool - all other (Class Code 5851).

(2) Autos owned, or leased for one year or more, by a person or organization who is in the business of transporting employees of one or more employers. Rate as public auto not otherwise classified.

n. Paratransit

A non-emergency auto specially equipped to transport sick, elderly or handicapped individuals and that does not follow fixed routes or fixed schedules. The auto must be licensed by the appropriate licensing authority, as required by law, based on the territory of operation. This classification includes, but is not limited to, autos that may be otherwise known as Ambulettes and Medicars.

o. Social Service Agency Auto

An auto used by a government entity, civic, charitable or social service organization to provide transportation to clients incident to the social services sponsored by the organization, including special trips and outings.

(1) This classification includes, for example, autos used to transport:

(a) Senior citizens or other clients to meal centers, medical facilities, social functions and shopping centers;

- (b) Handicapped persons to work or rehabilitative programs;
- (c) Children to day care centers and Head Start programs; and
- (d) Boy Scout or Girl Scout groups to planned activities.

(2) The following autos are eligible for this classification:

- (a) Autos owned, or leased for one year or more, by the social service agency.
- (b) Autos donated to the social service agency without a driver.
- (c) Autos hired under contract by the social service agency.

(3) This classification does not include Paratransits.

(4) If an auto has more than one use, use the highest rated classification unless 80% of the use is in a lower rated activity. In that case, use the lower rated classification.

(5) Separate codes and rating factors apply to:

(a) Employee-operated autos operated by employees of the social service agency. If a social service auto is also operated by volunteer drivers or other non-agency employees, use the All Other classification unless 80% of the use is by agency employees.

(b) All other autos which do not meet the requirements of Paragraph (a).

(6) Excess liability coverage may be provided to cover autos not owned or licensed by the agency while being used in its social service transportation activities. This coverage may be extended to cover the agency's liability only or the liability of both the agency and, on a blanket basis, the individual liability of agency employees or volunteer donors or owners of the autos. For autos hired, loaned, leased or furnished, refer to Rule **90**. For all other non-owned autos, refer to Rule **89**.

p. Public Auto Not Otherwise Classified

This classification includes, but is not limited to, autos such as country club buses, cemetery buses, real estate development buses and courtesy buses run by hotels.

**Washington Metropolitan Area Transit Commission
(WMATC)**

64. Safety Regulations.

64-01. Safety Regulations for Vehicles Seating 9 Persons or More, Including the Driver. The Commission adopts and incorporates herein by reference the Federal Motor Carrier Safety Regulations (FMCSRs) in Parts 40 (Drug and Alcohol Testing Procedures), 380 (Special Training), 382 (Controlled Substances & Alcohol), 383 (Commercial Driver's License (CDL)), 385 (Safety Fitness Procedures), 390 (General), 391 (CMV Drivers), 392 (CMV Operation), 393 (CMV Parts & Accessories), 395 (CMV Hours of Service), and 396 (CMV Inspection, Repair & Maintenance) of Title 49 of the Code of Federal Regulations, as amended from time to time. The FMCSRs adopted and incorporated herein shall apply to vehicles operated under WMATC authority and seating 9 persons or more, including the driver, and to the drivers and carriers operating such vehicles, whether such vehicles are operated in interstate commerce or not; provided, that Parts 40 (Drug and Alcohol Testing Procedures), 382 (Controlled Substances & Alcohol) and 383 (Commercial Driver's License (CDL)) shall apply only to vehicles seating 16 persons or more, including the driver, and to the drivers and carriers operating such vehicles. References to "Department of Transportation", "Federal Motor Carrier Safety Administration", "Agency", "Secretary", and "Administrator" shall be understood to refer to WMATC.

64-02. Safety Regulations for Vehicles Seating 8 Persons or Less, Including the Driver. The following regulations shall apply to vehicles operated under WMATC authority and seating 8 persons or less, including the driver, and to the drivers and carriers operating such vehicles.

(a) Driver Vehicle Inspection. On each day that a vehicle is operated, before the vehicle is operated for the first time that day, the driver shall determine that the vehicle is in good working order by confirming safe operability of vehicle brakes, lights, windows, mirrors, seat belts, horn, steering, and wheels.

(b) Unsafe Vehicle. No person shall operate a vehicle, and no carrier shall permit a person to operate a vehicle, that is not in good working order; has not passed a for-hire motor

vehicle safety inspection conducted by the District of Columbia or one of the fifty states within the preceding twelve months; or otherwise appears unsafe to operate.

(c) Qualified Driver. No person shall operate a vehicle, and no carrier shall permit a person to operate a vehicle, unless that person:

- (i) is at least 21 years old;
- (ii) has a current, valid driver's license issued by the driver's state of residence;
- (iii) can read and speak the English language sufficiently to converse with the public, understand highway traffic signs and signals, respond to official inquiries, and make entries in reports and records; and
- (iv) can, by reason of experience, training, or both, safely operate the type of motor vehicle he/she drives.

(d) Unfit Driver. No person shall operate a vehicle, and no carrier shall permit a person to operate a vehicle, if that person is unfit to operate a vehicle by reason of:

- (i) any alcohol in his/her system;
- (ii) any controlled substance, narcotic, or habit-forming drug in his/her system;
- (iii) any prescription medication in his/her system of a type or in an amount that might render the person incapable of operating a motor vehicle safely; or
- (iv) illness or fatigue.

(e) Disqualified Driver. No person shall operate a vehicle, and no carrier shall permit a person to operate a vehicle, while disqualified by reason of: (1) being found guilty of; (2) forfeiting bond or collateral upon a charge of; or (3) otherwise being penalized civilly or criminally for any of the

following offenses:

- (i) driving a motor vehicle under the influence of alcohol;
- (ii) driving a motor vehicle under the influence of a controlled substance, narcotic, or habit-forming drug;
- (iii) leaving the scene of an accident while operating a motor vehicle;
- (iv) committing a felony or misdemeanor involving the use of a for-hire motor vehicle;
- (v) violating an out of service notice;
- (vi) violating any of the Commission's Safety Regulations;
- (vii) committing any other offense that tends to render the person unfit to operate a vehicle.

(f) Disqualification Period. Drivers disqualified under Regulation No. 64-02(e) shall be disqualified for a period of:

- (i) 90 days to 1 year after the date of the first conviction or forfeiture of bond or collateral;
- (ii) 1 year to 5 years after the date of a second separate conviction or forfeiture of bond or collateral within a 10-year period;
- (iii) 3 years to 5 years after the date of a third or subsequent separate conviction or forfeiture of bond or collateral within a 10-year period.

(g) Driving Record. A carrier shall not employ a person as a driver without first obtaining a certified copy of the person's complete driving record maintained by each state from which the person held a motor vehicle operator's license or

permit during the preceding ten years. Every twelve months thereafter a carrier shall obtain a certified copy of the person's driving record maintained by each state from which the person held a motor vehicle operator's license or permit during those twelve months.

(h) Criminal History Record. A carrier shall not employ a person as a driver without first obtaining a certified copy of the person's complete criminal history record maintained by each state in which the person resided during the preceding ten years. Every twelve months thereafter a carrier shall obtain a certified copy of the person's criminal history record maintained by each state in which the person resided during those twelve months.

64-03. Adoption of ADA Safety Specifications. Vehicles operated under WMATC authority and used to transport passengers seated in wheelchairs shall be equipped with securement devices and with lifts or ramps and shall comply with Americans with Disabilities Act (ADA) Specifications for Transportation Vehicles in Subparts B (Buses & Vans) and G (Over-the-Road Buses) of Part 38 of Title 49 of the Code of Federal Regulations, as amended from time to time, as follows:

(a) Over-the-Road Buses. Over-the-road buses, as that term is defined in 49 C.F.R. § 37.3, shall comply with the following provisions of 49 C.F.R. Subpart G:

- (i) Vehicle lifts shall comply with 49 C.F.R. § 38.159(b);
- (ii) Vehicle ramps shall comply with 49 C.F.R. § 38.159(c); and
- (iii) Securement devices shall comply with 49 C.F.R. § 38.159(d).

(b) All Other Vehicles. Vehicles other than over-the-road buses, as that term is defined in 49 C.F.R. § 37.3, shall comply with the following provisions of 49 C.F.R. Subpart B:

- (i) Vehicle lifts shall comply with 49 C.F.R. § 38.23(b);
- (ii) Vehicle ramps shall comply with 49 C.F.R. § 38.23(c); and
- (iii) Securement devices shall comply with 49

C.F.R. § 38.23(d).

64-04. For-Hire License Plates. No person shall operate a motor vehicle under WMATC authority, and no carrier shall permit a person to operate a motor vehicle under WMATC authority, without for-hire license plates.

64-05. Vehicle Out of Service: The Executive Director, or designee, may require a carrier to present a motor vehicle for inspection by Commission staff. The Executive Director, or designee, shall issue written notice directing a carrier to withdraw from service any vehicle not presented for inspection upon request and any vehicle presented for inspection and found not to be in compliance with one or more provisions of Regulation No 64. No vehicle directed to be withdrawn from service may be returned to service absent a Commission order or written notice from the Executive Director, or designee, stating that the vehicle may be returned to service.

64-06. Driver Out of Service: The Executive Director, or designee, may require a carrier to produce driver records for inspection by Commission staff. The Executive Director, or designee, shall issue written notice directing a carrier to withdraw from service any driver whose records have not been produced upon request and any driver whose records have been produced and who have been found not to be in compliance with one or more provisions of Regulation No 64. No driver directed to be withdrawn from service may be returned to service absent a Commission order or written notice from the Executive Director, or designee, stating that the driver may be returned to service.

Response to DMV Draft Concept Aug 1, 2017

Overall comment – study is quickly derailing to benefit TNCs and handcuff existing providers further. TNCs are imploding and not providing promised jobs or tax benefits to the State or localities as deceptively promised.

Objective:

Regulatory Equity – Until ALL vehicles including TNCs are registered with DMV, there is not equity. Reference Mar 29, 2017 Local Govt Stakeholder meeting, a statement by Patrick that TNC drivers are not Motor carriers (page 3 paragraph 2) is fundamentally wrong and although I believe not intentional on his part is a continuation of the deception by the TNC companies. Pickup at point A drop off at point B and charge a fee is a passenger carrier for hire.

Page 4 of the same report references the difficulty of enforcement activity for carriers that have no identifying markings. It is our belief that the removal of registration requirements and markings in 2017 session was not in the interest of public safety.

Additionally a key part of regulatory duties is tax collection. This issue of business licenses and personal property taxation inequities does not seem to be addressed in the draft concept. The uneven application of taxes and business licensing can be addressed by reinstating the TNC registration and making the database available to localities who can both identify vehicles for enforcement and identify vehicle owners who should have business licenses and pay correct personal property tax on those vehicles used in for hire transportation activities.

That is the minimum needed to discuss regulatory fairness. The Aug 1 draft concept continues to suggest TNC as a separate authority, and this does not to address the inequity.

Streamline process for authority – Currently seems to work fine – no fix needed

Make changes to Code to reflect actual industry practices – Discussion surrounds mileage vs. hourly vs zone pricing. It is not the regulators task to determine

pricing or pricing methods, but rather to protect public safety and ensure vehicles are properly registered, licensed and insured.

Key aspects

Streamline authorities – DMV draft concept again misses the mark of the two meetings. Combining everyone into one “silo” while leaving TNCs alone is not the answer and stakeholders have been clear that taxis should be left to local regulation because of their fundamentally localized service areas, while other authority types cannot function with the myriad of local regs due to their statewide scope of service. The multiplicity of regulatory requirements would disrupt operations totally. At most combining CPC and IRCC would be a start. ***However, this discussion cannot even begin without TNC being folded into the mix and regulated on the same field as referenced in comments above.***

Retain separate authorities – RRCC & TNC

TNC used deception to convince regulators that they were not transportation companies and the reality is that they are for hire providers. As such, they can easily be folded into existing authority and the issue of inequity is solved without really changing anything.

Attached article from the respected Harvard Business Review explains in detail how these deceptions have been carried out over and over across the country and why it is important for regulators to come to their senses. This is a Harvard economics professor versed in online commerce, not a stakeholder.

<https://hbr.org/2017/06/uber-cant-be-fixed-its-time-for-regulators-to-shut-it-down>

The largest for hire passenger market in the USA in New York City. TNCs are regulated fully as any other passenger for hire vehicle. It seems regulators in fully developed markets understand their missive and license accordingly to protect public safety and not provide an anti-competitive landscape.

Referring back to the original document for the 2017 Passenger Carrier Study

Dual license plate requirements should be eliminated. VaSP Maxey has indicated the changing of license plates is not a practice condoned by VSP. A sticker similar to the TNC sticker previously issued is a simple answer for out of state VA licensed carriers. Easy fix

CPC operating requirements code change in 2006 was to add a term for wireless text dispatching device. Updating the term to digital dispatch is recommended. A full 10 years before the advent of TNCs, CPCs were dispatching via handheld electronic devices. Why the advent of an app made this “different” is still puzzling as it was not the innovation, but rather an improvement on already available technology in use by for hire passenger carriers.

Amending insurance requirements to reflect only when operated commercially is a recipe for insurance fraud. Currently TNC vehicles are not covered under “period1” unless the primary personal coverage is denied. Distraction by TNC occurs during period 1 by drivers chasing surges. If they are in an accident, and admit to TNC activity, they are denied by the primary, and the personal lines insurer will update their databases to reflect the commercial activity. Those databases are shared, and the vehicle will not be eligible for personal coverage.

So in the occurrence of a loss, whether personal use or TNC period 1 use, the driver is going to claim a personal use, creating higher costs for personal lines insurance for all due activity that is sometime a commercial clogging of streets trolling for pings. Prime example of the TNC deception referenced prior – encouraging insurance fraud indirectly.

The answer for insurance coverage is commercial insurance 24/7 if you are a for hire provider.

DMV offer special decal or plate – *Absolutely the FIRST step in any regulatory fairness for ALL for hire providers*

Deregulate transportation brokers – YES –

Jonathan Trainum, Napoleon Taxicab Service & Central Region Taxi Industry
2017 Passenger Carrier Study; Response to Stakeholder Input Request
June 28, 2017 Meeting 8a-4p

Public Safety

- Should there be consistency across all carrier types regarding who gets screened and how?
-Current screening methods are adequate for each carrier type. Any attempt at uniformity would detriment existing businesses and should be implemented with distant deadlines and/ or “grandfather” any previously-screened providers.
- What should the driver screening process encompass and how should it be conducted (fingerprint based, private background check companies)?
-Fingerprint based background checks are the “Platinum” standard in identifying potential threats to the integrity of transportation entities. The cost of getting Richmond City Police to process a Fingerprint based background check is \$10 (for the Taxi Industry) and takes 2-5 business days to process; which is a reasonable barrier to entry, in the interest of public safety. I do not have information on the database inquiries they request but am confident that our region’s Taxi drivers are properly vetted.
- What should be included in the company screening process, and who should be included (principals, family members, major shareholders, etc.)?
-Defer to the opinion of VTA.
- Should companies still be required to have an established place of business, and if so then what should this requirement look like in the age of mobile offices, shared office space, etc.? Are zoning considerations still relevant?
-Requiring a “place of business” is antiquated in many ways; however, our Commonwealth and regulating agencies must be able to send “certified” communications and set up meetings with companies’ responsible parties. Failure to respond in a timely manner should be harshly penalized.
Localities already monitor & regulate zoning based on the type of business license and regarding vehicle storage.
- Should insurance limits apply to a motor vehicle only when it is being operated commercially by the motor carrier?
-A resounding “No”. Although the arguments for “App On/Off” Insurance policies are extremely complicated and convincing, the fact is there remains no way to guarantee a “marked” vehicle is not operating for business purposes. The request to operate with these policies is understandable, as it places a grand majority of the expense and liability on others. Unfortunately, a real concern is that these drivers can shut off the App and still solicit/ provide services. Most consumers are unaware of specific services’ legal limitations and trust our Commonwealth to ensure they are Always properly covered.
- Should insurance filing requirements be changed to recognize the seasonal nature of some businesses?
-What result would DMV be seeking to achieve with any changes to filing requirements? What “seasonal” interested parties have expressed concern?
- Should insurance limits be consistent across all carrier types?
-No. Different carrier types can have extremely different exposures to liability. Limits should remain reflective of the exposure for each specific carrier type.
- Should all passenger carriers be required to carry proof of insurance in the vehicle?
-Yes. In the case of a collision, it is imperative that the driver have immediate access to proof of insurance & policy details (needed for other parties to file a claim). Law enforcement requires the information on “Exchange of Information” forms and are not trained to dig through an App to find it; where it may not be an option to have the driver access it for them. When that information is not immediately available, it creates unnecessary hardship on potentially already affected citizens.
- Plate and Identification marker requirements
-The implementation of “Color-coded” registration stickers is promising. As far as “Taxi” plates are concerned, they are outdated and can be replaced with general or “For-Hire” plates. Regulating authorities have indicated that they are much more concerned with vehicle markings. Markings should remain regulated in order to allow consumers & regulating authorities to easily identify service providers. Some carrier types’ regulations may need to be updated in order to achieve that goal.
Caveat: If “App On/ Off” insurance remains allowed, there should be some mechanism for consumers to ensure they are properly covered.
- Dual plating, possible use of decal for out of state vehicles
-This is a huge problem with out of state vehicles intruding on Virginia’s marketplace without contributing back to our Commonwealth’s economy. There should be higher fees imposed (via requiring an authority decal, dual-plating etc.) on “Out of State” vehicles that will be used to service Virginia clients. This will help ensure we have the funds to address exacerbated environmental & congestion issues, infrastructure repair expenses and outsourced job opportunities that have/ will continue to burden our Commonwealth & taxpayers.
- Registration reciprocity
-Defer to the opinion of VTA.
- Any changes in policy or law regarding use of rental vehicles
-Defer to the opinion of VTA.
- Any changes warranted to Code regarding leased vehicles
-Defer to the opinion of VTA.

Jonathan Trainum, Napoleon Taxicab Service & Central Region Taxi Industry
2017 Passenger Carrier Study; Response to Stakeholder Input Request
June 28, 2017 Meeting 8a-4p

Streamlining Authority Types

The various types of authority may not still be appropriate. Business models, transportation infrastructure, and customer expectations have changed dramatically since the passenger carrier classifications were created.

- The federal government and some states have eliminated classifications such as “common” and “contract” carriers. To what extent should the several existing categories of passenger carrier authority be streamlined?
-Look forward to this conversation and hearing the stakeholders’ input (including DMV’s input, cost/ benefit analysis for our Commonwealth, examples of “some states” (for reference & comparison) etc.
- Should carriers still be segregated into tightly drawn service niches or geographical areas?
-Defer to the opinion of VTA.
- Should there continue to be a public convenience and necessity (PC&N) requirement?
-Defer to the opinion of VTA.
- Do certain requirements such as tariff filing and bonding still serve to protect safety or consumer expectations?
-Defer to the opinion of VTA.
- Should we distinguish in Code between “prearranged basis” versus the “prearranged ride” provided by a TNC
-Defer to the opinion of VTA.
- Need to update statutory provision re: use of a “wireless text dispatching device” to refer to a “digital dispatch device”?
-Defer to the opinion of VTA.
- Should we deregulate passenger transportation brokers?
-No. Although TNCs’ description of operation is similar to transportation brokers; their unique and well-defined operating regulations are still being highly scrutinized/ adjusted by our Honorable General Assembly. Adjusting passenger transportation brokers’ regulations may be warranted but should be done with extreme caution. with special emphasis on protecting existing carriers from malicious business practices that “brokers” have traditionally implemented in marketplaces. My stakeholders’ primary concerns are specifically regarding pricing transparency and stability (for the benefit/ protection of consumers and providers).

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Penny, Thomas \(DMV\)](#)
Subject: FW: Passenger Carrier Study - draft concept paper
Date: Thursday, August 10, 2017 3:49:37 PM

fyi

From: Troy Bell [mailto:TBell@flyrichmond.com]
Sent: Thursday, August 10, 2017 3:37 PM
To: Smoot, Janet (DMV)
Subject: RE: Passenger Carrier Study - draft concept paper

Janet, I solicited feedback from RIC Ground Transportation and Airport Police, and received the following comments:

- “If I’m reading the ‘use of rental vehicles’ correctly it would preclude the use of TNC drivers renting vehicles since the rental contract must be in the name of a licensed motor carrier.”
- “Passenger carriers that lease or rent vehicles and those vehicles are not airport permitted, bumper decal or temporary dashboard permit, must have their drivers remain in attendance of their vehicles. They will no longer need or have to produce the approved application from DMV, only the rental agreement.”
- “Regarding requirements and restrictions relative to TNC’s and trade dress it would appear that the enforcement ball is in the localities’ courts. Not much change there. DMV needs to require registration of TNC drivers and affix a bumper decal along with the issuance of a registration card. The decal number identifies the vehicle and the registration identifies the decal number, vehicle, and the driver. If a driver chooses to leave the business, the driver should turn in his/her registration. The decal number is then removed from DMV. The driver would be responsible to remove the decal from the vehicle.”
- “All driver screening for criminal history should be fingerprint based. They have it worded as fingerprint based ‘or through a third party vendor’ with no other information listed. While mandating fingerprint-based background checks could create work for police departments or other fingerprinting agents, it is the only way to ensure people are who they say they are.”
- “As a question of general purpose, the way they have loosened up the use of rental cars, who does that insurance monitoring fall upon?”

Troy M. Bell, C.M.
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Subject: RE: Passenger Carrier Study - draft concept paper

Stakeholders,

This is a reminder that we need feedback on the concept paper by COB tomorrow, August 11th.

Thanks,

Janet Smoot

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www.dmvNOW.com
[Confidentiality Statement](#)

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Subject: Passenger Carrier Study - draft concept paper

Stakeholders,

Enclosed are two documents for your review and feedback. The first is a draft concept paper encompassing the two areas we discussed in our

meeting on June 28th: “Public Safety” and “Streamlining Authority Types”. The second document contains most of the same information, but presents it in a different format.

We would like your written feedback on this drafted concept by Friday, August 11th. We have scheduled a follow-up meeting for further discussion for Wednesday, August 23rd from 9:00 – noon at the DMV Headquarters Building. The DMV team will review all of your feedback prior to the meeting on the 23rd.

Should you have any questions feel free to contact me.

Janet Smoot

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[Confidentiality Statement](#)

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PASSENGER CARRIER STUDY – DMV DRAFT CONCEPTS

VIRGINIA TAXICAB ASSOCIATION COMMENTS

August 11, 2017

INTRODUCTION

DMV should not advance the proposal to combine seven different passenger carriers into a single new “General Passenger Carrier” category. Such a proposal will necessarily either strip localities of meaningful control over passenger carriers operating within their jurisdictions or overburden localities by forcing them to regulate all such providers (including non-taxicabs) for the first time. Moreover, nothing in the study to date indicates that such consolidation will improve the cost or quality of service to the riding public.

On other aspects of the proposal, the VTA supports strengthening driver screening but opposes the arbitrary increase of insurance limit requirements.

COMBINING OPERATING AUTHORITIES

Although according to DMV’s proposal the Code authorizes localities to regulate all for-hire transportation of passengers within their jurisdictions, few have extended their regulatory reach beyond taxicabs. PC&N and other requirements at the state level that differentiated irregular route common carriers (“IRCCs”), contract passenger carriers (“CPCs”), and others from taxicabs rendered such local regulation unnecessary.

The proposal to combine these authorities and eliminate their differentiating characteristics, however, will require a sea-change in local regulation. Even if localities maintain the power to regulate the proposed “General Passenger Carriers” (“GPCs”), the result will be unworkable.

The Code currently authorizes localities to regulate

the rates or charges of any motor vehicles used for the transportation of passengers for a consideration on any highway, street, road, lane or alley in such county, city or town, and [to] prescribe such reasonable regulations as to . . . the general operation of such vehicles.

See Va. Code § 46.2-2062.

Based on this section and related sections authorizing localities to regulate motor vehicles “performing a taxicab service,” localities have historically regulated a number of aspects of taxicab service within their jurisdictions, including:

- Rates
- Business licensing
- Character and qualifications of drivers
- Taxicab stands and their use
- Number of operators providing service
- Number of vehicles providing service

See Va. Code §§ 46.2-2062 through -2067.

The DMV proposal states that the seven types of operating authority that will be combined into a single GPC category will be subject to local regulation only under Section 46.2-2062. The proposal's failure also to authorize local regulation under Sections 46.2-2063 through -2067, however, will deprive localities of the ability to regulate those aspects of passenger service operations (such as the number of providers, the qualifications of drivers, use of stands, prohibition of cruising or using curbside street parking, etc.) that they historically have controlled. Indeed, the elimination of the anti-trust exemption under section 46.2-2067 almost certainly will preclude localities from regulating the number of operators and the number of vehicles providing service. These regulatory powers have been utilized by localities with proven benefit to those communities, and should be maintained as a critical element in any regulatory scheme.

Even if localities were given the same regulatory authority over GPCs that they now exercise over taxicabs, localities would be faced with a Hobson's choice: either regulate no passenger carriers or take on the burden and expense of regulating every GPC, including former IRCCs and CPCs (to name a few) previously regulated only at the state level.

If localities chose to abstain from regulating GPCs, the effect would be to pit traditional motor carriers against each other in a declining market and exacerbate the problems that local for-hire regulation has sought to curb, including price gouging, cruising/traffic congestion, and occupying street parking. Further, it would destabilize the community-wide, universal taxicab services that localities have sought to encourage through their local ordinances to ensure transportation for seniors, persons with disabilities or with low incomes.

If (as is more likely) localities feel compelled to regulate passenger transportation to protect the public, DMV's proposed consolidation would effectively burden local law enforcement with an unfunded mandate to provide oversight of formerly state-regulated carriers. As providers licensed or certificated at the state level currently provide competitive local options for the riding public, localities that now regulate their taxicab service, including the number of taxicabs, would be forced to assess the optimal number of GPCs required to service their jurisdictions, determine the rates to be charged, locate staging areas for carriers awaiting passengers, etc. They also would be required to develop identifying markings or trade dress to enable them to distinguish between non-compliant GPC vehicles and compliant ones. Local resources for creating monitoring, adjusting, and enforcing such regulations will be quickly overwhelmed.

To summarize, the proposal to combine seven operating authorities into one opens a Pandora's box of regulatory issues for local governments. If the state abandons regulation of IRCCs, CPCs, and others, and fails to grant localities the power to meaningfully regulate them, then towns, cities and counties will suffer from the evils of unregulated competition. On the other hand, if localities are granted regulatory authority over such operators along with taxicabs, local resources will be overwhelmed. Neither result should be deemed acceptable.

Finally, as best we can determine, there is nothing in the study indicating that the cost or quality of service will be improved through consolidation. The 2017 General Assembly's enactment of a new TNC fee structure was intended to facilitate local competition with TNCs. Now, without time being given to measure the effects of that change, DMV proposes to revise the Code in ways that will further degrade, if not eliminate, longstanding segments of the industry.

For these reasons, and others we have previously identified, DMV should not recommend legislation that includes the proposal to combine seven types of operating authority into one. We believe that any shortcomings in the current operating authorities can and should be resolved directly rather than discarding the existing framework in a way that will result in both known and unintended adverse consequences.

PUBLIC SAFETY

Driver Screening

VTA agrees that there should be barrier crimes for all drivers of for-hire vehicles. Unless all drivers are subject to criminal background checks based on fingerprints, then there should be no prescribed method of performing background checks. We would support a Code amendment that allows companies to receive results of "FBI" fingerprint checks. Additionally, for those passenger carriers and their drivers that remain locally-regulated, e.g., taxicabs, criminal background and MVR checks performed by local regulators should satisfy this requirement so long as they screen for the barrier crimes.

Insurance Limits

To arbitrarily increase taxicab insurance limits in the interest of some perceived "equity" with non-taxicab carriers is in fact inequitable because it ignores the differences between the taxicab business model and market and those of carriers that do not provide universal service subject to local regulation.

The state limit for taxicabs of \$125,000 has met the needs of communities whose local economies cannot support higher costs and has worked even for some larger communities where higher limits have not been found to be necessary or

desirable. In more urban areas where taxicabs are locally-regulated and insurance limits are set higher, the required policies are typically “split limit.” These local limits have served those communities well and could have been raised had they been deemed inadequate

It is also important to consider that the higher insurance limits required of for-hire carriers are primarily justified for the protection of paying customers, not third parties. The reason that limits increase with vehicle size is because of the increased likelihood of multiple passengers that may sustain injury. Typically lower taxicab passenger load factors compared to limos and shuttles make the current state and local requirements adequate. Parenthetically, maintaining taxicab insurance limits at the present level would suggest that the taxicab classification and vehicle size limit should also remain as it is currently.

The proposed increase in the minimum insurance limit for taxicabs is going to put “mom and pop” taxicab operators in smaller communities and other individual taxicab operators out of business. Optimal insurance limits in Alexandria are not the same as those in Grundy. The cost of obtaining the proposed insurance limits may eliminate the only transportation service available in some less urban areas. Additionally, such increase can threaten the existence of larger companies, because it will as much as double what is already one of their largest operating costs. Even the change from already-higher local split limit requirements to “combined single limit” coverage at the level proposed by DMV would significantly increase the cost of insurance with adverse effects on these essential local services.

Appendix D: Stakeholder Comments on September 21 Proposal

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Arkwright, Barbara \(DMV\)](#); [Penny, Thomas \(DMV\)](#)
Subject: FW: Passenger Carrier Study - Revised Concept
Date: Tuesday, October 03, 2017 2:54:01 PM

fyi

From: Bob Garbacz [mailto:bob.garbacz@alexandriava.gov]
Sent: Tuesday, October 03, 2017 2:37 PM
To: Smoot, Janet (DMV)
Subject: RE: Passenger Carrier Study - Revised Concept

Janet – Thanks for providing this opportunity to comment on the draft concept paper. My only comment pertains to the *Additional Comments* section. I see no reason to remove the requirement that taxi vehicle titles be branded. My vote is to retain the requirement.

Thanks,

Bob Garbacz
Division Chief/ Transportation
Alexandria, VA
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From: Smoot, Janet (DMV) [mailto:janet.smoot@dmv.virginia.gov]
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Subject: FW: Passenger Carrier Study - Revised Concept

Stakeholders,

This is a reminder that if you want to provide feedback on the revised draft concept paper (which is

enclosed), that feedback is due by close of business today. If we don't receive anything today we will assume that you do not have any feedback on the concept paper.

Thanks,

Janet Smoot

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[Confidentiality Statement](#)

From: Smoot, Janet (DMV)

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Subject: Passenger Carrier Study - Revised Concept

Dear Stakeholders,

We have reviewed the feedback that many of you sent to us on the Passenger Carrier "Concept Paper" which was emailed to you on August 1st. Based on all of your feedback we now have a "Revised Concept Paper". I have enclosed this new concept paper as well as the feedback that we received from stakeholders on the August 1 concept paper.

If you would like to provide feedback on this Revised Concept please provide that to me by COB Tuesday, October 3rd.

After reviewing any feedback received on this revised concept we will finalize our study report and associated legislation. This will also be distributed to you.

Thanks,

Janet Smoot

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www.dmvNOW.com
[Confidentiality Statement](#)

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Arkwright, Barbara \(DMV\)](#)
Subject: FW: Passenger Carrier Study - Revised Concept
Date: Monday, October 02, 2017 2:36:41 PM

FYI, another one.

From: Angie de la Barrera [mailto:Adelabarrera@arlingtonva.us]
Sent: Monday, October 02, 2017 2:22 PM
To: Smoot, Janet (DMV)
Cc: Kyle O'Keefe; Patricia Carroll
Subject: RE: Passenger Carrier Study - Revised Concept

Janet,

Thank you for the opportunity to comment and participate in the Passenger Carrier Study.

As previously mentioned, Arlington County is concerned with the mobility of people with disabilities and seniors. They depend on taxicabs to be transported to their doctors' visits and other daily life routines. Therefore, in the event that taxis reduce service due to their difficult situation, Arlington County requests that DMV adds a study to determine who serves this community and how their mobility will be impacted if taxicabs can no longer provide them service.

Thank you again,
Angie de la Barrera
Principal Planner
703.228.3141

From: Smoot, Janet (DMV) [mailto:janet.smoot@dmv.virginia.gov]
Sent: Thursday, September 21, 2017 2:27 PM
To: cduvall@lindlcorp.com; cking@redtopcab.com; judywystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virginianewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectrecorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@jamesrivertrans.com; paul@getsetgo.us; James Brown <magiccarpettours@aol.com>; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiasheriffs.org; Schrad, Dana <dana@vachiefs.org>; Maxey, Ronald (VSP) <Ron.Maxey@vsp.virginia.gov>; Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP) <Ted.Jones@vsp.virginia.gov>; Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlarch@vaco.org; LYNCHBURG LA-

SECONDARY (DMV) <mitchell.nuckles@lynchburgva.gov>; lland@vaco.org;
yovonda.bellamy@norfolk.gov; Hollowell, Maureen (DBHDS) <mhollowell@endependence.org>;
jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com;
cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com;
nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov;
jgwilson@nngov.com; marylou.nexsen@norfolk.gov; sudad@chesterfield.gov;
durrette@charlottesville.org; james.bongiovi@norfolk.gov; roger@heftywiley.com; Angie de la
Barrera <Adelabarrera@arlingtonva.us>; Kyle O'Keefe <Kokeefe@arlingtonva.us>;
yovonda.bellamy@norfolk.gov; jbaugh@oag.state.va.us; Woods, Michael W.
<Michael.Woods@troutmansanders.com>; David Robinson <David.Robinson@alexandriava.gov>;
cparrish@oag.state.va.us; henri.steinmccartney@fairfaxcounty.gov; susan.hafeli@fairfaxcounty.gov;
katherine.leigey@fairfaxcounty.gov

Subject: Passenger Carrier Study - Revised Concept

Dear Stakeholders,

We have reviewed the feedback that many of you sent to us on the Passenger Carrier “Concept Paper” which was emailed to you on August 1st. Based on all of your feedback we now have a “Revised Concept Paper”. I have enclosed this new concept paper as well as the feedback that we received from stakeholders on the August 1 concept paper.

If you would like to provide feedback on this Revised Concept please provide that to me by COB Tuesday, October 3rd.

After reviewing any feedback received on this revised concept we will finalize our study report and associated legislation. This will also be distributed to you.

Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |
www.dmvNOW.com
[Confidentiality Statement](#)

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Arkwright, Barbara \(DMV\)](#)
Subject: FW: Passenger Carrier Study - Revised Concept
Date: Thursday, October 05, 2017 12:43:26 PM

FYI

From: Stephen Story [mailto:sstory@jamesrivertrans.com]
Sent: Thursday, October 05, 2017 9:02 AM
To: Smoot, Janet (DMV)
Subject: RE: Passenger Carrier Study - Revised Concept

Good Morning Janet,

I received your voice message from yesterday.

I apologize for not responding at all to the Revised Passenger Study Concept, but VMA does not have any additional comments at this time.

Stephen W. Story
President
James River Transportation
915 N Allen Ave
Richmond, VA 23220
804.342.7300 ext 1740
sstory@JamesRiverTrans.com
www.JamesRiverTrans.com



From: Smoot, Janet (DMV) [mailto:janet.smoot@dmv.virginia.gov]
Sent: Tuesday, October 3, 2017 1:28 PM
To: cduvall@lindlcorp.com; cking@redtopcab.com; judywywystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virginianewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectreCorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; Stephen Story <sstory@jamesrivertrans.com>; paul@getsetgo.us; James Brown <magiccarpettours@aol.com>; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiasheriffs.org; Schrad, Dana <dana@vachiefs.org>; Maxey, Ronald (VSP) <Ron.Maxey@vsp.virginia.gov>; Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP) <Ted.Jones@vsp.virginia.gov>; Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlarch@vaco.org; LYNCHBURG LA-

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To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com';
'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com';
'jstrainum@napoleontaxi.com'; 'jliss@virginianewmajority.org'; 'thomas.a.depasquale@gmail.com';
'jshanker@rmalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com';
'dskiles@vectreCorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com';
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'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'James Brown'; 'oleta_coach_lines@msn.com';
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'susan.hafeli@fairfaxcounty.gov'; 'katherine.leigey@fairfaxcounty.gov'

Subject: Passenger Carrier Study - Revised Concept

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Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
[Confidentiality Statement](#)

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Arkwright, Barbara \(DMV\)](#)
Subject: FW: Passenger Carrier Study - Revised Concept [IWOV-IWOVRIC.FID1443407]
Date: Wednesday, October 04, 2017 8:51:59 AM

From: Cushing, Patrick [mailto:pcushing@williamsmullen.com]
Sent: Wednesday, October 04, 2017 8:34 AM
To: Smoot, Janet (DMV); Hussey, Rena (DMV); Harrison, Patrick (DMV)
Subject: RE: Passenger Carrier Study - Revised Concept [IWOV-IWOVRIC.FID1443407]

Lyft has no position on the use of FCRA regulated background check companies. We continue to have no position on the other aspects of the draft concept paper.

Thank you, Patrick

Patrick A. Cushing | Attorney | Williams Mullen

Williams Mullen Center | 200 South 10th Street, Suite 1600 | P.O. Box 1320 (23218) | Richmond, VA 23219
T 804.420.6541 | F 804.420.6507 | pcushing@williamsmullen.com | www.williamsmullen.com

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From: Smoot, Janet (DMV) [mailto:janet.smoot@dmv.virginia.gov]
Sent: Tuesday, October 3, 2017 1:28 PM
To: cduvall@lindlcorp.com; cking@redtopcab.com; judywystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virginiانewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; Cushing, Patrick <pcushing@williamsmullen.com>; emullen@reedsmith.com; dskiles@vectrecorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; ssstory@jamesrivertrans.com; paul@getsetgo.us; James Brown <magiccarpettours@aol.com>; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiasheriffs.org; Schrad, Dana <dana@vachiefs.org>; Maxey, Ronald (VSP) <Ron.Maxey@vsp.virginia.gov>; Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP) <Ted.Jones@vsp.virginia.gov>; Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlurch@vaco.org; LYNCHBURG LA-SECONDARY (DMV) <mitchell.nuckles@lynchburgva.gov>; lland@vaco.org; yovonda.bellamy@norfolk.gov; Hollowell, Maureen (DBHDS) <mhollowell@endependence.org>; jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov;

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Subject: FW: Passenger Carrier Study - Revised Concept
Date: Tuesday, October 03, 2017 4:16:29 PM

fyi

From: Jonathan Trainum [mailto:jstrainum@napoleontaxi.com]
Sent: Tuesday, October 03, 2017 4:03 PM
To: Smoot, Janet (DMV)
Subject: Re: Passenger Carrier Study - Revised Concept

Janet,

As a small business owner who has been tossed around by insurance companies (due to the ratings placed on "Taxicab fleets" and a severe lack of options for companies who underwrite Taxis); I am terrified by the thought of new insurance requirements/ limits on my industry. As far as I am aware, there have been no complaints to our Commonwealth's State Corporation Commission (or elsewhere) to instigate this change. I was blindsided by it's inclusion in DMV's original draft letter and mistakenly assumed that the re-write was aimed at correcting the proposed change. If DMV proceeds with this concept paper and our General Assembly follows it's suggestions, the inflated insurance requirement will (without doubt) be the final blow needed to put most of the remaining Metro Richmond Taxicab industry out of business; if not the entire State's.

Every Taxi owner that I have ever known is either out of business or still struggling to adapt in a rapidly developing marketplace; one where TNCs now transport what was once 25-60% of our client base and "partner with" over 75% of the drivers who traditionally would be partnered with us. I would ask that the insurance requirements for Taxicabs remain unaltered and that the concept paper be changed to reflect the incredible hardship that inflating insurance requirements would cause the smaller companies who remain committed to providing transportation for our citizens.

Warm Regards,

Jonathan S. Trainum; President
Napoleon Taxicab Service, LLC
Certified SDVOSB, SWAM "S"
609 Wickham St.
Richmond, Va 23222
(C) 804.402.2520
(P) 804.354.8294
(F) 804.359.8294

On Oct 3, 2017, at 1:28 PM, Smoot, Janet (DMV) <janet.smoot@dmv.virginia.gov> wrote:

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<Jonathan S. Trainum; 6.28.17 Passenger Carrier Study Input.pdf>

<mime-attachment>

<VTA - Comments on DMV Passsenger Carrier Study Proposal Final 8-11-17-1.doc>

<Stakeholder email responses to Concept Paper.docx>

<mime-attachment>

<Passenger Carrier Study Revised Proposal 9-20-17.docx>

<mime-attachment>

<VA - Letter to Commish Holcomb .pdf>

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October 3, 2017

By Electronic Mail Only

Ms. Janet Smoot
Department of Motor Vehicles
2300 W. Broad Street
Richmond, VA 23269

Dear Ms. Smoot:

Thank you for the opportunity to comment, on behalf of Uber Technologies Inc., on the Department of Motor Vehicles' concept paper on passenger carriers. With the understanding that none of the proposed changes will impact Transportation Network Companies, Uber has no position and sees no issue with the proposed concepts.

The regulation of Transportation Network Companies has been recently and thoroughly vetted by the General Assembly during the last three legislative sessions and therefore is appropriately not included in any recommended changes to the passenger carrier statutes.

As always, we greatly appreciate all of the DMV's work and efforts.

Regards,



Nicole L. Brenner

NLB:df

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Arkwright, Barbara \(DMV\)](#)
Subject: FW: Passenger Carrier Study - Revised Concept
Date: Tuesday, October 03, 2017 3:25:27 PM

fyi

From: Joe Lerch [mailto:jlerch@vaco.org]
Sent: Tuesday, October 03, 2017 2:45 PM
To: Smoot, Janet (DMV)
Cc: Michael Polychrones
Subject: RE: Passenger Carrier Study - Revised Concept

Good Afternoon Janet,

Thank you for the opportunity to provide comments on the “draft concept paper”.

At this time, and since these are only concepts, I offer the following observations:

- Without draft legislation to review VACo cannot provide specific comments. In your original email, you stated that after receiving feedback from the stakeholders, DMV “will finalize” the study report and associated legislation. What does that mean? Will there be a “draft” report and “draft” legislation for review by the stakeholders, or will both become final?
- Senator Carrico’s charge letter states (in part):

“...please provide recommendations regarding any action to be taken. Also, please include any proposed legislation that may be necessary to implement the recommendations.”

Therefore, my question regarding the recommendations of the concept paper is this: Are you seeking consensus from the all the stakeholders that these recommendations are necessary? If so, do you plan on moving forward without consensus, if it cannot be reached? Lastly, has DMV concluded that legislation is necessary, regardless of whether there is consensus on seeking legislation to implement some, or all, of these recommendations?

- Some of these recommendations will require further examination by our members as it relates to the potential impact on the taxi industry. In particular, raising the minimum insurance rate on taxis may have an adverse effect on companies that provide a vital service within our communities. We need to fully understand what this impact will be in order to determine if such a proposal is indeed warranted, or a prudent course of action.

Let me know if you have any questions.

Regards,

Joe Lerch
Director of Local Government Policy
Virginia Association of Counties
Phone: (804) 343-2506
jlerch@vaco.org

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Tuesday, October 03, 2017 1:28 PM
To: cduvall@lindlcorp.com; cking@redtopcab.com; judywywystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virgini anewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectrecorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@jamesrivertrans.com; paul@getsetgo.us; James Brown <magiccarpettours@aol.com>; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiasheriffs.org; Schrad, Dana <dana@vachiefs.org>; Maxey, Ronald (VSP) <Ron.Maxey@vsp.virginia.gov>; Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP) <Ted.Jones@vsp.virginia.gov>; Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; Joe Lerch <jlerch@vaco.org>; LYNCHBURG LA-SECONDARY (DMV) <mitchell.nuckles@lynchburgva.gov>; Larry Land <lland@vaco.org>; yovonda.bellamy@norfolk.gov; Hollowell, Maureen (DBHDS) <mhollowell@endependence.org>; jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov;

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katherine.leigey@fairfaxcounty.gov

Subject: FW: Passenger Carrier Study - Revised Concept

Stakeholders,

This is a reminder that if you want to provide feedback on the revised draft concept paper (which is enclosed), that feedback is due by close of business today. If we don't receive anything today we will assume that you do not have any feedback on the concept paper.

Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |
www.dmvNOW.com
[Confidentiality Statement](#)

From: Smoot, Janet (DMV)

Sent: Thursday, September 21, 2017 2:27 PM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com';
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'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'James Brown'; 'oleta_coach_lines@msn.com';
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'susan.hafeli@fairfaxcounty.gov'; 'katherine.leigey@fairfaxcounty.gov'

Subject: Passenger Carrier Study - Revised Concept

Dear Stakeholders,

We have reviewed the feedback that many of you sent to us on the Passenger Carrier "Concept

Paper” which was emailed to you on August 1 . Based on all of your feedback we now have a “Revised Concept Paper”. I have enclosed this new concept paper as well as the feedback that we received from stakeholders on the August 1 concept paper.

If you would like to provide feedback on this Revised Concept please provide that to me by COB Tuesday, October 3rd.

After reviewing any feedback received on this revised concept we will finalize our study report and associated legislation. This will also be distributed to you.

Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
[Confidentiality Statement](#)

Virginia Limousine Association response to DMV Revised Concept

The VLA would like to thank the Department for inclusion in these discussions re: the future of regulation of for hire passenger carriers. We initially believed the function of the Study Group was to fix the damage and level the playing field due to the TNC legislation that was created and has given a free pass to TNCs and hampered existing carriers with different sets of rules. The revised concept of Sept 20 offers no relief to the inequities and does nothing to bring TNCs into any further compliance.

Speaking directly to the concept paper our comments are:

Operating authority requirements

Support elimination of Passenger Carrier Brokers

Oppose (those obtaining permits) , i.e. taxis – becoming certificated carriers which would upend the local regulation already in place.

No position on excursion trains

Changes to licensing requirements

Support items listed

Driver Screening requirements for all

Support items listed

Insurance Requirements for all

Oppose leaving TNCs unchanged

Oppose changes to taxis

Operational requirements and limitations

Support change to rental vehicles and leases

Oppose any initiative to not have TNC partner vehicles registered as vehicles for hire. Repeal of TNC registration requirement last year was a big mistake and should be reinstated as soon as possible.

Oppose clarification of one hour minimum for CPC. Not possible to clarify a starting time based on industry standard of portal to portal charges.

Oppose requirement to publish rates to public. TNCs can charge anything anytime depending on their surge and this creates inequity for other carriers to “stay in a box” with published rates. Consideration of special event and seasonal demand needs to be considered and has an impact on rates.

Additional recommendations

No position

Areas for further study

Tax issues

Dual plating was to be studied in this session and has with disappointment been pushed to the back burner. DMV had the mechanism to issue stickers to out of state TNCs, it is our opinion, these could be easily used with out of state domiciled Virginia certificated carriers to be recognized to solve the issue of switching license plates.

Further comments from the VLA

While we are very appreciative of the opportunity to be part of this process, we are concerned that **CURRENT DEVELOPMENTS with regards to TNC activity** are not being considered in this process. The fact that we are changing the for hire

regulations **as a result of the introduction of TNCs** without studying the impact and resulting chaos they are creating is an unacceptable approach.

The focus of the study being strictly limited to transportation, with no mention of Labor law or inequitable tax treatment is sweeping the issue under the rug. DMV should be pro-actively reaching out to Labor and Tax committees to address these issues.

There is plenty of current and verified information regarding TNCs and their conduct to raise serious concerns about the total repeal of the TNC laws that have been passed and to look at other more developed markets for guidance on how to **have TNCs comply with currently written for hire regulations.**

The simple fact that 60% of every TNC ride is subsidized by investor money should be a red flag to a regulator. The rates charged are so far below the cost as to make them attractive to consumers, but in no way can continue for the foreseeable future. What then?

<https://www.reuters.com/article/us-uber-profitability/true-price-of-an-uber-ride-in-question-as-investors-assess-firms-value-idUSKCN1B3103>

The misclassification of driver “partners” not being treated as employees has left many with no safety net and incurring the resulting debt of accidents where they have no coverage.

<https://www.forbes.com/sites/ellenhuet/2015/01/06/workers-compensation-uber-drivers-sharing-economy/#53747f7e42c7>

Congestion caused by TNC drivers is reaching an all time high with amateur drivers trolling busy downtown areas with disregard for traffic laws and reducing average traffic flow due to the congestion they are causing.

“During a targeted observation period from April 1 to June 30, San Francisco police issued 2,656 traffic violations in the city’s downtown areas, and of those, 1,723 — or nearly 65 percent — went to Lyft and Uber drivers, according to the reported testimony from Robert O’Sullivan, commander of municipal transportation for the police.”

https://www.washingtonpost.com/news/tripping/wp/2017/09/26/san-francisco-police-say-most-traffic-tickets-go-to-uber-and-lyft-drivers/?utm_term=.4c80300c4bc2

Not fit and proper to operate in London

The following article is a MUST READ for anyone involved in regulating TNCs. You can follow the “playbook” from start to finish in this very well written article.

The key points of this article question the “fitness” of Uber to even operate.

“Uber was **failing to report sex attacks** by drivers on its platform. TfL cited Uber’s “approach to reporting serious criminal offenses” as a contributing factor to its decision to withdraw licensing.”

Other key points reported were tax avoidance and drivers’ rights.

“So if you’re an entrepreneur, and circumventing employment regulation is your benchmark for ‘innovation’, it’s really time to get a new playbook.”

“While Uber is free to design its business model, regulators need to ensure that the framework they operate in protects fundamental rights and values, including workers rights... If Uber cannot come up with a business model that, is both innovative and compliant with the law, this may say more about Uber’s innovation capacity than about the regulator, who is just doing its job.”

The truth is there is a high cost to a bad reputation.

<http://www.businessinsider.com/high-cost-to-a-bad-reputation-new-ceo-warns-uber-in-london-ban-2017-9>

Straight from the mouth of the new CEO of Uber, an admission that the company has to make changes to conform with the rules in the midst of a new scandal every day.

The VLA is of the opinion, that with all of these facts now on the table, the DMV and legislators of Virginia need to take a big step back and put an end to this TNC experiment. It has not added meaningful jobs as promised, has not contributed to the tax base, created congestion and spread a number of falsehoods while paying the best lobbyists to promote a false agenda of “innovation”; Innovation that has already been in place within the transportation industry with electronic dispatching since 2006 in Virginia Code. The introduction of an “app” does not make them special, it is just another method of booking transportation and they must be held to the SAME RULES as any other for hire provider.

Repeal of TNC law is the answer – that is the high cost to their bad reputation!

PASSENGER CARRIER STUDY – DMV DRAFT CONCEPTS

VIRGINIA TAXICAB ASSOCIATION COMMENTS

September 28, 2017

INTRODUCTION

The VTA is appreciative that in the DMV’s revised concept paper it has determined that it will not advance the previous proposal to combine seven different passenger carriers into a single new “General Passenger Carrier” category. The adverse consequences of such a proposal for local governments, the riding public and the passenger carrier industry could have been severe while there was nothing in the study to indicate that such consolidation would improve the cost or quality of service to the riding public.

While the VTA can support certain other aspects of the revised proposal, we have the gravest concerns over the impact of the suggested increase of minimum insurance limit requirements for taxicabs. Our comments on this and other elements of the DMV’s revised concept follow.

The VTA hopes that its feedback is helpful, but we must stress that it is offered on the basis of a mere outline of the DMV’s proposal. The DMV has expressed its intent to provide its report and draft legislation to the stakeholders and the VTA believes it crucial that there be an opportunity for all to evaluate and comment on the report and actual legislative language before any such legislation is introduced. We hope that this is the DMV’s intent.

OPERATING AUTHORITY REQUIREMENTS

- Elimination of Passenger Carrier Broker authority: The VTA believes that the DMV should license and regulate an entity that contracts with the public to provide for-hire transportation without itself being a regulated passenger carrier in order to protect the public. Otherwise, there is a lack of accountability and recourse against misrepresentations or other disputes.
- Conversion of non-certificated carriers to a Certificate of Fitness standard: The VTA, while agreeing that fitness seems to be an appropriate minimum standard for passenger carriers, observes that there is no clearly-defined standard for a “Certificate of Fitness.” Before the VTA endorses this item, we would appreciate the DMV’s articulating this standard. In any case, such standard should be codified for the benefit of the carriers and the public.

CHANGES TO LICENSING REQUIREMENTS

- Elimination of bonding requirements: The VTA believes this requirement offers protection to the public and improves the quality and fitness of applicants for operating authority. We believe it likely that elimination will expose the public to a greater risk of questionable or disreputable operators and that the increase in resulting applications will strain the DMV's already-limited resources.

DRIVER SCREENING REQUIREMENTS FOR ALL PASSENGER CARRIER AUTHORITIES

The VTA reserves comment at this time pending review of the resulting DMV report and proposed legislation.

INSURANCE REQUIREMENTS FOR ALL PASSENGER CARRIER AUTHORITIES

- Insurance for taxis will increase from \$125,000 to the limits specified (\$350,000 for 6 passengers or fewer, including driver, or \$1,500,000 for 7 passenger minivans or SUVs).

As proposed, liability insurance for taxis will increase from \$125,000 to \$350,000 for 6 passengers or fewer, including driver, or to \$1,500,000 for 7 passenger minivans or SUVs. Throughout the stakeholder process, which has included local governments, the insurance industry, and the legal community, as well as all classes of passenger carriers in addition to taxicabs, no concern has been voiced over the existing taxicab insurance limit or any support expressed for the DMV's proposed increase. Not from the standpoint of competitive "equity" under previous consolidation proposals, nor as a matter of "public safety."

Local governments can and do set higher limits for taxicabs that they regulate, based on conditions in their jurisdictions. As taxicabs are the quintessential form of local transportation, and each community's needs may differ, there is no apparent rationale for arbitrarily raising minimum limits at the state level. The state minimum of \$125,000 has adequately served the needs of the public, local governments and the industry, with no evidence to the contrary. While it is true that this limit has been in place for a number of years, the same can be said of those limits set by vehicle size for passenger carriers regulated only at the state level.

Additionally, local governments have consistently expressed the desire to keep control of taxicabs in their jurisdictions. In fact, in light of the new developments in the marketplace, local governments have been working with their taxicab providers to help reduce costs of operations (not increase them) in an effort to maintain this vital local service. They understand the benefits of taxicab service

that cannot be readily replaced by other passenger carriers. This is particularly true of services to the on-demand transportation-dependent populations, which include seniors, persons with disabilities and those with low incomes. In many communities, taxicabs provide these individuals with a vital lifeline to essential services that cannot be replaced.

The DMV's proposed increase would nearly triple the current required limits for taxicab sedans seating no more than 6 passengers, and estimates for the additional cost of coverage have been as high as \$700 to \$800 per vehicle. For those using 7-passenger minivans or SUVs as taxicabs, the increase in required coverage would be 12-fold, and the resulting premium increases much higher. In recent years, as conventional sedans have trended to be more compact in size or larger ones more costly, taxicab operators have gone increasingly to minivans both for passenger comfort and economy. The proposed increase would render these vehicles uneconomical to operate and even cause them to be taken out of service, wiping out the operators' investments in these vehicles.

The effect of the proposed increase in insurance limits and resulting increased premium costs will likely put "mom and pop" taxicab operators in smaller communities and other individual taxicab operators out of business. . The impact will be felt even in more urban communities that do prescribe higher limits but have not found it necessary or advisable to increase limits to the level proposed by DMV. The additional costs will further weaken the taxicab industry financially as well as push more taxicab driver-owners out of the business, depriving communities of needed service.

Given the absence of evidence of need or support for the DMV's proposed increase in taxicab insurance limits, and in light of the likely dire repercussions of such a change to transportation service in local jurisdictions, the VTA again urges the DMV to remove this element from its final recommendations.

OPERATIONAL REQUIREMENTS AND LIMITATIONS

- Clarification that the one-hour minimum requirement for Contract Passenger Carriers means no more than one trip per hour (per vehicle):

The VTA reserves comment at this time pending review of the resulting DMV report and proposed legislation.

OTHER RECOMMENDATIONS

- Remove taxi title branding requirement: The VTA appreciates the removal of this archaic, inequitable requirement.

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Arkwright, Barbara \(DMV\)](#)
Subject: FW: Passenger Carrier Study - Revised Concept
Date: Thursday, October 05, 2017 12:42:14 PM

fyi

From: Michael Polychrones [mailto:mpolychrones@vml.org]
Sent: Wednesday, October 04, 2017 3:43 PM
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Subject: Re: Passenger Carrier Study - Revised Concept

Janet:

My apologies for missing the deadline as well as I was heavily involved in VML's Annual Conference which ended yesterday and I thank you for your gracious understanding. I would offer the VML would echo the same comments and concerns that were mentioned by Mr. Joe Lerch with VACO. In addition, VML would be against any proposed regulations or legislation that would upend our members local regulatory authority and would cause our members to go thru the long and cumbersome process of changing local ordinances to match the regulation. For instance, for localities that set an insurance limit amount that is different than what's in the proposed concept than some allowance for existing local regulations would need to be allowed.

Thank you again and we very much appreciate the opportunity to be involved in this important issue.

Michael Polychrones
Director of Member Services
Virginia Municipal League
804-229-7273
Mpolychrones@vml.org

Sent from my iPhone

On Oct 4, 2017, at 12:44 PM, Glenn Stafford <lovelimo@comcast.net> wrote:

In my haste to get this out a key link was not inserted

<https://techcrunch.com/2017/09/23/uber-only-has-itself-to-blame-for-london-license-loss/>

it is updated in the attachment

thank you

Janet,

My apologies for missing the deadline for submission by a few hours. Running a business comes first.

Our comments on the revised concept are attached.

Thank you for the opportunity to work on this study and please feel free to contact me anytime.

Glenn Stafford
VLA Legislative chairman

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]

Sent: Thursday, September 21, 2017 2:27 PM

To: cduvall@lindlcorp.com; cking@redtopcab.com; judyswystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jiliss@virginianewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectreCorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@jamesrivertrans.com; paul@getsetgo.us; James Brown; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiaSheriffs.org; Schrad, Dana; Maxey, Ronald (VSP); Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP); Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlerch@vaco.org; LYNCHBURG LA-SECONDARY (DMV); [lland@vaco.org](mailto:liland@vaco.org); yovonda.bellamy@norfolk.gov; Hollowell, Maureen (DBHDS); jayers@vtla.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov; jgwilson@nngov.com; marylou.nexsen@norfolk.gov; sudad@chesterfield.gov; durette@charlottesville.org; james.bongiovi@norfolk.gov; roger@heftywiley.com; adelabarrera@arlingtonva.us; kokeefe@arlingtonva.us; yovonda.bellamy@norfolk.gov; jbaugh@oag.state.va.us; Woods, Michael W.; David Robinson; cparrish@oag.state.va.us; henri.steinmccartney@fairfaxcounty.gov; susan.hafeli@fairfaxcounty.gov; katherine.leigey@fairfaxcounty.gov

Subject: Passenger Carrier Study - Revised Concept

Dear Stakeholders,

We have reviewed the feedback that many of you sent to us on the Passenger Carrier "Concept Paper" which was emailed to you on August 1st. Based on all of your feedback we now have a "Revised Concept Paper". I have enclosed this new concept paper as well as the feedback that we received from stakeholders on the August 1 concept paper.

If you would like to provide feedback on this Revised Concept please provide that to me by COB Tuesday, October 3rd.

After reviewing any feedback received on this revised concept we will finalize our study report and associated legislation. This will also be distributed to you.

Thanks,

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 |

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<Virginia Limousine Association response to DMV Revised Concept.doc>

From: [Smoot, Janet \(DMV\)](#)
To: [Hussey, Rena \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Ampy, Latrice \(DMV\)](#); [Dunston, David \(DMV\)](#); [Kerns, Rachel \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Mey, Michael \(DMV\)](#); [Penny, Thomas \(DMV\)](#); [Arkwright, Barbara \(DMV\)](#)
Subject: FW: DMV Passenger Carrier Study Revised Proposal Comments 10.3.2017
Date: Wednesday, October 04, 2017 8:50:59 AM
Attachments: [A9E29EA0-1465-4117-924B-A392586966BCF541.png](#)
[DMV Passenger Carrier Study Revised Proposal Werth Comments 10-03-17.docx](#)

From: Werth, Robert [mailto:robbie@diamondtransportation.us]
Sent: Tuesday, October 03, 2017 5:58 PM
To: Smoot, Janet (DMV)
Cc: Hussey, Rena (DMV)
Subject: DMV Passenger Carrier Study Revised Proposal Comments 10.3.2017

Good Evening Ms. Smoot:

Diamond as an IRCC, Contract Passenger and Employee Hauler is very pleased that the Virginia DMV listened to the certified common carriers and made substantial changes from the single authority or General Passenger concept. The most concern that Diamond had was the elimination of HOV access without passengers, which would have negatively impacted the disability community in Northern Virginia. Diamond is pleased that this threat to Paratransit service delivery has been removed from consideration.

Diamond is also very pleased that a standard is finally being set by Virginia DMV through state law in order to determine eligibility for operations pertaining to background checks. The concept of using Barrier Crimes is a good starting point and meets the standards of contracting through Medicaid and transit.

The remainder of my comments are attached with items that I agreed to or disagreed with in red. Items that I had questions with or needed clarification on are in blue. Please let me know if you have any questions or concerns.

Thank you for your hard work regarding the regulatory review.

Robbie

Robert M. Werth, Founder/Project Manager

Robert Werth, Founder/Project Manager MetroAccess
Diamond Transportation

The logo for National Express, with "national" in blue and "express" in red, both in a lowercase sans-serif font.

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Passenger Carrier Study
Department of Motor Vehicles Revised Concept
September 20, 2017
Comments by Robert M. Werth
October 3, 2017

Objective

- Reduce regulations that provide no benefit to the public
- There are many regulations that provide a benefit to the ability of the company to provide service that might not be readily apparent to the consumers. We are pleased that the Virginia DMV is taking that into consideration in the recent draft of potential legislative changes.
- Ensure public safety through uniform insurance requirements and screening of all passenger carriers and their drivers

Key Aspects

- Operating Authority Requirements
- Licensing Requirements
- Driver Screening Requirements
- Insurance
- Operational Requirements and Limitations
- Miscellaneous Recommendations
- Areas for further study

Operating Authority Requirements

- Eliminate Passenger Carrier Brokers (but not TNC Brokers)
 - Diamond does not agree with the elimination of this requirement. There are recent changes in the way that the Department of Medical Assistance Services (DMAS) allocates the distribution of work.
 - DMAS is now using multiple brokers.
 - DMAS has given HMO's the authority to set up their own transportation networks.
 - Some HMO's are contracting directly with transportation companies in the Commonwealth or other states.
 - Other HMO's are providing service directly.

Recommendations regarding Brokers:

- The law requiring Medicaid Brokers and others to use licensed subcontractors should stay in place.
 - When HMO's provide their own transportation they should be required to become either a NEMT and/or a certified common carrier.
 - Convert all non-certificated carriers (those obtaining permits) to a Certificate of Fitness standard
- Question:** Are non-certificated carriers defined or are they just those companies that are exempt?
- Eliminate requirement for Excursion Trains to obtain a certificate from DMV, retaining current insurance requirements and liability rules.
 - Agreed.

Changes to Licensing Requirements

- Eliminate bonding requirement for all passenger carriers.
 - Disagree. This is a minimum standard and should be kept for non-emergency carriers or otherwise.
- Eliminate requirement to submit proof of zoning compliance to DMV with application for operating authority.
 - Carriers will certify on the application to DMV that local zoning requirements have been met
 - Agreed if and only if, local jurisdictions are informed that all company and vehicle ownership information is given to them for reconciliation if so chosen. Elimination of this requirement may lead to public safety concerns.
- Require notification to DMV within 30 days of any change in company principals listed on application.
 - Agreed.
- Update place of business and records provisions § 46.2-2011.11 to reflect the electronic business environment
 - Totally disagree. This is a matter of public safety and does not meet the base standards of the objectives listed above. Law enforcement and governmental agencies must have the ability to go to the place of business to investigate ongoing issues pertaining to public safety: and federal, state and local laws.

Driver Screening Requirements for All Passenger Carrier Authorities

- Driver Screening Requirements for All Passenger Carrier Authorities
 - Agreed.
- Carriers must conduct a criminal and driving record check on all potential and existing drivers
 - The criminal history check must be performed every other year — it is optional as to whether the check is via a fingerprint process or a Fair Credit Reporting Act (FCRA)-regulated entity
 - Agreed.
 - The driving record check must be performed yearly
 - Agreed. It is my understanding that disqualifying events would only be those that are listed as Barrier Crimes.
- Driver screening of criminal history can be performed by a Consumer Reporting Agency, as defined by the FCRA — these entities are subject to comprehensive federal oversight, including the Federal Trade Commission, the Consumer Finance Protection Bureau, enforcement actions by state Attorneys General, regulatory compliance with the FCRA, as well as private rights of action.
 - Agreed.
- Driving history check must be done by reviewing record obtained from DMV or licensing agency in another state

Question: Does this bullet preclude a carrier from using a third party vendor from supplying the DMV or licensing agency from providing as long as they receive the information from the Virginia State DMV or other licensing agency?

- There will be barrier offenses on both the criminal and driving record checks that will bar drivers from providing service
 - Barrier offenses will mirror those in the TNC statute
 - **Agreed.**
 - Localities that perform background screenings of drivers will continue to have authority to establish screening criteria for their checks

Clarification: This bullet is not clear and needs to be explained further. The language should mandate that localities have the absolute right to perform background checks on any or all operators of any associated carrier authority in order to protect public safety.

- A motor carrier whose drivers are subject to local background checks and have proof that they are permitted to operate by that locality would be deemed to have satisfied the background check requirements in law for those operators
 - **Agreed.**
- Carriers will be required to maintain evidence of all driver background checks and driving record checks for three years
 - **Agreed.**
 - DMV may request records pursuant to § 46.2-2011.16
 - **Agreed.**

Insurance Requirements for All Passenger Carrier Authorities

- All passenger carriers must file proof of insurance through a Form E or equivalent for TNCs (DMV Form MCS-306)
 - **No comment as research would be needed to determine the difference between the two (2) forms and the relationship to public safety.**
- TNC and TNC Broker Insurance will remain unchanged
 - **Disagree. It is the author that TNC and TNC Broker Insurance are not in the public safety interest.**
- For all other carriers, liability insurance minimums will mirror federal requirements:

Vehicle Seating Capacity (including driver)	Insurance Requirement
6 Passengers or Fewer	\$350,000
7-15 Passengers	\$1.5 million
16 Passengers or More	\$5 million

- **Agreed with the stipulation that if the USDOT raises limits that the code for insurance will also be raised as well so it is not necessary to go back to the Virginia Legislator each time there is a change in insurance regulations.**
- Insurance for taxis will increase from \$125,000 to the above limits
 - **Author will yield to the Virginia Taxicab Association regarding this matter, as it does not affect Irregular Route Common Carriers.**

Operational Requirements and Limitations

- DMV will no longer require carriers to submit an application to use a rental vehicle
 - DMV will require a copy of the rental contract to be carried in the vehicle at all times
 - Rental contract must be in the name of the licensed motor carrier, or a TNC partner
 - Agreed however, all vehicles must be marked for the purpose of public safety including carriers and TNCs.
- DMV will codify its current requirements for motor carriers leasing vehicles
 - There will be no changes to the current requirements for motor carriers using leased vehicles
 - Agreed.
- Switch all passenger carrier vehicles (except TNC Partner Vehicles) to permanent for-hire plates
 - Agree for certificated carriers, not for TNC's. This request is due to safety concerns that are happening all over the country. Every provider of public transportation should be marked and plated through decals of some sort or nature.
 - The practice of not having decals has now presented safety concerns to every operator of public transportation, including but not limited to, transit and Paratransit providers. It use to be that transit and Paratransit operators could physically see who was operating for the local, regional and state systems and then have conversations with them concerning fatigue management. Now, providers can't tell who is operating for TNC's, which causes huge safety concerns for the transit industry in terms of hours worked and in some cases may be against the Federal hours of service components.
 - Secondly, riders do not know if they are getting into an authorized TNC vehicle or not. Many cases have now been memorialized that should concern regulators and public safety.
 - DMV is not proposing any changes in for-hire plate design. Carriers will continue to receive the for-hire plate they currently have, but without decals.
 - Agreed. Need to revert to decals for TNCs, as removal has not worked for public safety at high volume locations and identification of vehicles that have been used by persons other than the authorized owners.
- Clarify in Code that the one-hour minimum requirement for Contract Passenger Carriers means these vehicles cannot be used for more than one trip per hour.
 - Agreed.
- Eliminate requirement to file tariffs and schedules with DMV
 - Agreed.
 - However, carriers must publish rates and schedules to the public
 - Should only be required if TNC's have to do the same.

Additional Recommendations

- Remove requirement that taxi vehicle titles be branded
 - Will yield to the VTA for an answer on this additional recommendation.
- Require an agent for service of process in Virginia
 - Agree.

Areas for Further Study in 2018

- DMV recommends that localities study Regular Route Common Carriers and corresponding tax considerations (rolling stock tax), as well as regional taxi cooperation
 - DMV will provide assistance, if requested
- Dual plating – DMV will work with representatives from Maryland, D.C., and Virginia localities to explore regional cooperation and equity with plating and decals for for-hire vehicles

Further Areas of Concern or Study by Diamond Transportation Services, Inc.

- **Consumer Protection.** All companies should be required to carry proof of insurance with the name and phone number to contact regarding claims. Registrations should be marked accordingly.
- **Loss History.** Currently if there is an accident, and a TNC operator is in Phase I (In route to pick-up), then the person involved in the incident does not know that the operator is a TNC provider unless it is listed on their registration. If the incident is reported as a personal accident than that loss history will affect all personal losses in the state instead of commercial carrier losses. Long term this effects rates for all
- **Marking of vehicle.** This system needs to be studied as there is little know enforcement and many TNC operators are not using marking. The lack of identification is a safety concern. Also, there is nothing preventing anyone from putting a placard on a vehicle and it not is a TNC vehicle.
- **Car swapping.** There are reports nationwide of this happening and it should be investigated with processes put into place that prevents this activity from occurring. The TNC's should be interested in this happening as well.
- **Off App activity.** This is commonplace and activity that the TNC's should be willing to address to see if there is a solution as the activity is not insured.
- **Background Checks:** Methodologies that will be used to determine the background check type to be used.

Conclusion:

Diamond as an IRCC, Contract and Employee Hauler is very pleased that the Virginia DMV listened to the service delivery providers and made substantial changes from the single authority concept. The most concern that Diamond had was the elimination of HOV access without passengers, which would have negatively impacted the disability community in Northern Virginia. Diamond is pleased that this threat to Paratransit service delivery has been removed from consideration.

Diamond is also very pleased that a standard is being set by Virginia DMV to determine eligibility for operation. The concept of using Barrier Crimes is a good starting point.

Thank you for your hard work regarding the regulatory review.

Robbie

Robert M. Werth, Founder/Project Manager



A national **express** Company

Appendix E: Stakeholder Comments on Final Study Report

From: [Smoot, Janet \(DMV\)](mailto:Smoot.Janet@dmv.virginia.gov)
To: [Whitham, Craig \(DMV\)](mailto:Whitham.Craig@dmv.virginia.gov)
Subject: FW: Passenger Carrier Study report and legislation
Date: Monday, November 06, 2017 9:45:56 AM

From: Troy Bell [<mailto:TBell@flyrichmond.com>]
Sent: Friday, November 03, 2017 12:47 PM
To: Smoot, Janet (DMV)
Subject: RE: Passenger Carrier Study report and legislation

Janet, we have no new feedback or correspondence from RICPD, Ground Transportation, or Executive.

Troy M. Bell, C.M.
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From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Monday, October 30, 2017 4:29 PM
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bernard.caton@alexandriava.gov; henri.steinmccartney@fairfaxcounty.gov; trakow@arlingtonva.us

Subject: FW: Passenger Carrier Study report and legislation

Dear Stakeholders,

This is a reminder that any feedback on the Passenger Carrier study report and legislation, and any letters to go in the appendices, must be submitted by Friday, November 3rd.

If you have any questions feel free to contact me.

Janet Smoot

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[Confidentiality Statement](#)

From: Smoot, Janet (DMV)

Sent: Wednesday, October 18, 2017 10:57 AM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com';
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'trakow@arlingtonva.us'

Subject: Passenger Carrier Study report and legislation

Dear Stakeholders,

Enclosed is the Passenger Carrier Study draft report and associated legislation. Please review this report and legislation and submit any suggested feedback you have in regards to any errors you may note, or things that you see that may need to be corrected. If you would like to enclose a letter or email that represents your organization's position or support of the study recommendations and legislation, please feel free to send me such a letter/email. We will ensure that it is placed in the appendices of the report.

In a separate email I will send you the feedback that we received from stakeholders on the September 20 "Revised Concept". Our DMV team reviewed all of the stakeholder feedback and made some changes that you will see in the report recommendations.

I will need to receive all feedback on the report and legislation, as well as any letters to be placed in the appendices, by Friday, November 3rd. The report will be finalized and submitted to the Chairs of the Transportation Committees by December 1st.

Thank you so much for your participation on this study team. If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com
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From: [Smoot, Janet \(DMV\)](#)
To: [Whitham, Craig \(DMV\)](#)
Subject: FW: Passenger Carrier Study report and legislation
Date: Monday, November 06, 2017 9:46:16 AM

From: Glenn Stafford [mailto:lovelimo@comcast.net]
Sent: Friday, November 03, 2017 5:31 PM
To: Smoot, Janet (DMV)
Subject: RE: Passenger Carrier Study report and legislation

We are standing by our previous comments regarding the study

Thanks you

Glenn Stafford

VLA

From: Smoot, Janet (DMV) [mailto:janet.smoot@dmv.virginia.gov]
Sent: Monday, October 30, 2017 4:29 PM
To: cduvall@lindlcorp.com; cking@redtopcab.com; judydswystun@hotmail.com; tperrin@lindlcorp.com; robbie@diamondtransportation.us; hjones@fgb.com; jstrainum@napoleontaxi.com; jliss@virginianewmajority.org; thomas.a.depasquale@gmail.com; jshanker@rmalimo.com; pcushing@williamsmullen.com; emullen@reedsmith.com; dskiles@vectreCorp.com; michael.cooper@mwa.com; tbell@flyrichmond.com; jalberti@flyrichmond.com; lovelimo@comcast.net; Doug210@verizon.net; sstory@jamesrivertrans.com; paul@getsetgo.us; Hollowell, Maureen (DBHDS); James Brown; oleta_coach_lines@msn.com; atours@cox.net; jjones@virginiasheriffs.org; Schrad, Dana; Maxey, Ronald (VSP); Rebecca.Nichols@scc.virginia.gov; chris@lagowlobby.com; rsavage@eckertseamans.com; Jones, Ted (VSP); Anneleigh@kerrgovstrategies.com; jlalla@georgetownins.com; bobby.tucker@scc.virginia.gov; jason.holloway@scc.virginia.gov; Kevin.davis@scc.virginia.gov; mpolychrones@vml.org; jlerch@vaco.org; LYNCHBURG LA-SECONDARY (DMV); yovonda.bellamy@norfolk.gov; jayers@vta.com; fhelm@kemperconsult.com; rgrogg@kemperconsult.com; cnoonan@dls.virginia.gov; bfitzpatrick@vmt.org; bjamerson@dls.virginia.gov; jpalmore@reedsmith.com; nbrenner@reedsmith.com; noelle.dominguez@fairfaxcounty.gov; bob.garbacz@alexandriava.gov; jgwilson@nngov.com; marylou.nexsen@norfolk.gov; sudad@chesterfield.gov; durette@charlottesville.org; james.bongiovi@norfolk.gov; roger@heftywiley.com; adelabarrera@arlingtonva.us; kokeefe@arlingtonva.us; yovonda.bellamy@norfolk.gov; jbaugh@oag.state.va.us; Woods, Michael W.; David Robinson; cparrish@oag.state.va.us; henri.steinmccartney@fairfaxcounty.gov; katherine.leigey@fairfaxcounty.gov; henri.steinmccartney@fairfaxcounty.gov; susan.hafeli@fairfaxcounty.gov; davidrobinson@alexandria.gov; yovonda.bellamy@norfolk.gov; Patricia Carroll; adelabarrera@arlingtonva.us; noelle.dominguez@fairfaxcounty.gov; jgwilson@nngov.com; catron@alcalde-fay.com; lyeatts@hampton.gov; lea@co.henrico.va.us; hun05@co.henrico.va.us; bernard.caton@alexandriava.gov; henri.steinmccartney@fairfaxcounty.gov; trakow@arlingtonva.us
Subject: FW: Passenger Carrier Study report and legislation

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[Confidentiality Statement](#)

From: Smoot, Janet (DMV)

Sent: Wednesday, October 18, 2017 10:57 AM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jlliss@virginianewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rimalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectrecorp.com'; 'michael.cooper@mwaa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'mhollowell@endependence.org'; 'James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginiasheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org'; 'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'yovonda.bellamy@norfolk.gov'; 'jayers@vtla.com'; 'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov'; 'bfitzpatrick@vmt.org'; 'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com'; 'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com'; 'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org'; 'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us'; 'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael W.'; 'David.Robinson'; 'cparrish@oag.state.va.us'; 'henri.steinmccartney@fairfaxcounty.gov'; 'katherine.leigey@fairfaxcounty.gov'; 'henri.steinmccartney@fairfaxcounty.gov'; 'susan.hafeli@fairfaxcounty.gov'; 'davidrobinson@alexandria.gov'; 'yovonda.bellamy@norfolk.gov'; 'pcarroll@arlingtonva.us'; 'adelabarrera@arlingtonva.us'; 'noelle.dominguez@fairfaxcounty.gov'; 'jgwilson@nngov.com'; 'catron@alcalde-fay.com'; 'lyeatts@hampton.gov'; 'lea@co.henrico.va.us'; 'hun05@co.henrico.va.us'; 'bernard.caton@alexandriava.gov'; 'henri.steinmccartney@fairfaxcounty.gov'; 'trakow@arlingtonva.us'

Subject: Passenger Carrier Study report and legislation

Dear Stakeholders,

Enclosed is the Passenger Carrier Study draft report and associated legislation. Please review this report and legislation and submit any suggested feedback you have in regards to any errors you may note, or things that you see that may need to be corrected. If you would like to enclose a letter or email that represents your organization's position or support of the study recommendations and legislation, please feel free to send me such a letter/email. We will ensure that it is placed in the appendices of the report.

In a separate email I will send you the feedback that we received from stakeholders on the September 20 "Revised Concept". Our DMV team reviewed all of the stakeholder feedback and made some changes that you will see in the report recommendations.

I will need to receive all feedback on the report and legislation, as well as any letters to be placed in the appendices, by Friday, November 3rd. The report will be finalized and submitted to the Chairs of the Transportation Committees by December 1st.

Thank you so much for your participation on this study team. If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |

www.dmvNOW.com
[Confidentiality Statement](#)

November 3, 2017

Janet Smoot
Department of Motor Vehicles
2300 West Broad Street
Post Office Box 27412
Richmond, VA 23269

Dear Ms. Smoot:

I write on behalf of Uber Technologies, Inc., and its subsidiaries, Rasier, LLC (“Rasier”), and Drinnen LLC (“Drinnen”) (collectively, “Uber”).¹ Uber thanks the Department of Motor Vehicles (“Department”) for the opportunity to participate in its 2017 Passenger Carrier Study and comment on its proposals for streamlining the regulatory structure for non-Transportation Network Company (“TNC”) passenger carriers pursuant to Senator Carrico’s March 7, 2017 charge letter.

Uber continues to support smart, forward-thinking laws and regulations that ensure rider safety, reduce unnecessary barriers to entry for drivers, and promote competition for all passenger carrier services in the Commonwealth. While many of the Department’s proposed regulations are consistent with these objectives, Uber has a number of recommendations to refine the Department’s proposals and clarify that the regulation of Transportation Network Companies (“TNCs”) is properly addressed by VA Code § 46.2-2099.45 *et seq.* Specifically, Uber urges the Department to incorporate the following changes:

- Clarify that the regulations applying to the rejection and suspension of registrations and certificates of title issued to commercial motor vehicles do not apply to TNC partner vehicles, which are personal vehicles not registered or titled as commercial motor vehicles in the Commonwealth;
- Clarify that the regulation of leased vehicles does not apply to personal vehicles leased by TNC partners and used as TNC partner vehicles;

¹ Rasier is a Department-licensed transportation network company (“TNC”) and Drinnen is a Department-licensed passenger carrier broker. Uber Technologies, Inc. developed the app that Rasier’s and Drinnen’s driver-partners use to receive transportation requests.

- Reinststate the public protest period for certain applications for licenses and certificates of fitness required under Chapter 20; and
- Strike the Department’s proposal to include as a ground for denying, suspending, or revoking licenses, permits, or certificates, affiliation with a person who is ineligible for the license or certificate sought or held.

Uber sets forth and explains the reasoning behind its proposals below.

1. The Department should clarify that regulations regarding the registration and titling of commercial motor vehicles do not apply to TNC partner vehicles.

Sections 46.2-608 and 46.2-609 address the circumstances under which 1) applications for vehicle registration and titling may be rejected, and 2) vehicle registration documents, including registration cards, license plates, or decals may be suspended. Several of the specific grounds for rejection and suspension explicitly refer to registration and titling of “commercial motor vehicles.” In both sections, the Department proposes including in the definition of “commercial motor vehicles” “vehicles and carriers which operate or should operate under a certificate issued pursuant to Chapter 20 of this title.” Uber urges the Department to clarify these standards as follows (Uber’s proposed language in bold):

. . . For purposes of this [section/subsection], the terms "commercial motor vehicle" and "motor carrier" shall be as defined in § 52-8.4, and shall also include vehicles and carriers which operate or should operate under a certificate issued pursuant to Chapter 20 of this title, **except a TNC partner vehicle as that term is defined in § 46.2-2000.**

The Department’s proposed changes to this section could be construed as characterizing personal vehicles, including TNC partner vehicles, as commercial motor vehicles. If interpreted that way, the proposed change would be outside of the scope of the charge letter, contrary to the recent changes to § 46.2-2000 enacted by the General Assembly, and inconsistent with the exceptions that the Department has otherwise included in its proposal in order to clarify that TNC partner vehicles are not subject to special registration requirements. See Governor’s Confidential Working Paper at 16: 344-5; 26: 563; 32: 685 (excepting TNC partner vehicles).

For these reasons, Uber respectfully proposes that the Department incorporate the abovementioned clarification.

2. The Department should clarify that personal vehicles leased by TNC partners and used as TNC partner vehicles are not subject to additional insurance and registration requirements.

Section 46.2-2001.4 seeks to “[c]odify (but not change) current requirements imposed administratively for motor carriers using leased vehicles.” Passenger Carrier Study at 5. Despite its stated intention, the Department’s proposal could potentially be interpreted as creating new, burdensome requirements for TNC partners who lease their vehicles. Uber urges the Department to clarify this standard as follows (Uber’s proposed language in bold):

. . . E. The provisions of this section shall not apply to the operation of daily rental vehicles **or TNC partner vehicles.**

The current proposed formulation creates unnecessary ambiguity about TNC partners’ obligations since it could be interpreted as applying to TNC partner vehicles. If interpreted that way, thousands of TNC partners who lease their personal vehicles would arguably be required to insure their leased vehicles in the name of licensed motor carriers, register their leased vehicles with the Department, and submit copies of their lease agreements to the Department. Additionally, the Department would arguably need to issue special license plates and registration cards for each such vehicle.

If applied to TNC partners, these requirements would be extremely burdensome and costly for both TNC partners and the Department, serve no public policy purpose given that TNC partner vehicles are subject to the extensive vehicle and insurance requirements set forth in § 46.2-2099.45 *et seq.*, and subject TNC partners with leased vehicles to a different set of rules than those who own their personal vehicles. As discussed above, such a requirement would be outside of the scope of the charge letter, contrary to the recent changes to § 46.2-2000 enacted by the General Assembly that specifically removed registration requirements on TNC partner vehicles, and inconsistent with the exceptions that the Department has otherwise included in its proposal in order to clarify that TNC partner vehicles are not subject to registration requirements.

If the Department’s intent is to codify its current administrative practice, the Department should clarify its proposed language to ensure that it only covers vehicles leased by motor carriers.

3. The Department should not abolish the ability for the public to protest applications for certain licenses and certificates of fitness submitted pursuant to Chapter 20.

Section 46.2-2005 provides the opportunity for the public to protest applications for licenses and certificates issued under Chapter 20. The Department seeks to eliminate the right to public protest stating that its elimination will alleviate concerns voiced by taxi representatives with regard to

quickly approving drivers to provide service and compete in the market. See Passenger Carrier Study at 16. The Department further asserts that “the public comment period rarely, if ever, reveals information that was not available to the Department” and that its elimination “will have no negative impact on public safety and would eliminate an unnecessary lengthy delay in the application process . . .” *Id.* Uber respectfully disagrees.

Eliminating the public protest period for all licenses and certificates of fitness raises significant concerns, specifically with regard TNC broker license applications, which require the applicant to prove existence of “a contract, agreement, or arrangement” with a TNC in order to broker the services of its partners. See § 46.2-2000 (defining “TNC broker”). Where eligibility for a license depends on a third party agreement with a TNC, it is imperative that the TNC have the opportunity to protest any material misrepresentations made with regard to its relationship to the applicant. This is particularly the case where such material misrepresentations could lead to serious safety concerns, including the brokerage of trips not facilitated via the TNC’s app.

For the reasons discussed above, Uber respectfully urges the Department to reconsider broadly eliminating the protest period for licenses and certificates of fitness.

4. The Department should eliminate its proposal that the regulations include as a ground for denying, suspending, or revoking licenses, permits, or certificates, affiliation with a person who is ineligible for the license or certificate sought or held.

Section § 46.2-2011.24 provides the grounds on which the Department may deny, suspend, or revoke licenses or certificates. The Department proposes significantly expanding those grounds as follows (the Department’s proposed language underlined):

A license or certificate issued pursuant to this chapter may be denied, suspended, or revoked on any one or more of the following grounds, where applicable: . . . That the business of the licensee, certificate holder, or license or certificate applicant is or will be operated, managed, or controlled by, or affiliated with, a person who is ineligible for the license or certificate sought or held, including the licensee, certificate holder, or applicant or an entity, relative, family member, corporate officer, or shareholder of the licensee, certificate holder, or applicant.

Uber believes that these proposals are overly broad and would allow for the arbitrary and unfair denial, suspension, or revocation of licenses and

certificates. In fact, the consensus reached during the stakeholder meeting was that those in direct management of a company should be the persons subject to examination and that the Department's review should not be so far reaching as to include investors.

If these proposals were adopted, an entity that otherwise qualifies for a broker license could be denied a license solely because it is affiliated with a sister company that runs an entirely different type of business and, therefore, does not meet the eligibility requirements for the license. This overly broad requirement would also allow the Department to deny a certificate of fitness to any business operator with an ineligible family member, or virtually any publicly held company, whose share may be purchased and held by any number of individuals who do not meet the eligibility requirements for the certificate.

For these reasons, Uber respectfully urges the Department to abandon this proposal.

Uber thanks the Department for its consideration and looks forward to working collaboratively to advance forward-thinking regulations for all stakeholders involved.

Sincerely,

Emily Madava

Emily Madava

From: [Smoot, Janet \(DMV\)](mailto:Smoot,Janet@dmv.virginia.gov)
To: [Hussey, Rena \(DMV\)](mailto:Hussey,Rena@dmv.virginia.gov); [Boisvert, Gabriel \(DMV\)](mailto:Boisvert,Gabriel@dmv.virginia.gov); [Whitham, Craig \(DMV\)](mailto:Whitham,Craig@dmv.virginia.gov)
Subject: FW: Passenger Carrier Study Comments
Date: Monday, November 13, 2017 10:32:43 AM

It appears that they are okay with the changes.

-----Original Message-----

From: Brenner, Nicole L. [<mailto:NBrenner@reedsmith.com>]
Sent: Friday, November 10, 2017 12:37 PM
To: Smoot, Janet (DMV)
Cc: Harrison, Patrick (DMV)
Subject: RE: Passenger Carrier Study Comments

Janet,

Thank you for sharing the language in advance of our call yesterday and for talking it through with me. The changes that you've proposed address Uber's concerns. Thanks for your time and for working through our comments with us. We truly appreciate it.

Hope you are enjoying the three day weekend!

Best,

Nicole L. Brenner
+1(804)344-3407
nbrenner@reedsmith.com
Reed Smith LLP
Riverfront Plaza - West Tower
901 East Byrd Street, Suite 1700
Richmond, VA 23219-4068
+1 804 344 3400
Fax +1 804 344 3410

-----Original Message-----

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Thursday, November 09, 2017 1:47 PM
To: Brenner, Nicole L.
Subject: RE: Passenger Carrier Study Comments

Don't know if you will have the opportunity to review this, or share this with Emily, before the meeting but these are the changes we are suggesting.

§ 46.2-2099.18:1. Application for TNC Broker's License In addition to all other requirements set out by law, an applicant for a TNC broker's license shall submit with its application proof of its contract, agreement, or arrangement with a transportation network company. The Department shall verify the applicant's contract, agreement, or arrangement with the transportation network company prior to issuing the license.

46.2-2011.24:

That the business of the licensee, certificate holder, or license or certificate applicant is or will be operated, managed, or controlled by a person who is ineligible for the license or certificate sought or held, including the licensee, certificate holder, or applicant or a relative, family member, or corporate officer of the licensee, certificate holder, or applicant.

-----Original Message-----

From: Brenner, Nicole L. [<mailto:NBrenner@reedsmith.com>]

Sent: Thursday, November 09, 2017 12:41 PM
To: Smoot, Janet (DMV)
Subject: RE: Passenger Carrier Study Comments

Sounds good. Talk to you then.

Nicole L. Brenner
+1(804)344-3407
nbrenner@reedsmith.com
Reed Smith LLP
Riverfront Plaza - West Tower
901 East Byrd Street, Suite 1700
Richmond, VA 23219-4068
+1 804 344 3400
Fax +1 804 344 3410

-----Original Message-----

From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Thursday, November 09, 2017 11:05 AM
To: Brenner, Nicole L.
Subject: RE: Passenger Carrier Study Comments

Great. We will call you directly since the DMV group will be together. Talk to you at 2:30.

-----Original Message-----

From: Brenner, Nicole L. [<mailto:NBrenner@reedsmith.com>]
Sent: Thursday, November 09, 2017 10:58 AM
To: Smoot, Janet (DMV); Emily Madavo
Subject: RE: Passenger Carrier Study Comments

Hi Janet,

Emily is tied up this afternoon but I can speak at 2:30. Would you like a dial in so that others can join or do you want to call me directly?

Best,
Nicole

From: Smoot, Janet (DMV) <janet.smoot@dmv.virginia.gov<<mailto:janet.smoot@dmv.virginia.gov>>>
Date: Thursday, Nov 09, 2017, 10:53 AM
To: Brenner, Nicole L. <NBrenner@reedsmith.com<<mailto:NBrenner@reedsmith.com>>>, Emily Madavo <emadavo@uber.com<<mailto:emadavo@uber.com>>>
Subject: RE: Passenger Carrier Study Comments

Are you available for a quick follow-up call at 2:00 or 2:30 today?

From: Brenner, Nicole L. [<mailto:NBrenner@reedsmith.com>]
Sent: Wednesday, November 08, 2017 12:57 PM
To: Smoot, Janet (DMV); Emily Madavo
Subject: RE: Passenger Carrier Study Comments

Hi Janet,

Emily and I can speak tomorrow. Can we use a conference line? I can host - 1(800)730-9938 Access Code: 3443407#

Best,
Nicole L. Brenner
+1(804)344-3407
nbrenner@reedsmith.com<<mailto:nbrenner@reedsmith.com>>
Reed Smith LLP

Riverfront Plaza - West Tower
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From: Smoot, Janet (DMV) [<mailto:janet.smoot@dmv.virginia.gov>]
Sent: Wednesday, November 08, 2017 11:12 AM
To: Emily Madavo
Cc: Brenner, Nicole L.
Subject: RE: Passenger Carrier Study Comments

Emily, Nicole,
We'd like to set up a time to discuss Uber's comments on the report and legislation. Do you have any available time tomorrow (Thursday) morning?

Janet

From: Emily Madavo [<mailto:emadavo@uber.com>]
Sent: Friday, November 03, 2017 2:15 PM
To: Smoot, Janet (DMV); Hussey, Rena (DMV)
Cc: Brenner, Nicole L.
Subject: Passenger Carrier Study Comments

Good afternoon,

Please find Uber's comments in response to DMV's passenger carrier study proposals attached.

I hope you all have a nice weekend.

Best,
--

[https://s3.amazonaws.com/uploads.hipchat.com/17604/95362/Xa5XFMx0haBCBli/Uber_logobit_email_2x.png]
]

Emily Madavo
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* * *

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From: [Smoot, Janet \(DMV\)](#)
To: [Whitham, Craig \(DMV\)](#); [Owens, Andrew \(DMV\)](#); [Hussey, Rena \(DMV\)](#)
Subject: FW: Passenger Carrier Study report and legislation
Date: Thursday, November 16, 2017 11:39:11 AM
Attachments: [Passenger Carrier Study FINAL DRAFT.pdf](#)
[Alt Draft v.3.pdf](#)
[Permanent Plate.docx](#)

From: Jones, Ted E., Lt. [mailto:Ted.Jones@vsp.virginia.gov]
Sent: Thursday, November 16, 2017 11:14 AM
To: Smoot, Janet (DMV)
Subject: FW: Passenger Carrier Study report and legislation

Janet,

Per our earlier conversation and after review, VSP has neither opposition nor issue with the attached passenger carrier study report and corresponding legislation; additionally, VSP has no opposition with the attached report recommendations on the issuance of the permanent, designated license plates to all passenger carrier vehicles, except for TNC partner vehicles as indicated.

If you need any further, please let me know.

Thanks,

Ted

Ted E. Jones | Lieutenant
Virginia State Police - Bureau of Field Operations
7700 Midlothian Turnpike
North Chesterfield, Virginia 23235
(804) 674-2130 Office
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Virginia State Police



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From: Smoot, Janet (DMV)
Sent: Thursday, November 09, 2017 11:31 AM
To: Maxey, Jr., Ronald C., Captain; Jones, Ted E., Lt.
Subject: FW: Passenger Carrier Study report and legislation

Capt. Maxey, Lt. Jones,

Hope you are both doing well. We never received any feedback from VSP on our Passenger Carrier Study report and legislation which we had asked for by November 3. It was sent to you on October 18th. Before we finalize the report and legislation we need to obtain VSP's feedback. Both the report and legislation are enclosed.

We specifically need feedback on the study recommendation which involves issuing permanent license plates (without decals) to all passenger carrier vehicles (except TNC Partner vehicles). The third document I've enclosed has the new language for § 46.2-712, which is highlighted. I've also included the relevant language from § 46.2-711(B); highlighting the plate types which we are proposing to give permanent plates for.

Please provide VSP's feedback on this. Also if you could confirm receipt of this email that would be great. I know you were having problems with receipt of emails in the past and I just want to ensure that you have received this email.

Thanks.

Janet Smoot

From: Smoot, Janet (DMV)

Sent: Monday, October 30, 2017 4:29 PM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jliss@virginianewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rmalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectrecorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'mhollowell@endependence.org'; 'James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginia sheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org'; 'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'yovonda.bellamy@norfolk.gov'; 'jayers@vtla.com'; 'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov'; 'bfitzpatrick@vmt.org'; 'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com'; 'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com'; 'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org'; 'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us'; 'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael W.'; 'David Robinson'; 'cparrish@oag.state.va.us'; 'henri.steinmccartney@fairfaxcounty.gov'; 'katherine.leigey@fairfaxcounty.gov'; 'henri.steinmccartney@fairfaxcounty.gov'; 'susan.hafeli@fairfaxcounty.gov'; 'davidrobinson@alexandria.gov'; 'yovonda.bellamy@norfolk.gov'; 'pcarroll@arlingtonva.us'; 'adelabarrera@arlingtonva.us'; 'noelle.dominguez@fairfaxcounty.gov'; 'jgwilson@nngov.com'; 'catron@alcalde-fay.com'; 'lyeatts@hampton.gov'; 'lea@co.henrico.va.us'; 'hun05@co.henrico.va.us'; 'bernard.caton@alexandriava.gov'; 'henri.steinmccartney@fairfaxcounty.gov'; 'trakow@arlingtonva.us'

Subject: FW: Passenger Carrier Study report and legislation

Dear Stakeholders,

This is a reminder that any feedback on the Passenger Carrier study report and legislation, and any letters to go in the appendices, must be submitted by Friday, November 3rd.

If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com

[Confidentiality Statement](#)

From: Smoot, Janet (DMV)

Sent: Wednesday, October 18, 2017 10:57 AM

To: 'cduvall@lindlcorp.com'; 'cking@redtopcab.com'; 'judyswystun@hotmail.com'; 'tperrin@lindlcorp.com'; 'robbie@diamondtransportation.us'; 'hjones@fgb.com'; 'jstrainum@napoleontaxi.com'; 'jliss@virginianewmajority.org'; 'thomas.a.depasquale@gmail.com'; 'jshanker@rmalimo.com'; 'pcushing@williamsmullen.com'; 'emullen@reedsmith.com'; 'dskiles@vectrecorp.com'; 'michael.cooper@mwa.com'; 'tbell@flyrichmond.com'; 'jalberti@flyrichmond.com'; 'lovelimo@comcast.net'; 'Doug210@verizon.net'; 'sstory@jamesrivertrans.com'; 'paul@getsetgo.us'; 'mhollowell@endependence.org'; 'James Brown'; 'oleta_coach_lines@msn.com'; 'atours@cox.net'; 'jjones@virginia sheriffs.org'; Schrad, Dana; Maxey, Ronald (VSP); 'Rebecca.Nichols@scc.virginia.gov'; 'chris@lagowlobby.com'; 'rsavage@eckertseamans.com'; Jones, Ted (VSP); 'Anneleigh@kerrgovstrategies.com'; 'jlalla@georgetownins.com'; 'bobby.tucker@scc.virginia.gov'; 'jason.holloway@scc.virginia.gov'; 'Kevin.davis@scc.virginia.gov'; 'mpolychrones@vml.org'; 'jlerch@vaco.org'; LYNCHBURG LA-SECONDARY (DMV); 'yovonda.bellamy@norfolk.gov'; 'jayers@vtla.com'; 'fhelm@kemperconsult.com'; 'rgrogg@kemperconsult.com'; 'cnoonan@dls.virginia.gov'; 'bfitzpatrick@vmt.org'; 'bjamerson@dls.virginia.gov'; 'jpalmore@reedsmith.com'; 'nbrenner@reedsmith.com'; 'noelle.dominguez@fairfaxcounty.gov'; 'bob.garbacz@alexandriava.gov'; 'jgwilson@nngov.com'; 'marylou.nexsen@norfolk.gov'; 'sudad@chesterfield.gov'; 'durette@charlottesville.org'; 'james.bongiovi@norfolk.gov'; 'roger@heftywiley.com'; 'adelabarrera@arlingtonva.us'; 'kokeefe@arlingtonva.us'; 'yovonda.bellamy@norfolk.gov'; 'jbaugh@oag.state.va.us'; 'Woods, Michael W.'; 'David Robinson'; 'cparrish@oag.state.va.us'; 'henri.steinmccartney@fairfaxcounty.gov'; 'katherine.leigey@fairfaxcounty.gov'; 'henri.steinmccartney@fairfaxcounty.gov'; 'susan.hafeli@fairfaxcounty.gov'; 'davidrobinson@alexandria.gov'; 'yovonda.bellamy@norfolk.gov'; 'pcarroll@arlingtonva.us'; 'adelabarrera@arlingtonva.us'; 'noelle.dominguez@fairfaxcounty.gov'; 'jgwilson@nngov.com'; 'catron@alcalde-fay.com'; 'lyeatts@hampton.gov'; 'lea@co.henrico.va.us'; 'hun05@co.henrico.va.us'; 'bernard.caton@alexandriava.gov'; 'henri.steinmccartney@fairfaxcounty.gov'; 'trakow@arlingtonva.us'

Subject: Passenger Carrier Study report and legislation

Dear Stakeholders,

Enclosed is the Passenger Carrier Study draft report and associated legislation. Please review this report and legislation and submit any suggested feedback you have in regards to any errors you may note, or things that you see that may need to be corrected. If you would like to enclose a letter or email that represents your organization's position or support of the study recommendations and legislation, please feel free to send me such a letter/email. We will ensure that it is placed in the appendices of the report.

In a separate email I will send you the feedback that we received from stakeholders on the September 20 "Revised Concept". Our DMV team reviewed all of the stakeholder feedback and made some changes that you will see in the report recommendations.

I will need to receive all feedback on the report and legislation, as well as any letters to be placed in the appendices, by Friday, November 3rd. The report will be finalized and submitted to the Chairs of the Transportation Committees by December 1st.

Thank you so much for your participation on this study team. If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov | www.dmvNOW.com

[Confidentiality Statement](#)

From: [Smoot, Janet \(DMV\)](#)
To: [Whitham, Craig \(DMV\)](#)
Subject: FW: Passenger Carrier Study report and legislation
Date: Monday, November 06, 2017 9:46:27 AM
Attachments: [A9E29EA0-1465-4117-924B-A392586966BC\[35\].png](#)
[DMV Comments on Legislative Changes 11.3.2017.docx](#)

From: Werth, Robert [mailto:robbie@diamondtransportation.us]
Sent: Saturday, November 04, 2017 1:41 AM
To: Smoot, Janet (DMV)
Cc: Chuck Duvall; Charlie King; Judy Swystun; Tripp Perrin; William Roberts
Subject: Re: Passenger Carrier Study report and legislation

Dear Ms. Smoot:

Please find attached my comments pertaining to the Passenger Carrier Study report and legislation. I would once again like to point out the issues we have in Northern Virginia regarding public safety. It is absolutely imperative that as transportation professionals we can visually recognize if an operator that drives twelve (12) hours per day for Diamond is also driving for a TNC.

Prior to the removal of the DMV registration and designation process, our safety team was able to walk the lot and see the cars that had the TNC sticker for Maryland/DC as well as the plate sticker for Virginia vehicles. We could then have conversations about adherence to Diamond's fatigue management policy and procedures. We have seen an up tick of fatigue events since the advent of TNC's and now we can't determine who is at risk for driving over the DOT guidelines that we adhere to. We would like to have the ability to determine what is in the best interest of public safety and have continued discussions of ways that there would be mandatory disclosure of dual driving activities.

Furthermore, local public safety and planners are trying to manage issues pertaining to congestion and the cost of doing business in the new age of app based private automobile usage. In essence, without the ability to determine the number of TNC vehicles being operated, there is no way of determining whether the owner/operator is misrepresenting the commercial nature of their job by greater than the 50% vehicle usage requirement. To this end, due to the current pay back of funds through the Commonwealth's budget, this is paramount to a public subsidy of multi billion dollar Silicon Valley corporations and creates an un level playing field for local transportation companies trying to compete.

Please take this into consideration as we continue to study the issues pertaining to these disrupting international corporations.

Sincerely,

Robbie

Robert Werth, Founder/Project Manager MetroAccess
Diamond Transportation



Lorton Facility:

703-339-9625

Springfield Facility:

703-912-7606

Cell Phone:

703-864-6501

Email: robbie@diamondtransportation.us

www.diamondtransportation.us

www.nellc.com

From: Janet Smoot <janet.smoot@dmv.virginia.gov>

Date: Monday, October 30, 2017 at 4:28 PM

To: "cduvall@lindlcorp.com" <cduvall@lindlcorp.com>, "cking@redtopcab.com" <cking@redtopcab.com>, "judyswystun@hotmail.com" <judyswystun@hotmail.com>, "tperrin@lindlcorp.com" <tperrin@lindlcorp.com>, Robert Werth <robbie@diamondtransportation.us>, "hjones@fgb.com" <hjones@fgb.com>, "jstrainum@napoleontaxi.com" <jstrainum@napoleontaxi.com>, "jiliss@virginianewmajority.org" <jiliss@virginianewmajority.org>, "thomas.a.depasquale@gmail.com" <thomas.a.depasquale@gmail.com>, "jshanker@rmalimo.com" <jshanker@rmalimo.com>, "pcushing@williamsmullen.com" <pcushing@williamsmullen.com>, "emullen@reedsmith.com" <emullen@reedsmith.com>, "dskiles@vectreCorp.com" <dskiles@vectreCorp.com>, Michael Cooper <michael.cooper@mwa.com>, "tbell@flyrichmond.com" <tbell@flyrichmond.com>, "jalberti@flyrichmond.com" <jalberti@flyrichmond.com>, "lovelimo@comcast.net" <lovelimo@comcast.net>, "Doug210@verizon.net" <Doug210@verizon.net>, "sstory@jamesrivertrans.com" <sstory@jamesrivertrans.com>, "paul@getsetgo.us" <paul@getsetgo.us>, "Hollowell, Maureen (DBHDS)" <mhollowell@endependence.org>, James Brown <magiccarpettours@aol.com>, "oleta_coach_lines@msn.com" <oleta_coach_lines@msn.com>, "atours@cox.net" <atours@cox.net>, "jjones@virginiaSheriffs.org" <jjones@virginiaSheriffs.org>, "Schrad, Dana" <dana@vachiefs.org>, "Maxey, Ronald (VSP)" <Ron.Maxey@vsp.virginia.gov>, "Rebecca.Nichols@scc.virginia.gov" <Rebecca.Nichols@scc.virginia.gov>, "chris@lagowlobby.com" <chris@lagowlobby.com>, "rsavage@eckertseamans.com" <rsavage@eckertseamans.com>, "Jones, Ted (VSP)" <Ted.Jones@vsp.virginia.gov>, "Anneleigh@kerrgovstrategies.com" <Anneleigh@kerrgovstrategies.com>, "jlalla@georgetownins.com" <jlalla@georgetownins.com>, "bobby.tucker@scc.virginia.gov" <bobby.tucker@scc.virginia.gov>, "jason.holloway@scc.virginia.gov" <jason.holloway@scc.virginia.gov>, "Kevin.davis@scc.virginia.gov" <Kevin.davis@scc.virginia.gov>, "mpolychrones@vml.org" <mpolychrones@vml.org>, "Jlerch@vaco.org" <jlerch@vaco.org>, "LYNCHBURG LA-SECONDARY (DMV)" <mitchell.nuckles@lynchburgva.gov>, "yovonda.bellamy@norfolk.gov" <yovonda.bellamy@norfolk.gov>, "jayers@vtla.com" <jayers@vtla.com>, "fhelm@kemperconsult.com" <fhelm@kemperconsult.com>, "rgrogg@kemperconsult.com" <rgrogg@kemperconsult.com>

<rgrogg@kemperconsult.com>, "cnoonan@dls.virginia.gov" <cnoonan@dls.virginia.gov>, "bfitzpatrick@vmt.org" <bfitzpatrick@vmt.org>, "bjamerson@dls.virginia.gov" <bjamerson@dls.virginia.gov>, "jpalmore@reedsmith.com" <jpalmore@reedsmith.com>, "nbrenner@reedsmith.com" <nbrenner@reedsmith.com>, "noelle.dominguez@fairfaxcounty.gov" <noelle.dominguez@fairfaxcounty.gov>, "bob.garbacz@alexandriava.gov" <bob.garbacz@alexandriava.gov>, "jgwilson@nngov.com" <jgwilson@nngov.com>, "marylou.nexsen@norfolk.gov" <marylou.nexsen@norfolk.gov>, "sudad@chesterfield.gov" <sudad@chesterfield.gov>, "durette@charlottesville.org" <durette@charlottesville.org>, "james.bongiovi@norfolk.gov" <james.bongiovi@norfolk.gov>, "roger@heftywiley.com" <roger@heftywiley.com>, "adelabarrera@arlingtonva.us" <adelabarrera@arlingtonva.us>, "kokeefe@arlingtonva.us" <kokeefe@arlingtonva.us>, "yovonda.bellamy@norfolk.gov" <yovonda.bellamy@norfolk.gov>, "jbaugh@oag.state.va.us" <jbaugh@oag.state.va.us>, "Woods, Michael W." <Michael.Woods@troutmansanders.com>, David Robinson <David.Robinson@alexandriava.gov>, "cparrish@oag.state.va.us" <cparrish@oag.state.va.us>, "henri.steinmccartney@fairfaxcounty.gov" <henri.steinmccartney@fairfaxcounty.gov>, "katherine.leigey@fairfaxcounty.gov" <katherine.leigey@fairfaxcounty.gov>, "henri.steinmccartney@fairfaxcounty.gov" <henri.steinmccartney@fairfaxcounty.gov>, "susan.hafeli@fairfaxcounty.gov" <susan.hafeli@fairfaxcounty.gov>, "davidrobinson@alexandria.gov" <davidrobinson@alexandria.gov>, "yovonda.bellamy@norfolk.gov" <yovonda.bellamy@norfolk.gov>, Patricia Carroll <Pcarroll@arlingtonva.us>, "adelabarrera@arlingtonva.us" <adelabarrera@arlingtonva.us>, "noelle.dominguez@fairfaxcounty.gov" <noelle.dominguez@fairfaxcounty.gov>, "jgwilson@nngov.com" <jgwilson@nngov.com>, "catron@alcalde-fay.com" <catron@alcalde-fay.com>, "lyeatts@hampton.gov" <lyeatts@hampton.gov>, "lea@co.henrico.va.us" <lea@co.henrico.va.us>, "hun05@co.henrico.va.us" <hun05@co.henrico.va.us>, "bernard.caton@alexandriava.gov" <bernard.caton@alexandriava.gov>, "henri.steinmccartney@fairfaxcounty.gov" <henri.steinmccartney@fairfaxcounty.gov>, "trakow@arlingtonva.us" <trakow@arlingtonva.us>

Subject: FW: Passenger Carrier Study report and legislation

Dear Stakeholders,

This is a reminder that any feedback on the Passenger Carrier study report and legislation, and any letters to go in the appendices, must be submitted by Friday, November 3rd.

If you have any questions feel free to contact me.

Janet Smoot

Virginia DMV | Governmental Affairs | (804) 367-2479 | janet.smoot@dmv.virginia.gov |

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From: Smoot, Janet (DMV)

Sent: Wednesday, October 18, 2017 10:57 AM

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Janet Smoot

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A national express Company

September 3, 2017

Janet Smoot

Virginia DMV, Governmental Affairs.

Dear Ms. Smoot:

Thank you for the opportunity to address the proposed changes to the Motor Carrier regulations. First let me say that the process that you have used to determine changes to the statutes has been a model for both engagement and inclusion. For this I thank you, as the retention of "common carrier" was extremely important as it pertained to other sections of the State Code.

Secondly, it appears that you have addressed many of the issues that have been brought to the Department's attention and I support the legislation that you have drafted for presentation to the upcoming legislation session.

I do have several comments on issues that pertain to background checks and vehicle registration/marking.

1. Background check language pertaining to disqualifying events includes the following language:

Line 951 2. Has ever been convicted of or has ever pled guilty or nolo contendere to a violent felony offense as listed in subsection C of § 17.1-805, or a substantially similar law of another state or of the United States;

Diamond agrees with the inclusion of this language as it applies to felony offenses. The question I ask is when you look at 17.1-805 there is a section pertaining to 18.2-57.2 that addresses what in Washington, DC is referred as simple assault. The language is below as follows:

18.2-57.2. Assault and battery against a family or household member; penalty.
A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

The issue is whether the Class 1 misdemeanor would be included due to the fact that it is a misdemeanor and not a felony? Please advise as to how this would be interpreted as it may disqualify an operator that would otherwise be qualified if you only used the felony offense interpretation.

2. Language pertaining to the every two (2) year designation for determining whether someone is on the Sex Offender Registry is to long. It should be "annual" due to the minimal cost and the nature of the risk associated with transportation for persons with disability and seniors. The proposed language is as follows:

3. Before authorizing an individual to act as a driver, and at least once every two years after authorizing a person to act as a driver, a motor carrier shall verify that the person is not listed on the Sex Offender and Crimes Against Minors Registry or on the U.S. Department of Justice's National Sex Offender Public Website.

3. Regarding the language concerning the State/Multi-Jurisdictional Criminal Records Database Search, I want to bring to the Department that this record search is a search of databases of agencies that report and existing files of searches already performed by the third party background check company that is performing the search. Results from these databases should not be relied on and of course do not necessarily yield the same results as an FBI fingerprint check. It is, however, better than not performing the search at all and does indicate a standard instead of no standard. The language is as follows:

. B. 1. Before authorizing an individual to act as a driver, and at least once every two year after State/Multi-Jurisdiction Criminal Records Database Search or a search of a similar nationwide database with validation (primary source search)

4. Finally, my position of registration and marking has been documented on several occasions and should be considered for change as the lack of registration and marking is a public safety issue that needs to be taken seriously. There is now no way that public safety can designate a TNC vehicle operating on the Commonwealth's roads if the operator has failed to place the marker in their window.

Many TNC operators, particularly the ones that come from DC or Maryland, are simply not utilizing the current display of trademark. In lieu of the fact that this regulation is being ignored, the Department needs to return to the registration process so that public safety can know that vehicles are TNC operators when making critical real time safety decisions. The recommendation that I would like to make to the current law is as follows:

. **§ 46.2-2001.2. Identification marker required.**

Line 560. Each motor carrier shall be issued an identification marker, unless the operation is interstate in nature and the carrier has been issued a single state registration receipt by the Department or other qualified jurisdiction. The identification marker issued by the Department shall be displayed on each vehicle except a ~~TNC partner vehicle or~~ daily rental vehicle as prescribed by the Department and shall be valid for the period of time prescribed by the Department.

Thank you for your hard work and attention to these matters of public safety.

Robbie Werth
Diamond Transportation/National Express



November 17, 2017

Richard D. Holcomb
Commissioner, Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond, VA 23269

Dear Commissioner Holcomb,

Thank you for providing Lyft the opportunity to comment on the Passenger Carrier Study Draft. At this time, we have no further comments on the draft study. We look forward to continuing this conversation with your staff.

Sincerely

A handwritten signature in black ink, appearing to read "Funsho Owolabi". The signature is written over a horizontal line that extends to the left and right, with a vertical line extending downwards from the center of the signature.

Funsho Owolabi
Public Policy Manager
[\(347\) 620-5886](tel:(347)620-5886)

From: [Hussey, Rena \(DMV\)](#)
To: [Smoot, Janet \(DMV\)](#); [Whitham, Craig \(DMV\)](#); [Harrison, Patrick \(DMV\)](#); [Boisvert, Gabriel \(DMV\)](#); [Owens, Andrew \(DMV\)](#)
Subject: Fwd: Re: Passenger Carrier Study
Date: Sunday, November 19, 2017 6:40:26 PM

FYI

----- Original Message -----

Subject: Re: Passenger Carrier Study
From: John Donlon <john@uzurv.com>
Date: Nov 19, 2017, 12:30 PM
To: "Hussey, Rena (DMV)" <rena.hussey@dmv.virginia.gov>
Hello Rena,

I have reviewed the revised language that you have shared and believe it is consistent with the original intent/wording, while also meeting the objective of Senator Carrillo.

Thanks for your communication and assistance.

I hope you have an enjoyable Thanksgiving holiday.

Best regards,

John

Sent from my iPad

On Nov 14, 2017, at 4:26 PM, Hussey, Rena (DMV) <rena.hussey@dmv.virginia.gov> wrote:

John,

This particular study was undertaken at the request of Senator Carrico. DMV was specifically asked to examine opportunities to streamline the regulatory structure and licensing process. As the study evolved the current statutory protest provision for applications for a license or certificate of fitness was identified as an unnecessary impediment slowing down the licensing process. This unnecessary delay was identified as a particular concern for applicants that are currently subject to a permit requirement rather than a certificate or license requirement, but that are recommended to move to a certificate of fitness standard which requires an examination of the applicant's fitness. Part of the fitness examination currently involves public notice and opportunity for comment. As we discussed DMV's experience indicates that the public comment period rarely provides information that isn't already available to DMV or that is not discovered through DMV's background check and screening processes.

The proposed language below codifies DMV's existing practice in regard to TNC broker licensing whereby DMV verifies that an applicant for a TNC broker's license has a contract, agreement or arrangement with a TNC and who, in accordance with the contract, agreement, or arrangement, arranges TNC transportation. This statutory language replaces the current assurances afford a TNC through the public comment and protest process.

I hope this helps to explain the situation. Please don't hesitate to contact me if I can provide additional information or clarification.

Rena

From: John Donlon [<mailto:john@uzurv.com>]
Sent: Tuesday, November 14, 2017 3:21 PM
To: Hussey, Rena (DMV)
Subject: Re: Passenger Carrier Study

Hello Rena,

Thanks for your email. Just to be clear, can you explain why this change is being considered/requested? I have read the study that you referenced and saw nothing in the report that related to TNC Brokers, although, did see the interest in removing the Passenger Carrier requirement.

I look forward to hearing back from you.

Best regards,

John

Sent from my iPad

On Nov 14, 2017, at 2:33 PM, Hussey, Rena (DMV) <rena.hussey@dmv.virginia.gov> wrote:

John,

Thanks again for taking a few minutes this afternoon to discuss the passenger carrier study and the below language that we are recommending as part of the resulting study legislation. Please share your feedback as soon as you can as we are finalizing all of the study documentation this week. Thanks.

§ 46.2-2099.18:1. Application for TNC Broker's License

In addition to all other requirements set out by law, an applicant for a TNC broker's license shall submit with its application proof of its contract, agreement, or arrangement with a transportation network company. The Department shall verify the applicant's contract, agreement, or arrangement with the transportation network company prior to issuing the license.

Rena

Rena R. Hussey

VirginiaDMV | Assistant Commissioner | (804) 367-0999 |

rena.hussey@dmv.virginia.gov | www.dmvNOW.com

[Confidentiality Statement](#)

Appendix F: Meeting Documentation

Passenger Carriers Study

TYPE OF MEETING	Passenger Carrier Study
FACILITATOR	Patrick Harrison
MEETING DATE	March 29, 2017
MEETING TIME	1:00 pm
MEETING LOCATION	CRM 702
NOTE TAKER	Craig Whitham
DMV RESOURCE PERSONS	Janet Smoot
SPECIAL NOTES	

ATTENDEES

Name	Agency, Company or Association
Rena Hussey	DMV
Janet Smoot	DMV
Craig Whitham	DMV
Andrew Owens	DMV
Patrick Harrison	DMV
David Dunston	DMV
Latrice Ampy	DMV
Tom Penny	DMV
Jerri Wilson	Newport News
David Suda	Chesterfield County Police
Lt. LaTroy Durette	Charlottesville Police
Lt. Tom Fitzgerald	Charlottesville Police
J.V. Bongiovi	Norfolk Police
Noelle Dominguez	Fairfax County
Susan Hafeli	Fairfax County
Bob Garbacz	City of Alexandria
Mary Nexsen	City of Norfolk
Roger Wiley	Representing Loudoun County
Joe Lerch	Virginia Association of Counties
Angie De La Barrera	Arlington County (by phone)
Kyle O'Keefe	Arlington County (by phone)

Introduction

DISCUSSION	Introduction
<p>Rena Hussey, DMV Assistant Commissioner for Motor Carrier and Tax Services, opened the meeting by welcoming the local government officials, and thanking them for their participation. She stated that the purpose of the meeting was to provide information to the officials, and discuss with them</p>	

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for-hire passenger transportation in their localities as it relates to the study the General Assembly requested DMV to undertake this year. After introduction of DMV staff and guests, Rena turned the meeting over to Patrick Harrison, Director of Motor Carrier Services.

DISCUSSION	Purpose of Meeting/Recap of 2016 TNC Report and TNC-Related Legislation
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Patrick began by noting the information sent prior to the meeting, which included the study charge letter from Senator Carrico, the list of issues that DMV plans to address through the study, as well as details from the 2016 TNC report submitted to the General Assembly. Patrick noted that this report contained recommendations for the General Assembly, which were enacted during the 2017 session. In light of the changing nature of passenger transportation, taxi and limousine companies approached both DMV and General Assembly members requesting a review and revision of their current operating requirements.

Based on the charge letter and the requests from industry, the 2017 study will address numerous issues, including regulatory structure, for-hire license plates, identification markers for passenger-carrier vehicles, competitive fairness among different business models, and more. Patrick also detailed some of the requests made by the taxi and limousine industry. These include for-hire license plates, identification markers, changes to insurance requirements, and changes to some terminology as it relates to how transportation is arranged.

Patrick next noted that, as DMV staff began to look at the charge letter and the requests from industry, one potential solution was to combine operating authorities in order to achieve fairness across business models. He noted that this discussion must start with the local government officials, as they are the primary regulator of taxi services in Virginia. He noted that DMV staff wants to hear from localities about information they have received from local businesses, and get their views on the issues being discussed through the study.

Patrick next moved into a recap of some of the data contained in the 2016 TNC report. This included data on the number of registered TNC vehicles (until registration ended on March 25), the number of law enforcement contacts with TNCs and other passenger carriers, complaints received about each, and the results of the TNC compliance review. Patrick noted that the increase in TNC registrations (approximately 185,000 as of March 25), has contributed to a decrease in the number of vehicles under other operating authorities. This includes an approximately 9 percent reduction in the number of permitted taxis statewide between June 2014 and February 28, 2017. Finally, Patrick noted that until now, DMV enforcement of TNCs has focused on educating the drivers on their operating requirements. Now that the statute has been in effect for nearly two years and the 2017 legislation eliminated the registration requirements, these contacts will now focus on enforcement of the statute instead of warnings and education.

After Patrick's review of the TNC report and the outline of the study, Craig Whitham with DMV Legislative Services, provided a review of the bills from the 2017 General Assembly that dealt directly with changes to the TNC statute and the markets that TNCs serve. He provided details on three bills:

- **Licensing of Property Carriers (HB 2026/SB 1364):** These bills combine several operating authorities into one broad authority for property carriers, amends the definition of household goods carriers, sets new insurance limits for property carriers based on the gross vehicle weight rating of the vehicle being used, exempts certain carriers from regulation, and eliminates the requirement for property carriers to display for-hire license plates.
- **New TNC Fee Structure (HB 2032)** These bills allow transportation network companies two fee options

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when applying for an original or renewal of a certificate. A transportation network company may either pay the existing certificate fees of \$100,000 upon application and \$60,000 for renewal, or pay a \$20 surcharge per record when purchasing a driver transcript in addition to the current transcript fee.

- **Repeal of TNC Vehicle Licensing** (HB 2019/SB 1366) These bills eliminate the requirement that TNC vehicles be registered with DMV, including the requirement that TNC vehicles display decals issued by the Department. In addition, it states that out-of-state safety inspections may be acceptable for TNC vehicles in lieu of a Virginia safety inspection provided Virginia State Police has determined that such motor vehicle safety inspection standards adequately ensure public safety.

After reviewing these bills, Noelle Dominguez noted that there were also other bills in the recent session dealing with taxis and related services. She noted a bill allowing localities to repeal the requirement for taxis to display roof signs and allowing localities to permit GPS-based calculations of distance and time for the purposes of taxi meters. She also noted SB 1494, dealing with TNC brokers.

Patrick addressed TNC Brokers, providing details on the new company that led to this legislation being introduced. He noted that previous law required brokers to arrange transportation with licensed motor carriers, but that TNC drivers are not motor carriers. Therefore, a new operating authority was needed to accommodate this model. Craig added that the law requires a TNC Broker to have a contractual agreement with a licensed TNC in order for its drivers to work with the broker. Patrick noted that there is significant disagreement over what an, "agreement" or "arrangement" constitutes, and that this issue is still being debated by industry.

DISCUSSION	Discussion with Stakeholders: Changes in Local Taxi Regulations
	<p>After the information provided by DMV staff, Patrick asked the stakeholders to provide any information they have on the state of taxi regulation, including any changes they have made, and for their reaction to the issues being addressed by the charge letter and the taxi and limousine industries.</p>
	<p>Noelle Dominguez noted that last year Fairfax County undertook a complete review of its taxi ordinances and updated them in consultation with local taxi providers. Susan Hafeli provided the details on those changes made, and noted that Fairfax was very receptive to the concerns of the taxi companies that local regulations needed to allow them to compete in the current marketplace. Some of the changes include:</p> <ul style="list-style-type: none"> - Increasing the maximum age of a taxi from 6 to 10 years - Reducing the frequency of vehicle inspections - Increasing the maximum mileage for a taxi from 380,000 to 500,000 miles - Permitted GPS-based metering and changes to the minimum fare structure - Streamlined driver training programs making it easier to get drivers approved to provide service - Roof signs no longer need lighting to indicate that a vehicle is in service
	<p>Rena noted that many of the regulations that Fairfax recently amended were, in fact, requested by the taxi industry over many years. She noted that requirements for roof signs were one of those requests on the state level, and stemmed from some taxi companies conducting business under the operating authority for Non-Emergency Medical Transportation Service providers. Susan concurred, noting that Fairfax proposed eliminating certain ordinances only to learn that taxi companies were not in favor. These included scrapping the ordinance that caps the total number of taxi permits in the county, and the rule that those seeking new taxi permits must prove public convenience and</p>

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necessity (PC&N).

Joe Lerch asked Susan how many taxis are currently permitted in Fairfax. Susan responded that the maximum number of permits allowed is 654, but that it is likely that as many as 200 are currently not being used. Joe asked what portion of those taxis has to be ADA-accessible. Susan responded that currently seven percent of the fleet is ADA-accessible, which is higher than the four percent required by ordinance. Joe also asked if Fairfax had information on the clientele using taxis, speculating that its customers could represent disadvantaged communities. Susan responded that the elderly and disabled tend to prefer taxis, but also noted that the blind and vision impaired have responded well to TNCs.

Joe also asked if taxi companies made any comments on background checks. Susan responded that, yes, taxi companies did express an interest in background check procedures as a way to speed up the process by which drivers are approved to operate. She also noted that, in the same vein, taxis wanted to eliminate the driver test; however, Fairfax retained this requirement.

Tom Fitzgerald with the Charlottesville Police Department asked DMV if it could produce the number of TNC vehicles operating in each jurisdiction, noting that this would make it easier to fill out the quarterly report requests from DMV. Patrick responded by noting that, when DMV was registering TNC vehicles, it could produce a list of all TNC vehicles garaged in a particular jurisdiction; however, this was not an indication of how many vehicles were actually providing services at any given time. He also noted that DMV will no longer be able to make this determination, as the vehicle registration process has ceased. Rena also noted that the quarterly report asks localities to report the number of TNC vehicles (and other passenger carriers) that they stop, not the total number of vehicles operating.

Tom continued by noting that it will be more difficult to identify TNC vehicles without the DMV-issued decal. It could lead to police officers asking each vehicle it stops if it's providing TNC service. Jim Bongiovi with the Norfolk Police Department noted that identifying TNC vehicles by trade dress is difficult because many of the vehicles have tinted windows. In response, Rena noted that if the trade dress is not displayed in a way that it is visible, then the driver is out of compliance and the law enforcement officer can issue a citation. She also told the stakeholders that DMV has notified Uber and Lyft that law enforcement has moved from the education phase to issuing citations for violations of the TNC statute.

Tom Penny with DMV Enforcement and Compliance noted that the cases in which DMV officers have issued citations, the Commonwealth's Attorneys have had success prosecuting these cases and that judges have understood the violations and upheld the citations.

Next, Angie De La Barrera from Arlington County provided stakeholders details on the changes that jurisdiction has made regarding taxi services. Arlington also undertook a review of taxi ordinances in 2016, and made the following changes:

- Removed the age limit for taxi vehicles
- Changes to the requirement for lighted roof signs
- Allows GPS-based metering, but the meter must still display the total fare to the rider
- Changes to the color schemes of taxis, to include the use of magnetic signs instead of paint
- Streamlined the driver testing process

Angie noted that, in addition to these changes, Arlington is also exploring the possibility of allowing taxis to use app-based models, and making changes to the fare structure. Angie also noted that Arlington has a cap on taxi permits at 847, although 15-20 percent of those are not in use. Of the 847 permits available, 97 are for ADA-accessible vehicles, although 50 percent of those permits are

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not being used. Kyle O'Keefe with the Arlington Police Department noted that taxi companies simply cannot find drivers to operate the ADA-accessible vehicles. He stated that the purpose of the review of taxi regulations is to level the field for all companies.

Tom Fitzgerald returned to Non-Emergency Medical Transportation (NEMT) companies, and asked for more information on the permitting process. Patrick and David Dunston provided the requirements that an NEMS operator must meet, noting that in most cases, the driver is not paid directly, but compensated through payments from Medicaid to the company. In response, Tom noted that many taxis from surrounding jurisdictions come to get a license in Charlottesville, but also provide NEMS services in their localities. He asked if he should instruct these drivers to get an NEMS permit from DMV. Rena responded that, as long as these vehicles are meeting the standards of the locality in which they are licensed, there is no need to get an NEMS permit.

Susan Hafeli noted that one reason taxi drivers switch to TNCs is that the taxi company requires them to lease the vehicle, which is a considerable expense. Craig Whitham noted that there are no state regulations requiring this type of arrangement. Susan agreed, adding that there are no local regulations, either. This is simply a business practice of the taxi industry and could be changed if they so choose.

Bob Garbacz with Alexandria agreed, noting that all the vacancies in his jurisdiction are with the traditional taxi companies. He noted that, like Fairfax and Arlington, Alexandria has made changes to taxi regulations, but they do not appear to have caused an increase in taxi permits being used. Susan agreed, noting that some of the items on DMV's study list (such as for-hire license plates) are peripheral, and will likely not provide any real help to the taxi industry. Bob also noted that Alexandria suggested changes to the taxi fare structure, but that local taxi companies did not support this idea. He also told stakeholders that Alexandria has made other changes to the taxi laws, including vehicle age limits. Finally, he noted that Alexandria increased from six to 18 months the length of time a taxi permit can be issued but not used, and reduced the amount of time needed to pass the driver training and exam.

Officer Bongiovi reported that there are 10 taxi companies with two family owned companies handling most of the taxi service in Norfolk. They have 250 cabs with 205 in service. They are not getting complaints from owners. They do receive complaints from the taxi operators at the airports about the TNCs but those working the streets are still making money. The TNCs do not appear to have had a disruptive affect in Norfolk.

DISCUSSION	Discussion on Future Changes to Taxi and Limousine Laws
	<p>Craig Whitham began this part of the discussion by asking the localities if any of them had considered moving away from a fingerprint-based background check. While Susan noted that taxi companies in Fairfax had indicated an interest in such a change, the county did not make any such changes, and had no plans to do so in the future. All other localities also stated they have no plans to move away from a fingerprint-based background check.</p> <p>David Suda with the Chesterfield County Police Department provided some information on its regulatory scheme. He noted that Chesterfield, Henrico and Richmond have a taxi agreement allowing regional operation. Chesterfield does do fingerprint background checks, but he noted that Henrico and Richmond do not perform any background check.</p> <p>David noted that they consider the fingerprint check the best because it uses the FBI database to perform a national criminal history check. Tom Penny responded by noting that, prior to the original TNC study, he believed that a fingerprint check returned the best results; however, after</p>

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hearing from the background screening companies and Virginia State Police, he believes that both return very accurate results. He also noted that if someone has no prior criminal record, no background check provides any useful information. Jerri Wilson from Hampton Roads noted that on a recent Uber ride in Richmond, a notification appeared on her app stating that the driver was "safety certified," which she believes indicated that he had been through a higher level of screening. DMV staff was not aware of such a feature, and will ask TNC representatives whether this is accurate.

Roger Wiley representing Loudoun County noted that Loudoun is the largest county in Virginia that does not have a police department, they have a sheriff's department, and they do not regulate taxi services at this time. He noted that the county is considering a taxi ordinance, but that it is unlikely to be as detailed as Arlington or Fairfax but more equivalent to what is done with TNCs.

Jerri Wilson noted that her jurisdiction had discussions about changes to taxi ordinances, but the local taxi companies expressed concerns about making modifications. She indicated the local government did not know why the taxi companies opposed any changes. She also noted that, while TNCs did draw drivers away from taxi services, some of those drivers have switched back to taxis, stating that they believe they can make more money.

Joe also asked if the counties that regulate taxis have records for each driver. All indicated they do. Joe noted that this is different than TNCs, where neither the state government nor local governments have any record of TNC drivers. He said that he is concerned that this disparity makes it hard to create an equal regulatory field. He also noted concerns about services to the disadvantaged communities.

Joe also asked for some specifics on how the screening companies that the TNCs use for background checks operate. Craig responded by noting that these companies establish places of residence, then perform a criminal check in each of those jurisdictions. Tom Penny continued by noting that DMV law enforcement have run NCIC checks on some of the TNC drivers they have stopped and that to date, none of them have had criminal records that would have disqualified them from service. This would tend to support the idea that the screening process is not allowing those with criminal records to operate for a TNC.

Craig also noted that the Virginia TNC statute has a long list of barrier offenses against which a driver's record must be checked, and that the annual audit allows DMV to determine if the TNCs are conducting this check and properly using the results to screen drivers. Rena also noted here that there are many for-hire passenger carrier drivers that are not required to have any background check, noting limousine and executive sedan drivers operating for a Contract Passenger Carrier or an Irregular Route Common Carrier.

Rena followed this comment by asking the stakeholders if they would like to have a conference call with representatives from the background screening companies used by the TNCs. She noted that DMV had these meetings in 2014 and found them very informative. All stakeholders said they would like to participate in such a meeting to gain a better understanding of the process and the results it generates.

Next, Bob Gorbacz asked what it would take for TNCs to become ADA compliant. In response, Craig noted a DRPT study from 2016 that looked at paratransit services as it relates to TNCs. That study appeared to draw the conclusion that ADA compliance is required if the transportation provider was under contract with a government or other public entity. If this is the case, TNCs that do not contract with a government would not be required to provide ADA-compliant vehicles. Jerri Wilson noted that some localities have created categories of disabilities, with some (such as the vision impaired) being able to use TNCs, while the mobility challenged still require special vehicles for transportation.

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Tom Fitzgerald asked the other localities if they make or lose money from taxi regulations. He indicated that Charlottesville is one of the cheapest areas for driving a taxi (\$5 car, \$10 driver). Susan Hafeli said she was not sure, but listed the charges associated with becoming a taxi operator in Fairfax. Bob Gorbacz said that Alexandria loses money on taxi regulation, and Roger Wiley noted that it's likely a revenue loser statewide.

DISCUSSION	Looking Ahead to Passenger Carrier Study
	<p>The discussion next moved into the upcoming study, the direction it will take, and the issues that will be discussed.</p> <p>Jerri Wilson asked if the study was headed toward recommendations suggesting state control of taxi services. Rena replied that DMV enters the study, as always, with no pre-conceived notions about the final recommendations. The issues listed in the charge letter, and others brought up by stakeholders, will have a complete discussion by all interested parties, and consensus will try to be reached. That is how DMV conducts studies, and this one will be no different.</p> <p>Mary Nexsen noted that taxis in Norfolk have not asked for changes to local ordinances, but stated that the city would be open to changes that are proposed. She stated that there is a desire for taxis to modernize their appearance, since TNC drivers use their personal vehicles, which are often newer and provide more amenities than taxis. Tom Penny asked the Norfolk representatives if taxi companies and other transportation providers are permitted on the naval bases (Norfolk, Little Creek, etc.). Jim responded that drivers are allowed on base, so long as they have obtained a base pass.</p> <p>Angie de la Barrera asked DMV if it would no longer be able to provide counties with the number of TNC vehicles garaged in a particular locality. Craig responded that, after repeal of the registration process, DMV would no longer have this information to report to localities. Angie noted that Arlington officials have not had requests from taxi companies stating a desire to change the background check process, but that the county is open to discussing the system after the proposed meeting with the background screening companies. Angie also suggested that DMV add the following items to the study discussion:</p> <ul style="list-style-type: none">- Regulations on street hailing- Taxi reciprocity between jurisdictions/taxis being licensed in multiple localities- Maintaining service for disadvantaged communities, ADA, schools and seniors <p>Angie noted that northern Virginia localities have discussed reciprocity in the past, but that this study might be a good way to more deeply explore this concept. Patrick Harrison noted that these items would be added, and thanked Angie for bringing them to DMV's attention.</p> <p>Susan Hafeli noted that Fairfax may have some concerns with the taxi companies' desire to eliminate the taxi license plate, noting that if the counties change the marking requirement, it may make it more difficult for law enforcement to identify the vehicles. Noelle Dominguez also noted that Fairfax is comfortable with the recent changes to its taxi ordinances, but that the county would not be in favor of the state government either requiring it to place additional regulations on taxis, or removing the county's ability to set taxi requirements.</p> <p>Joe Lerch asked about the study timeline. Janet Smoot responded that it would follow the timeline of previous studies. DMV staff would meet with all stakeholder groups throughout the spring and</p>

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summer, hopefully concluding by August. DMV staff would then draft the report and any recommended legislation and share it with the stakeholders. She noted that the report is due to the Senate Transportation Committee no later than December 1 of this year.

DISCUSSION	Conclusion
<p>Patrick Harrison concluded the meeting by thanking everyone for their participation and the information and ideas they shared with DMV. Janet Smoot noted that DMV will provide minutes from the meeting, as well as a revised list of study topics based on today's meeting. She also noted that DMV will continue to provide information on the study's progress, as well as additional meetings in the future.</p>	

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TYPE OF MEETING	Passenger Carrier Study – conference call on background checks
FACILITATOR	Janet Smoot
MEETING DATE	May 10, 2017
MEETING TIME	1:00 pm
MEETING LOCATION	CRM 702
NOTE TAKER	Gabe Boisvert, Janet Smoot
DMV RESOURCE PERSONS	
SPECIAL NOTES	

ATTENDEES

Name	Agency, Company or Association
Michael Brown	Amerisearch Background Alliance
Jerri Wilson	City of Newport News
Bob Garbacz	City of Alexandria
Noelle Dominguez	Fairfax County
Bob Garbacz	City of Alexandria
Stephen Story	James River Transportation
Joe Lerch	Virginia Association of Counties
Angie De La Barrera	Arlington County (by phone)
Kyle O'Keefe	Arlington County (by phone)
Rena Hussey	DMV
Janet Smoot	DMV
Andrew Owens	DMV
Patrick Harrison	DMV
David Dunston	DMV
Latrice Ampy	DMV
Gabe Boisvert	DMV

Introduction

DISCUSSION	Introduction
	<ul style="list-style-type: none"> The conference call began by introduction of all participants. Janet Smoot of DMV opened by stating that Michael Brown, VP of Compliance with Amerisearch Background Alliance was on the line to present an overview of what his company does in regards to background checks. To note the process and the resources used. She noted that localities handle taxicab regulations, and most require fingerprint based background checks. TNCs, in contrast, are regulated by the state and a fingerprint background check is not required. They utilize outside companies. During the 2014 TNC study staff from DMV and State Police held conference calls with the companies performing the checks for Uber, Lyft and Sidecar to learn about the process used and the resources. The group felt comfortable with these checks. The meeting today was so representatives from localities could obtain more information about these companies and how

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they perform their checks. James River Transportation utilizes Amerisearch to perform the background checks on their employees.

DISCUSSION

Presentation by Michael Brown of Amerisearch

Michael Brown provided an overview of Amerisearch, a name check background company, and presented on their process.

- Amerisearch was established in 2006 and was originally in the transportation business.
- They employed a large company to do background checks, but a lot of what they were doing violated the Fair Credit Reporting Act (FCRA).
- Michael Brown became a member of the committee within the National Association of Professional Background Screeners (NAPBS) which developed standards for background checks.
- Fingerprint background checks are largely done by the federal government, and often turn up more information than can be legally reported under the FCRA.
- Generally speaking, when it comes to background checks, more information is better, and taking away elements reduces the chance of finding a record.
- Michael Brown noted that finger print based FBI record checks do miss things that would get picked up elsewhere.
- Before you can report something, you must be very certain that the accusations comply with federal and state law. The latter, especially, can be quite restrictive in some places.
- It is not uncommon for people to run the FBI database and ignore FCRA. For example, the FBI database will turn up an arrest record from 1971, but under FCRA you can't report that.
- This can be problematic, in that you generally cannot sue the government for reporting things in violation of FCRA due to sovereign immunity. But you can sue a private company. So they must be cautious.
- For anything that the name database turns up, Amerisearch will send people to the court, clerk's offices, to find out if it is true.
- The check can only be as good as the records underlying it – or, as noted, "garbage in, garbage out."
- Amerisearch has a database which gets 55% of court records, but clients don't see those results.
- They also do a seven year search, which can require researchers to go to the clerks' offices to pull records.
- Federal records may also need to be pulled – in the DC area, for example, there are a lot of federal traffic tickets due to federal roads (e.g. the GW Parkway). Otherwise, federal crimes are pretty heinous.
- Yet federal courts are their own entities, and may or may not report things.
- They'll do a social security trace, where individual has lived the last 7-10 years. Researches will be sent to look at court records, etc.
- Some states have statewide repositories – NY, PA, and GA are examples. Others may not be wholly up to date, or may not have great access for private industry, and so are not checked. VA is one of the states they do not access.
- They'll also check if there are other locations they should be checking (some commit crimes where they don't live) – mostly through their database.
- Also not uncommon to find someone has multiple driver's licenses. They use CDLIS as a

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resource.

- FMCSA generally expects background checks for 5 years on drug and alcohol, 3 years otherwise. Yet someone else requires 10 years? (Need clarification on that.)
- They tend to pull 7 years, per the FCRA.
- Crash reports may be available, although not all states talk to each other – they'll pull those if they can.
- Expunged records sometimes show up, but those cannot be reported.
- All of this tends to take 1-2 days through the Amerisearch process, while FBI can take 2 to 3 weeks.
- Additionally, reports from Amerisearch go directly to the client, where FBI reports cannot go directly to the client. FBI reports may go to the applicant; however, the concern is they may be altered before being submitted to the hiring company.
- Ideally, you would pull both FBI and a name check database for maximum coverage – again, each may have something the other misses. But that's not always feasible.
- Amerisearch's process is very secure, and can be done online. The FBI is a more manual process.
- Stephen Story from James River noted that they had used different companies over the year, and have found Amerisearch to be a good partner that has educated them on what needs to be done. He indicated that the FBI check is not sufficient, doesn't do enough.
- More searches are better, but the return on investment isn't always worth it. So they've found a happy point.

DISCUSSION	Question and Answer Portion
Janet Smoot asked if the localities had question for Mr. Brown.	
<ul style="list-style-type: none"> • Bob Garbacz from Alexandria asked about bogus names – how do they ensure you don't get a bogus name? <ul style="list-style-type: none"> ○ Michael Brown said that they do social security address traces which note every time a name has been used in conjunction with an SSN, which can help determine where a person lived and what other aliases they may be using. ○ It's not uncommon to have multiple names, and they decide on a case by case basis whether to check aliases. For example, someone who changed their name on marriage 15 years ago is unlikely to have their maiden name checked. Other times, they'll refer information to the client and ask them how to proceed. ○ There are also court researchers, and they can apply human discretion. • Stephen Story noted the background check process is not a simple process. You have to set minimum standards and the ball is in the court of the company to meet those standards. Quality can be varied. The goal is to hire quality employees. • Michael Brown noted that his process is 95-98% effective – they'll admit that they miss things, though it's rare. • Joe Lerch asked about the Ohio web check program. <ul style="list-style-type: none"> ○ Michael said that the Ohio web check is the program in that state for doing a fingerprint 	

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- background check.
 - They have a contract with Ohio to take fingerprints for people who need checks per Ohio law. Some industries require those checks.
 - There is a statewide database in Ohio through their Bureau of Criminal Investigation, but not all counties report.
 - Michael noted that Ohio does hire their company to run background checks on parolees they are assisting with job searches to get a more complete history of their background.
- Angie de la Barrera from Arlington had four questions.
- She first asked who audited Amerisearch.
 - A number of folks do – the CFPB, their association, the credit reporting agencies, and more.
 - It is fairly thorough.
- Next, Angie asked about the turnaround time.
 - It depends on the state.
 - If the clerk must pull the file, it can take 2 weeks. This is the case in New Hampshire.
 - In states where the researchers can pull the file, 1.75 days is the average.
- Next, Angie asked whether they do on-going checks.
 - This is a service they offer, and some clients, including James River, take advantage of it. For James River they monitor every day and update every 2 weeks.
 - Other clients choose not to do it this frequently. Amerisearch recommends repeating a background check every 12-18 months, but it is up to the client as to whether they want to do it.
 - Nonetheless, most transportation companies do pull new motor vehicle records once a year.
- Do they run FBI background checks for TNCs?
 - Where it is requested, they run FBI background checks. They run it for some Motorcoach companies. They, Amerisearch, are not allowed to see the results.
- Rena Hussey from DMV asked to whom FBI background checks can be revealed.
 - They can be revealed to government entities, the individual/driver in question, and to some businesses in regulated industries where federal law allows (e.g. banks).
 - Mike noted that there are a lot of lawsuits regarding misuse of FBI data, which is one of the reasons they prefer to stay away from it.
- Rena asked where James River gets their FBI results from.
 - Michael Brown said that their system can get “clear” records, but that at least in Ohio businesses must get a direct record.
 - If the FBI check results go to the applicant, there’s a risk of modification.
 - Stephen Story said that they generally don’t run FBI checks. Some contracts have requested it, but they usually get it written out of the contract after explaining the process they use. They have not had any “push back”.
- Bob Garbacz from Alexandria asked if they wanted it written in their law to allow taxi companies to do private background checks, what checks would they recommend be done.
 - Michael recommended that the checks include:
 - Social Security Trace
 - Consent Based SSN Verification (if available)
 - 7 year unlimited county searches
 - 50 State Sex Offender Registry
 - Interpol

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- OFAC
- Federal Record searches.
- There are also optional searches that could be done, such as DOT searches.
- Running E-Verify is also useful for confirming the person's identity and eligibility to work in the country.
- Fairfax (not sure the person, but not Noelle Dominguez) (Gabe, I'm only aware of Noelle participating?) asked about Virginia criminal records, and why they don't feel that the Central Criminal Records Exchange counts.
 - Michael said that you can't get to it without fingerprinting, and that access has been a problem, so he doesn't rely on it.
 - Fairfax said they could pull it if they wanted to, and Michael thought that perhaps governments have better access. But he will check again.
- Gabe Boisvert from DMV asked about why they pull OFAC records.
 - Mike said it is to check for terrorists.
 - In 10 years, they found their first one this year and were able to stop him.
- Andrew Owens from DMV asked about FCRA requirements. Michael responded as follows:
 - The FCRA does put in requirements for background checks – the information must be accurate, and some types of information cannot be disclosed.
 - You also have to send out a pre-adverse action letter to the applicant giving them time to review the information and contest it – its 5 days in law, but Amerisearch gives 7.
 - No adverse action can take place until the time to dispute has run out.
 - If there is a dispute, they'll re-verify the information. They've found 2 mistakes in 10 years.
 - More commonly, people call asking for advice.
 - Background checks are seen these days as a condition of hiring and employment. It's looked at in that way.
 - Problems begin when you violate the law, like reporting expungement records. So they try to follow the law, and they are good at it.

Meeting Ending

The meeting ended with much appreciation to Michael Brown of Amerisearch for providing this information.
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DMV staff will be back in touch with stakeholders as the study proceeds.
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TYPE OF MEETING	Passenger Carrier Study
FACILITATOR	Patrick Harrison
MEETING DATE	May 24, 2017
MEETING TIME	1:00 pm
MEETING LOCATION	CRM 702
NOTE TAKER	Craig Whitham
DMV RESOURCE PERSONS	Janet Smoot
SPECIAL NOTES	

ATTENDEES

Name	Agency, Company or Association
Rena Hussey	DMV
Janet Smoot	DMV
Craig Whitham	DMV
Andrew Owens	DMV
Patrick Harrison	DMV
David Dunston	DMV
Latrice Ampy	DMV
Gabriel Boisvert	DMV
Barbara Arkwright	DMV
Barbara Klotz	DMV
Chrissy Noonan	Division of Legislative Services
Beth Jamerson	Division of Legislative Services
Janet Baugh	Office of the Attorney General
Rebecca Nichols	SCC Bureau of Insurance
George Lyle	SCC Bureau of Insurance
Jason Holloway	SCC
Kevin Davis	SCC
Charlie King	Red Top Cab/Virginia Taxi Association
Chuck Duvall	Lindl Corporation/Virginia Taxi Association
Judy Swystun	Black and White Cab/Virginia Taxi Association
Stephen Story	James River Transportation/Virginia Motorcoach Association
Doug Douglas	Virginia Motorcoach Association
James Brown	Magic Carpet Tours/Virginia Motorcoach Association
Morgan Brown	Magic Carpet Tours/Virginia Motorcoach Association
Lisa Foster	Eckert Seamans/Allstate
Jacqueline Grice	J. Diamond, Inc.
Linda Morris	Virginia Motorcoach Association
John Ayers	Trial Lawyers Association

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Randy Allen	Virginia Limousine Association
Michael Cooper	Metropolitan Washington Airports Authority
Colleen Von Hoene	Metropolitan Washington Airports Authority
Joseph Alberti	Richmond International Airport
Edward Mullen	Reed Smith/Uber
Emily Madavo	Uber
Nicole Brenner	Reed Smith/Uber
David Skiles	Vectre Corporation/Uber
Patrick Cushing	Williams Mullen/Lyft
Glenn Stafford	Love Limousine/Virginia Limousine Association
Paul Walsh	Superior Executive Transportation/Virginia Limousine Association
Robbie Werth	Diamond Transportation
Chris LaGow	Nationwide, Chubb, PCI
Jonathan Trainum	Napoleon Taxi
Joe Lerch	VACo
Mike Polychrones	VML
Angie de la Barrera	Arlington County (By Phone)
Pat Carroll	Arlington County(By Phone)
Noelle Dominguez	Fairfax County(By Phone)
Mitch Nuckles	Commissioners of Revenue(By Phone)
Wayne Garrett	Henrico Police Dept./Chiefs of Police
Lt. Ted Jones	Virginia State Police
Kevin Koziol	Va. Assoc. of Centers for Independent Living
Bob Marland	Richmond Police/Chiefs of Police
Ross Grogg	Kemper Consulting/Consumer Data Industry

Introduction

	Introduction
	<p>Rena Hussey, DMV's Assistant Commissioner for Motor Carrier and Tax Services opened the meeting by welcoming all the stakeholders to this year's Passenger Carrier study. She noted that the meeting was well-attended, with both new and familiar participants. Rena informed the group that a charge letter from Senator Carrico is the basis of this study, and then asked Patrick Harrison to provide additional background on both.</p> <p>Patrick Harrison, Director of Motor Carrier Services, started by providing details on the genesis of this study. The 2015 legislation authorizing TNC services in Virginia included a requirement for DMV to enforce the statute and provide a report to the General Assembly in December 2016 on the first 18 months of TNC operations. One section of this report contained a recommendation for continued study of changes in the marketplace and other issues related to passenger transportation services.</p> <p>In response to this report, Senator Carrico, Chairman of the Senate Transportation Committee, sent DMV a charge letter asking the Department to review the items in the report. These items included:</p>

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- Distinguishing between “prearranged ride” and “prearranged basis” for passenger transportation
- Updating terms such as “wireless dispatch device” to reflect current market practices
- License plates and decals for Virginia passenger carriers
- Changes to insurance requirements to meet current market practice
- Consolidating passenger carrier operating authorities and a review of the requirements of each
- Issues regarding leased vehicles
- Whether to require proof of insurance in each passenger carrier vehicle
- Elimination of passenger transportation Brokers
- Established places of business for passenger carriers

These items reflect not only findings of the 2016 Report, but also issues brought to the attention of DMV by several of the study stakeholders. Based on these items, DMV determined that the study should focus on three categories:

- Updating and simplifying the passenger carrier regulatory structure
- Limitation of regulations to public safety and consumer protection
- Fair and equitable regulatory structure

These broad categories encompass many questions that DMV believes the study should address. These topics were listed in the handout provided by DMV prior to the meeting.

Patrick noted that several of the items listed above reference practices of the taxi industry. Since local governments have primary responsibility in regulating taxi services, DMV held an initial meeting with representatives from Arlington, Fairfax, Alexandria, Newport News, Loudoun, Chesterfield, Norfolk, Charlottesville, VML and VACO to gather information on how they have been addressing changes in the industry. Several of the localities told DMV of recent updates to taxi ordinances done at the request of the taxi industry. Minutes from this meeting were sent to all stakeholders.

Next, Patrick provided information on the structure of the meeting, where representatives from numerous passenger carrier industries will respond to the issues outlined by DMV, as well as provide any comments they have and suggestions for other topics to consider.

SPEAKER	Charlie King: Arlington Red Top Cab/Virginia Taxicab Association
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Charlie started by thanking DMV for convening a study to discuss these issues and noted that the taxi industry is interested in discussing them. He stated that the regulatory requirements for Virginia passenger carriers are there to protect the public, and not business models as some have suggested. He believes that the current requirements have not outlived their usefulness, even if some can be updated.

As the owner of taxi cab companies, Charlie said he views this industry differently than other passenger carriers, as taxis are regulated primarily by local governments. He urged caution on consolidating operating authorities, and stated his view and that of the VTA that taxi regulation should remain at the local level. He also noted that the local governments that regulate taxis also expressed their support for maintaining the ability to enact taxi ordinances. Charlie also stated that to his knowledge, Arizona is the only state that has deregulated passenger transportation, and that was in the 1980s. He said that consolidation could be an outcome of the study, but should not be a stated goal.

Charlie continued that the passenger carrier industry is changing rapidly, and that none of the

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carriers present have a clear picture of where the industry will be in several years. Given that uncertainty, he urged caution at wholesale revision of current laws. Charlie next addressed the issues listed in the handout. The chart below summarizes his comments on the relevant issues.

Issue	Position
Public Convenience and Necessity	Meant to protect public safety and shouldn't be dropped
Tariffs	Designed to protect against unfair pricing
Bonds	Designed to protect against bad business practices
Driver Screening	Supports fingerprint background checks for all carriers
Insurance	No changes without detailed discussion first
Vehicle specifications	Need further discussion and understanding
Regulatory Fairness	Might not work in all areas; believes all should pay same taxes
Common Carriers	No opinion, but noted tax treatment as an issue
Local Regulations	Allow localities to continue taxi regulations

SPEAKER	Stephen Story/James River Transportation
	<p>Stephen Story also thanked DMV for undertaking this study, and said that he was speaking on behalf of the Virginia Motorcoach Association. He noted that similar stakeholder meetings have been very successful, and that he hopes this one will prove to be the same. He noted that the VMA's highest priority is always passenger safety, and that regulations as well as business practices should always be geared toward this outcome. He also stated that companies in the passenger transportation business must be flexible and adapt quickly to changing market conditions in areas such as pricing and new services. He stated that state law should protect public safety, but allow companies to make quick changes to business models when necessary.</p> <p>Stephen then reviewed the positions and views of the VMA to the issues raised by Patrick at the outset of the meeting. These positions are summarized in the chart below.</p> <p>Stephen also provided additional views on background checks for drivers. He explained to the group that his company is not required to perform background checks, but like many, does so as a sound business practice. In his view, the purpose of any background check should be to confirm a person's identity, and to return the most complete view of their record. He noted that fingerprinting is an excellent way of verifying identity, but there are other ways to verify identity.</p> <p>Stephen noted that no single system guarantees success, but the vendor checks provide the most complete view of any criminal record. Some of the databases accessed by the fingerprint checks are at times only 50% accurate, and they also are restricted to reporting convictions. By contrast, the vendor he uses sends staff to local courthouses to search for all records, including arrests and indictments.</p>

Issue	Position
Consolidation of Authorities	Supports consolidating carrier types to as few as possible with minimal operational limitations. Carriers need flexibility in operations and pricing.
Public Convenience and Necessity	Supports elimination, as no longer relevant

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Tariffs	Supports elimination, as no longer relevant
Background Checks	Believes all carriers should be required to perform consistent checks
Insurance	Supports consistent requirements
Brokers	Supports elimination, as no longer relevant
Bonding	Supports elimination, as no longer relevant
Rental Vehicles	Supports the use of rental vehicles
Bonds	Supports elimination, as no longer relevant
Common Carriers	Supports retaining Regular Route Authority designation, due to tax treatments

SPEAKER	Robbie Werth/Diamond Transportation and IRCCs
<p>Robbie started by thanking DMV for conducting this study, and indicating that he was here representing the views of Irregular Route Common Carriers (IRCCs). He stated that he believes passenger and public safety drive all industry actions and should be the focus of regulation, and that most incidents which have occurred in the last 40 years came about as a result of loopholes in the law.</p> <p>He also raised the issue of providing service without discrimination, noting specifically that companies like his are required to provide ADA-compliant vehicles and services. He noted that the 2015 TNC law did not require those companies to provide ADA-accessible vehicles, and that he supports placing such requirements in statute.</p> <p>Robbie also stated that he believes the current regulatory structure puts taxis and IRCCs at a competitive disadvantage due to the different requirements for TNCs. He specifically noted that TNCs are not required to pay local business taxes or tax on the vehicles operating on its platform. He believes TNCs should be made to pay the same taxes as taxis and IRCCs.</p> <p>Robbie's comments on the items listed above are summarized in the chart below.</p>	

Issue	Position
Tariffs	No longer necessary, as not relevant. Soft meters are being used by taxis and TNCs.
Background Checks	Supports fingerprint checks; vendors not reliable. If not fingerprint, then statewide criminal check at very least.
Insurance	Requirements based on size of the vehicle are appropriate
Regulatory Fairness	Only if TNCs are made to follow the same rules as other carriers
Consolidation of Authorities	Does not support consolidation. Does not support elimination of irregular route common carrier classification.
Common Carriers	Not in favor of elimination of irregular route classification. They must meet a higher standard of nondiscrimination and by definition they provide services to all people at all times. As such they should be eligible for favorable tax treatment.
Local Regulation	Allow localities to regulate taxis. Allow

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	localities to regulate any passenger service if state law is not sufficient
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SPEAKER	Glenn Stafford/Love Limousine/Virginia Limousine Association
	<p>Glenn started his comments by stating his view that all state regulations should revolve around public safety. His company and those in the VLA are Contract Passenger Carriers, and have years of experience in the industry. He stated that the study is the best way to arrive at recommendations. Glenn also noted that certain requirements should be required across the industry as a matter of fairness. He noted specifically that his company pays taxes not required by TNCs, illustrating his point by noting the amount of tax he paid on the vehicles in his fleet.</p> <p>In addition to the topics listed by DMV (detailed below), Glenn noted that he did not see anyone present representing TNC drivers, and that they should be included. He also stated that the study should address congestion in certain areas (like event staging for passenger carriers), as the introduction of TNCs has caused significant problems in these areas and represent a growing expense for localities.</p> <p>Glenn stated that the study should address license plates and decals for passenger carriers. He noted that a vehicle garaged in Virginia should be required to have a Virginia for-hire license plate to allow easy identification of certificated operators. However, if a vehicle is garaged in a neighboring state and is providing intra-state service, those vehicles should be required to display a Virginia-issued decal in a designated location. This would address the issue of dual-plating.</p> <p>Finally, Glenn noted that Contract Passenger Carriers should be allowed to charge individual fares, use a meter-type system for pricing by mileage or time, and offer trips less than an hour in duration.</p> <p>Glenn then moved into his comments on the issues raised by DMV. They are summarized in the chart below.</p>

Issue	Position
Consolidation of Authorities	Favor consolidation while focusing on public safety and equity. All entities should have the same requirements.
Public Convenience and Necessity	Should be eliminated, as no longer relevant
Tariffs	Should be eliminated, as no longer relevant and unnecessary burden on industry
Background Checks	Should allow for a combination of checks, recognizing holes in the various checks. Requirements should be uniform for all.
Insurance	Should mirror federal regulations, be required 24/7, and apply evenly
Bonding	Should be eliminated, as no longer relevant and unnecessary burden on industry
Geographical Restrictions	Should be eliminated, as no longer relevant
Regulatory Fairness	All companies should follow same rules
Local Regulation	Not needed on any companies other than taxis. Local licensing would be redundant and result in stickers all over the vehicle.
Rental Vehicles	Supports use of rental vehicles with copy of authority on board
Brokers	Favors elimination, as no longer relevant

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Vehicle-specific regulations	Does not support
Tax Treatment	Inequity in personal property tax needs to be addressed.

SPEAKER	Edward Mullen/Uber
<p>Edward Mullen with Reed Smith representing Uber, began his remarks by noting that the issues addressed in the charge letter deal with the operating requirements of non-TNCs, and that in general Uber doesn't have comments on them. He noted that TNCs were the focus of studies and legislation in the 2014, 2015, and 2016 legislative sessions, and that the charge letter indicates that the statutes are not part of the scope.</p> <p>He continued that, in general, Uber supports regulations that promote safety and competition, pricing transparency, appropriate insurance, and background checks for drivers. Drivers need the flexibility to set their own schedules and earn income, and companies need to provide insurance to cover risk. Regulations should allow flexibility in meeting these and other goals. In contrast, overly-proscriptive regulations stifle innovation and hurt the providers and passengers. Edward stated that he believes the TNC statutes strike the correct balance between protecting the traveling public and allowing for markets to drive innovation. He concluded by stating that Uber has no comments on the requirements of other operating authorities, but looks forward to participating in the study.</p>	
SPEAKER	Patrick Cushing/Lyft
<p>Patrick Cushing with Williams Mullen representing Lyft echoed much that was said by Edward Mullen. He also believes the TNC statute strikes the correct regulatory balance, and that further changes to them are not needed.</p>	
SPEAKER	Jacqueline Grice/J. Diamond Inc. for RRCCs
<p>Jacqueline stated that she is the owner of J. Diamond Inc., a motor coach company, and just recently obtained a Regular Route Common Carrier (RRCC) certificate. As a small business owner, she believes that some of the passenger carrier classifications can be streamlined; this can lead to more equitability. Other states have shown more willingness to amend requirements to allow for market innovation in the motor coach industry. She also shared her view that regulations should protect public safety, but not to the point that it makes it impossible for companies to be profitable. Ms. Grice also noted that she has found that requirements on taxes, tariffs, etc., can vary from locality to locality, and that it would be preferable to have uniform requirements statewide.</p> <p>Her comments on the issues raised by DMV are summarized in the chart below.</p>	

Issue	Position
Tariffs	Should be streamlined or eliminated, as not effective in today's market
Background Checks	Do not loosen requirements for background checks
Insurance	Should mirror federal regulations
Bonding	Should be eliminated, as no longer relevant
Regulatory Fairness	All companies should follow same rules and should mirror FMCSA regulations
Local Regulation	Mix of regulations on multiple levels hinders business operations

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Consolidation

Supports keeping RRCC and IRCC authorities

SPEAKER	Michael Cooper/Metropolitan Washington Airports Authority
<p>Michael Cooper started his comments by recognizing that it is critical that airports have control over passenger carriers' use of airport property, and that Virginia law reflects this. He noted that MWAA sees every type of passenger vehicle possible using facilities at Reagan National and Dulles International Airport, so having the ability to manage the curb is crucial to airport success. Michael also noted that MWAA relies on state law to set requirements for screening drivers, and on local governments to perform the screenings. He also stated MWAA's view that having ways to easily identify passenger carrying vehicles at the curb is critical for ensuring easy access to the curb.</p>	

SPEAKER	Colleen Von Hoene/ Metropolitan Washington Airports Authority
<p>Colleen Von Hoene, manager of MWAA ground transportation, noted that both airports it manages have limited space, and it is usually not possible to expand the area available for passenger pickup and drop off. If the airport doesn't have the ability to manage access to the curb, airport operations would be in a state of chaos. She noted that Dulles and Reagan are self-funded airports, with airlines paying a large share of the operating costs of both facilities. Ensuring smooth access to the curb is critical in showing air carriers that the airports are good places to do business. Finally, she noted that TSA has additional requirements on ground transportation at the airports that require flexibility to meet.</p>	

SPEAKER	Joseph Alberti/Richmond International Airport
<p>Joseph Alberti echoed the comments from the MWAA representatives that controlling access to the curb is critical for airport success.</p>	

SPEAKER	Lt. Ted Jones/Virginia State Police
<p>Lt. Jones stated that his division with VSP has numerous interactions with passenger carriers, including Code conformity and Code enforcement. He noted that VSP does not take a position on whether or how state law regarding passenger carriers are changed, but noted that he and others at VSP are pleased to be part of the study to answer any questions that arise. Lt. Jones noted that VSP completes fingerprint background checks as well as name/date of birth checks for certain entities, and is available to share information about those processes and the databases that it either has access to or maintains for those purposes.</p>	

SPEAKER	Chris LaGow/Insurance Industry
<p>Chris LaGow started his comments by noting that the insurance industry is always happy to participate in DMV stakeholder groups. He noted that he is not aware of any insurance carrier that has voiced concerns or a need to change the insurance limits. Chris stated that the insurance industry will not request higher limits, as that is a self-serving position. He concluded by noting that most of the issues raised by DMV at the outset of the meeting do not involve insurance; however, he is happy to answer any questions and discuss any insurance-related issues that arise during the process.</p>	

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SPEAKER	Joe Lerch/Virginia Association of Counties
<p>Joe Lerch state that he would limit his comments to taxi services, as this is what localities have primary role in regulating. He noted that in recent years, Fairfax, Arlington, Alexandria and other localities have been responsive to the requests of taxis, and have undertaken code revisions to address them. Joe stated that there is no support among localities for state control of taxi regulations; those should remain the purview of local governments.</p> <p>He continued that VACo supports equitable tax structures for passenger carriers, and that it is interested in any possible changes that may be discussed during the study process.</p>	

SPEAKER	Mike Polychrones/ Virginia Municipal League
<p>Mike Polychrones, representing VML, echoed Joe’s comments that local governments have demonstrated they are best equipped to regulate taxi services, and that he is also pleased to be part of the study group.</p>	

SPEAKER	Arlington/Fairfax Counties
<p>Angie de la Barrera and Noelle Dominguez from Arlington and Fairfax Counties respectively, stated that they had nothing to add to Joe Lerch’s comments, and referred stakeholders to the comments posted in the minutes of the meeting held with local governments last month.</p> <p>Speaker: Ross Grogg/Consumer Data Industries</p> <p>Mr. Grogg represents Consumer Data Industries, which deals with background checks. He stated that he is here to monitor the proceedings, and had no comment to make.</p>	

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SPEAKER	John Ayers/Virginia Trial Lawyers Association
<p>John started his comments by echoing those of other stakeholders that state law should protect public safety first and foremost. He continued that VTLA does not have a position on the issues discussed in the charge letter and laid out by DMV, other than insurance limits and vehicle markings. He stated that these are important tools for protecting public safety.</p> <p>John also voiced VTLA’s opposition to the insurance requirements in the 2017 Property Carrier Report, and noted that it was displeased that the report characterized the recommendations as being the consensus of the stakeholders. He stated his hope that this report will only refer to a recommendation as “consensus” if a supermajority of stakeholders support it.</p>	

SPEAKER	Kevin Koziol/Centers for Independent Living
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Kevin began his remarks by noting that transportation is a critical issue to the disabled community, and that his organization and others like it are always interested in increasing the number of services available. Affordable and readily accessible transportation allows those in the disabled community to conduct daily tasks as well as get to medical appointments. He noted that currently there are services catering to this community, but they are not readily available like other transportation services.

Kevin continued that TNC services are not easy for disabled users to arrange, noting the function of the app that directs those who need accessible vehicles to third parties. He also expressed concerns that sometimes this feature of the app does not connect users properly to these services. He stated that members of the disabled community should be able to access the same types of transportation in the same amount of time as those who do not need additional assistance.

Kevin also listed several things he believes should be addressed by the study. They include:

- Review whether all passenger carriers are aware of ADA and how they comply
- Consistency in communication provisions, including booking, driver interactions, etc.
- Modifying policies and practices to assure non discrimination
- Review of whether carriers are providing accessible vehicles

SPEAKER	Mitch Nuckles/Commissioners of the Revenue
Mr. Nuckels had no comment on the items of discussion, but stated that he is willing to be part of the discussion particularly as relates to local taxation.	

DISCUSSION	
After a short break, Patrick asked those who did not speak in the opening segment of the meeting if they had anything they would like to share with stakeholders.	
Jonathan Trainum with Napoleon Taxi stated that he thought requiring all passenger carriers to abide by local regulations on taxes, permits, etc., was a good idea. In response, Edward Mullen reiterated his previous point that he believes it is important for TNC statutes to remain unchanged, as making such changes was not included in the charge letter.	
Charlie King next noted that he would like to hear from local law enforcement, as they have a key role in enforcement of passenger carrier laws, especially TNCs. In response, Edward Mullen noted that DMV has been tracking law enforcement activity since the TNC statute went into effect. Rena stated that this was correct, noting that the Department has released quarterly reports with statistics on law enforcement interactions with TNCs and all other passenger carriers. These reports have been published and were included in the 2016 TNC report. They are all available to the general public. She noted that the most common violations for TNCs dealt with trade dress. For all other passenger carriers, the most common violations found by law enforcement were with carriers complying with Virginia registration requirements and operating outside their given authority.	
Charlie King responded that laws have changed since the original TNC statute, and that law enforcement should continue to report data, as it may have an impact on local regulations.	

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Judy Swystun stated that DMV law enforcement has done the most work enforcing the passenger carrier statutes. She noted that the DMV report does not include input from all localities, but only a limited number of localities. She noted that she has observed TNCs in her area taking cash trips and driving without trade dress. Based on these observations, she suggested working with law enforcement before consolidating operating authorities.

Paul Walsh next noted that he has had discussions with the chief of police for Norfolk Airport. He stated that the airport has difficulty identifying TNC vehicles now that the license plate decals are no longer required. He stated that TNCs should be required to have for-hire plates, decals, or trade dress, and that the requirement should be consistently applied. He also stated his belief that TNCs should pay the same taxes as all other passenger carriers.

Charlie King next noted that there were several items in the 2016 TNC report that had not been discussed yet, and wondered if those were still part of the study. Patrick responded that they were, but that in this meeting DMV wanted to focus on the areas that needed the most discussion. More meetings will be held this year.

Glenn Stafford noted that there were no representatives from several operating authority types, including employee haulers, NEMT, and sightseeing carriers. Patrick responded that we did not exclude any operating authority, but noted that the operating authorities Glenn mentioned do not have many registered carriers.

Next, Edward Mullen again noted that TNCs have been the focus of intense General Assembly scrutiny over the past three years, and that the charge letter discusses focusing on all other operating authorities. He stated that the last three GA sessions addressed the issues brought up previously by Paul Walsh. He continued that Uber has no problem with freeing up competition in the passenger carrier industry, but that this study is not the forum to discuss changes to the TNC statutes.

DISCUSSION

Robbie Werth next brought up the issue of background checks, noting that he wanted to discuss a way for employers to be able to directly receive the results of a fingerprint background check. He noted that many jobs require fingerprint checks, including social workers. He stated his belief that it should not be outside the study's scope to discuss making TNCs perform a fingerprint check. He noted that other passenger carriers never got to see the types of checks performed by TNCs. He stated that his company uses a vendor to perform checks, but does not know if TNCs are using the same level of detail. Janet Smoot noted that DMV organized a conference call with the vendor used by Stephen Story for local governments, and that all appreciated the information. In response, Robbie noted that it's not the fact that a company does a vendor check, but the level of detail in the check.

Charlie King agreed with Robbie's comments, noting that taxi drivers are required to undergo fingerprint checks. He also echoed Robbie's concerns that private businesses are not able to access fingerprint background checks, and that this should be made possible. He noted that taxi drivers go through the Virginia State Police for the fingerprint check, and that this should be available to all.

Glenn Stafford asked if DMV has LiveScan technology for fingerprints. Rena responded that the Department does have this technology, and that the use of it to perform TNC background checks was examined in 2014. As mentioned above, federal and state law prevents a background check report from going to an employer. This would have required DMV to receive and screen each applicant. It was determined in 2014 that neither DMV nor VSP had anywhere close to enough resources to perform these checks for the TNC drivers available to provide service today. Lt. Jones

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with VSP seconded Rena's comments about resources.

Robbie Werth noted that children and people with intellectual disabilities often need safe transportation options, and that he thought it should be possible to put TNCs and other transportation companies into the same category of state law as nursing homes and others that are allowed to receive a background check report on an employee.

In response, Edward Mullen noted that Maryland recently completed a study on background checks. As a result, Maryland will now allow vendor background checks instead of requiring fingerprint checks. He also noted that federal law sets strict standards for who can receive a fingerprint background check, and that changing state law on this issue may be difficult.

Patrick Cushing echoed several of Edward's comments, noting that this study is not the forum to discuss changes in the TNC statute. He said Lyft is interested in participating in the study, and helping address the overall passenger carrier industry and its regulations.

DISCUSSION	
	<p>Randy Allen with James Limousine next stated that the goal of the study should be consolidating operating authorities. He noted that the spread sheet distributed by DMV before the meeting shows the level of complexity in regulating so many operating authorities, and that this complexity makes enforcement difficult. He continued that the passenger carrier industry is already evolving, offering new services. State law should catch up to the industry and consolidate authorities. Randy said that the old distinctions in the industry no longer exist, noting that companies offer many different services inside a single operating authority. He noted that his company has the technology to provide on-demand service and should be able to do so without obtaining another authority. He concluded by noting that certain industry segments, and the authorities permitting them, are going away either through legislation or market forces.</p> <p>Chris LaGow next asked what DMV meant by the topic of "providing proof of insurance." He wondered if this was in relation to all motor carriers, and if it meant having proof of insurance in the vehicle. Rena responded that this was one of the 2017 study issues listed in the 2016 report, and that DMV requires a Form E filing that obligates an insurer to provide the coverage required by the statute. Andrew clarified that it did refer to having proof of insurance in the vehicle. Charlie noted that they do currently indirectly carry proof based on the form E filing requirement.</p>

CONCLUSION	
	<p>The comments on proof of insurance were the final discussion of the meeting. Patrick and Rena thanked the stakeholders for their comments and participation. The DMV team will work through all the feedback received today. Additional meetings will be scheduled and all stakeholders will be notified of those dates and the topics of the meetings.</p>

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TYPE OF MEETING	Passenger Carrier Study
FACILITATOR	Patrick Harrison
MEETING DATE	June 28, 2017
MEETING TIME	9:00 AM
MEETING LOCATION	CRM 702
NOTE TAKER	Craig Whitham
DMV RESOURCE PERSONS	Janet Smoot
SPECIAL NOTES	

ATTENDEES

Name	Agency, Company or Association
Rena Hussey	DMV
Janet Smoot	DMV
Craig Whitham	DMV
Andrew Owens	DMV
Patrick Harrison	DMV
David Dunston	DMV
Latrice Ampy	DMV
Gabriel Boisvert	DMV
Barbara Arkwright	DMV
Barbara Klotz	DMV
Werner Versch	DMV
Colby Ferguson	DMV
Tom Penny	DMV
Janet Baugh	Office of the Attorney General
Rebecca Nichols	SCC Bureau of Insurance
Chuck Duvall	Lindl Corporation/Virginia Taxi Association
Judy Swystun	Black and White Cab/Virginia Taxi Association
Stephen Story	James River Transportation/Virginia Motorcoach Association
Joseph Alberti	Richmond International Airport
Jeff Palmore	Reed Smith/Uber
Nicole Brenner	Reed Smith/Uber
David Skiles	Vectre Corporation/Uber (By phone)
Patrick Cushing	Williams Mullen/Lyft
Glenn Stafford	Love Limousine/Virginia Limousine Association
Robbie Werth	Diamond Transportation (By Phone)
Chris LaGow	Nationwide, Chubb, PCI
Angie de la Barrera	Arlington County
Kyle O'Keefe	Arlington County
J.V. Bongiovi	Norfolk Police Department

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Sandy Harrington	Virginia Municipal League
Ann Leigh Kerr	Representing USAA Auto Insurance
Mike Woods	Representing Enterprise Rental
David Robinson	City of Alexandria
Captain Ronnie Maxey	Virginia State Police
D. J. Pointra	Newport News Police
Lori Hamilton	Newport News Police
Ross Grogg	Kemper Consulting/Consumer Data Industry

Introduction

Janet Smoot welcomed the stakeholders to the meeting and thanked them for participating. She noted that today's meeting is a working session to compliment the earlier study meetings with stakeholders. DMV staff noted that the purpose of the meeting was to ask stakeholder for their views on the topics listed in the meeting agenda.

After stakeholder and DMV introductions, Patrick Harrison discussed the meeting agenda. The morning and afternoon sessions are set to discuss separate issues, all key to the study. Today's sessions won't cover everything that needs to be addressed by the study, but are the most important in shaping its course. The morning session would deal with public safety and related issues, and the afternoon session would cover streamlining operating authorities. Patrick noted that DMV staff was documenting points of consensus and disagreement throughout the meeting.

With housekeeping out of the way, Patrick moved the meeting into the first topic of the morning session.

Background Screening for Drivers

Patrick began discussion of public safety with the topic of background checks for passenger carrier drivers. This study will address whether all passenger carrier drivers should be required to pass background checks (i.e., driver & criminal), what those screening processes should encompass and how they should be conducted. Patrick noted that TNC drivers are the only ones who are required by state law to be screened, but that many localities also require background checks for taxi drivers. Patrick then noted the DMV handout detailing which carriers are required to be screened.

Patrick asked stakeholders to share their views on what the standards should be for driver background checks. Should they be similar to the TNCs requirements, or are they necessary for other carriers at all? Based on previous comments from stakeholders, it is likely that most motor carriers are doing background checks on drivers as a business practice, even if doing so isn't required in state law.

Stephen Story with James River Bus Lines and representing the Virginia Motor Coach Association (VMA) noted that for bus companies, the nature of the industry requires background checks. He stated that most in his industry perform interstate trips, which are regulated by the Federal Motor Carrier Safety Administration (FMCSA). Drivers must have a commercial driver license, and FMCSA requires these drivers to undergo a background check prior to providing service.

Robbie Werth with Diamond Transportation noted that Non-Emergency Medical Transportation (NEMT) drivers are required to undergo a background check by the Department of Medical Assistance Services (DMAS). Irregular Route Common Carriers (IRCCs) aren't required by state law

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to screen drivers, but may have contractual obligations that require such screening. He stated his support for mandating background checks that set specific criteria. He believed this will eliminate confusion.

Robbie continued by noting that NEMT background checks use a nationwide database. He was not in favor of this type of check because it only searches courts that report to the system. He noted that the Virginia State Police (VSP) doesn't report to the nationwide system, so it is incomplete and not of use to Virginia companies. Robbie stated his belief that a statewide search is best, and favors requiring that type of background check for IRCCs. Any requirements past a statewide screening would require fingerprinting, which he noted has been controversial. He suggested that a statewide check should be a baseline that everyone could meet. Other carriers could do a more detailed background check if they so choose.

Robbie noted that for drivers in Virginia, he has to send affidavit to VSP noting what screening vendor you use with a notary certifying the person on the application is who they say they are. He said that this is not a hard process, and isn't a burden on his company. He also noted that fingerprinting drivers is much harder because a state agency would have to take the report and do all the work to screen each driver. Social service agencies do this, but it gets complicated. Robbie concluded by stating that he would prefer a requirement for fingerprint checks, but thinks a state search should be a baseline.

Judy Swystun with Black and White Cabs stated that her preference would be for all drivers to undergo a fingerprint check, but realizes that such a requirement is unlikely to be adopted. She continued that she does believe all drivers should undergo a criminal check of some kind.

Glenn Stafford with Love Limousine and the Virginia Limousine Association noted that the people who support detailed background checks are those who have drivers operating company vehicles. If you own the vehicle, you have an incentive to do a detailed check on anyone driving it. He noted that TNC drivers use their personal vehicle, which he believes gives the TNCs less of an incentive to do a thorough check. He sees the requirements in current law as inequitable. He stated that he knows everything about his drivers and thinks TNCs cannot say the same. He stated his view that the requirements in *Code* are weak for TNCs, and thinks TNC drivers should be registered with the Commonwealth in some fashion.

In response, Stephen Story noted that it appears most support some form of background check for drivers and that it should be possible to put in state law requirements that are sufficient to screen most drivers. He continued that fingerprinting is merely one way to establish a person's identity. There are ways now to get that information without requiring someone to submit fingerprints. He noted that relying solely upon fingerprints to complete checks and verify identity does not produce accurate results and is cumbersome. Stephen also advised providing some latitude for operators to solve problems instead of having a proscriptive process. Different companies have different resources and may have a heavier burden to meet a detailed requirement. Judy Swystun noted that live scan technology allows for results in 24 hours, but that such a process would fall upon DMV.

Kyle O'Keefe with the Arlington County Police Department stated his view that taxis and TNCs are essentially providing the same service and that the background checks should return comparable results. He believed that the vendor checks being performed by TNCs likely do return comparable results. He acknowledged that he doesn't know what type of manpower it would take for a government agency to do fingerprint background checks on TNC drivers, but did state that locals don't have the resources to do it. Arlington did not anticipate getting rid of fingerprint background check requirements for taxi drivers.

Patrick Cushing with Williams Mullen representing Lyft stated that his client is opposed to fingerprint checks. He asked DMV if the intent of background checks is to protect riders, to which DMV replied in the affirmative. He asked if DMV has data on drivers committing crimes where

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drivers did not have good background checks, indicating a need for TNCs to change their background check process. Patrick Harrison noted DMV's quarterly report that lists law enforcement contacts with TNCs and other passenger carriers; however, DMV does not have any data such as Patrick requested. DMV has no data suggesting fingerprint checks are better or worse than one done by a vendor. Patrick indicated that any proposed changes would be aimed towards consistency.

Patrick Cushing continued by stating that the goal is to address passenger safety. The quarterly reports have information on contacts with passenger carrier drivers, but DMV doesn't collect data specific to background checks. DMV does get information from stakeholders, but doesn't have any information specific to background checks and which type produces safer drivers.

Rena continued by noting that Virginia has a requirement for TNC background checks and localities has requirements for taxis, but that state law requires nothing for any other type of passenger carrier driver. Should there be a state requirement for all drivers? If yes, how should that screening look? These are the questions, she noted, that DMV hopes this study can address as it relates to background checks.

Patrick Cushing replied that fingerprint checks would be a burden on TNC drivers. He suggested data be reviewed of which drivers have the best records, comparing those who have gone through a fingerprint check to those who have undergone one by a vendor. He suggested that the study not aim for consistency in the manner of background checks for its own sake; the primary goal should be passenger safety.

In response to Patrick, Kyle O'Keefe noted that the kind of data he suggests examining does not exist. He noted that he could compile information on the driving records of Arlington taxi permit holders, but that the same information would not be available for TNC drivers. Relying on consistency is the way to make up for the lack of data.

Following up on Kyle's comments, Angie de la Barrera noted that Arlington's taxi ordinances differ from neighboring counties. The type of data Patrick suggests wouldn't be accurate if one county has requirements different than others. She continued that in the meeting localities had with the background check vendor, it was mentioned that they are capable of doing fingerprinting. They can't get the results, but they can facilitate the service.

Stephen Story provided additional comments on background checks. He stated that the checks are about establishing identity, and that his company is comfortable with identity established by his vendor. He continued that, if a company wants to do a deeper dive on its drivers, it should be able to. However, he suggested setting a minimum standard so every driver has minimal screening. Stephen concluded by saying that he needs the check from his vendor to feel comfortable; the national database check isn't complete enough to make him comfortable in the results.

Jeff Palmore representing Uber noted that the General Assembly has spoken on the background check procedures for TNCs, and that there would likely be no appetite for re-litigating that statutory framework.

Furthering the discussion on background checks, Patrick Harrison noted that TNC checks are required every other year, and list numerous barrier offenses. If background checks are to be required for all drivers, what offenses should bar entry, and how often should the checks be done?

Officer O'Keefe from Arlington noted that Arlington rechecks background every one or two years. Drivers with few complaints get checked every few years; other drivers are checked every year.

Stephen Story responded that his vendor does continuous monitoring of his drivers. He added that

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CDL holders are required to undergo a background check every other year under federal law, but that he prefers continual monitoring.

Judy Swystun noted that taxi drivers are different than TNC drivers, because taxi owners know their drivers and know when something happens with their record. She stated her belief that TNCs do not know their drivers the way she knows hers. In response, Jeff Palmore noted that it is inaccurate to state that TNCs do not know their drivers, citing the process Uber drivers go through to start driving. Patrick Cushing also reviewed Lyft's driver screening procedures, indicating that all Lyft drivers are interviewed.

Glenn Stafford continued on Judy's point, noting that many of his employees are long term and that this makes it easier to follow their records. TNC drivers go on and off the system, which he believes makes it hard to get to know them personally. The fingerprint background check process may give TNCs a way to have a better relationship with their drivers.

Robbie Werth next offered his views on background checks. He noted that he has been checking driver backgrounds for 40 years for taxis, IRCCs, CPCs, others. He noted that the Washington Metro System required fingerprint checks, which he was able to do through a vendor. He stated that no one ever failed a vendor check because they also did fingerprinting. He believes that fingerprint checks act as a deterrent to those who know they can't pass that type of check. Vendor checks have loopholes that people can get through. He agreed with others that a national database search is insufficient. It can't be relied upon because not all courts report to the database.

Robbie also noted that he has never had meetings with background check vendors, and that the process used during the TNC study excluded stakeholders from that part of the discussion. Janet Smoot replied that we recently had a conference call with a background check vendor for local governments, and made that same offer for any other stakeholder that wanted to learn more about their process. In response, Jeff Palmore noted that during the TNC legislative process, Virginia State Police met several times with TNCs and the background check companies and that it was comfortable with the results returned by the vendors. Robbie noted that VSP's meetings excluded other stakeholders, and asked what VSP representatives told the General Assembly. Jeff replied that VSP representatives made their statements in an open Transportation Committee hearing. VSP had stated that no background check is foolproof and that the process used by the vendors returned results comparable to fingerprint checks. (Note: the VSP representative was not in attendance at this point in the meeting so was not part of this discussion)

Rena tried to bring this part of the discussion to a close, asking Glenn Stafford if he was comfortable with setting requirements for all passenger carrier drivers. As a contract passenger carrier, Glenn's company would be directly impacted, as no law requires him to perform any checks on his drivers. Glenn agreed to a universal requirement, so long as it applied evenly across operating authorities.

Patrick Cushing agreed, noting that Lyft supports a universal requirement, so long as it does not involve fingerprint checks. He noted that the CPC authority is a carve out from other carriers.

Officer D. J. Pointra of the Newport News Police asked if a minimum state requirement would affect localities. Patrick Harrison responded that it would not.

Stephen Story responded by agreeing that a universal requirement is a good idea. But he also noted that some contracts have different requirements and some localities have different requirements. These are in addition to the differing requirements at military bases and shipbuilding yards. Some of his drivers may have to go through 10 checks per year to serve multiple locations. He said it would be beneficial to set a state standard stringent enough to show various entities (like military bases and ship yards) that passing the state check is sufficient for their purposes.

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Jeff Palmore indicated that Uber did not have a position on what background checks should be required on other passenger carrier types.

It was agreed that any state standard should address driver history and criminal checks and address frequency and barrier offenses.

Judy Swystun asked if all stakeholders agreed that localities should still be allowed to regulate taxis, including background checks. There was no opposition to this statement.

Background Screening for Passenger Carrier Companies

After the discussion on background checks for TNC drivers, Patrick Harrison moved the discussion into company screening and the process carriers must go through to obtain operating authority. He noted that DMV screens principals applying for a certificate of fitness, and that this includes a criminal history review, search of the Better Business Bureau, the Attorney General's consumer affairs division, among others. Patrick also listed the operating authorities that are required to obtain a certificate of fitness versus those that receive a permit or a license (which have different application requirements).

Patrick continued that DMV doesn't do fingerprint background checks on company principals. He noted the problem DMV and FMCSA often face with chameleon carriers, which register family members as the company principals to get around the real purpose of a certificate of fitness. DMV has done some research on the process used by ABC to grant retail licenses. This process performs a check on anyone who has 10% or more equity in the company.

Jeff Palmore asked Patrick to explain the rationale, specifically as it regards to company principals. He asked why DMV checks company management when it's drivers who are in contact with passengers. Patrick responded that DMV wants to make sure they are not going to use the transportation business to conduct criminal activity, or that they had a history of bad service in the past.

Glenn Stafford asked how often people have been denied a certificate. David Dunston replied that an applicant's criminal history leads to a certificate request being denied several times a year. Glenn responded that it is too easy to evade the requirements, and asked how far into the company DMV suggests going. He stated that some companies may have employees or others in operational control that have criminal records, and that if the background checks don't go far enough into a company, serious problems may not be identified.

Judy Swystun stated Fairfax does check on anyone with a 10 percent stake in a taxi company. She stated that the real problem is using family members to get around a criminal history check, noting that this is happening in Hampton Roads. Patrick Harrison replied that we can't require checks of family members, and that no system will be foolproof.

Patrick Cushing noted that he also represents ABC clients, and that the agency has a hard time doing accurate checks on company principals, too. State law prevents someone from being a manufacturer and a distributor, but often a husband and wife will each apply for one license, evading the true intent of the law. He also noted that ABC doesn't require fingerprint checks for a license to sell or distribute alcohol. In response, Chris LaGow asked whether ABC audits businesses to see who is actually running the company. Patrick responded that ABC doesn't have resources to do that type of audit.

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Jeff Palmore stated that he is sensitive to issues DMV raised, but notes again that it's the drivers who are in contact with passengers. He believes the focus should be on the drivers and that there is no need to check investors or company principals. He believes this would include a huge number of people who have no operational control over the company. Judy Swystun replied that most who hold a state CPC permit are small operators with one or two cars, and that in these cases they are the principal owner and operator. She noted that this is different than a company that has investors out of state.

Stephen Story offered additional views. He noted that the VMA is fine with the application process as it exists. He noted the problem on the federal level with chameleon carriers, and that DMV's process makes it hard to catch these cases. Stephen also stated that a simple PO Box is not sufficient to properly monitor a business. DMV needs to be able to go see a fleet and its entire operation, which requires a physical address. He continued, noting that VMA has large companies like Greyhound, and that it would be cumbersome to do checks on all principals and investors. That company, like Megabus, is owned by a foreign firm. With companies this large and with that many investors, including them in background checks would be very cumbersome for all involved. The goal is to ensure those who are operating the business are qualified to do so. Having owners with clean records doesn't mean the manager has one.

Glenn Stafford noted that companies are not required to show proof of a business license in order to obtain operating authority. He referred to the independent contractor status of TNC drivers, and noted that this is not equitable. He believes the application process should include showing proof of a local business license.

Patrick Harrison asked Glenn if he was referring to the carriers or drivers. Glenn responded that if owners have employees, it should be the owner. If a carrier uses independent contractors, the driver should produce a local business license.

In response, Jeff Palmore noted that localities have business license requirements subject to state law, and that drivers who need a license should get one.

Glenn asked that if drivers aren't registered, how do localities know who should get one.

Jeff responded that localities have to have relationships to know who's operating in their jurisdictions. Otherwise how do they find anyone doing business? Glenn responded by noting that TNCs' use of independent contractors changes their tax liabilities compared to his business and that this was inherently unfair.

Patrick Harrison next asked the stakeholders for their views on the requirement to produce evidence that a place of business meets local zoning requirements as a condition of receiving a certificate of fitness.

Angie de la Barrera noted that Arlington does have zoning requirements that businesses must meet. Kyle O'Keefe continued that the county does require a physical location at which it can serve warrants, if necessary. He noted that it would be helpful if TNCs had a physical location in each state in which it operates.

Judy Swystun asked the Virginia Association of Counties representative if its members had any concerns about the zoning requirements, noting that she knows of cases where commercial vehicles are parked on residential streets.

Sandy Harrington with VML responded that they leave it to their individual members to set zoning requirements for businesses and residences.

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Rena clarified that there are two separate issues being discussed: an established place of business and where vehicles are parked. The state requirement regarding an established place of business allows law enforcement to visit the company. She noted that there are no rules at state level about where vehicles are kept. Those regulations are at the discretion of local governments.

Judy replied that some businesses are run out of personal residences, and that this is where they park their cars. She asked if it was simply up to localities to check.

Rena replied that DMV has never had a role in checking where vehicles are parked. The department gives localities information on a vehicle's garage jurisdiction, but that is separate from where a vehicle is physically parked. David Dunston continued, noting that applicants give storage units as place of business, even though it would be okay to use a personal residence. What's important for DMV is to know where the records are kept so they can be examined by Department staff or law enforcement.

Judy asked how police are able to serve a warrant for a company's records if DMV doesn't know where the records are located. David responded that most passenger carrier certificate and permit holders are mom and pop businesses with few vehicles. Localities allow businesses to be run out of houses, but don't let all vehicles park in residential areas. It's up to a locality to determine its own rules.

Glenn Stafford continued, noting that law enforcement can't find TNC drivers if they need to. He asked the TNC representatives if they provide information to law enforcement. Rena replied that DMV has never had any difficulty obtaining information from TNCs when it has been requested. This is the same as the other Virginia carriers.

Rena continued that the goal is to stop burdening businesses with proving compliance with zoning requirements if they don't have any value to DMV or localities. Is there a reason to continue requiring this proof as part of the certificate or permitting process? If not, can stakeholders agree to remove this requirement? State law would still require an established place of business for law enforcement purposes.

Kyle O'Keefe replied that Arlington knows where to find business owners if they need to review records. If the owners park illegally, they will get ticketed.

Captain Ronnie Maxey with the Virginia State Police replied that the federal government has requirements for motor carriers, and that Virginia should require only a physical business location. He also noted that business owners have 48 hours to produce records for law enforcement at the place they list for business.

Judy asked if motor carriers must produce a local business license to get operating authority. Rena replied that they do not.

Summarizing this issue, Patrick asked if stakeholders agree that state law should keep the requirement to provide a physical business location, but that it was not necessary to prove that a location meets local zoning requirements. All stakeholders present agreed to this.

Insurance Requirements

Patrick Harrison next moved the discussion to the varying insurance requirements for passenger

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carriers. He referred to the handout listing the different requirements, noting that there are both similarities and differences among carriers.

Andrew Owens with DMV Legal Services noted that the document provided to stakeholders shows the different requirements for the various operating authorities. The two most common plans provide either split minimum coverage or single limit coverage. The charts walk through different categories, including state regulated entities, followed by local ordinances. They show that some require split minimum, while some require combined single limit. Finally, he noted that local ordinances for taxis reference State Corporation Commission requirements instead of DMV requirements.

Patrick continued by asking if there is an opportunity for insurance equity, given that there are differing requirements among carriers. What is the duty to protect public safety, and does one insurance requirement provide better public protection in practice than others?

Chris LaGow informed the group that the insurance industries writing personal lines policies in Virginia are not suggesting that the current requirements are too low or inadequate.

Stephen Story stated that the federal government has been discussing the possibility of increasing minimum requirements for buses, going from \$5 million to \$10 million based on the actual amount of damage per crash. Chris asked Stephen if his industry was seeing judgments in excess of \$5 million.

Stephen replied that he has, and that this is often the case with long term disability judgments and crashes involving buses with lots of passengers. The judgments end up affecting other vehicles in the fleet as well. His insurance premiums look at the region of operation and vehicle capacity. James River can absorb this cost and doesn't oppose higher requirements, but he noted that carriers with fewer buses might not agree. Stephen said the VMA is reluctant to agree to higher minimums for this reason. He continued that, in reality, \$5 million in coverage is not enough, but that underfunding is common throughout the Mid-Atlantic. He noted that there are higher payouts in the northeast and lower payouts in other areas. Virginia, being next to Washington, D.C., sees payouts equivalent to New York City.

Stephen also noted that the insurance controversy with TNC insurance has been over when the driver has accepted a ride request. Ride acceptance presents a risk for outside passengers. He asked if there were any data on whether crashes have involved people hit by TNCs or others. Chris responded that he is not aware of any.

Chris continued that, when a driver is logged onto the app, the commercial policy applies. When a driver is off the app, the personal policy applies. If the driver is logged on during a crash, he noted, the personal lines policy is not responsible and will not provide coverage.

Stephen asked what happens when crash damage is above the 50/100/25 minimum level. Chris responded that, if a judgment is above the insurance requirement, TNCs will pay the excess exposure without a cap.

Jeff Palmore responded that the court would be responsible for determining liability above the minimum required coverage.

Stephen asked Jeff if any TNC riders ask for a certificate of insurance from the driver. Jeff replied that he didn't have information on whether this happens.

Chris next referred to the requirement that a TNC driver has personal and TNC insurance in the vehicle, which can be provided to law enforcement in the case of a crash. In addition, there is

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language requiring TNCs to cooperate with insurance companies in a claims coverage investigation.

Janet Smoot next noted that the state insurance requirement for taxis is much lower than the other motor carriers. She asked the taxi representatives if they carry more than the state minimum.

Judy responded that the state level is adequate because the localities usually require more. She also noted that the many local requirements are equal to or more than the \$350,000 federal requirement for vehicles with 6 or fewer passengers.

Chris asked if there have been any excess judgments in crashes involving taxis. Judy replied that she didn't know of any, but noted that many of her contracts require \$1 million in coverage, so it's a moot point.

Glenn stated his belief that all passenger carriers should be required to meet the federal minimums. He next asked what type of policy TNCs have. Chris responded that it's a surplus lines policy. Jeff Palmore reminded stakeholders that the primary nature of coverage is established in statute, and noted that primary coverage in some level is available from app-on to app-off.

Judy next stated that a TNC does not provide any insurance protection for the driver's car when they are not operating on the app. She asked that, if they wreck their car, will the TNC's insurance pay? Jeff replied that he can't speak for a driver's personal insurance policy, but statute doesn't address that issue.

Patrick Harrison asked if it made sense to take the state requirement for taxis to \$350,000. Judy noted that this may have a big impact on smaller companies and rural counties. Bigger companies likely wouldn't have a problem, but it could hasten exodus from industry. She suggested leaving the minimum taxi insurance alone because urban counties already require more where the companies can afford it.

Chris LaGow asked the SCC representatives if they are aware of regions in Virginia where insurance coverage has been cancelled because service stopped. Rebecca Nichol says she is not aware of any such cases.

Glenn next shared his view that all passenger carriers should be required to have a 24/7 commercial policy. He believes the exposure is there with so many TNC vehicles operating. The app-on/off policy isn't sufficient, and it is inequitable for companies required to have a 24/7 commercial policy.

Patrick Harrison next asked stakeholders whether other carriers besides TNCs should have the ability to use part-time vehicles and therefore have bifurcated insurance requirements. If so, 24/7 commercial coverage wouldn't be a good requirement. He said he is not aware if there is a market for this model outside of TNCs, but that it's worth discussing with stakeholders.

Glenn replied that he thinks that model outside of TNCs will lead to people just operating gypsy cabs without any insurance. Chris responded by noting that a gypsy cab operator has no insurance, either commercial or personal.

Janet Smoot asked if there are more business models using owner-operators or employees. Glenn responded that his drivers are all employees. Chris continued, noting that there are two different business models: employees v. contractors. With two models, the state needs two insurance models to address the actual nature of the vehicle. That's an equitable solution to determine what policy covers.

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Judy commented that she has no owner-operators, but knows taxis that do. She believes some taxis may have an interest in the dual use vehicles and split coverage

Chris noted that it would be difficult for a taxi to be dual use. How would anyone determine if he were in business? How do you determine during a crash if he's "on duty" or off? He continued that the TNC app makes it very clear. Dual coverage for taxis would create problems between commercial and personal insurance policies.

Stephen noted that short term lease vehicles are covered by commercial policies. He didn't see the difference between having passengers in vehicle or not. The nature of transportation is the same, so carriers should have same requirements from app-on to app-off.

In response, Chris noted that after 2015 TNC bill, a national model was produced with insurance companies that is very similar to the Virginia law. Changing requirements would have a cascading affect across the country.

Patrick Cushing noted that the two business models are not the same, so different limits are needed. Nicole Brenner also noted that higher limits apply at ride-acceptance, not when a passenger enters the vehicle.

Judy next stated that she knows that changes to TNC insurance are unlikely to be adopted by the General Assembly, but noted that an accident with no passengers in car can still cause considerable damage.

Patrick Harrison next asked the SCC for details on the marginal cost of moving from \$125,000 to \$350,000 so we know what impact that would have on small operators. Rebecca Nichols responded that she will work with DMV to provide that information.

Patrick also asked to discuss proof of insurance in vehicle and asked if it was needed. Chris replied that the "insurance card" people often carry is not proof at all, so there is no need to require it.

Judy next asked if motor carriers have to file proof of insurance to receive operating authority from DMV. Rena replied that they do. John Bongiovi noted that officers have to look at the operating authority section on a vehicle record if they make a stop. Rena also added that insurance companies have to notify DMV 30 days before an insurance policy is cancelled, and that it is obligated to provide coverage until then. Without this proof that insurance is in effect, DMV will cancel a company's operating authority.

Stephen Story noted that there is some use to requiring proof of insurance in the vehicle so people know where to look in a crash, but that the VMA doesn't have a position on this issue. Chris noted that the state could require vehicles to have insurance information in the vehicle, but not call it "proof" of insurance.

Patrick Harrison next mentioned seasonal businesses, and whether they should be required to have a 24/7 commercial policy. Stephen Story said he doesn't want to insure a vehicle that is out of service for a specific season, but noted that few insurance companies will do that, and only with trusted carriers. Chris noted that most policies are for 6 or 12 months with fixed coverage.

Stephen said that he pays by the mile, and that billing almost determines when they pay coverage on seasonal vehicles. Chris suggested leaving it to the marketplace to decide this issue.

Summarizing the insurance discussion, Patrick Harrison asked stakeholders if they agreed that there

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is no appetite to allowing other carriers to have dual coverage, and that the state shouldn't require proof of insurance in the vehicle. All stakeholders agreed to these policies, and the taxicab industry reserved the right to make additional comments regarding owner operator drivers.

Vehicle Requirements

Patrick next took the discussion to vehicle requirements for passenger carriers, focusing first on dual-plating.

Glenn Stafford replied that he brought this up with DMV last year because some carriers in northern Virginia run trips in DC, MD and VA. Depending on where the vehicle is titled, they could be required to display multiple sets of plates. He does, however, think that a marker of some kind is important. If the study is examining equity, he suggested letting a vehicle registered and plated in Maryland or D.C. get Virginia operating authority with a sticker instead of a Virginia for-hire plate.

Rena replied that this would only help in Virginia. The District of Columbia and Maryland would still require carriers plated in Virginia to get their plates as well. Patrick Harrison noted that this may be an issue on which DMV should engage regional partners to address.

Capt. Maxey stated that VSP would prefer a decal, and that he doesn't like seeing drivers switch tags when they cross state lines. If a Maryland car could display a Virginia decal that would be better.

Patrick next talked about vehicle markings in general. He noted that the General Assembly did away with taxi roof signs and exterior markings in the last session. Do stakeholders want to continue that trend so taxis and other for-hire vehicles look more like private vehicles?

Judy Swystun replied that the recent changes Patrick mentioned were cost reduction measures so taxis could save some money. Doing away with for-hire plates would also help because it takes a long time to get those plates from DMV. Getting a decal would solve this if DMV isn't able to speed up the process for obtaining a for-hire plate. Nevertheless, she believes law enforcement agencies would demand a for-hire plate. She concluded her thoughts by stating that, if the for-hire plate is removed, there must be a decal requirement, and that it should apply to all passenger carriers, including TNCs.

Chris LaGow added that insurance companies take accident pictures and that a decal or for-hire plate helps them start looking at whether the livery exclusion applies.

Responding to Judy's comment on decals, Jeff Palmore stated that the TNC statute requires trade dress for TNCs, and that would accomplish the same goal as a decal for other motor carriers. Judy replied that many TNC drivers don't use trade dress. Law enforcement has a duty to enforce the statute, and she believes the way to do that is through a decal.

Glenn Stafford noted that he believes the Uber trade dress is available online and could be forged so people could act as TNC drivers even if they are not. He thinks a DMV-issued decal would be best, in addition to the TNC app displaying the license plate and driver picture.

Judy continued that, when new TNCs start operating under the new entry fee authorized by the General Assembly, law enforcement will have no way to identify what trade dress is legal or not.

Chris asked where TNC trade dress is displayed. Patrick Cushing replied that the statute doesn't require a specific placement, but that it must be visible from 50 feet. While the statute doesn't specify a placement, it is usually in the rear passenger window.

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Capt. Maxey noted that he has seen Lyft drivers with trade dress in the front windshield, which is against state law. He believes there should be universal placement where all law enforcement can look.

Officer Bongiovi agreed, noting that placing the trade dress in the rear passenger window doesn't make it visible in all vehicles.

Capt.. Maxey stated that with legally tinted windows, you can't see trade dress at 50 feet. He stated his views that requiring trade dress that goes on the outside of the vehicle would make it easier to identify the car. VSP had no position on TNC registration repeal, but does see the challenges to local law enforcement trying to establish probable cause on a TNC vehicle without trade dress or where it is difficult to see.

In response, Patrick Cushing said that he also takes Lyft, and when he sees the trade dress in the front windshield, he notifies corporate headquarters so they can give clear direction to drivers on the proper placement. Captain Maxey stated that this is unfair to drivers. They get unclear instructions from the company on trade dress, yet they get the ticket if it's not displayed.

Officer Bongiovi stated that he stops some TNC drivers and they tell him that the company told them they don't have to display trade dress at all. Patrick Cushing responded that in that case, the driver should get a ticket. He stressed that Lyft tells all drivers to display trade dress.

Glenn Stafford added that this shows how TNCs are not responsible. With no Virginia place of business or DMV-issued marking, law enforcement has no hook on the company or the drivers. He believes that the General Assembly should go back to the TNC decal.

Patrick Harrison asked stakeholders if there would be opposition to a using a window decal instead of a for-hire plate.

Glenn said that Virginia went to plates in 2000 because many jurisdictions and permits required stickers, leading to clutter on the vehicle. He preferred to stick with the for-hire plate, but agreed with Judy that it would help if DMV could speed up the process. Judy agreed with Glenn, adding her support for requiring TNCs to go back to a vehicle decal.

In addition, both Stephen Story and Robbie Werth favored keeping the for-hire plate requirement.

Rental and Leased Vehicles

The next topic for discussion was passenger carriers' use of leased and rental vehicles. Patrick Harrison noted that, with the TNC registration process no longer in effect, there is no special process for TNCs to use rental vehicles. However, there is a process for other passenger carriers. Should the process for others go away in order to create parity?

Glenn Stafford replied that he believes the requirement should be eliminated. He stated that the biggest problem he faces is the requirement to give the VIN on any leased or rental vehicle. He often has to rent vehicles for longer than necessary just so he can get the VIN to DMV during business hours. He believes that operating authority and insurance should be sufficient for DMV to know the vehicle is covered and operating legally. Proof that the vehicle is rented to a licensed motor carrier is most important. Stephen Story said that the VMA agreed with Glenn's comments on rental vehicles.

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Patrick Harrison noted that there was consensus among stakeholders on doing away with the requirements for rental vehicles; however, it was also agreed that passenger carriers should keep a copy of the rental agreement in the vehicle when in operation.

Following the discussion on rental vehicles, Patrick asked the group to address leased vehicles. Rena began by noting that the statutes say DMV can issue regulations on leased vehicles, but DMV by practice doesn't do regulations. The Department tries to put requirements in statute. One of the handouts shows what motor carriers have to do to lease vehicles legally. She stressed that we are not talking about the instances where a motor carrier illegally leases their authority; that will never be permitted. The discussion is over a licensed motor carrier entering into a leasing agreement on a vehicle or vehicles to be used in its fleet. Rena concluded asking whether DMV's requirements on leased vehicles should be placed in statute.

Glenn Stafford noted the potential loophole of vehicle owners titling a vehicle in their personal name and then leasing it to a business they also own. He said this gets around corporate taxes, and should be solved.

Rena replied that DMV requires a lease agreement when a company uses a vehicle that is not registered to them. The Form E requires coverage on any vehicle being used by the company, whether owned, leased, or rented. David Dunston continued that, in the hypothetical situation raised by Glenn, the company would want to get a for-hire plate. When they did, DMV would mark the record as being for-hire and that would solve the tax issues he raises.

In conclusion, it was agreed that stakeholders can review the DMV information and get back with their position on putting the leasing requirements in statute.

Conclusion of Morning Session

The discussion on rental and leased vehicles concluded the morning session. Patrick thanked those who participated, and gave a brief preview of the issues to be discussed in the afternoon session.

Passenger Carriers Study

TYPE OF MEETING	Passenger Carrier Study
FACILITATOR	Patrick Harrison
MEETING DATE	June 28, 2017
MEETING TIME	9:00 AM
MEETING LOCATION	CRM 702
NOTE TAKER	Craig Whitham
DMV RESOURCE PERSONS	Janet Smoot
SPECIAL NOTES	

ATTENDEES

Name	Agency, Company or Association
Rena Hussey	DMV
Janet Smoot	DMV
Craig Whitham	DMV
Andrew Owens	DMV
Patrick Harrison	DMV
David Dunston	DMV
Latrice Ampy	DMV
Gabriel Boisvert	DMV
Barbara Arkwright	DMV
Barbara Klotz	DMV
Werner Versch	DMV
Colby Ferguson	DMV
Tom Penny	DMV
Janet Baugh	Office of the Attorney General
Christian Parrish	Office of the Attorney General
Jason Holloway	SCC
Kevin Davis	SCC
Chuck Duvall	Lindl Corporation/Virginia Taxi Association
Judy Swystun	Black and White Cab/Virginia Taxi Association
Stephen Story	James River Transportation/Virginia Motorcoach Association
Jeff Palmore	Reed Smith/Uber
Nicole Brenner	Reed Smith/Uber
David Skiles	Vectre Corporation/Uber (By phone)
Patrick Cushing	Williams Mullen/Lyft
Glenn Stafford	Love Limousine/Virginia Limousine Association
Robbie Werth	Diamond Transportation (By Phone)
Joe Lerch	VACo
Mike Polychrones	VML
Angie de la Barrera	Arlington County

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Kyle O'Keefe	Arlington County
J.V. Bongiovi	Norfolk Police Department
Ross Grogg	Kemper Consulting/Consumer Data Industry

Start of the Afternoon Session

Patrick welcomed those who were participating in the afternoon session. He recapped the issues discussed in the morning, and outlined what was on the agenda for the afternoon.

The afternoon session will look at the 11 different operating authorities DMV issues, and whether any of them can be merged to create more equity and a more efficient licensing process. Patrick noted that excursion trains and sightseeing by boat are not on the DMV handout because they basically aren't motor carriers, even though we license them.

Passenger Carrier Brokers

Patrick started the discussion with passenger Brokers, noting specifically that he was not referring to the newly created authority for Transportation Network Company (TNC) Brokers. He asked stakeholders if today's market obviated the need for brokers.

Patrick also noted that Jonathan Trainum with Napoleon Taxi submitted comments for the meeting noted in lieu of being able to attend in person. Patrick continued that DMV staff had not had a chance to review his comments, but that it would do so thoroughly. Mr. Trainum's comments are included as a separate attachment to this document.

Judy Swystun asked where a customer would go if they had a problem or concern and they had used an unlicensed broker to arrange transportation with an unlicensed motor carrier. She added that brokers work mostly with Department of Medical Assistance Services (DMAS) contracts.

Glenn Stafford noted that limousine companies would like to charge individual fares to do wine tours, but they have to set up a separate company as a broker to be able to do that. Getting rid of brokers would allow them to offer that service more easily.

Judy asked why DMV is interested in eliminating Brokers, noting that this wouldn't be possible, given existing contracts with DMAS. Patrick Harrison responded by noting that we are referring to the general Broker authority for passenger carrier services, not the NEMT authority and the contracts those carriers have with DMAS.

Stephen Story replied that brokers don't serve any function anymore; they are a relic of previous regulatory generation. The nature of the passenger transportation business has changed, so Brokers are no longer needed. He noted that the federal government deregulated broker authority for interstate trips years ago. If you were a tour company you needed a broker license. If you arranged a tour for your own club for a charge, you were technically a broker. There was no way DMV could police that arrangement. Stephen noted that a Broker's license requires a bond, but that the bond is hardly ever really used. He stated his belief that it makes no sense for a motor carrier to set up a separate business entity just to get the broker license. Brokers don't protect passengers, and he reminded stakeholders that if a trip crosses state lines, the motor carrier wouldn't have to have any broker license. Stephen ended his remarks on this topic by asking if a

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Broker helps anyone, believing that it does not. The requirement serves no purpose, provides no benefit, but does impede some company activity. He noted that 90 percent of brokering is done by national companies which hire Virginia companies, but are never touched by Virginia rules.

Patrick Harrison noted that there seems to be a strong case for eliminating the Broker license, and amending the Contract Passenger Carrier (CPC) and Regular Route Common Carrier (RRCC) operating authorities to allow them to perform broker services. Current requirements about comingling passengers and charging either individual or group fees would need to be modified.

Stephen responded that he hadn't thought about allowing specific authorities to broker, noting that if the Broker authority is eliminated, and any company could provide that service. He stated that the more Virginia can mirror federal regulations, the easier it is for companies. The federal government is looking at the types of arrangements being used in practice. Stephen noted that the federal government was looking at changes to subcontractor rules to address concerns about chameleon carriers that are getting around regulations, but it was determined that those changes would negatively impact legitimate carriers contracting work out to other carriers. The federal government is now looking at new guidelines to address the concerns without impacting carrier operations. If DMV is interested in guidelines, it should look to the federal requirements.

Judy noted that some of the federal requirements are quite onerous, so we may not want to put those on any business. Stephen responded by noting that you need a broker subsidiary because of Contract Passenger Carrier pricing restrictions that prevent individual fares from being charged without it.

Opportunities to Streamline Authorities

Patrick Harrison indicated that given the support for eliminating the prohibition on charging either individual or group rates that perhaps stakeholders should address combining the CPC and Irregular Route Common Carrier (IRCC) operating authorities. Patrick suggested that the group set aside TNCs and RRCCs from the discussion of streamlining authorities at the moment because of their unique characteristics. Are there differences in practice that lend a need to have differences in law? Patrick then reviewed the limitations on IRCC.

Stephen Story replied that the operational differences deal with pricing and tariffs. His company has both IRCC and CPC authority, and he doesn't see much of a distinction between the two authorities. However, he noted that some clients request every possible service and that the multiple siloed services often complicate invoicing for customers because of the pricing limitations associated with the different authorities. He stated there may have been a time when it made sense to restrict the number of carriers in an area (limiting competition), but he never personally had that view.

Judy replied that in 2015, the TNC business model drove changes in law. Now it seems that changes in the law will drive business models. She asked why changes are needed and whether the industry is asking for this change. She stated her belief that by collapsing authorities, taxi cabs will be impacted. Consolidation, she said, would lead to unregulated cabs in unmarked cars. She concluded that there is no need to collapse authorities, especially when DMV doesn't know the effect of the new TNC application process on the larger market.

Rena replied that there is nothing in statute preventing a CPC or an IRCC from charging by mile, even if it's included in a group rate. So, what is different about taxis?

Judy replied that, in addition to charging by mile, the ability to operate at taxi stands is another difference. She noted that there is not enough enforcement to keep track of TNCs operations, and that it's important not to make changes without identifying a real need.

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Patrick Harrison responded by noting that the charge from Senator Carrico was to engage stakeholders to see if there was an appetite for making changes to the passenger carrier statutes. Judy stated that collapsing authorities would lead to a reduction in the number of taxicabs and that the ones that remain would have a disproportionate share of hard to service/unprofitable trips, which is unsustainable. This, she stated, will lead to a reduction in service for vulnerable populations. She concluded by noting that collapsing the IRCC authority would essentially make them taxis because they could charge by the mile, which she reiterated is one of the key characteristics of taxis.

Robbie Werth agreed with Judy's comments, noting that the IRCC business model is based around the requirements currently in law. He noted that IRCCs serve certain populations that don't have access to other services, and that fewer vehicles will be covering a wider area if it gets consolidated. Robbie stated that he was opposed to consolidating the IRCC operating authority.

Angie de la Barrera noted that localities see a difference between taxis and other carriers because taxis are regulated by local law and inspected by local police. People with disabilities and tourists are served by taxis, and she stated that it's important to localities to make sure those services are available to all populations.

Kyle O'Keefe noted that Arlington is reviewing taxi pricing ordinances, such as setting a maximum charge instead of a minimum charge. This would protect tourists from exorbitant fares.

Judy also noted that taxis have to provide 24/7 service in their localities, whereas CPCs and IRCCs don't have to.

Chuck Duvall again asked what is wrong with the current regulatory requirements and what was the impetus for change? Rena replied that the market has already changed, and that it's state laws that have not kept pace. Chuck noted that localities will still have authority to regulate taxis. If taxis are excluded, other operating authorities can do whatever they like. Judy again stated her belief that collapsing authorities would create quasi cabs and more competition.

Stephen Story noted that most companies charge what they want and fit it into the operating authority that allows that charge. There is no need to distinguish, he said, because it's a useless calculation that nonetheless has to be done. He said he should be allowed to charge different fares at different times in order to drive business to slower periods. If DMV removes tariff requirements and the mileage/hour charge, the authorities have essentially been collapsed. He offered an example. His company obtained an IRCC permit for Norfolk, even though Virginia Taxicab Association opposed the application. He wanted to operate at the airport, so he had to get the IRCC permit. His company clearly wasn't a taxi service, yet taxi companies opposed the application anyway.

David Dunston noted that often the protestor and the applicant for an IRCC certificate come to agreement on where the applicant can provide service. This results in restrictions on the certificate.

Stephen Story continued on David's point, noting that one of the restrictions on his IRCC certificate in Norfolk was that his vehicles wouldn't look like or act like a taxi. He had to negotiate that stipulation with the VTA and Groome Transportation. If the tariff requirement were removed it would, in essence, collapse the authorities.

Judy replied that if authorities were collapsed, taxis won't be able to afford to offer 24/7 service and serve the disabled and elderly communities.

Stephen acknowledged that might be true, but the absence of a level playing field makes changes

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hard. The market is erasing the distinctions without the law changing. He noted that the VMA saw this study as a chance to make changes that make life easier for all passenger carriers.

Patrick Harrison asked the taxi representatives if any taxi requirements are so restrictive that it hurts competition.

Judy replied that roof signs were an extra cost, which is why they asked the General Assembly to eliminate them. She indicated some in the industry might want to consider surge pricing, but others might not. She concluded that the industry will eventually have to look at pricing on some trips so they make enough money to cover the losses on the trips to underserved areas.

Collapsing Operating Authorities

Patrick Harrison asked whether sightseeing carriers could be collapsed into a broader authority.

Stephen Story responded that they are mostly brokers, and that the only distinction has to do with dynamic pricing.

Patrick asked the same question regarding Non-Emergency Medical Transportation services; could this authority be collapsed into a larger operating authority.

Judy noted that Virginia came up with NEMT authority so the carriers wouldn't have to get IRCC authority to provide the service. It allowed those just trying to do Medicaid work to get a license more easily.

David Dunston noted that the IRCC process was time consuming for smaller carriers. The Department of Medical Assistance Services (DMAS) told DMV that it couldn't fulfill contracts quickly enough. So, DMAS and Logisticare (the primary provider) asked for the NEMT authority. The IRCC statute requires a tariff filing, but for DMAS providers the tariff just said was that they were charging the rate set in the DMAS contract. This stipulation made the tariff requirement relatively useless.

Judy replied that the number of NEMT providers will grow as the population ages; therefore, DMV might want to leave that authority separate.

Glenn Stafford noted that the CPC and IRCC authorities are very similar with pricing being the key difference, but agrees with Judy that the only reason the study is being conducted is because TNCs have disrupted the market. He said Virginia shouldn't dismantle something that's worked so well when we don't know if the TNC business model will survive.

Stephen Story next explained how his company makes many changes to the tours it offers to address construction and other circumstances. These arising circumstances make regular routes and schedules problematic. He also spoke about the importance of pricing flexibility. He stated that there is no need to regulate the price a carrier can charge for a trip and noted that consumer protection comes from Yelp and other reviews. If the requirements for filing routes and pricing were eliminated the sightseeing authority could be combined with the contract passenger authority as long as it allowed the carrier to charge per person.

Judy next asked if any other states have collapsed or are considering collapsing authorities. She stated that she believes that only Arizona has done so. She said that DMV should provide data on how this has worked in other jurisdictions before doing it in Virginia. She stated her belief that these changes are really aimed at the bus services, and that others shouldn't be considered.

Patrick Harrison responded that DMV wants to hear stakeholder opinions on whether the requirements in law are impediments to competition.

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Stephen Story next noted you don't need to find states that have deregulated passenger transportation, as some states simply never had onerous regulations to start. He noted that Florida is very lightly regulated, while New York and Hawaii are heavily regulated. Pennsylvania is in the middle on regulatory structure. The nature of all passenger carrier laws is such that people get around the intent of the law while still following it to the letter. This is happening in the industry because carriers got around all the rules with wholly owned subsidiaries (Brokers), and pricing and geographical restrictions (obtaining multiple authority types).

Stephen responded that not all companies can afford to get all operating authorities like James River and the other large carriers. The line between limousines and motor coaches is gone. He asked if it made sense to have multiple authorities when they are doing essentially the same thing. He continued that the distinction is really the size of the group taking a trip. Not all groups are large, and some are very small. He noted that the size of the group makes it clear that the changes being discussed have a far wider reach than just buses, as Judy claimed.

Patrick asked that if we keep the one hour requirement for CPCs, could we eliminate Brokers.

Judy replied in the affirmative, noting that the one hour requirement is the key distinction between taxis and CPCs. Glenn noted that street hailing is also a distinction, along with CPCs having to carry a trip sheet.

Rena replied that the distinctions between the authorities are meaningless if you can get multiple authorities and just structure the pricing to fit. Why have the requirements at all if it creates no real distinction between carriers?

Judy replied that the taxi industry doesn't care that CPCs and IRCCs have variable pricing, but does have a concern about charging by the mile. She wondered how DMV will monitor what everyone is doing if there are not different authorities.

Stephen asked what taxi operators' position is on using different pricing models. Judy replied that their rates are set by city (and other local governments). Stephen asked if they would like localities to allow them to do dynamic pricing. Judy replied that the taxi industry doesn't care that CPCs and IRCCs have variable pricing. Taxis get wait time in addition to mileage to make up for the lack of dynamic pricing.

Jeff Palmore asked Judy if she was comfortable letting limousines charge individual fares so long as the hour minimum remains. He also asked Glenn that, if he were allowed to do individual pricing, would he then not be concerned about eliminating brokers. Both seemed to agree with that.

Judy stated that she doesn't think the market is collapsing business models like DMV thinks. She believes the new TNC license structure will cause lots of problems.

Public Convenience and Necessity

Patrick asked stakeholders to move on to discussion of authorities that have to prove public convenience and necessity (PC&N) to obtain operating authority. He noted that RRCCs and IRCCs must prove PC&N, and asked stakeholders if they believe all authorities should be required to

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obtain a certificate of fitness instead.

Stephen Story responded that he favors the certificate of fitness and the elimination of PC&N requirements.

Judy said that if state law changes to allow other authorities to charge by the mile, they should be required to prove PC&N. She saw no need to change the current structure.

Glenn Stafford replied that PC&N is a thing of the past, and that it seems to be there to restrict competition rather than to protect the public.

Stephen noted that all an applicant has to do to prove PC&N is bring in some people to attest that they wanted the service. With it so easy to prove, why have it at all?

Bonding Requirements

Patrick next asked stakeholders to discuss the requirement for some operating authorities to obtain and file a surety bond with DMV, asking if it was still needed.

Judy replied that it protects passengers from “fly by night” carriers that take deposits for future trips but then never provide service.

Glenn said that the cost of a bond is minimal and still serves a purpose. If nothing else, he stated it scares someone who thinks they can take a bunch of deposits and not provide services. He asked whether DMV has ever used a carrier’s bond.

Rena replied that they were not aware of any consumer that had benefited from the bonding process and that she was not sure that consumers even knew it existed. Prior to 2000, applicants were required to prove financial fitness. The bond was a way to get DMV out of evaluating financial statements. She asked that, if an applicant can buy insurance, why do we need to prove they are financially viable with a bond? She noted that the bonding requirement has never been about consumer protection because it’s never been used by a customer.

Patrick Harrison suggested that the licensing requirements are enough to prevent someone from being a “fly by night.”

Stephen noted that the bonding requirement is only required for the first three years a carrier is in operation. Why require it at all if it’s not permanent? He noted that for bus companies, it takes considerable time and capital to get started, so the bonding requirement is not needed. Bus companies need financing to purchase a huge vehicle, and being able to complete such a purchase is enough to prove financial viability.

Judy reiterated the argument that the bond prevents “fly by night” bad actors. Since the bond is not an onerous requirement, why not keep it? Stephen replied that it doesn’t solve any problems and it is not used by customers and companies can demonstrate financial viability in other ways, what good is it?

Patrick Harrison asked whether localities require taxis to file bonds. Judy responded that her company has to file financial statements with the city, which prove viability. The financial statements are also used for setting rates.

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None of the locality representatives indicated that they assess a taxi company's financial viability or require taxis to file bonds. Kyle O'Keefe noted that Arlington has no indication that a company's financial statements prove viability. He said that paying for the taxi permit shows financial viability.

Tariff Filing Requirements

Patrick next asked stakeholders to discuss the requirement for some carriers to file tariff schedules with DMV.

Judy said that she has no concerns if the tariff filing were eliminated, so long as other provisions related to taxis are not changed.

There was general agreement among stakeholders to eliminate the tariff filing requirement.

Pre-arranged ride versus Prearranged basis

Patrick asked the stakeholders to discuss whether there was a difference between a ride being scheduled on a "prearranged basis" versus a "prearranged ride."

Glenn said that, prior to TNCs, CPCs were the only carriers that had to schedule service on a "prearranged basis". The TNC statute uses the term "prearranged ride." He questioned what the difference in these two terms was. He believed it is clear that there is a difference between the two in practice, but asked if the definition in Code needs to be changed.

Jeff Palmore noted that "prearranged ride" is defined in Code, but "prearranged basis" is not. It's used for CPCs, but it's not the same as the defined term used in the TNC statute. He stated that it may be good doing nothing because it's not causing any harm to CPCs.

Wireless Dispatching Devices

Patrick asked the stakeholders to consider whether a "wireless dispatching device" as defined in Code for taxis is any different than the TNC app.

Glenn stated that the term is no longer relevant, and that the Code should be changed to use "digital dispatch device."

Nicole Brenner noted that the term "wireless dispatching device" is used in the texting while driving section of Code, so this should be noted if a change is proposed.

Judy noted that taxis have an exemption in Code that allows them to hit buttons on "wireless dispatching device."

Cross-Jurisdictional Cooperation for Taxis

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Patrick asked Joe Lerch if VaCo has started working with localities to discuss the possibility of allowing taxis to operate across county lines.

Joe Lerch says no work has been started yet. Discussion of a separate working group on this topic came up in the locality meeting, but Joe stated that he wants to hear from taxi companies about whether it's something that's wanted. He stated that it might not need to be state law, but rather set by best practices for localities.

Janet Smoot noted that Angie asked that this be put on the study list, even though it's not part of the charge letter. Joe replied that VaCo is open to looking at it.

Judy noted that there are already lots of "alliances" allowing cross border operation.

Joe indicated that it can be a separate discussion outside of state issues.

Rena said that stakeholders mentioned tax structures surrounding this issue.

Joe noted Machinery and Tools and BPOL taxes. Glenn said previously that the treatment between localities is not fair. Glenn noted that some TNC Partner vehicles could be getting personal property tax relief, which his vehicles do not get. Could be more revenue for localities if they get to TNC vehicles...may lead to lower taxes for other carriers.

CONCLUSION	
	<p>After discussion on regional cooperation on taxi services, the day's agenda was complete. Patrick and Rena thanked all the participants for taking their time to discuss these issues. Janet noted that DMV staff will review the comments made and that it would be likely that additional stakeholder meetings will be needed this summer. As always, DMV staff will distribute the minutes of the meeting, and inform stakeholders of any additional meetings.</p>

Appendix G: Study Stakeholders

Richard D. Holcomb DMV Commissioner	Charlie King Red Top Cab	Edward Mullen Reed Smith/Uber
Rena Hussey DMV Assistant Commissioner	Chuck Duval Virginia Taxicab Association	Nicole Brenner Reed Smith/Uber
Patrick Harrison DMV	Judy Swystun Black and White Cars Inc.	Emily Modavo Uber
Janet Smoot DMV	Trip Perrin Virginia Taxicab Association	David Skiles Vectre Corp/Uber
Craig Whitham DMV	Robbie Werth Diamond Transportation	Patrick Cushing Williams Mullen/Lyft
Gabriel Boisvert DMV	Jonathan Trainum Napoleon Taxi	Michael Cooper MWAA
Andrew Owens DMV	Skip Jones Virginia Taxicab Association	Colleen Von Hoene MWAA
Thomas Penny DMV	Glenn Stafford Love Limousine	Troy Bell Richmond International
Barbara Arkwright DMV	Doug Douglas Charter Bus Industry	Joseph Aberti Richmond International
Latrice Ampy DMV	Stephen Story James River Transportation	Howard Smith Oleta Coach Lines
David Dunston DMV	James Brown VMA/Magic Carpet Tours	Jacqueline Grice J. Diamond Inc
Rachel Kerns DMV	Paul Walsh Superior Executive Transportation	John Jones Sheriffs Association
Michael Mey DMV	Morgan Brown	Dana Schrad Chiefs of Police
Rebecca Nichols SCC	Linda Morris VMA/Magic Carpet Tours	Neal Menkes Va Municipal League
George Lyle	Chris LaGow	Michael Polychrones

SCC	Insurance Industry Representative	Va Municipal League
Jason Holloway SCC	Rick Savage Allstate	Joe Lerch Va Association of Counties
Kevin Davis SCC	Anne Leigh Kerr USAA Insurance	Larry Land Va Association of Counties
Crissy Noonan Legislative Services	Joseph Lalla Georgetown Insurance Service	Mitch Nuckles Commissioners of Revenue Association
Beth Jamerson Legislative Services	Vicki Harris State Farm	Henri Stein Fairfax County
Janet Baugh Office of the Attorney General	Robert Bradshaw Independent Insurance Agents of VA	Susan Hafeli Fairfax County
Maureen Hollowell Virginia Association of Centers for Independent Living	Donna Leaman USAA Insurance	Noelle Dominguez Fairfax County
Kevin Koziol Virginia Association of Centers for Independent Living	Jack Rolfe Georgetown Insurance	Archie Pollard Fairfax County
John Ayers Va Trial Lawyers Association	Joe Hudgins Independent Insurance Agents of Virginia	Paul Hicks Fairfax County
Fred Helm Kemper Consulting/CDIA	David Bobinson Alexandria	Kathering Lwigey Fairfax County
Ross Grogg Kemper Consulting/CDIA	Yovonda Bellamy City of Norfolk	Pat Carroll Arlington
Rob Catron Prince William	Angie de la Barrera Arlington	Jerri Wilson Newport News
Lesa Yeatts Hampton	A. T. Tom Leary III Henrico Police	C. C. Hundley Henrico Police
Bernard Caton Alexandria		