Motor Carrier Code Review—Considerations for the Legislation of Transportation Network Companies

Researchers explored the implications of motor carrier regulations, located in the Texas Transportation Code, on transportation network companies (TNCs). Current laws and exemptions in the existing code were identified and evaluated for their effect on TNC operations and state TNC policy. This policy brief is designed to inform Texas policy makers about existing statutes and regulations that may need to be considered in the development of TNC legislation.

Background

Since 2012, private companies such as Uber and Lyft have been providing a taxi-like ride service in cities and towns across the United States. Transportation network companies, as these companies are increasingly called, introduced new technologies and business models that do not fit neatly into the existing regulatory frameworks in the transportation industry.

This policy brief explores the definitions and exemptions in the motor carrier code, Sections 643.001 and 643.002 of the Texas Transportation Code, to identify whether these regulations may legally apply to TNCs operating in Texas. Entities subject to the Texas motor carrier code, such as trucks and buses, must comply with regulations overseen by the Texas Department of Motor Vehicles including registration, permit fee, safety, vehicle, and insurance requirements. TNCs are corporate entities that provide transportation network services by connecting passengers to TNC drivers. TNC drivers are individuals who drive personal vehicles used to transport customers from place to place.

As policy makers consider TNC legislation at both the state and local levels, this evaluation presents information that can be used to determine if and how existing regulations of motor carriers apply to TNCs and TNC drivers in Texas.

Issue

Are TNCs and/or TNC drivers subject to Texas regulations that govern motor carriers as defined in Sections 643.001 and 643.002 of the Texas Transportation Code (I)?

Summary of Findings

Existing regulations governing motor carriers were created before the advent of the TNC model and the technologies it relies on, but it is nevertheless likely that the existing legal framework is flexible enough to provide guidance on these new transportation activities. (Notably, taxi services are regulated at the municipal level and not under the motor carrier code or any state-level regulations in Texas.)
This review finds that TNCs are probably not considered motor carriers but cannot be clearly excluded from the definition of a motor carrier in Section 643.001 or exempt under Section 643.002 from the laws regulating motor carriers under Texas law. In contrast, this review suggests that a TNC driver, as defined in the Texas Insurance Code (2), may be considered a motor carrier because the definition of a TNC driver seems to conform more closely to the definition of a motor carrier than a TNC due to the driver’s direct role in operating the vehicle.

Findings include the following:

- A TNC is probably not considered a motor carrier under Texas Transportation Code Section 643.001 because TNCs are explicitly defined to not “control” TNC drivers.
- If a TNC were considered a motor carrier under the definition in Section 643.001, the TNC is probably not exempt from the Texas motor carrier regulation based on the list of enumerated exemptions in Texas Transportation Code Section 643.002, but the following two exemptions could not be conclusively rejected:
  - A motor vehicle subject to comparable registration and a comparable safety program administered by another governmental entity.
  - A motor vehicle used to transport passengers and operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, daycare center, public or private school, nursing home, or similar organization.
- A TNC driver may be considered a motor carrier under Texas Transportation Code Section 643.001.
- If a TNC driver were considered a motor carrier under the definition in Texas Transportation Code Section 643.001, the TNC driver is probably not exempt from the Texas motor carrier regulation based on the list of enumerated exemptions in Texas Transportation Code Section 643.002. The following exemption, however, could not be conclusively rejected:
  - A motor vehicle subject to comparable registration and a comparable safety program administered by another governmental entity.

**Facts**

TNCs’ primary business offering is to provide transportation services using digital technologies (typically smartphones) that connect passengers to drivers who use their personal vehicles to provide rides. This service is also called ride sourcing or ride hailing (3). In Texas law (House Bill 1733, 84th Regular Session, codified as new Chapter 1954, Insurance Code), a TNC is defined as:
...a corporation, partnership, sole proprietorship, or other entity operating in this state that uses a digital network to connect a transportation network company rider to a transportation network company driver for a prearranged ride.

The definition of a TNC is itself a point of debate: TNCs have argued that they are not transportation providers but rather technology companies. This characterization relates to the fact that TNC services are facilitated by a smartphone or web-based software application. In practice, TNCs provide services that operate much like traditional taxis: a traveler requests a ride and pays for a driver who provides that service of transporting him or her from point A to point B. Potential passengers must download a TNC software application (typically for free) to a smartphone, tablet, or computer and register with a valid credit card. The TNC application facilitates the ride request, connects passengers to a driver, uses global positioning systems (GPS) to navigate to the pick-up and drop-off locations, and shares the vehicle’s progress and estimated arrival with both driver and passenger. After the trip is complete, the TNC automatically charges the fare to the linked credit card, logs the trip, and generates an electronic receipt. The fares are shared between the TNC and the driver.

TNCs typically categorize their drivers as independent contractors, but employee representation groups and some public agencies have challenged this classification. TNCs have been involved in several lawsuits related to the status of TNC drivers. In June 2016, Uber settled two class action lawsuits with drivers who wanted to be classified as full-time employees.

TNC drivers are required to apply with the TNC by submitting an application and background check. For example, one TNC—Lyft—requires each driver to have a valid driver’s license, current registration, and valid insurance. Lyft allows valid commercial license plates and standard license plates (4).

The TNCs set standards for vehicles, often limiting the age or mileage of the vehicle and/or requiring a vehicle inspection, but do not own any of the vehicles used for transporting passengers. TNC drivers own or lease the vehicles used to provide TNC services and are responsible for registration, personal automobile insurance, and general maintenance costs.

TNC drivers do have the flexibility to choose when and how often to work. Some work full-time, and some work varying numbers of part-time hours. However, TNCs may provide incentives to work in certain areas or at certain times, and through the application, TNCs are aware of each driver’s activity and ratings.

A TNC manages customer service and customer complaints and has the authority to ban a driver from use of the application, and thus from providing TNC services, based on passenger ratings or evidence of unlawful activity.
Discussion of Rules

A TNC Is Probably Not Considered a Motor Carrier under Texas Transportation Code Section 643.001

The motor carrier code is found within Subtitle F Commercial Motor Vehicles of the Texas Transportation Code. In practice, it seems that motor carrier regulations are typically imposed on commercial motor vehicles that are trucks and buses. Passenger travel services like taxi services are not regulated as motor carriers in Texas. TNC vehicles, which are exclusively passenger vehicles that hold fewer than 15 passengers, do not fit the definition of a commercial motor vehicle in Texas. However, this size attribute is not specified in the Texas motor carrier definition, and therefore, for the purposes of this review, the assumption is that a legal ruling could find a passenger vehicle subject to motor carrier regulations.

Texas Transportation Code Section 643.001 Definitions, Title 7 Vehicles and Traffic, Subtitle F Commercial Motor Vehicles, Chapter 643 Motor Carrier Registration, defines a motor carrier as (1):

…an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state.

TNCs are explicitly, but only partly, excluded from this definition by Texas Insurance Code Section 1954.102 Control of Transportation Network Company Drivers, which clarifies that (2):

…a transportation network company does not control, direct, or manage a personal vehicle or a transportation network company driver who connects to the company’s digital network except as agreed by written contract.

This specifically distinguishes TNCs from entities defined in the motor carrier regulations that “control” or “direct” the operations of vehicles on state roadways. The insurance code explicitly defines TNCs, while the motor carrier code only provides opportunity for an implied definition. Therefore, the insurance code is considered to prevail over the motor carrier code in defining TNCs and should be considered dispositive, removing TNCs from definition under motor carrier regulations. However, the insurance code is silent as to whether TNCs can be said to “operate vehicles” or “direct the operation of one or more vehicles” that transport persons over a state roadway. Therefore, it is prudent to investigate whether TNCs may be subject to the motor carrier regulations under the interpretation that TNCs are motor carriers that “operate” or “direct the operation of one of more vehicles.” TNCs do undertake activities that could be deemed to “direct the operation of” TNC vehicles and drivers, such as determining driver eligibility, executing background checks, enforcing vehicle standards, dictating behavioral standards, requiring the use of GPS navigation for routes driven, or incentivizing drivers with dynamic rates or bonuses.
Recent Texas case law has interpreted this statute but only in relation to companies that operate as freight shippers rather than passenger carriers. In addition, none of the cases further define the terms “operate” or “direct the operation of.”

**Camp v. TNT Logistics Corp.**

The first question that U.S. courts have answered is when to apply the motor carrier law. *Camp v. TNT Logistics Corp.* determined that the applicability of federal motor carrier regulations is based on what capacity a company “was acting [in] during the transaction.” The Texas courts have followed the federal court’s determination that the appropriate way to judge whether the motor carrier law is applicable to a company is by evaluating the specific transaction rather than the business as a whole (5).

**Martinez v. Hays Construction Inc.**

In *Martinez v. Hays Construction Inc.*, a Texas appellate court was asked to determine if Hays Construction Inc. should be considered a motor carrier under Texas law (6). According to the facts of the case, Hays Construction controlled the worksite and was responsible for hauling dirt to and from the worksites (6). Martinez contended that Hays Construction qualifies as a motor carrier because it “controlled the worksite and was ultimately responsible for hauling the dirt.” Specifically, Hays Construction employees:

- Loaded each dump truck.
- Checked each driver’s license and proof of insurance.
- Informed each driver where to take the dirt.

Hays Construction also indirectly paid the drivers on a per-load basis.

In contrast, Hays Construction argued that the truck brokers provided the drivers and dump trucks for the project, and the individual drivers “chose the routes [to Sprint], decided how long to take, how many trips they wanted to make and the number of hours they wanted to work.” Hays Construction did not control the route taken by the drivers or which driver operated which truck to transport the dirt (6).

This case resulted in a fact question that had to be sent back down to the trial court. The judges concluded that these facts created a factual question for the appellate court that there was a possibility that (6):

…when viewed in the light most favorable to Martinez, Martinez’s summary judgment evidence raises a fact issue on whether Hays Construction is a “legal entity that controls, operates, or directs the operation of the dump trucks used to haul dirt for its Braes Bayou project to Sprint such that it falls within the definition of “motor carrier” in section 643.001(6) of the Transportation Code.”

The same fact questions are applicable to TNCs. Like in *Hays*, TNCs do not control which routes the drivers choose or when they work. However, they do enable the connection to passengers
requesting trips, and drivers must take those passengers to their requested destination. Unlike in Hays, TNCs also approve the vehicles that the drivers use while performing their work and are aware of the routes taken by each driver (via GPS tracking). TNCs check each driver’s license, insurance, registration, and background. TNCs also directly pay drivers a portion of each trip fare and can exclude them from the TNC application.

**Castillo v. Gulf Coast Livestock Mkt., L.L.C.**

In *Castillo v. Gulf Coast Livestock Mkt., L.L.C.*, another Texas appellate court had to determine if Gulf Coast Livestock Mkt., a livestock sales broker, qualified as a motor carrier under Texas law (7). According to the facts of the case, Gulf Coast Livestock did not perform the loading or unloading of the trucks, direct the route to be taken by the drivers, or exercise any other control over the trucks or the drivers (7). Because of this, the court held that Gulf Coast Livestock was not a motor carrier but was in fact acting as a shipper (7).

Comparing *Castillo* to TNCs, there seem to be some similarities between the two entities. Like Gulf Coast Livestock in *Castillo*, TNCs are not actively a part of loading or unloading the vehicles. TNCs also do not determine the times the drivers drive or the routes they take. In contrast, TNCs do have control over their drivers, in the sense that they authorize drivers to use the system that allows for TNC drivers to connect with passengers.

**Gonzalez v. Ramirez**

In the most recent case, *Gonzalez v. Ramirez* determined that there was not sufficient legal evidence to show that “the party contracting with the truck driver’s employer” could be held liable as a motor carrier under Texas regulations or that they “retained sufficient control over the transportation in which the truck was engaged” (8). In this case, Gonzalez controlled the loading site, was ultimately responsible for hauling as part of its underlying agreement, and loaded the trucks (8). Unlike in *Martinez*, Gonzalez did not verify the insurance or licenses of drivers, provide hauling permits, or establish the manner or method of the drivers’ payment. Gonzalez also did not control which drivers operated which trucks or which route the drivers took (8). Because of this, the Texas Supreme Court held that Gonzalez was acting as a shipper and not as a motor carrier (8).

In *Gonzalez*, the court noted that the facts do not imply control of the “actual transportation of the property” like the situation in Martinez. Gonzalez’s control involved the physical property loaded onto trucks, some portion of the hauling, and the loading of the trucks, but not the driving itself. TNCs are similar in that they do not control their drivers’ actions on the road. This may support the argument that TNCs do not qualify as motor carriers under Texas law, but a determination would depend on the interpretation of the kind of control that TNCs have over a TNC vehicle or driver.
Summary of Case Law Analysis

The case law suggests that the definition of a motor carrier based on individual transactions may apply to TNC activities if the aspect of “control” discussed in the cases can also be characterized as “operate” or “direct the operation of one or more vehicles” since the insurance code has already clarified that TNCs do not control vehicles or drivers.

However, all of these cases have been related to shipping companies. Passenger travel services like taxi services are not regulated as motor carriers in Texas, and Texas courts have not interpreted “operate, control, or direct” in the case of passenger service vehicles.

A TNC Is Probably Not Exempt from the Texas Motor Carrier Regulation Based on the List of Enumerated Exemptions in Texas Transportation Code Section 643.002, but Two Exemptions Could Not Be Conclusively Rejected

If a TNC was considered a motor carrier under Section 643.001, several exemptions could exempt TNCs from the motor carrier regulations. Texas Transportation Code Section 643.002 Exemptions introduces the following motor vehicles or operations that are exempt from the motor carrier regulation chapter (1):

1. “Motor carrier operations exempt from registration by the Unified Carrier Registration Act of 2005 (49 U.S.C. Section 14504a) or a motor vehicle registered under the single state registration system established under 49 U.S.C. Sec. 14504(c) when operating exclusively in interstate or international commerce.” TNCs use personal vehicles that are not registered under federal carrier registration systems and do not operate “exclusively in interstate or international commerce.”

2. “A motor vehicle registered as a cotton vehicle under Section 504.505.” A TNC driver cannot legally use a cotton vehicle to transport passengers based on the definition of a cotton vehicle in Section 504.505 Cotton Vehicles, which states that a cotton vehicle is defined as follows (9):

   (a) “The department shall issue specialty license plates for a single motor vehicle that is: (1) used only to transport chile pepper modules, seed cotton, cotton, cotton burrs, or equipment used in transporting or processing chile peppers or cotton; and (2) not more than 10 feet in width.

   (b) “The license plates must include the words ‘Cotton Vehicle.’

   (c) “There is no fee for issuance of the license plates. The license plates may be renewed without payment of a fee.”

3. “A motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another
governmental entity.” No rules have been enacted at the state level that subject TNC vehicles to a comparable registration or safety program that would exempt TNC vehicles from this section. However, TNCs are currently subject to municipal ordinances in 18 Texas cities that have registration and safety requirements. This review cannot conclusively reject that a TNC may be exempt from the state motor carrier code under this clause if the ordinances imposed by municipal governments would be considered “comparable” requirements administered by “another government entity.”

4. “A motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home or similar organization.” Although a ride sourcing service is not specifically mentioned as an example of the type of entity that would be exempt under this clause, TNCs argue that their primary function is to provide the technology platform that facilitates the link between passengers and drivers and not transportation. This review cannot conclusively reject that a TNC may be exempt under this clause if its primary function is not considered transportation of passengers and would be considered a “similar organization” to a hotel, daycare center, public or private school, or nursing home.

5. “A vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code.” This exemption only applies to a private carrier permit holder who is “also a holder of a brewer’s, distiller’s and rectifier’s, winery, wholesaler’s, class B wholesaler’s, or wine bottler’s permit” to allow for the transport of liquor for distribution or sale. No TNC is known to be a holder of such a permit, nor would this apply to vehicles used to transport passengers (10).

6. “A vehicle operated by a governmental entity.” TNCs and TNC drivers are not government entities.

7. “A tow truck, as defined by Section 2308.002, Occupations Code.” A tow truck is defined in the Texas Transportation Code to mean “a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle.” TNCs typically require TNC vehicles to be standard, four-door vehicles and would probably not be exempted under this clause (11).

These motor carrier code exemptions do not appear to clearly apply to TNCs and therefore do not definitively exempt TNCs from Texas motor carrier regulations. However, exemption 3 and 4 may require additional review to confirm whether a TNC may legally be considered “subject to comparable registration and a comparable safety program administered by another governmental entity” or “an entity whose primary function is not the transportation of passengers” (1).
A TNC Driver May Be Considered a Motor Carrier under Texas Transportation Code Section 643.001

A TNC driver is defined in distinctly different terms from a TNC in the Texas Insurance Code. Therefore, the motor carrier definition can be applied independently to a TNC driver.

Texas Transportation Code Section 643.001 Definitions, Title 7 Vehicles and Traffic, Subtitle F Commercial Motor Vehicles, Chapter 643 Motor Carrier Registration, defines a motor carrier as (1):

An individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state.

The Texas Insurance Code provides a definition of a TNC driver that can be compared to the statutory definition of a motor carrier. Texas Insurance Code Section 1954.001 Definitions, Title 10 Property and Casualty Insurance, Subtitle C Automobile Insurance, Chapter 1954 Insurance for Transportation Network Company Drivers, Subchapter A General Provisions, provides the following definitions of several relevant terms (12):

- “‘Personal vehicle’ means a vehicle that is used by a transportation network company driver and is:
  - (A) owned, leased, or otherwise authorized for use by the driver; and
  - (B) not a taxicab, limousine, or similar for-hire vehicle.”

- “‘Transportation network company driver’ means an individual who:
  - (A) receives connections to potential transportation network company riders and related services from a transportation network company in exchange for payment of a fee to the company; and
  - (B) uses a personal vehicle to offer or provide a prearranged ride to a transportation network company rider on connection with the rider through a digital network controlled by the company in exchange for compensation or payment of a fee.”

- “‘Prearranged ride’ means transportation provided by a transportation network company driver to a transportation network company rider, beginning at the time a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company and ending at the time the last requesting rider departs from the driver’s personal vehicle. The term does not include:
  - (A) a shared expense carpool or vanpool arrangement or service; or
  - (B) transportation provided using a taxicab, limousine, or similar for-hire vehicle.”
Based on these definitions, a TNC driver is an “individual” who uses a vehicle to “offer or provide” transportation over state roadways. However, the Texas Insurance Code does not explicitly state that a TNC driver “controls, operates, or directs the operation of one…vehicle.” Other sections of the Texas Transportation Code clarify the meaning of the term “operate.” Texas Transportation Code Section 541.001 Persons, Title 7 Vehicles and Traffic, Subtitle C Rules of the Road, defines an operator as follows (13):

“Operator” means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle.

Applying this definition to define the term “operates” in reference to a TNC driver suggests that a TNC driver is an individual that operates one or more vehicles that transport persons over a road or highway in this state. A TNC driver may be considered a motor carrier given this interpretation.

A TNC Driver Is Probably Not Exempt from the Texas Motor Carrier Regulation Based on the List of Enumerated Exemptions in Texas Transportation Code Section 643.002, but One Exemption Could Not Be Conclusively Rejected

If a TNC driver was considered a motor carrier under Section 643.001, several exemptions could exempt him or her from the motor carrier regulations. Texas Transportation Code Section 643.002 Exemptions introduces seven classes of motor vehicles or operations that are exempt from the motor carrier regulation chapter (1). In a previous section (“A TNC Is Probably Not Exempt from the Texas Motor Carrier Regulation Based on the List of Enumerated Exemptions in Texas Transportation Code Section 643.002, but Two Exemptions Could Not Be Conclusively Rejected”), this review found that five of the seven exemptions do not apply to TNCs. For the same reasons enumerated previously, these five exemptions probably do not apply to TNC drivers. This section reassesses the following two exemptions that could not be conclusively rejected as applied to TNC drivers:

- “A motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity.” No rules have been enacted at the state level that subject TNC drivers or vehicles to a registration or safety program that would exempt TNC drivers under this clause. However, TNC drivers are currently subject to municipal ordinances in 18 Texas cities that have registration and safety requirements. This review cannot conclusively reject that a TNC driver may be exempt from the state motor carrier code under this clause if the ordinances imposed by municipal governments would be considered “comparable” requirements administered by “another government entity.”
• “A motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home or similar organization.” Unlike TNCs, a TNC driver’s primary function is more clearly the transportation of passengers. Therefore, this exemption would probably not apply to TNC drivers.

Lessons from Other State Legislation

Other states have addressed the question of whether TNCs are considered motor carriers. In some states, TNCs have been considered motor carriers under similar state statutes. Other states have addressed this question by including amendments to the definition of motor carrier to clarify whether a TNC is or is not considered a motor carrier under state law. Three examples of how other states addressed this issue are as follows:

• In Colorado, TNCs were deemed to be subject to the authority of the state Public Utilities Commission. Colorado Senate Bill 14-125 clarifies that TNCs are not “common carriers, contract carriers, or motor carriers” and that neither TNCs nor TNC drivers are considered common carriers. Instead, the bill adds a new Part 6 Transportation Network Companies to impose distinct regulations on TNCs in the same Article 10.1 Motor Carriers that regulates taxicabs, limousines, and other common and contract carriers (14).

• Montana legislators passed Senate Bill 0396 in 2015, which adds ride sourcing companies to the state motor carrier code as transportation network carriers. A transportation network carrier is classified as a Class E motor carrier, a new class added to the state code under Title 69 Public Utilities and Carriers, Chapter 12 Motor Carriers (15). The term motor carrier is defined as “a person or corporation, or its lessees, trustees, or receivers appointed by a court, operating motor vehicles upon a public highway in this state for the transportation of passengers, household goods, or garbage for hire on a commercial basis, either as a common carrier or under private contract, agreement, charter, or undertaking. A motor carrier includes a transportation network carrier.” (The underlined text was added by Senate Bill 0396.) The code meanwhile clarifies that a transportation network carrier is not “deemed to control, direct, or manage the personal vehicles…or drivers.”

• The Oklahoma Transportation Network Company Services Act clarifies that a TNC “shall not be considered motor carriers of persons as defined in Section 230.23 of Title 47 of the Oklahoma Statutes, nor shall TNCs or TNC drivers be considered to provide taxicab, limousine, or similar for-hire motor carrier service” (16). Taxis licensed by a municipal corporation to operate in a city or town are also excluded from the Oklahoma motor carrier code (17).
Conclusion

This policy brief provides a discussion of whether TNCs and TNC drivers may be considered motor carriers under Texas law. Although existing regulations governing motor carriers were created before the advent of the TNC model and the technologies it relies on, the existing legal framework is flexible enough to provide guidance on these new transportation activities. However, since this policy brief is not a formal legal analysis, it does not make legal judgment on whether a TNC or TNC driver is or is not considered a motor carrier under Texas law. It does offer several non-binding findings.

The Texas Insurance Code provides explicit definitions of a TNC and a TNC driver to begin to answer the question of whether a TNC or a TNC driver may qualify as a motor carrier. This review finds that TNCs and TNC drivers may be interpreted to fall under the definition of a motor carrier in Section 643.001. TNCs and TNC drivers may be found exempt under Section 643.002 from the Texas laws regulating motor carriers. These findings are summarized below.

Transportation Network Companies

A review of the existing regulatory framework and case law suggests that a TNC would probably not be considered a motor carrier, but the existing legal context does not provide enough factual material to conclusively reject the possibility that a TNC may be considered a motor carrier under Texas law. As defined in the Texas Insurance Code Section 1954.102, “a transportation network company does not control, direct, or manage a personal vehicle or a transportation network company driver who connects to the company’s digital network except as agreed by written contract.” This presents a strong case to argue that a TNC does not fit the definition of a motor carrier. However, while case law provided some guidance on similar determinations where entities not directly involved in the physical driving of vehicles could still be considered motor carriers, no prior cases focused on passenger transportation.

Most of the exemptions in Section 643.002 of the motor carrier code do not apply to TNCs. This review could not conclusively reject that a TNC could be found exempt from the motor carrier code under the following two exemptions in Section 643.002 of the motor carrier code:

- A motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity.

- A motor vehicle used to transport passengers and operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, daycare center, public or private school, nursing home, or similar organization.
Transportation Network Company Drivers

A review of the existing regulatory framework suggests that a TNC driver may fall under the definition of a motor carrier under Texas law. This review finds that a TNC driver, as defined in the Texas Insurance Code, seems to conform to the definition of a motor carrier more closely than a TNC due to the driver’s role in operating the vehicle. Applying the definition of a TNC driver from the Texas Insurance Code, it seems reasonable that a TNC driver—an individual who operates a vehicle to provide transportation—could be considered a motor carrier, defined by Texas code as an individual or legal entity that “controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state.”

Only one exemption in Section 643.002 of the motor carrier code may be deemed applicable to TNC drivers and could not be conclusively rejected in this review: a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity.

Legislative Activity in Other States

A review of legislative and regulatory activity related to TNCs in other states found that several states use amendments to existing motor carrier codes and the introduction of TNC definitions to clarify the motor carrier status of TNCs. While in Texas passenger travel services like taxi services are not regulated as motor carriers under state law, in some states taxis, for-hire passenger vehicles, and now TNCs are regulated at the state level.

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