

AMEND PRIVATE FOR-HIRE TRANSPORTATION, STUDY TRANSPORTATION NETWORK COMPANIES INSURANCE COVERAGE, CONDUCT A TRAFFIC STUDY

IF YOU WISH TO SPEAK TO CITY COUNCIL, PRINT YOUR NAME, ADDRESS, AND EMAIL.

NAME (PRINT)

ADDRESS AND ZIP CODE (Optional)

Email (Optional)

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Objections to Portland Bureau of Transportation's Proposed PDX WAV Program

PBOT's PDX WAV program is a separate Wheelchair Accessible Vehicle (WAV) dispatching system. It will direct all WAV customers to call a separate phone number to request a WAV vehicle. In theory, PDX WAV is supposed to reduce wait times for WAV customers while still giving them their preferred company. It is also supposed to provide a method by which the PBOT distributes a \$15 per-trip incentive to drivers and companies to pick up WAV orders and to subsidize the purchase and maintenance of WAV vehicles. The reality seems to be somewhat different.

Under the current Code, all PFHT companies are required to provide WAV data to PBOT. That data could be used to distribute the \$15 per-trip incentive. In fact, Uber and Lyft will have their trips subsidized based on submitted WAV ride data. So why is PBOT creating an expensive and duplicative dispatching system for WAV rides only for Taxi Companies? Why is PBOT not subsidizing Taxi WAV trips based on submitted ride data? The only companies that PBOT has met with extensively are Uber and Lyft. So, why has PBOT created a WAV dispatching system that Uber and Lyft, the two largest providers of Private For-Hire Transportation in Portland cannot participate in? There seems to be only one logical reason... Uber and Lyft don't want to provide WAV trips, and therefore PBOT has created a system for them that transfers all WAV trips away from Uber and Lyft to the Taxi Companies.

Why is this the most logical explanation?

First, Uber and Lyft have no WAV vehicles and contract with other companies to provide WAV trips. Even with a \$15 incentive, WAV trips are undoubtedly not profitable for Uber and Lyft. Transferring all the trips to the Taxi Companies relieves them of the burden of the providing WAV rides altogether. Essentially, it turns the Taxi Companies into forced contractors for Uber and Lyft, subsidized by the City of Portland.

Second, Uber and Lyft will be paid the incentive based on WAV ride data without participating in the PDX WAV dispatching system. This means that, if a WAV customer actually does request a WAV ride directly from Uber and Lyft, 100% of Uber and Lyft's WAV rides will be subsidized. Taxi Companies, on the other hand, will only receive the \$15 incentive for trips that are dispatched through the PDX WAV program.

Third, even though PBOT has said that the \$15 is to incentivize drivers and pay for the purchase and the maintenance of the vehicles, the incentive will be paid to Uber and Lyft and not to the companies they contract with, or the drivers who actually give the rides. Therefore, it creates no actual incentive for Uber and Lyft drivers to provide WAV rides, it is just a payout to Uber and Lyft.

Fourth, Taxi Companies are now supposed to send their customers to a different number where they may be assigned to another taxi company. While there is an obvious incentive for Uber and Lyft to shift any WAV customers to the Taxi Companies, PBOT shouldn't be requiring the Taxi Companies to tell their customers to call a separate dispatching system. In fact, it may violate the ADA for them to do so.

Fifth, Uber and Lyft, with their billions of dollars and armies of engineers, could have figured out how to participate in the PDX WAV dispatching system in the last year since it was announced if they wanted to. They don't want to, and there is absolutely no incentive for them to do so. Uber and Lyft get all the benefits of the system, without having to participate in it. They escape almost the entire cost of providing WAV rides and get 100% of the rides they do give subsidized.

Finally, PBOT did not seek any input from Taxi Companies prior to creating the PDX WAV system. For example, despite providing approximately 40% of the on-demand WAV rides and being the largest single provider of on-demand WAV rides, Radio Cab was not consulted by PBOT. The PDX WAV dispatching system was presented to the Advisory Committee and the Taxi Companies as a done-deal. Why would PBOT not get input from the companies who would be most affected by the program? Possibly because the Taxi Companies would have known that a separate, duplicative, and unnecessary dispatching system is a bad idea. It will be extremely costly. It will add significant additional time to a WAV trip because the PDX WAV dispatcher will have to contact the Taxi Companies and find an available WAV vehicle all while the passenger is waiting on hold. Taxi Companies would have objected to a system that requires them to give away their customers to another dispatching system and phone number. Taxi Companies would have objected to a system that treats them differently from Uber and Lyft. Taxi Companies would have pointed out the ADA problems with telling their WAV customers to call a different phone number than their regular customers. Taxi Companies would have requested to be subsidized based on their WAV ride data, exactly like Uber and Lyft. Taxi Companies would have argued that PBOT shouldn't create a WAV dispatching program unless Uber and Lyft were able to participate equally in it. Taxi Companies have tried to raise these and other issues in the year since PBOT announced the program and have been ignored.

PBOT has testified regarding the cost of the PDX WAV program. However, they have not broken down what percentage of that number comes from the \$15 per-ride incentive and what percentage comes from the cost of the system. Based on our experience with the cost of providing 24-7 dispatching, it is probable that PBOT will be spending far more than \$15 per ride to give out the \$15 per-ride incentive, doubling or even tripling the cost of the incentive totally unnecessarily.

Now, PBOT is asking the City Council to change the Code related to WAV rides. The change may allow PBOT to force Taxi Companies to participate in PBOT's PDX WAV dispatching system. Why would PBOT want this change? Because Taxi Companies and drivers haven't been signing up to participate. They recognize a bad deal when they see one.

The far better and most cost-effective solution is for PBOT to simply provide the incentive based on the already required and provided WAV data submitted by all companies. PBOT testified at the City Council meeting that they only treat the Taxi Companies and TNC's differently when there is a legitimate reason. There is no legitimate reason to treat them differently with respect to WAV dispatch.

Please tell PBOT not to implement this wasteful and unnecessary program.

Radio Cab's response to the Code Changes Proposed by PBOT

16.40.020 C.

PBOT Suggested adding to the Code:

Any section and or requirement of this Chapter may be further explained in Administrative Rule.

Radio Cab Suggests:

DO NOT ADD THIS TO THE CODE!

Reasoning:

The City Council should change the code if the meaning is unclear. At almost every PFHT Advisory Committee meeting and at listening sessions, when PBOT does not like what the language of the code says he says "well, the intent of the code was really..." and then says that the Code means whatever he wants it to mean, even when his meaning directly contradicts the plain language of the Code. In this context, "explain" could therefore mean whatever PBOT wants it to mean. Without a process for appealing so-called Administrative "explanations" to the Counsel before they are implemented by PBOT, PBOT could essentially re-write the code by "explaining" that it means whatever they want it to mean. This is especially concerning because the Taxi Companies have been unable to meet with PBOT while Uber and Lyft apparently meet with PBOT "extensively". One can therefore expect that the "explanations" of the Code will further favor Uber and Lyft.

16.40.020 F.

PBOT Suggested adding to the Code:

All driver backgrounds will be verified by the Bureau of Transportation. Those companies self-certifying drivers may allow the driver to operate for up to 30 days with a provisional driver permit. The company shall provide Driver background information to PBOT in a manner approved in writing by the Director within 24-hours of the Driver's certification or permit date. Absent exceptional circumstances, PBOT will review the self-certified backgrounds and conduct additional reviews, supplemental investigations or other steps to make a determination before validating the Driver's permit for one full year from the certification or permit date. Drivers who are not approved to operate will have their certifications and permits immediately cancelled, pursuant to 16.40.940. Violation of this Sub-section is a Class A violation and is also subject to suspension and/or revocation.

Radio Cab Suggests:

DO NOT ADD THIS TO THE CODE!

Instead add this to the Code:

All driver background checks will be performed by the Bureau of Transportation. Self-certification will not be allowed. PBOT shall perform back ground checks utilizing the applicant's fingerprints for identity verification. Any background checks that do not pass qualification will be revoked and the applicant will not qualify for a permit to drive. Each applicant that passes the background check shall have a re-certification each year to ensure a criminal record that still qualifies to be permitted. Re-certification of permitted driver's backgrounds will take place one year from the permit origination date and each year thereafter on that same date. Any permitted driver must notify PBOT within 5 days of being charged and/or convicted of a crime. Failure to do so will result in an immediate suspension and/or revocation of a permit. Any permit suspensions and revocations will be done pursuant to 16.40.940

In the Alternative, add this to the Code:

All driver backgrounds will be verified by the Bureau of Transportation. No driver permit may be issued or renewed, and no driver may operate as a driver for a Taxi Company or TNC until PBOT has verified the drivers background. Those companies that self-certify shall provide driver background information to PBOT in a manner approved in writing by the Director within 24-hours of the driver's certification date. Absent exceptional circumstances, PBOT will review the self-certified backgrounds and conduct additional reviews, supplemental investigations, or other steps to make a determination before issuing or renewing a driver's permit. Drivers who are not approved to operate will not be issued a permit or, if being certified for renewal, will have their permits immediately cancelled, pursuant to 16.40.940

Reasoning:

No person should be allowed to drive passengers in Portland on a 30-day provisional permit. This practice proved to be so dangerous that the City of Portland discontinued it over a decade ago. Because there have been so many problems related to the adequacy of TNC's background checks, the City of Portland should take over doing all background checks, using a fingerprint background checks system to verify the actual identity of the prospective driver. Permits should only be issued or renewed after a background check has been completed and approved.

16.40.110 I. 4.

PBOT Suggested Changing the Code:

Bureau approved driver training within 30 calendar days of a PFHT driver's certification by the Directors. Successful completion of all Director approved driver training and testing within 30-days of providing Taxi Service and successful completion of any additional training and testing must be completed within 30 days of release by the Director.

Radio Cab Suggests:

DO NOT MAKE THIS CHANGE TO THE CODE, or in the alternative:

~~Bureau approved driver training within 30 calendar days of a PFHT driver's certification by the Directors. Successful completion of all Director approved driver training and testing with 30-days of a driver's certification by the Directors.~~

Reasoning:

While it makes sense to require training and testing prior to issuing or renewing a PFHT driver' permit, it makes no sense to spring additional training on them at any time. A permit that is valid for a year should be valid for a year. Driver's should not be subject to having their livelihood revoked simply because PBOT has created additional training. PBOT seems not to want to regulate PFHT so much as run PFHT. Except in extreme circumstance, the companies should be responsible for training their drivers, not PBOT.

16.40.120 A and B.

PBOT Suggested Changing the Code:

A. Permit Fees. Taxi Companies shall pay City fees, established in TRN 3.450, and civil penalty fines consistent with Sections 16.40.910, 16.40.930, and 16.40.950.

B. Permit Issuance. No Taxi Company permit shall be issued until all ~~surcharges~~, fees, and civil penalty fines have been paid.

Radio Cab Suggests:

DO NOT MAKE THIS CHAGE TO THE CODE!

Reasoning:

PBOT should not be allowed to establish fees for the Taxi Companies without a process set out by the City Council. The Taxi Companies have not been able to meet with PBOT. The Advisory Committee tabled this suggestions to the objections of Taxi Companies and the Taxi Driver Representative, yet PBOT is introducing it anyway. Further evidence that PBOT doesn't listen to the Taxi Companies or the Advisory Committee and shouldn't be allowed to set Taxi Fees entirely at its own discretion.

16.40.140 I. and 16.40.240 I.

PBOT Suggested Changing the Code:

Reporting Requirements. Each Taxi ~~Company~~ Driver shall regularly report the following to the Director:

and,

Reporting Requirements. Each TNC Driver shall regularly report the following to the Director.

Radio Cab Suggests:

DO NOT MAKE THIS CHANGE TO THE CODE!

Reasoning:

This change makes no sense. The drivers already have reporting requirements. These changes are in the sections related to the responsibilities of Taxi's Companies and TNCs. A driver would never know half the things this section would now require them to report. Presumably this is being changed because Uber and Lyft don't want to be responsible for having to report any accidents, or crimes against drivers, or any arrests or convictions of any TNC drivers, and want to be able to blame drivers if those things are not reported. It could have no other purpose.

16.40.170 G.

PBOT Suggested Changing the Code:

Taxi Driver Training. The affiliated company must ensure that all Taxi Drivers successfully complete all Director-Approved trainings [sic] and testing within 30 days of Taxi Driver certification and successfully complete any additional training and testing within 30 Days of Release by the Director.

Radio Cab Suggests:

DO NOT MAKE THIS CHANGE TO THE CODE, or in the alternative:

~~Bureau approved driver training within 30 calendar days of a PFHT driver's certification by the Directors.~~
Taxi Driver Training. The affiliated company must ensure that all Taxi Drivers successfully complete all Director approved driver training and testing with 30-days of a driver's certification by the Directors.

Reasoning:

While it makes sense to require training and testing prior to issuing or renewing a PFHT driver' permit, it makes no sense to spring additional training on them at any time. A permit that is valid for a year should be valid for a year. Driver's should not be subject to having their livelihood revoked simply because PBOT has created additional training. PBOT seems not to want to regulate PFHT so much as run PFHT. Except in extreme circumstance, the companies should be responsible for training their drivers, not PBOT.

16.40.190 D. 4.

PBOT Suggested Changing the Code:

WAV services must comply with Administrative Rule, WAV Service Performance Guidelines established by the PFHT Advisory Committee and the Portland Commission on Disability. ~~in consultation with the Portland Commission on Disability~~. Service performance guidelines may include best practices pertaining to the following:

- ~~a. Vehicle specifications;~~
- ~~b. Wheelchair loading and securement;~~
- ~~c. Customer service and communication with customers;~~
- ~~d. Driver training; and,~~
- ~~e. Estimated wait times.~~

Radio Cab Suggests:

DO NOT MAKE THIS CHANGE TO THE CODE!

Reasoning:

This would give PBOT unlimited authority to create any regulations regarding WAV they want without direction from the City Council. They are already creating systems like PDX WAV dispatching with virtually no input from the Taxi Companies. ...and that system has the effect of transferring all of the WAV dispatching away from the TNC's (who can't participate) to the Taxi Companies. At the last PDX WAV meeting PBOT proudly announced that it had had many meetings with Uber and Lyft on the PDX WAV issue. Which explains why the system benefits them so completely. If the Taxi Companies are going to have no input with PBOT regarding issues like WAV, the City Council should set the criteria for WAV service, not PBOT. This change would allow PBOT to force Taxi Companies to participate in the PDX WAV against their will.

16.40.910 D-H.

PBOT Suggested Changing the Code:

D. ~~Taxi Company~~ and TNC permit fee rates shall be established annually by the Director in accordance with the following;

1. Permit fee rates shall be established to fund all program costs required to adequately administer the PFHT program pursuant to Sections 16.40.100-190 – 16.40.200-290 and to verify compliance with all relevant requirements pursuant to Chapter 16.40; and
2. Permit fee rates shall be proportioned according to the expected annual number of trips fulfilled by permitted ~~Taxi Companies~~ and TNCs, as determined by the Director and informed by available trip data provided pursuant to Subsections 16.40.140 K. and 16.40.240 K.

E. Permitted ~~Taxi Companies~~, TNCs, and ~~On demand/Reservation Shuttles~~ shall add to the total fare of each completed trip charged to passengers the permit fee, as established by the director and pursuant to this section and in accordance with the following:

1. The permit Fee rate added to the total fare of each completed trip charged to passengers by the ~~Taxi Company~~ or TNC shall be clearly identified as the "CITY OF PORTLAND SURCHARGE" on receipts provided to the passengers pursuant to Sections 16.40.140 and 16.40.240.

F. The Director shall provide fee invoices to permitted ~~Taxi Companies~~ and TNCs quarterly pursuant to Section 16.40.910. The Director shall issue invoices on or about the 25th day of the month following the end of the quarter. Invoices are based upon trip data provided by the ~~Taxi Companies~~ and TNCs. The invoice payments are due with 30 days of the invoice date. Payments will be considered delinquent if not received within 30 days of invoice date. The first quarter of the new year begins on January 1. The director shall suspend or revoke ~~Taxi Company~~ or TNC ~~Company~~ permits if permit fees are not paid in full in accordance with Section 16.40.910.

G. Permit fee rates applicable to all approved PFHT operators, with the exception of Taxi Companies and TNCs, shall be established annually by the Director to fund all program costs required to adequately administer the PFHT program and to verify compliance with all relevant requirements pursuant to Chapter 16.40 and as defined in the Administrative Rules.

H. The Director shall provide notice of permit fee payment requirements to permitted PFHT operators with the exception of ~~Shuttles, Taxi Companies,~~ and TNCs pursuant to Section 16.40.910. The Director shall suspend or revoke PFHT permits if permit fees are not paid in accordance with Section 16.40.910

DO NOT MAKE THIS CHANGE TO THE CODE!

Reasoning:

While we believe that the Per-Ride Fee was created to benefit Uber and Lyft by making sure they would not have to pay per-vehicle fees (Which would have generated far more income for the City, BTW) and their drivers would not have to pay any permit fees, the same fees must be charged to both the TNCs and the Taxi Industry. We believe that, if the Taxi Industry is going to be charged per-vehicle and permit fees, TNCs should also be charged the per-vehicle fees and the permit fees as well. However, only charging the Taxi drivers a permit fee puts the Taxi Companies at a huge disadvantage when it comes to recruiting drivers. Suddenly a prospective taxi driver would have to pay \$100s up-front but would pay nothing up-front if they went to drive for a TNC. Only charging Taxi Companies a per-vehicle fee creates an added up-front expense to putting new vehicles on the street that the TNCs will not have.

In addition, PBOT should not be allowed to establish fees for the Taxi Companies without a process set out by the City Council. The Taxi Companies have not been able to meet with PBOT. The Advisory Committee tabled this suggestion to the objections of Taxi Companies and the Taxi Driver Representative, yet PBOT is introducing it anyway. Further evidence that PBOT doesn't listen to the Taxi Companies or the Advisory Committee and shouldn't be allowed to set Taxi Fees entirely at its own discretion.

Radio Cab's Proposed Code Changes

Radio Cab has submitted these proposed changes (and others) to the City of Portland Bureau of Transportation and to members of the City Council over the course of the last several years. Despite promising to meet with us numerous times over the last year to discuss our proposed changes, PBOT has never met with us. None of our proposed changes were included in PBOT's recommended changes. No change PBOT told us they would be making at a "listening session" over a year ago was included in PBOT's recommended changes.

16.40.170 E. 7.

Based on the conviction date, the applicant has ~~two~~ three (3) or more traffic violations as defined in ORS 801.557 of any kind within the previous 12 months from the date of the application.

In the Alternative:

Based on the conviction date, the applicant has ~~two~~ three (3) or more traffic violations ~~as defined in ORS 801.557~~ listed in OAR 735-06-0220 ~~of any kind~~ within the previous 12 months from the date of the application.

Reasoning:

For decades the rule was that taxi drivers would not lose their livelihoods unless they got three driving-related tickets in one year. It was only changed in 2015. No one has ever given a reason why. Full time taxi drivers are on the road thousands of hours a year. Even the most careful driver might make a mistake or two in a year. This change was unfairly punitive. It is especially punitive if, as we have heard, PBOT is including parking tickets within their definition of "traffic violations." At an official listening session, over a year ago, BPOT said that the first version of this suggested Code change was a change they would be making to the code. They did not include this in their recommended code changes. The second version of this suggested Code references a list of traffic violations used by the State of Oregon in Habitual Offender, Driver Improvement, CMV Serious Violations and Hardship/Probationary Driver Permit Programs. Its use would ensure that the disqualifying violations are actually driving related, rather than non-driving related violations like parking tickets, and would eliminate any confusion concerning what violations would jeopardize a driver's livelihood.

16.40.170 E. 9.

The applicant does not have at least 1 year's worth of uninterrupted driving experience with a valid driver's license in a United States jurisdiction, immediately preceding the certification. A suspension of an applicant's driver's license for less than 1 week for a reason other than as the result of a driving-related incident will not constitute an interruption of the applicant's driving experience.

Reasoning:

This section of the Code has been used by PBOT to deny or revoke taxi driver permits based on suspensions of a taxi driver's license for less than 6 hours, in one instance. In another instance the suspension was a court error, but PBOT revoked the driver's permit anyway, and the driver was unable to get it restored because the suspension technically still appeared on the driver's DMV record and the driver was unable to get the DMV to remove it. The vast majority of suspensions of driver's licenses of less than a week are related to a failure to pay child support or a failure to pay some other fine, and the suspension is lifted in less than a day. A driver who has driven for decades should not lose their livelihood because of a suspension unrelated to driving that is resolved almost immediately. It is a fiction to say their driving experience was interrupted. It serves no public safety purpose and serves only to harm drivers.

16.40.170 E. 11.

~~The applicant is unable to obtain car insurance for any reason.~~

Reasoning:

Since Taxi Companies provide commercial general liability and primary automobile insurance for all Taxi Vehicles, whether or not Taxi Drivers individually can obtain car insurance has no effect whatsoever on the coverage for Taxi Vehicles. This is language that was drafted for TNC Drivers and which was applied to Taxi Drivers even though the result makes no sense. PBOT seems to be ignoring this requirement anyway, and it should be removed.

16.40.170 E. 12.

~~The Administrator may waive any condition of 16.40.170 E and issue a permit to an applicant if the Administrator determines that the disqualifying condition was sufficiently remote in time and that the disqualifying condition is unlikely to reoccur.~~

Reasoning:

This change restores discretion to the Administrator to waive disqualifying conditions in the Code under certain circumstances. Since the new Code was enacted, Taxi Drivers who have been previously issued Taxi Permits by the City of Portland (some for decades), have been denied permits for a disqualifying condition that predated their taxi driving career. Prior Codes have allowed that, if Administrator determined that the disqualifying condition was sufficiently remote in time and that the disqualifying condition was unlikely to reoccur the Administrator could waive the condition and issue a permit to the driver. The Administrator should regain that authority. At an official listening session, over a year ago, BPOT said that this was a change they would be making to the code. They did not include this in their recommended code changes.

16.40.210 L. 5.

Personal Automobile Liability Insurance, as required by state law and is endorsed by the driver's personal auto insurance company to remain valid while affiliated with a TNC.

Reasoning:

TNC Companies require that TNC drivers maintain personal automobile insurance. Although the TNC Companies claim their coverage is primary during periods 1, 2 and 3, in practice TNC drivers produce their personal auto insurance policy information at the scene of an accident in a wrongful attempt to pass off claims costs to their personal auto insurers. It only makes sense that TNC Drivers should be required to inform their personal auto insurance companies that they are using their vehicle for part-time commercial purposes. TNC drivers should be required to demonstrate to the Director that they have notified their personal auto insurance companies by obtaining an endorsement that their personal auto insurance does actually remain valid while they are affiliated with a TNC. This change will prevent TNC drivers from accidentally committing insurance fraud by requiring them to notify their personal insurance company that they are using their personal vehicle as a TNC vehicle. Additionally, one motivating factor for TNC drivers in producing their personal auto insurance rather than the TNC's is that they don't want their personal auto insurance company to know that they are driving for a TNC for fear their policy will be canceled. Requiring TNC drivers to notify their personal auto insurance provider prior to becoming a TNC driver would eliminate that fear.

16.40.230 A. 1.

~~Period 1: The TNC Driver has logged into the app. The app is open and the driver is waiting for a match.~~ The TNC Driver has the TNC trade dress in the windows of the TNC vehicle as required by 16.40.250 A. 1. and 16.40.260 C. but a passenger match has not been accepted by the TNC driver on a TNC app (i.e. the driver is not on their way to pick up a passenger) and a passenger is not in the vehicle.

Reasoning:

In nearly all of the accidents where a TNC driver has hit a Radio Cab the TNC driver has produced their personal auto insurance policy and not the TNC's, regardless of whether they were in Period 1, 2, or 3. Despite having the trade dress in the windows, and in some cases despite helping their passengers out of the vehicle, they deny the app was open. **There is no way for a person hit by a TNC driver to know if the TNC app is open.** The public can't demand to see the TNC drivers phone. Even the police can't check the phone without a warrant. However, the TNC trade dress is public notification that the vehicle is operating for a TNC. Presumably that is the purpose for requiring it. If a vehicle is advertising that it is operating for a TNC, the public should be able to assume that the TNC's insurance covers. The TNC companies should be responsible for ensuring that their drivers remove the TNC's trade dress when they are not driving for a TNC if they are concerned about additional liability. The public should not have to

guess who's insurance covers. ...or accept the word of the TNC drivers. This would be an objective, easily understandable way for the public to know what insurance information to get.

16.40.230 C.

Additional Insured and Notification of Policy Changes. The TNC shall provide certificates of insurance to the Director, issued by their insurance companies, naming the City of Portland, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the Director before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, worker's compensation and employer's liability insurance (as required by state law). TNC Drivers shall provide certificates of insurance to the Director, issued by their personal auto insurance companies, naming the City of Portland, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the Director before a policy is canceled, expires, or has a reduction in coverage.

Reasoning:

All other policies relied upon by commercial drivers in the City of Portland must name the City as an additional insured. In nearly all of the accidents where a TNC driver has hit a Radio Cab the TNC driver has produced their personal auto insurance policy and not the TNC's. If TNC drivers are going to rely on their personal auto insurance to cover them while they are a TNC driver, or while they appear to be driving for a TNC because they have TNC trade dress in the windows of their vehicle, they should have to name the City of Portland as an additional insured on their personal auto insurance policy. The insurance standard should be the same for all policies relied upon while providing commercial service.

16.40.280 B. 1.

A non-digital copy of the TNC insurance pursuant to ORS 806.011 and a non-digital copy of the vehicle registration at all times while operating as a TNC Driver, including all times when TNC Driver has the TNC trade dress in the windows of the TNC vehicle as required by 16.40.250 A. 1. and 16.40.260 C. Upon request of the Director or law enforcement officer, or if involved in a motor vehicle accident during periods 1, 2, or 3, TNC Drivers shall present proof of a valid TNC primary automobile insurance police and vehicle registration.

Reasoning:

In nearly all of the accidents where a TNC driver has hit a Radio Cab the TNC driver has produced their personal auto insurance policy and not the TNC's. The Code should make it clear that the TNC drivers are required to present proof of valid TNC primary insurance when in an accident while operating as a TNC driver during all periods, including when they have TNC trade dress in the windows of their vehicle.

16.40.230 B.

Providing TNC Services. All periods of TNC service shall be covered by a general commercial liability policy and a primary automobile insurance policy provided by the TNC, the TNC Driver, or a combination of both. Evidence of TNC insurance requirements shall be received and approved by the City prior to a TNC receiving a TNC permit. If a TNC driver is in any driving period, 1, 2 or 3, for more than one TNC at the same time, including if the TNC driver has the trade dress of more than one TNC company in the windows of the TNC vehicle, the primary automobile insurance policies of both TNC's are jointly and severally liable.

Reasoning:

Numerous TNC drivers display the trade dress for both Uber and Lyft. They have both apps open at the same time to increase their chances of matching to a passenger. In the event of an accident, it should be clear in the Code that both TNC's insurance policies are primary, either may be held liable for the full amount of the damages, and either proof of insurance may be produced. If the TNC companies would like to seek contribution from each other, they may. However, coverage should not be denied or delayed for the injured party while both TNC's deny coverage saying the other is primary.

16.40.230 D.

Ensuring Driver and Vehicle Insurance. TNC Drivers shall be responsible for ensuring appropriate personal motor vehicle liability insurance required by State law and that is endorsed by their insurance company to cover vehicles used for TNC services.

Reasoning:

Although the TNC Companies claim their coverage is primary during periods 1, 2 and 3, in practice, TNC drivers produce their personal auto insurance policy information at the scene of an accident in a wrongful attempt to pass off claims costs to their personal auto insurers. It only makes sense that TNC Drivers should be required to inform their personal auto insurance companies that they are using their vehicle for part-time commercial purposes. TNC drivers should be required to demonstrate to the Director that they have notified their personal auto insurance companies by obtaining an endorsement that their personal auto insurance does actually remain valid while they are affiliated with a TNC. This change will prevent TNC drivers from accidentally committing insurance fraud by requiring them to notify their personal insurance company that they are using their personal vehicle as a TNC vehicle. Additionally, one motivating factor for TNC drivers in producing their personal auto insurance rather than the TNC's is that they don't want their personal auto insurance police to know that they are driving for a TNC for fear their policy will be canceled. Requiring TNC drivers to notify their personal auto insurance provider prior to becoming a TNC driver would eliminate that fear.

16.40.280 D.

Maximum hours of Driving. No person shall provide PFHT services after driving more than 12 hours in any given 24-hour period. A TNC driver is considered to be “driving” for purposes of this section the entire time a driver is in any driving period, 1, 2, or 3.

Reasoning:

Uber publicly announced that they would limit their drivers to driving for 12 hours before requiring 6 hours of rest. However, Uber says that waiting time in period 1 longer than 5 minutes doesn't count (i.e. it is not “driving”). Since period 1, the time between fares, can last as long as periods 2 and 3, Uber effectively allows drivers to drive 24 hours a day. Driving around waiting, trying to match to a passenger, in the experience of the Taxi industry, can be the most dangerous period of driving because the driver is distracted looking at their phone, tablet or other device, rather than being focused 100% on driving, yet Uber excludes that time if it lasts longer than 5 minutes. In terms of rest, it does not matter if you are in periods 1, 2, or 3, you are still out, behind the wheel of a car. Also, a driver is considered to be “driving” a taxi the entire time the driver is behind the wheel regardless of if they have matched to a passenger, are on the way to pick up a passenger, or have a passenger in the cab. This change would make sure all drivers are following the same rules. The time limit for driving was dropped recently by the Council from 14 hours to 12 hours. Presumably the Council intended to reduce the amount of time drivers spent behind the wheel to increase safety. This change clarifies the rule to promote that goal. **Cities such as Chicago have already made this change to their Code.** (Unfortunately, other Cities are finding that, because TNC drivers are allowed to be certified to more than one TNC at the same time, they simply switch apps when kicked off one and drive for the other TNC.)

Submitted by
Ilene Brown
5/23/18

COURIER COMPANIES

Senvoy	City Sprint aka Brownstone
Cascade Couriers	NDS
River City Rush	Michaels Messenger
Beavex	Hot Shots
Couriers NW	Custom Couriers

DELIVERY SERVICES

Postmates	USPS
Grub Hub	Full Circle
DHL	Portland Delivery Dudes
Fedex	UPS

PRODUCTS AND SERVICES

Auto Parts inc NAPA	Occupancy Inspections
Medical Specimens inc OHSU and Kaiser	Veterinary Specimens
Cell Tower Testing, All Major Cell Companies	Mapping Services
Process Servers	Luggage Return
Computer Parts	Roadside Assistance
ATM Parts	Xray and Mammogram Parts
Newspaper inc The Oregonian	Cinema Equipment
Bank Mail inc Umpqua and Bank of America	Flyer Services

Mr. Mayor and Commissioners, My name is Darin Campbell and I am the state and local Lobbyist for Radio Cab Company.

Over the last couple months, we have met with either you or your staff in an effort to show what battles the taxi industry and its drivers are facing. Where we have a long list of requested code changes I would like to focus on just a couple and submit the rest onto the record.

Public safety should be your number one priority and that means having the best possible policy's in place. Having a back-ground check system that works and is effective is imperative. In 2017 I wrote legislation for the state legislature and during that process I had the ability to learn a lot about back ground checks. The idea of allowing a company to self check and then putting drivers into service for 30 days until the city verifies is not only dangerous but has been tried in Portland before and it was decided then that it allowed to much opportunity for the wrong people to get through. We have already seen the Uber back ground check fail miserably so we know allowing the wrong person to be out serving the public in an environment where people are at their most vulnerable is a mistake. The safety of the community cannot be played with because a multibillion dollar company needs to get drivers faster.

I am submitting a common sense re-write for the proposed code. One that will get the background check to a place that makes sense and clears drivers prior to their first interaction with the community. One that requires fingerprint identity checks via live scan, a system that is available in at least 17 location all around the state with many in the Portland metro area. THERE IS NO REASON NOT TO DO THIS NOW!!!

I do want to mention 2 other items that would have an immediate impact our ability to compete in a fair market place. Putting a cap on the number of vehicles a TNC can operate at any given time and placing a minimum on fare pricing. I believe these are both issues which would be supported by the Taxi drivers and industry as well as the TNC drivers who are looking for better working conditions. We can no longer allow the saturation of the market place with drivers working for pennies. Drivers are not able to make it out there and this city should not be standing by allowing this to happen.

I am more than happy to answer any questions you may have regarding any item in code. I have just touched on a couple things I felt were most important however we have many issues we would like to address and hope we will have more time to work with staff to accomplish these things.

Darby Campbell
Radio Cab
May 23rd 2018

16.40.020 - F

All driver background checks will be performed by the Bureau of Transportation, self-certification will not be allowed. PBOT shall perform back ground checks utilizing the applicant's fingerprints for identity verification. Any background checks that do not pass qualification will be revoked and the applicant will not qualify for a permit to drive. Each applicant that passes the back-ground check shall have a re-certification each year to ensure a criminal record that still qualifies to be permitted. re-certification of permitted driver's backgrounds will take place one year from the permit origination date and each year thereafter on that same date. Any permitted driver must notify PBOT with in 5 days of being charged and/or convicted of a crime. Failure to do so will result in an immediate suspension and/or revocation of a permit. Any permit suspensions and revocations will be done pursuant to 16.40.940

Moore-Love, Karla

From: MARK STURBOIS <msturbois@comcast.net>
Sent: Tuesday, May 22, 2018 5:23 PM
To: Council Clerk – Testimony
Subject: 1518-1520 edited
Attachments: item 518-520 edited.docx

Please substitute this for my prior testimony

Mark Sturbois
1512 S E Hawthorne #2
Portland Oregon 97214
503-201-9919
msturbois@comcast.net

TESTIMONY ON ITEMS 518, 519 ,520

Mark Sturbois

1512 S E Hawthorne #2

Portland Oregon, 97214

503 201 9919

msturbois@comcast.net

Mayor Wheeler and Members of the Council:

My name is Mark Sturbois and I am testifying as a concerned member of the public

I have spent several years advocating for working people and existing businesses against a proven threat from the TNC providers. I am hoping that with a new group of Commissioners and a new Mayor that some of the damage can be reversed.

I trust that all our elected officials and their staff have thoroughly prepared for this matter and I will probably not tell you something you are not aware of but I would like to speak historically.

Taxis were regulated by City. Their numbers of drivers were subject to City approval and it took almost 2 years to ad Union Cab to the fold. Taxi rates were controlled by City and stayed fairly constant even with rising fuel costs. Taxi background tests were mandated by City, as were insurance rates vehicle inspections and the physical preparation for taxis were set by the City.

Twenty four hour dispatch and all people access were mandated as were the proportion of vehicles allotted for handicap access. All these mandates were tossed aside when the TNC were allowed to operate by a majority of the last regime.

Anyone with internet access or a television set has seen the worldwide lawlessness perpetuated by Uber. Historically again let's remember that this company ignored PBOT telling them they were not permitted to operate. Let's remember the Uber Lobbyist who was also campaign advisor to several of the elected officials having a cookout with two of them and David Plouffe and the subsequent fines. Let's remember Greyball that the company finally admitted, apologized, and promised not to do again. If only I could commit a crime and simply promise not to do again. Let's remember the efforts to have the State Legislature do aware with local regulation making your regulations moot.

Now let's look at the drivers. The EPI and other research groups have concluded that the average Uber/Lyft driver makes less than minimum wage unlike the anomalies you will hear

from representing the companies. That is unacceptable for a company with the assets of the major TNC providers. No workers comp no healthcare and inadequate insurance. You should protect these people.

Cab drivers are having to work longer hours and more days to earn less money than before due to the deregulation and proliferation of the TNC. They owe a kitty whether they work or not.

Let's look into the future. It is irresponsible in a housing crisis and income uncertainty to not be wary of the monumental job loss to all with the advent of the autonomous vehicle. These threaten bus drivers, truck drivers, max and streetcar drivers and delivery drivers. The vehicles will also threaten the Taxi and TNC drivers.

We can't write on stone tablets but please put a brake on this runaway train.

Protect our residents.

Thank You