

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 22R-0359TR

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IN THE MATTER OF IMPLEMENTING SENATE BILL 22-144 BY ADOPTING TEMPORARY RULES AMENDING THE COMMISSION’S TRANSPORTATION NETWORK COMPANY RULES, 4 CODE OF COLORADO REGULATIONS 723-6, TO ESTABLISH ADDITIONAL OPERATIONAL AND REPORTING REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANIES PROVIDING STUDENT TRANSPORTATION FOR REMUNERATION UNDER CONTRACT WITH A SCHOOL OR SCHOOL DISTRICT.

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**COMMISSION DECISION: (1) ADDRESSING APPLICATION FOR REHEARING, REARGUMENT, OR RECONSIDERATION OF DECISION NO. C22-0486; AND (2) ADOPTING REVISED TEMPORARY RULES**

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Mailed Date: September 19, 2022  
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**I. BY THE COMMISSION****A. Statement**

1. Through this Decision, the Commission addresses the Application for Rehearing, Reargument, or Reconsideration (RRR), filed by HopSkipDrive, Inc. (HopSkipDrive) on August 26, 2022, pursuant to § 40-6-114, C.R.S. Through the RRR, HopSkipDrive requests the Commission revise or eliminate certain of the temporary rules adopted through Decision No. C22-0486, issued August 17, 2022, that implement Senate Bill (SB) 22-144. After considering the arguments in the Application for RRR, the Commission finds good cause to grant, in part, and deny, in part, the RRR. The Commission upholds, for the most part, the rule language in the current temporary rules, and affirms the legal and policy considerations supporting adoption of these temporary rules as necessary and appropriate minimum standards to ensure the safety of student transportation provided by Transportation Network Companies (TNC). With full consideration of the arguments and concerns raised by HopSkipDrive in its RRR, the Commission finds good cause to adopt certain limited revisions to the current temporary rules, in order to make reasonable adjustments that respond to HopSkipDrive's practical concerns, while still ensuring minimum safety standards are in place as required by statute. The Commission also makes certain clarifications and adjustments through the order language in this Decision.

2. Accordingly, by this Decision, the Commission adopts revised temporary rules that incorporate the limited revisions to the current temporary rules, in response to the RRR. Consistent with the findings in Decision No. C22-0486 adopting the current temporary rules, the Commission continues to find it imperatively necessary to adopt temporary rules, with immediate effect, to implement the provisions of SB 22-144, thereby protecting the public

health, welfare, and safety. These temporary rules are effective for 210 days from the adopted date, or until the Commission's permanent rules implementing SB 22-144 are effective. *See* § 40-2-108(2), C.R.S. The Commission will, by separate order, open a permanent rulemaking.

3. The revised temporary rules in legislative (strikeout and underline) format, Attachment A, and the temporary rules in final version format, Attachment B are available through the Commission's E-Filing system<sup>1</sup> at:

[https://www.dora.state.co.us/pls/efi/EFI.Show\\_Docket?p\\_session\\_id=&p\\_docket\\_id=22R-0359TR](https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=22R-0359TR)

## **B. Background**

4. By Decision No. C22-0486, the Commission adopted temporary rules to amend certain of the Commission's Transportation Network Company Rules (TNC Rules), comprising rules 6700 through 6724 of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* (CCR) 723-6. The temporary rules revise the definitions in TNC Rule 6701, add new TNC Rule 6724, titled "Transportation for Remuneration from a School or School District," and re-number existing TNC Rule 6724 to TNC Rule 6725. The temporary rules implement the amendments to or addition of §§ 40-10.1-105, 40-10.1-602, 40-10.1-605, 40-10.1-608, and 40-10.1-609, C.R.S., enacted in SB 22-144, effective May 27, 2022.

5. As set forth in Decision No. C22-0486, the temporary rules satisfy the immediate Commission rulemaking obligations enacted in SB 22-144, codified at §§ 40-10.1-605(1)(r), C.R.S. (requiring driver training rules); 40-10.1-608(3)(a), C.R.S. (requiring minimum safety standards rules); and 40-10.1-609(2)(a), C.R.S. (requiring reporting rules). The Commission

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<sup>1</sup> From the Electronic Filings (E-Filings) system page (<https://www.dora.state.co.us/pls/efi/EFI.homepage>), the rules can also be accessed by selecting "Search" and entering this proceeding number, 22R-0359TR, in the "Proceeding Number" box and then selecting "Search."

found that in order to comply with these statutory requirements beginning on September 1, 2022, thereby protecting the public health, welfare, and safety by promulgating minimum safety standards and reporting requirements for subject student transportation service, it was imperatively necessary to adopt temporary rules to take effect on September 1, 2022.

6. As addressed in Decision No. C22-0486, through SB 22-144, the legislature enacted the following rulemaking requirements for the Commission: (1) § 40-10.1-605(1)(r), C.R.S., requires the Commission to coordinate with the Colorado Department of Education (CDE) to promulgate, by September 1, 2022, Commission rules providing for approval of the TNC driver training required by SB 22-144; (2) § 40-10.1-608(3)(a), C.R.S., requires the Commission to coordinate with CDE to promulgate, by September 1, 2022, Commission rules implementing minimum safety standards for TNCs, personal vehicles, and TNC drivers when engaging in services provided under a contract with a school or school district; and (3) § 40-10.1-609(2)(a), C.R.S., requires the Commission to coordinate with CDE to promulgate, by September 1, 2022, Commission rules requiring a TNC to report information related to driver background checks, insurance coverage, and data reporting, consistent with the type of service provide, as it relates to service for students.

**C. Application for RRR**

7. In its Application for RRR, HopSkipDrive challenges that Commission Staff (Staff) did not sufficiently consult with HopSkipDrive regarding the adopted temporary rules and objects that some of the rules exceed the authority granted to the Commission under SB 22-144. HopSkipDrive requests the Commission reconsider the temporary rules to assure continued, safe TNC services and to prevent disruption of currently contracted school-related transportation.

HopSkipDrive states the 2022-23 school year has already started and that they are currently contracted with dozens of school districts and county child welfare agencies to provide transportation for thousands of students, including those who are at-risk or have special needs. HopSkipDrive requests the Commission keep in mind the unique clientele of their services when considering their positions on the temporary rules. They also note that Colorado is facing a severe bus driver shortage and any disruptions to HopSkipDrive's services would only exacerbate this issue. HopSkipDrive includes specific requests to eliminate or modify certain of the current temporary rules, which are discussed rule-by-rule below.

8. While the RRR was pending, the Commission received public comments echoing the concerns raised in HopSkipDrive's RRR, submitted by Senator Zenzinger, a primary sponsor of SB 22-144, and Greg Jackson, Executive Director of Transportation and Fleet Services for Jefferson County Public Schools.

9. The Commission also received public comments from CDE, with whom Staff coordinated, as required by SB 22-144, in developing the standards adopted in the temporary rules. In its comments, CDE affirms that SB 22-144 requires a Commission rulemaking by September 1, 2022, to adopt new substantive standards to extend beyond the terms in statute. CDE explains, as required by SB 22-144, Staff coordinated with CDE through meetings, on May 23, 2022 and July 25, 2022, to develop the minimum safety standards implemented in the temporary rules. CDE states Staff shared with it documents and recommendations provided by HopSkipDrive and that CDE duly considered HopSkipDrive's documentation and recommendations.

10. As to specific standards, CDE states it coordinated with Staff to develop the minimum safety standards in the temporary rules that require a TNC driver providing subject student transportation service to: comply with medical-certification duties in 49 C.F.R. § 391.41, have their personal vehicle inspected by a qualified mechanic, complete and document a daily inspection of vehicle safety, follow their TNC's formal emergency procedures, follow Colorado law on safety belts and child restraints, and not transport unauthorized passengers while transporting students. CDE states it also coordinated with Staff to develop the minimum safety standard in the temporary rules that requires a TNC to allow appropriate officials to inspect its records and facilities.

11. CDE states it advised Staff on each of these standards and fully stands behind the Commission's decision to include them in the temporary rules. CDE notes these same standards are required of any small-vehicle transportation driven by or on behalf of a school or district, under CDE's rules. CDE notes the temporary rules also match the rules imposed by CDE on TNCs' direct competitors. CDE concludes the temporary rules reflect CDE's and Staff's considered policy judgment as to minimum safety standards. CDE affirms it continues to stand by those rules as currently written.

12. As an initial matter, the Commission addresses the concerns raised by HopSkipDrive regarding the temporary rulemaking process and the substance of the standards adopted in the temporary rules. We reiterate that the Commission is directly executing the legislature's mandate in SB 22-144 to promulgate rules by September 1, 2022, that ensure the immediate safety of the Colorado students transported by a TNC, pursuant to a contract with a school or school district. Given the narrow statutory deadline, the only means to promulgate

these rules was through temporary rules. Further, as discussed in Decision No. C22-0486 and this Decision, the Commission was expressly tasked, in coordination with CDE, to promulgate additional substantive standards, by September 1, 2022, implementing minimum safety standards for TNCs, personal vehicles, and TNC drivers engaging in subject student transportation service. The Commission's efforts are to directly implement the statutory directives in SB 22-144, thereby complying with the legislative mandates and protecting the safety of Colorado students. The Commission will open a permanent rulemaking straightaway, through which stakeholders can offer comments as provided in the Colorado Administrative Procedure Act<sup>2</sup> on the standards to be implemented in rule, pursuant to SB 22-144, and by which the Commission can adopt final permanent rules with due consideration of the input received through the public process.

13. Below we address the requested rule revisions in HopSkipDrive's RRR and provide the Commission's findings and conclusions.

### **1. Compliance Timeline**

14. In Decision No. C22-0486, the Commission acknowledged that, given the nature of some of the new minimum safety standards and the expedited nature of the temporary rulemaking process, it was reasonable to allow subject TNCs a grace period in which to review and understand the new adopted standards, implement new procedures, and ensure their drivers and operations are in full compliance with the temporary rules. We initially stated that TNCs were to fully comply with the standards in the temporary rules as soon as possible, but no later than 45 days after the rules became effective.

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<sup>2</sup> §§ 24-4-101 *et seq.*, C.R.S.

15. Considering the delay in implementation due to the RRR filing, as well as the revisions to the temporary rules adopted through this Decision and the concerns related to the disruption of existing student transportation, we now find it appropriate to extend the deadline for strict full compliance with all of the standards in the temporary rules to December 31, 2022.<sup>3</sup> To be clear, the temporary rules take effect immediately upon adoption and subject TNCs are expected to immediately begin diligent efforts to comply with these critical minimum safety standards and update their operations and procedures to ensure safe transportation of Colorado students; however, reasonable allowance will be made in enforcement of these rules, recognizing it will take a period of time for subject TNCs to reach full compliance with all of the standards implemented through the temporary rules.

**2. Rule 6724(c)(V): Driver Training Requirements**

**a. Temporary Rule**

16. This rule requires a TNC to ensure that each TNC driver providing subject student transportation service receives training in mandatory reporting requirements, safe driving practices, first aid and Cardiopulmonary Resuscitation (CPR), education on special considerations for transporting students with disabilities, emergency preparedness, and safe pick-up and drop-off procedures. This rule implements § 40-10.1-605(1)(r), C.R.S., which requires a TNC to ensure that each driver providing subject student transportation service receives mandatory training in the same specified areas as carried over to the rule. The statute further requires the Commission to, in coordination with CDE, promulgate rules providing for Commission review and approval of a TNC's proposed training.

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<sup>3</sup> Commissioner Gavan dissents from this portion of this Decision. Commissioner Gavan would support a 30-day compliance timeline, but opposes a longer period based on the statutory language enacted in SB 22-144 and concerns for public safety.

**b. RRR**

17. HopSkipDrive requests the Commission accommodate a longer period for a TNC to ensure that each of its TNC drivers has completed the required training than the current 45-day timeline established in Decision No. C22-0486. HopSkipDrive maintains that the 45-day timeline is extremely tight and may lead to unwanted disruptions in student transportation services if it is not able to put each of its drivers through an approved training within the available time window.

**c. Findings and Conclusions**

18. The Commission grants, in part, and denies, in part, this request in HopSkipDrive's Application for RRR. We also make a correlating revision to the language in current temporary Rule 6724(c)(I) to streamline the process for a TNC to submit and receive Commission approval for a proposed TNC driver training program.

19. First, to expedite the overall process, we find good cause to add new language to temporary Rule 6724(c)(I) that will expressly delegate to Commission transportation staff the task of reviewing and approving a TNC's proposed training, with instruction for transportation staff to consult with CDE, as a subject matter expert, when reviewing a proposed training program. This will provide a streamlined process that can ensure a TNC's proposed training is properly vetted, without the time-consuming procedures of a formal proceeding before the Commission. As in other cases, a party could appeal a staff determination to the Commission, consistent with the Commission's Rules of Practice and Procedure, 4 CCR 723-1. Through this Decision, the Commission adopts a revised temporary Rule 6724(c)(I) containing this additional language.

20. Second, regarding the timing concern raised in HopSkipDrive's RRR, we recognize that expecting immediate, strict, and full compliance with this rule is impractical, as it will necessarily take HopSkipDrive a period of time to complete the training for each of its drivers. Consistent with the compliance timeline discussion at the outset of this Decision, the Commission will not strictly require immediate, full compliance with this driver training requirement and will make a reasonable allowance through December 31, 2022, for HopSkipDrive to fully complete this training process.<sup>4</sup> However, we reiterate, the Commission expects HopSkipDrive to immediately begin diligent efforts to ensure its drivers receive this essential training before providing subject student transportation service.

### 3. **Rule 6724(d): Criminal History Record Checks**

#### a. **Temporary Rule**

21. This rule specifies, if a TNC's contract for student transportation with a school or school district requires that the TNC's drivers pass a fingerprint background check, the check must be completed pursuant to the Commission's existing procedures for fingerprint background checks set forth in § 40-10.1-110, C.R.S., as supplemented by the Commission's rules, in accordance with § 40-10.1-605(3)(a)(I), C.R.S. The rule specifies a TNC shall not use a driver to provide subject student transportation service if the driver has been convicted of, or pled guilty or *nolo contendere* to, an offense described in § 22-32-109.8(6.5), C.R.S. This rule implements § 40-10.1-605(10), C.R.S., which prohibits a TNC from using a driver for subject student transportation service if the driver has been convicted of, or pled guilty or *nolo contendere* to, an offense enumerated in § 22-32-109.8(6.5), C.R.S.

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<sup>4</sup> Commissioner Gavan dissents from this portion of this Decision. Commissioner Gavan would support a 30-day compliance timeline, but opposes a longer period based on the statutory language enacted in SB 22-144 and concerns for public safety.

**b. RRR**

22. HopSkipDrive requests the Commission modify this rule to allow a TNC to conduct driver fingerprint background checks through the State's Volunteer Employee Criminal History Services (VECHS) program. HopSkipDrive states this is consistent with its current practice, that this process has worked well, and that this practice is recommended by CDE. HopSkipDrive challenges there is no statutory authorization to support the temporary rules, as written, and that this process would create an undue burden on Staff.

**c. Findings and Conclusions**

23. The Commission grants, in part, and denies, in part, the request in HopSkipDrive's Application for RRR to modify this requirement in the temporary rules.

24. We find good cause to modify the language in current temporary Rule 6724(d) to allow a TNC to elect to use the VECHS program as an additional means of performing any fingerprint-based driver background checks that may be required by a school or school district. We expect to revisit this issue in the permanent rulemaking where we can further consider which process is the best means of implementing the statutory requirement underlying this rule.

**4. Rule 6724(e): Medical Fitness****a. Temporary Rule**

25. This rule, developed in coordination with CDE, prohibits a TNC from permitting a person to act as a driver providing subject student transportation service, unless the driver has been medically examined and certified under the provisions of 49 C.F.R. 391.41. The rule implements § 40-10.1-608(3)(a), C.R.S., which requires the Commission to coordinate with CDE to promulgate rules implementing minimum safety standards for TNC drivers, when providing

student transportation under contract with a school or school district. The purpose of this rule is to ensure the medical fitness of TNC drivers who will be transporting students.

**b. RRR**

26. HopSkipDrive requests the Commission eliminate this rule. HopSkipDrive claims the requirement for medical certification exceeds the scope of SB 22-144 and that formalized medical certification for TNC drivers providing subject student transportation service is unnecessary and more appropriately reserved for drivers of larger vehicles, such as school buses. They claim that requiring formal medical certification would increase costs to both drivers and TNCs and could affect the pricing agreements already in place with school districts, which risks service disruption. HopSkipDrive concedes they would be open to discussing medical certification requirements in the context of a permanent rulemaking.

**c. Findings and Conclusions**

27. The Commission denies the request in HopSkipDrive's Application for RRR to eliminate this requirement in the temporary rules.

28. Given the mandate in SB 22-144 to promulgate rules for minimum safety standards for TNC drivers providing subject student transportation service, we affirm the conclusion by Staff and CDE that this minimal medical certification is an appropriate, and critical, protection to ensure the safe transportation of students. We have concern that, without this heightened requirement, all that would be required is a "self-certification" by a driver through the TNC's app, meaning no formalized medical certification process is required.<sup>5</sup>

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<sup>5</sup> See § 40-10.1-605(1)(d), C.R.S.

29. We note the temporary rule, to streamline this process, allows for qualification under U.S. Department of Transportation (USDOT) standards.<sup>6</sup> This is a medical certification standard that has been accepted as necessary by the Commission for many years, including in its current iteration under Rule 6109(a), 4 CCR 723-6, which applies to other types of passenger transportation providers. This form of medical certification identifies important driver health issues, which could impact the ability of a driver to safely transport members of the public. We conclude that the minimal burden of TNC drivers having to pass this formal health screening, in order to provide subject student transportation service, is far outweighed by the public interest benefit of ensuring that TNC drivers who will be transporting students are demonstrably capable of doing so safely.

**5. Rule 6724(f): Vehicle Inspections**

**a. Temporary Rule**

30. This rule, developed in coordination with CDE, prohibits a TNC from permitting the use of a personal vehicle to provide subject student transportation service, unless the individual performing the vehicle inspection is an Automotive Service Excellence (ASE) certified mechanic, employed by a company authorized to do business in Colorado. This rule implements § 40-10.1-608(3)(a), C.R.S., which requires the Commission to coordinate with CDE to promulgate rules implementing minimum safety standards for personal vehicles, when providing student transportation under contract with a school or school district. The purpose of this rule is to ensure a meaningful vehicle inspection is performed.

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<sup>6</sup> See 49 C.F.R. 391.41.

**b. RRR**

31. HopSkipDrive proposes eliminating the ASE certified mechanic criteria in the temporary rules for personal vehicles that will be used to provide subject student transportation service. They claim that current TNC regulations do not require an ASE certified mechanic for the inspection of personal vehicles and allege there is no evidence that this heightened standard is necessary for TNC drivers engaging in school-related transportation. They also object that implementing this standard will be very costly, maintaining that every single HopSkipDrive vehicle providing subject student transportation service would need a new inspection, which would risk service disruption.

**c. Findings and Conclusions**

32. The Commission denies the request in HopSkipDrive's Application for RRR to eliminate the ASE certified mechanic criteria in the temporary rules.

33. Given the mandate in SB 22-144 to promulgate rules for minimum safety standards for personal vehicles used to provide subject student transportation service, we affirm the determination by Staff and CDE that this minimal inspection standard is an appropriate and warranted protection, to ensure the safe transportation of students in personal vehicles. We affirm this requirement will confirm that a meaningful inspection is performed by a qualified mechanic, verifying the subject vehicle is in good and safe working condition. Without this enhanced standard to ensure the reliability of the inspection, an inspection could be performed by either a certified mechanic or a person capable of performing the inspection by reason of experience, training, or both.<sup>7</sup> We have concern that this fairly broad criteria does not adequately

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<sup>7</sup> See Rule 6715(a), 4 CCR 723-6.

ensure that a meaningful inspection is performed by a mechanic capable of identifying underlying hazards.

34. Further, we note ASE certification is already required for the inspection of other passenger transportation providers,<sup>8</sup> whose primary business model does not include the transportation of minor students. Finally, HopSkipDrive represents that all of its drivers providing subject student transportation service would need a new inspection,<sup>9</sup> suggesting this requirement will, in fact, improve the current practice by ensuring that these critical vehicle inspections are performed by mechanics meeting at least the minimum base ASE certification.

## **6. Rule 6724(g): Daily Vehicle Inspection Report**

### **a. Temporary Rule**

35. This rule, developed in coordination with CDE, requires a TNC to require a TNC driver, when providing subject student transportation service, to prepare a Daily Vehicle Inspection Report (DVIR), in writing, prior to each day's work. The rule requires the DVIR to capture numerous safety-related items, including vehicle brakes, lights, and tires. This rule implements § 40-10.1-608(3)(a), C.R.S., which requires the Commission to coordinate with CDE to promulgate rules implementing minimum safety standards for personal vehicles used for student transportation under contract with a school or school district. The purpose of this rule is to require a minimum visual inspection of a personal vehicle before it is put to use transporting students each day.

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<sup>8</sup> See Rule 6103, 4 CCR 723-6.

<sup>9</sup> HopSkipDrive Application for RRR, p. 8 (“The temporary rule will require every single HopSkipDrive CareDriver to get a new inspection.”).

**b. RRR**

36. HopSkipDrive requests the Commission eliminate this rule. They challenge that SB 22-144 did not specify this as a new standard or requirement and conclude there is no reason to impose this new requirement. They also claim that DVIRs being required to be “in writing” could be problematic within their digital environment. HopSkipDrive cautions this temporary rule, as written, will lead to unnecessary paperwork that does not improve the safety of TNC drivers or passengers.

**c. Findings and Conclusions**

37. The Commission denies the request in HopSkipDrive’s Application for RRR to eliminate this requirement in the temporary rules.

38. Given the mandate in SB 22-144 to promulgate rules for minimum safety standards for personal vehicles used to provide subject student transportation service, we affirm the conclusion by Staff and CDE that this minimal inspection standard is an appropriate and warranted protection, to ensure the safe transportation of students in personal vehicles.

39. We affirm that the burden of a TNC driver having to perform this basic walkaround inspection each day is far outweighed by the public interest benefit of ensuring that any potential hazards are identified before the vehicle is put to use transporting students. Through this basic walkaround inspection, a TNC driver who will provide subject student transportation service that day can identify previously unnoticed issues with the vehicle’s tires, lights, safety belts, and other basic mechanics of the vehicle—and thereby mitigate the risk of accidents or other safety-related incidents. We find this especially warranted since the vehicles are, by definition, personal vehicles that could have been used for non-TNC service

transportation during off-duty hours, subjecting the vehicle to additional wear-and-tear and unexpected damage.

40. To respond to HopSkipDrive’s concern about the requirement that the DVIR be “in writing,” we clarify that this does not necessarily mean paper form and that digital records may also satisfy the requirements of this rule. We anticipate that a TNC could incorporate this requirement into its digital network or provide some other digital format through which drivers can comply with this new standard. We also note there is a sample of what an appropriate DVIR can look like available on the Commission’s website and, while it is not currently tailored to the new temporary TNC rule, it could likely comply with minor changes.

41. Finally, we adopt a stricter deadline of 30 days from the effective date of this Decision for a TNC to come into full compliance with the requirements in this rule. We find this is a straightforward and simple safety measure that can reasonably be fully implemented within a shorter timeframe. To assist HopSkipDrive in meeting this deadline, we ask Commission transportation staff to collaborate with HopSkipDrive to address any questions they may have, in order to expedite the rollout of this critical safety measure.

## 7. **Rule 6724(k): Reporting Requirements**

### a. **Temporary Rule**

42. This rule requires a TNC to provide notice of any safety or security incidents to the Commission, each contracted school or school district, and the parent or legal guardian of the involved student. The rule also requires annual reporting to the Commission for safety or security incidents and driver background checks. This rule implements §§ 40-10.1-609(1) and (2), C.R.S. The statute expressly requires a TNC to “notify the Commission of any safety or

security incidents that involve providing services for students ... [to] send the same notice to each school or school district with which the transportation network company has entered into a contract to provide services to students[.]”

**b. RRR**

43. HopSkipDrive requests that we modify this rule to limit the reporting requirements for safety and security incidents to only involved school districts and to eliminate personally identifiable information. HopSkipDrive states they have concerns regarding the privacy of drivers and (minor) passengers, along with concerns about the reporting of criminal background check data.

**c. Findings and Conclusions**

44. The Commission denies this request in HopSkipDrive’s Application for RRR.

45. We maintain the current language in this rule is consistent with the statutory requirements set forth in §§ 40-10.1-609(1) and (2), C.R.S. Most significantly, HopSkipDrive’s request that the rule only require notice of safety or security incidents to the involved school district conflicts with the express requirement in statute that a TNC notify each school or school district with which the TNC has entered into a contract to provide services to students.

46. To the concerns of personally identifiable information and limits on reporting criminal history data, we clarify the rule is deliberately drafted to implement the statute, while allowing flexibility to a TNC to provide the data needed for the transparency required by the rule, without necessarily requiring disclosure of personally identifiable information or specific criminal history data. We recognize the concerns raised by HopSkipDrive and will review any

reports provided under this rule with understanding that certain information may be reasonably redacted or generalized, in order to avoid these concerns.

47. Finally, we note the temporary rule does not provide a definition for what “safety or security incidents” are, as it pertains to the triggering of the underlying notice requirement. This is an issue we expect to further define in the forthcoming permanent rulemaking, where we can solicit input from stakeholders on the specific parameters for such an incident. We can also use any practical experience gained during the pendency of the temporary rules to better inform what type of incidents have occurred and what reasonably warrants notice under the statute.

#### **D. Conclusion**

48. Consistent with the discussion above, the Commission finds it warranted to grant, in limited part, HopSkipDrive’s Application for RRR. In response, we therefore make clarifications and modifications through the ordering language in this Decision and, where necessary, adopt minor revisions to the language in the current temporary rules. Consistent with the determinations in Decision No. C22-0486, adopting the current temporary rules, we find that immediate adoption of Commission regulations, through temporary rules, allows the Commission to meet the constricted statutory deadline in SB 22-144 to promulgate rules implementing the statutory changes enacted by the legislature. We find that waiting until rules can be adopted through the requirements for permanent rules set forth in § 24-4-103, C.R.S., would be contrary to the public interest, as such delay would prevent timely implementation of these requirements. For these reasons, and as authorized by § 24-4-103(6)(a), C.R.S., the Commission continues to find that immediate adoption of these temporary rules is imperatively necessary to comply with state law and to provide for the health, safety, and welfare of the

public. The statutory authority for adoption of these rules is set forth in §§ 40-2-108 and 40-10.1-601 through 609, C.R.S., and SB 22-144.

**E. The Commission Orders That:**

1. The Application for Rehearing, Reargument, or Reconsideration of Decision No. C22-0486, filed on August 26, 2022, by HopSkipDrive, Inc., is granted, in part, and denied, in part, consistent with the discussion above.

2. The rules in final version format available in this proceeding, through the Commission's E-Filings system, are hereby adopted as temporary rules, consistent with the discussion above.

3. The temporary rules shall be effective on the mailed date of this Decision. Such rules shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

4. Consistent with the discussion above, transportation network companies engaging in subject transportation network company services are expected to immediately begin diligent efforts to update their operations and procedures to comply with the standards in the temporary rules; however, a reasonable allowance will be made in strict enforcement of these rules through December 31, 2022, recognizing it will take a period of time for subject transportation network companies to reach full compliance with all of the standards implemented through the temporary rules (with the exception of the daily vehicle inspection report requirements in Rule 6724(g), for which only a 30-day allowance from the effective date of this Decision is made).

5. The 20-day period provided in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

6. This Decision shall be effective upon its Mailed Date.

**F. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
September 14, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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JOHN GAVAN

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MEGAN M. GILMAN

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Commissioners

## COLORADO DEPARTMENT OF REGULATORY AGENCIES

### Public Utilities Commission

#### 4 CODE OF COLORADO REGULATIONS (CCR) 723-6

#### PART 6

#### RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

##### TRANSPORTATION NETWORK COMPANY RULES

##### **6700. Applicability of Transportation Network Company Rules.**

Rules 6700 through 6724 apply to all transportation network companies (TNCs) as defined by § 40-10.1-602(3), C.R.S. and to all Commission proceedings and operations concerning TNCs including applicants, TNC employees, and TNC drivers.

##### **6701. Definitions.**

The following definitions apply throughout rules 6700 through 6724, except where a specific rule or statute provides otherwise.

- (a) "Enforcement official" means:
  - (I) any person appointed or hired by the director, or the director's designee, to perform any function associated with the regulation of transportation network companies; or
  - (II) as defined by § 42-20-103(2), C.R.S.
- (b) "Logged in" means that a driver's credentials have been accepted to connect to a transportation company digital network such that the driver is capable of being matched to a rider [OR a driver has gained access to a transportation company digital network].
- (c) "Logged out" means that a driver is disconnected or not connected to a transportation company's digital network.
- (d) "Matched" means the point in time when a driver accepts a requested ride through a transportation network company's digital network.
- (e) "Permit" means the permit required for the operation of a transportation network company pursuant to Part 6 of Article 10.1 of Title 40, C.R.S.
- (f) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or other legal entity and any person acting as or in the capacity of officer, director, manager, employee, member, partner, lessee, trustee, or receiver thereof, whether appointed by a court or otherwise.

- (g) “Personal vehicle” means a vehicle that is used by a transportation network company driver in connection with providing services for a transportation network company that meets the vehicle criteria set forth in § 40-10.1-605(1)(h), C.R.S.
- (h) “Prearranged ride” means a period of time that begins when a driver accepts a requested ride through a digital network, continues while the driver transports the rider in a personal vehicle, and ends when the rider departs from the personal vehicle.
- (i) “School” means a public school that enrolls students in any of the grades of kindergarten through twelfth grade.
- (j) “Student” means an individual enrolled in a school.
- (k) “Transportation network company” (TNC) means a corporation, partnership, sole proprietorship, or other entity, operating in Colorado, that uses a digital network to connect riders to drivers for the purpose of providing transportation. A transportation network company does not provide taxi service, transportation service arranged through a transportation broker, ridesharing arrangements, as defined in § 39-22-509 (1) (a) (II), C.R.S. or any transportation service over fixed routes at regular intervals. A transportation network company is not deemed to own, control, operate, or manage the personal vehicles used by transportation network company drivers. A transportation network company does not include a political subdivision or other entity exempted from federal income tax under § 115 of the federal “Internal Revenue Code of 1986”, as amended.
- (l) “Transportation network company driver” or “driver” means an individual who uses his or her personal vehicle to provide transportation network company services for riders matched to the driver through a transportation network company’s digital network. A driver need not be an employee of a transportation network company.
- (m) “Transportation network company rider” or “rider” means a passenger in a personal vehicle for whom a driver provides transportation network company services, including:
  - (I) an individual who uses a transportation network company's online application or digital network to connect with a driver to obtain services in the driver's vehicle for the individual and anyone in the individual's party; or
  - (II) anyone for whom another individual uses a transportation network company's online application or digital network to connect with a driver to obtain services in the driver's vehicle.
  - (III) “Rider” includes service animals as defined in § 24-34-803, C.R.S., accompanying any passenger.
- (n) “Transportation network company services” or “services” means the provision of transportation by a driver to a rider with whom the driver is matched through a transportation network company. The term does not include services provided using vehicles owned or leased by a political subdivision or other entity exempt from federal income tax under § 115 of the federal “Internal Revenue Code of 1986”, as amended. The term includes services provided under a contract between a transportation network company and a political subdivision or other entity exempt from federal income tax under § 115 of the federal “Internal Revenue Code of 1986”, as amended.

\* \* \* \*

[indicates omission of unaffected rules]

#### **6724. Transportation for Remuneration from a School or School District**

In accordance with § 40-10.1-608(3)(a), C.R.S., the following minimum safety standards are implemented for transportation network companies, personal vehicles, and transportation network company drivers when engaging in services provided under a contract with a school or school district. These minimum safety standards are in addition to all other transportation network company rules present in this section.

- (a) **Contracts.** A transportation network company that, for remuneration from a school or school district, provides services for students to or from a school, school-related activities, or school-sanctioned activities shall enter into a contract with the appropriate school or school district that may include specific provisions for the safety of student passengers, as determined by the school or school district.
- (b) **End-to-End Visibility.** A transportation network company that, for remuneration from a school or school district, provides services for students to or from a school, school-related activities, or school-sanctioned activities shall use a technology-enabled integrated solution that provides end-to-end visibility into the ride for the transportation network company, the student's legal guardian, and the person that scheduled the ride. This solution must allow for Global Positioning System (GPS) monitoring of the ride in real time for safety-related anomalies.
  - (I) The technology-enabled integrated solution shall be maintained and in good working order, at all times, when performing services provided under contract with a school or school district. Any disruption that occurs during a prearranged ride shall be immediately reported to the school or school district and to the parent or legal guardian of the involved student, as applicable.
- (c) **Training Requirements.** A transportation network company that, for remuneration from a school or school district, provides services for students to or from a school, school-related activities, or school-sanctioned activities shall ensure that each driver providing the service receives training in mandatory reporting requirements, safe driving practices, first aid and Cardiopulmonary Resuscitation (CPR), education on special considerations for transporting students with disabilities, emergency preparedness, and safe pick-up and drop-off procedures.
  - (I) Any driver training covering the topics outlined in this rule must be approved by the Commission prior to being used to meet this requirement. Commission staff, in consultation with the Colorado Department of Education (CDE) as a subject matter expert, shall be responsible for the review and approval of any related driving training. If a submitted driver training is not approved, a TNC may, within 60 days of Commission staff's notification, file a petition with the Commission for a qualification determination.
  - (II) Driver training covering the topics outlined in this rule, as offered by schools or school districts, may meet this requirement, if approved by the Commission.
  - (III) A TNC, or a third party on behalf of a TNC, shall maintain records associated with the training requirements outlined in this rule during the driver's period of service and for six months thereafter.

- (IV) The TNC, not the driver, shall pay the cost of providing the training outlined in this rule.
  - (V) The driver training outlined in this rule shall be completed prior to the driver performing services provided under a contract with a school or school district.
- (d) Criminal History Record Checks. If a fingerprint background check for a driver is required, as specified in a contract with a school or school district, the criminal history record check shall be completed pursuant to the procedures set forth in § 40-10.1-110, C.R.S., as supplemented by the Commission's rules, in accordance with § 40-10.1-605(3)(a)(I), C.R.S., or through the State's Volunteer Employee Criminal History Services (VECHS) program.
- (I) In addition to the disqualification provisions under § 40-10.1-605(3)(c), C.R.S., a TNC shall not use a driver to provide services for students to or from a school, school-related activities, or school-sanctioned activities for remuneration from a school or school district if the driver has been convicted of or pled guilty or nolo contendere to an offense described in § 22-32-109.8(6.5), C.R.S.
- (e) Medical Fitness. A TNC shall not permit a person to act as a driver, when performing services provided under a contract with a school or school district, unless the driver has been medically examined and certified under the provisions of 49 C.F.R. 391.41.
- (I) A driver shall keep on their person or in their personal vehicle a copy of their medical certification, as outlined in this rule, in physical or electronic form. This documentation shall be provided to an enforcement official, upon request.
  - (II) A TNC, or a third party on behalf of a TNC, shall maintain records associated with the driver's medical certification, as outlined in this rule, during the driver's period of service and for six months thereafter. This documentation shall be made available to an enforcement official, upon request.
  - (III) The medical certification requirements, as outlined in this rule, may substitute the specific provisions of any other rules in this section that reference a driver's self-certification to the TNC that they are physically and mentally fit to drive.
- (f) Vehicle Inspections. A TNC shall not permit the use of a personal vehicle, when performing services provided under contract with a school or school district, unless the individual performing the vehicle inspection, as outlined in 6714, is an Automotive Service Excellence (ASE) certified mechanic qualified to perform the inspection and employed by a company authorized to do business in Colorado.
- (I) If a personal vehicle is equipped with restraints, ramps, lifts, or other special devices, which are used to facilitate the loading, unloading, or transportation of individuals with disabilities, such equipment shall be in good working order.
- (g) Daily Vehicle Inspection Report (DVIR). A TNC shall require a driver, when performing services provided under contract with a school or school district, to prepare a Daily Vehicle Inspection Report (DVIR), in writing, prior to each day's work.
- (I) The report shall cover at least the following parts and accessories:
    - (A) foot brakes and emergency brakes;

- (B) steering mechanism;
  - (C) windshield and wipers;
  - (D) doors and windows;
  - (E) head lights, tail lights, stop lights, and turn indicator lights;
  - (F) front seat adjustment mechanism;
  - (G) horn;
  - (H) speedometer;
  - (I) bumpers;
  - (J) mufflers and exhaust system;
  - (K) tires and wheels;
  - (L) rear view mirrors; and
  - (M) safety belts.
- (II) The driver, on the DVIR, shall:
- (A) identify the vehicle and list any defects or deficiencies discovered by or reported to the driver, which would affect the safety of operation of the vehicle or result in its mechanical breakdown;
  - (B) if no defects or deficiencies are discovered by or reported to the driver, the report shall so indicate; and
  - (C) in all instances, the driver shall sign, or otherwise certify, the report.
- (III) Prior to requiring or permitting a driver to operate a personal vehicle, when performing services provided under contract with a school or school district, any noted defects or deficiencies listed in the DVIR shall be repaired or corrected.
- (IV) For every DVIR which identifies any defects or deficiencies, a certification of the repair must be made that indicates the defects or deficiencies have been repaired or that the repair is unnecessary.
- (V) The driver shall review and certify the repair has been made, if applicable.
- (VI) The TNC shall maintain a DVIR record for three months after the date the DVIR was prepared.
- (h) Emergency Procedures. A TNC shall have and enforce emergency procedures, to be followed in the event of a safety or security incident that involves providing services for students to or from a school, school-related activities, or school-sanctioned activities.

- (i) **Safety Restraints.** A TNC shall have and enforce a policy that requires a driver to follow all Colorado laws regarding the proper use of safety belt systems and child restraint systems, when performing services provided under a contract with a school or school district.
- (j) **Unauthorized Passengers.** A TNC shall have and enforce a policy that prohibits drivers from transporting unauthorized passengers, when performing services provided under a contract with a school or school district.
- (k) **Reporting Requirements.** A TNC shall be responsible for the following reporting requirements:
  - (I) A TNC shall issue a notice of any safety or security incidents that involve providing services for students to or from a school, school-related activities, or school-sanctioned activities. The notice shall be sent to the Commission, to each school or school district with which the TNC has entered into a contract, and to the parent or legal guardian of the involved student, as applicable. The notice shall be issued as soon as possible, but no later than one business day after the safety or security incident occurs.
  - (II) Prior to February 1 of each calendar year, a TNC shall report to the Commission any safety or security incidents that occurred during the previous calendar year. Such reports shall include, but are not limited to, the TNC's name; the TNC's permit number; the period being reported; the identity of the involved drivers; the dates of the incidents; the names of the applicable schools or school districts; the nature of the safety or security incidents; and any resulting disciplinary actions. The report shall also contain the signature, printed name, and title of the person completing the report; the printed name and title of an officer authorized to file the report; and an oath that the information is accurate. In addition to this report being submitted to the Commission, the report shall also be submitted to each school or school district with which the TNC has entered into a contract. This report is in addition to, not in lieu of, any other reporting requirements outlined in this rule.
  - (III) Prior to February 1 of each calendar year, a TNC shall report to the Commission information related to any driver background checks that occurred during the previous calendar year. Such reports shall include, but are not limited to, the TNC's name; the TNC's permit number; the period being reported; the identity of the involved drivers; the dates of the administered background checks; what type of background checks are being administered; the results of the administered background checks, including any disqualifications; and the operational status of the involved drivers. The report shall also contain the signature, printed name, and title of the person completing the report; the printed name and title of an officer authorized to file the report; and an oath that the information is accurate.
- (l) **Authority to Inspect Records.** An enforcement official has the authority to interview personnel of a TNC, inspect TNC facilities, and inspect records, as it pertains to performing services provided under a contract with a school or school district, as follows:
  - (I) immediately for any records related to insurance or safety;
  - (II) within two days for any records related to a complaint or investigation; or
  - (III) within ten days for all other records.

- (m) Higher Standards. Nothing in these rules prohibits a school or school district from setting higher standards for transporting a student to or from a school, school-related activity, or school-sanctioned activity.

**6725. Violations, Civil Enforcement, and Enhancement of Civil Penalties.**

Civil penalty assessments are in addition to any other penalties provided by law.

TNCs are subject to §§ 40-7-112, C.R.S. and 40-7-113 through 40-7-116, for violations of Part 6 of Title 40, C.R.S., or these rules, and may be assessed civil penalties for any such violation.

- (a) \$11,000 per violation.
  - (I) Failure to obtain and keep in force liability insurance that conforms with the requirements of § 40-10.1-604.
- (b) \$10,000 per violation.
  - (I) Violation of paragraph 6723(a).
  - (II) Violation of paragraph 6723(b).
- (c) \$2,500 per violation.
  - (I) Violation of paragraph 6723(i) or (j).
  - (II) Violation of rule 6708.
  - (III) Violation of paragraph 6722(a), (c), (d), (e), or (f).
- (d) \$1,100 per violation.
  - (I) Violation of rule 6713.
  - (II) Violation of the periodic inspection requirements of rule 6714.
  - (III) Violation of rule 6702.
  - (IV) Violation of rule 6721.
  - (V) Violation of paragraph 6723(c), (d), (e), (g) or (l).
- (e) \$500 per violation up to \$10,000.
  - (I) Violation of rule 6710.
  - (II) Failure to return the completed DVCR as required by subparagraph 6718(c)(III).
  - (III) Violation of paragraph 6722(g).
- (f) \$275 per violation.

- (l) Violation of rule 6712.
- (g) \$250 per violation.
  - (l) Violation of any rule not specified above.
- (h) Notwithstanding any provision in these rules to the contrary, the Commission may assess a civil penalty of two times the amount or three times the amount, as provided in § 40-7-113, C.R.S.
  - (l) The amounts in paragraphs (a) through (g) shall be two times the specified amount if:
    - (A) the person engaged in prior conduct which resulted in the issuance of a prior civil penalty assessment notice;
    - (B) the conduct is of the same or narrower character as the conduct that was cited in the prior civil penalty assessment notice;
    - (C) the conduct occurred within one year after the date of violation in the prior civil penalty assessment notice; and
    - (D) the conduct occurred after the person's receipt of the prior civil penalty assessment notice.
  - (ll) The amounts in paragraphs (a) through (g) shall be three times the specified amount if:
    - (A) the person engaged in two or more instances of prior conduct which resulted in the issuance of two or more prior civil penalty assessment notices;
    - (B) the conduct is of the same or narrower character as the conduct that was cited in the prior civil penalty assessment notices;
    - (C) the conduct occurred within one year after the two most recent prior instances of conduct cited in the prior civil penalty assessment notices; and
    - (D) the conduct occurred after the person's receipt of two or more prior civil penalty assessment notices.
- (i) The civil penalty assessment notice shall contain the maximum penalty amounts prescribed for the violation; the amount of the penalty surcharge pursuant to § 24-34-108(2); and a separate provision for a reduced penalty of 50 percent of the maximum penalty amount if paid within ten days after the civil penalty assessment notice is tendered.

**6726. – 6799. [Reserved].**

## COLORADO DEPARTMENT OF REGULATORY AGENCIES

### Public Utilities Commission

#### 4 CODE OF COLORADO REGULATIONS (CCR) 723-6

#### PART 6

#### RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

##### TRANSPORTATION NETWORK COMPANY RULES

##### **6700. Applicability of Transportation Network Company Rules.**

Rules 6700 through 6724 apply to all transportation network companies (TNCs) as defined by § 40-10.1-602(3), C.R.S. and to all Commission proceedings and operations concerning TNCs including applicants, TNC employees, and TNC drivers.

##### **6701. Definitions.**

The following definitions apply throughout rules 6700 through 6724, except where a specific rule or statute provides otherwise.

- (a) "Enforcement official" means:
  - (I) any person appointed or hired by the director, or the director's designee, to perform any function associated with the regulation of transportation network companies; or
  - (II) as defined by § 42-20-103(2), C.R.S.
- (b) "Logged in" means that a driver's credentials have been accepted to connect to a transportation company digital network such that the driver is capable of being matched to a rider [OR a driver has gained access to a transportation company digital network].
- (c) "Logged out" means that a driver is disconnected or not connected to a transportation company's digital network.
- (d) "Matched" means the point in time when a driver accepts a requested ride through a transportation network company's digital network.
- (e) "Permit" means the permit required for the operation of a transportation network company pursuant to Part 6 of Article 10.1 of Title 40, C.R.S.
- (f) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or other legal entity and any person acting as or in the capacity of officer, director, manager, employee, member, partner, lessee, trustee, or receiver thereof, whether appointed by a court or otherwise.

- (g) “Personal vehicle” means a vehicle that is used by a transportation network company driver in connection with providing services for a transportation network company that meets the vehicle criteria set forth in § 40-10.1-605(1)(h), C.R.S.
- (h) “Prearranged ride” means a period of time that begins when a driver accepts a requested ride through a digital network, continues while the driver transports the rider in a personal vehicle, and ends when the rider departs from the personal vehicle.
- (i) “School” means a public school that enrolls students in any of the grades of kindergarten through twelfth grade.
- (j) “Student” means an individual enrolled in a school.
- (k) “Transportation network company” (TNC) means a corporation, partnership, sole proprietorship, or other entity, operating in Colorado, that uses a digital network to connect riders to drivers for the purpose of providing transportation. A transportation network company does not provide taxi service, transportation service arranged through a transportation broker, ridesharing arrangements, as defined in § 39-22-509 (1) (a) (II), C.R.S. or any transportation service over fixed routes at regular intervals. A transportation network company is not deemed to own, control, operate, or manage the personal vehicles used by transportation network company drivers. A transportation network company does not include a political subdivision or other entity exempted from federal income tax under § 115 of the federal “Internal Revenue Code of 1986”, as amended.
- (l) “Transportation network company driver” or “driver” means an individual who uses his or her personal vehicle to provide transportation network company services for riders matched to the driver through a transportation network company’s digital network. A driver need not be an employee of a transportation network company.
- (m) “Transportation network company rider” or “rider” means a passenger in a personal vehicle for whom a driver provides transportation network company services, including:
  - (I) an individual who uses a transportation network company's online application or digital network to connect with a driver to obtain services in the driver's vehicle for the individual and anyone in the individual's party; or
  - (II) anyone for whom another individual uses a transportation network company's online application or digital network to connect with a driver to obtain services in the driver's vehicle.
  - (III) “Rider” includes service animals as defined in § 24-34-803, C.R.S., accompanying any passenger.
- (n) “Transportation network company services” or “services” means the provision of transportation by a driver to a rider with whom the driver is matched through a transportation network company. The term does not include services provided using vehicles owned or leased by a political subdivision or other entity exempt from federal income tax under § 115 of the federal “Internal Revenue Code of 1986”, as amended. The term includes services provided under a contract between a transportation network company and a political subdivision or other entity exempt from federal income tax under § 115 of the federal “Internal Revenue Code of 1986”, as amended.

\* \* \* \*

[indicates omission of unaffected rules]

**6724. Transportation for Remuneration from a School or School District**

In accordance with § 40-10.1-608(3)(a), C.R.S., the following minimum safety standards are implemented for transportation network companies, personal vehicles, and transportation network company drivers when engaging in services provided under a contract with a school or school district. These minimum safety standards are in addition to all other transportation network company rules present in this section.

- (a) **Contracts.** A transportation network company that, for remuneration from a school or school district, provides services for students to or from a school, school-related activities, or school-sanctioned activities shall enter into a contract with the appropriate school or school district that may include specific provisions for the safety of student passengers, as determined by the school or school district.
- (b) **End-to-End Visibility.** A transportation network company that, for remuneration from a school or school district, provides services for students to or from a school, school-related activities, or school-sanctioned activities shall use a technology-enabled integrated solution that provides end-to-end visibility into the ride for the transportation network company, the student's legal guardian, and the person that scheduled the ride. This solution must allow for Global Positioning System (GPS) monitoring of the ride in real time for safety-related anomalies.
  - (I) The technology-enabled integrated solution shall be maintained and in good working order, at all times, when performing services provided under contract with a school or school district. Any disruption that occurs during a prearranged ride shall be immediately reported to the school or school district and to the parent or legal guardian of the involved student, as applicable.
- (c) **Training Requirements.** A transportation network company that, for remuneration from a school or school district, provides services for students to or from a school, school-related activities, or school-sanctioned activities shall ensure that each driver providing the service receives training in mandatory reporting requirements, safe driving practices, first aid and Cardiopulmonary Resuscitation (CPR), education on special considerations for transporting students with disabilities, emergency preparedness, and safe pick-up and drop-off procedures.
  - (I) Any driver training covering the topics outlined in this rule must be approved by the Commission prior to being used to meet this requirement. Commission staff, in consultation with the Colorado Department of Education (CDE) as a subject matter expert, shall be responsible for the review and approval of any related driving training. If a submitted driver training is not approved, a TNC may, within 60 days of Commission staff's notification, file a petition with the Commission for a qualification determination.
  - (II) Driver training covering the topics outlined in this rule, as offered by schools or school districts, may meet this requirement, if approved by the Commission.
  - (III) A TNC, or a third party on behalf of a TNC, shall maintain records associated with the training requirements outlined in this rule during the driver's period of service and for six months thereafter.

- (IV) The TNC, not the driver, shall pay the cost of providing the training outlined in this rule.
  - (V) The driver training outlined in this rule shall be completed prior to the driver performing services provided under a contract with a school or school district.
- (d) Criminal History Record Checks. If a fingerprint background check for a driver is required, as specified in a contract with a school or school district, the criminal history record check shall be completed pursuant to the procedures set forth in § 40-10.1-110, C.R.S., as supplemented by the Commission's rules, in accordance with § 40-10.1-605(3)(a)(I), C.R.S., or through the State's Volunteer Employee Criminal History Services (VECHS) program.
- (I) In addition to the disqualification provisions under § 40-10.1-605(3)(c), C.R.S., a TNC shall not use a driver to provide services for students to or from a school, school-related activities, or school-sanctioned activities for remuneration from a school or school district if the driver has been convicted of or pled guilty or nolo contendere to an offense described in § 22-32-109.8(6.5), C.R.S.
- (e) Medical Fitness. A TNC shall not permit a person to act as a driver, when performing services provided under a contract with a school or school district, unless the driver has been medically examined and certified under the provisions of 49 C.F.R. 391.41.
- (I) A driver shall keep on their person or in their personal vehicle a copy of their medical certification, as outlined in this rule, in physical or electronic form. This documentation shall be provided to an enforcement official, upon request.
  - (II) A TNC, or a third party on behalf of a TNC, shall maintain records associated with the driver's medical certification, as outlined in this rule, during the driver's period of service and for six months thereafter. This documentation shall be made available to an enforcement official, upon request.
  - (III) The medical certification requirements, as outlined in this rule, may substitute the specific provisions of any other rules in this section that reference a driver's self-certification to the TNC that they are physically and mentally fit to drive.
- (f) Vehicle Inspections. A TNC shall not permit the use of a personal vehicle, when performing services provided under contract with a school or school district, unless the individual performing the vehicle inspection, as outlined in 6714, is an Automotive Service Excellence (ASE) certified mechanic qualified to perform the inspection and employed by a company authorized to do business in Colorado.
- (I) If a personal vehicle is equipped with restraints, ramps, lifts, or other special devices, which are used to facilitate the loading, unloading, or transportation of individuals with disabilities, such equipment shall be in good working order.
- (g) Daily Vehicle Inspection Report (DVIR). A TNC shall require a driver, when performing services provided under contract with a school or school district, to prepare a Daily Vehicle Inspection Report (DVIR), in writing, prior to each day's work.
- (I) The report shall cover at least the following parts and accessories:
    - (A) foot brakes and emergency brakes;

- (B) steering mechanism;
  - (C) windshield and wipers;
  - (D) doors and windows;
  - (E) head lights, tail lights, stop lights, and turn indicator lights;
  - (F) front seat adjustment mechanism;
  - (G) horn;
  - (H) speedometer;
  - (I) bumpers;
  - (J) mufflers and exhaust system;
  - (K) tires and wheels;
  - (L) rear view mirrors; and
  - (M) safety belts.
- (II) The driver, on the DVIR, shall:
- (A) identify the vehicle and list any defects or deficiencies discovered by or reported to the driver, which would affect the safety of operation of the vehicle or result in its mechanical breakdown;
  - (B) if no defects or deficiencies are discovered by or reported to the driver, the report shall so indicate; and
  - (C) in all instances, the driver shall sign, or otherwise certify, the report.
- (III) Prior to requiring or permitting a driver to operate a personal vehicle, when performing services provided under contract with a school or school district, any noted defects or deficiencies listed in the DVIR shall be repaired or corrected.
- (IV) For every DVIR which identifies any defects or deficiencies, a certification of the repair must be made that indicates the defects or deficiencies have been repaired or that the repair is unnecessary.
- (V) The driver shall review and certify the repair has been made, if applicable.
- (VI) The TNC shall maintain a DVIR record for three months after the date the DVIR was prepared.
- (h) Emergency Procedures. A TNC shall have and enforce emergency procedures, to be followed in the event of a safety or security incident that involves providing services for students to or from a school, school-related activities, or school-sanctioned activities.

- (i) **Safety Restraints.** A TNC shall have and enforce a policy that requires a driver to follow all Colorado laws regarding the proper use of safety belt systems and child restraint systems, when performing services provided under a contract with a school or school district.
- (j) **Unauthorized Passengers.** A TNC shall have and enforce a policy that prohibits drivers from transporting unauthorized passengers, when performing services provided under a contract with a school or school district.
- (k) **Reporting Requirements.** A TNC shall be responsible for the following reporting requirements:
  - (I) A TNC shall issue a notice of any safety or security incidents that involve providing services for students to or from a school, school-related activities, or school-sanctioned activities. The notice shall be sent to the Commission, to each school or school district with which the TNC has entered into a contract, and to the parent or legal guardian of the involved student, as applicable. The notice shall be issued as soon as possible, but no later than one business day after the safety or security incident occurs.
  - (II) Prior to February 1 of each calendar year, a TNC shall report to the Commission any safety or security incidents that occurred during the previous calendar year. Such reports shall include, but are not limited to, the TNC's name; the TNC's permit number; the period being reported; the identity of the involved drivers; the dates of the incidents; the names of the applicable schools or school districts; the nature of the safety or security incidents; and any resulting disciplinary actions. The report shall also contain the signature, printed name, and title of the person completing the report; the printed name and title of an officer authorized to file the report; and an oath that the information is accurate. In addition to this report being submitted to the Commission, the report shall also be submitted to each school or school district with which the TNC has entered into a contract. This report is in addition to, not in lieu of, any other reporting requirements outlined in this rule.
  - (III) Prior to February 1 of each calendar year, a TNC shall report to the Commission information related to any driver background checks that occurred during the previous calendar year. Such reports shall include, but are not limited to, the TNC's name; the TNC's permit number; the period being reported; the identity of the involved drivers; the dates of the administered background checks; what type of background checks are being administered; the results of the administered background checks, including any disqualifications; and the operational status of the involved drivers. The report shall also contain the signature, printed name, and title of the person completing the report; the printed name and title of an officer authorized to file the report; and an oath that the information is accurate.
- (l) **Authority to Inspect Records.** An enforcement official has the authority to interview personnel of a TNC, inspect TNC facilities, and inspect records, as it pertains to performing services provided under a contract with a school or school district, as follows:
  - (I) immediately for any records related to insurance or safety;
  - (II) within two days for any records related to a complaint or investigation; or
  - (III) within ten days for all other records.

- (m) Higher Standards. Nothing in these rules prohibits a school or school district from setting higher standards for transporting a student to or from a school, school-related activity, or school-sanctioned activity.

**6725. Violations, Civil Enforcement, and Enhancement of Civil Penalties.**

Civil penalty assessments are in addition to any other penalties provided by law.

TNCs are subject to §§ 40-7-112, C.R.S. and 40-7-113 through 40-7-116, for violations of Part 6 of Title 40, C.R.S., or these rules, and may be assessed civil penalties for any such violation.

- (a) \$11,000 per violation.
  - (I) Failure to obtain and keep in force liability insurance that conforms with the requirements of § 40-10.1-604.
- (b) \$10,000 per violation.
  - (I) Violation of paragraph 6723(a).
  - (II) Violation of paragraph 6723(b).
- (c) \$2,500 per violation.
  - (I) Violation of paragraph 6723(i) or (j).
  - (II) Violation of rule 6708.
  - (III) Violation of paragraph 6722(a), (c), (d), (e), or (f).
- (d) \$1,100 per violation.
  - (I) Violation of rule 6713.
  - (II) Violation of the periodic inspection requirements of rule 6714.
  - (III) Violation of rule 6702.
  - (IV) Violation of rule 6721.
  - (V) Violation of paragraph 6723(c), (d), (e), (g) or (l).
- (e) \$500 per violation up to \$10,000.
  - (I) Violation of rule 6710.
  - (II) Failure to return the completed DVCR as required by subparagraph 6718(c)(III).
  - (III) Violation of paragraph 6722(g).
- (f) \$275 per violation.

- (l) Violation of rule 6712.
- (g) \$250 per violation.
  - (l) Violation of any rule not specified above.
- (h) Notwithstanding any provision in these rules to the contrary, the Commission may assess a civil penalty of two times the amount or three times the amount, as provided in § 40-7-113, C.R.S.
  - (l) The amounts in paragraphs (a) through (g) shall be two times the specified amount if:
    - (A) the person engaged in prior conduct which resulted in the issuance of a prior civil penalty assessment notice;
    - (B) the conduct is of the same or narrower character as the conduct that was cited in the prior civil penalty assessment notice;
    - (C) the conduct occurred within one year after the date of violation in the prior civil penalty assessment notice; and
    - (D) the conduct occurred after the person's receipt of the prior civil penalty assessment notice.
  - (ll) The amounts in paragraphs (a) through (g) shall be three times the specified amount if:
    - (A) the person engaged in two or more instances of prior conduct which resulted in the issuance of two or more prior civil penalty assessment notices;
    - (B) the conduct is of the same or narrower character as the conduct that was cited in the prior civil penalty assessment notices;
    - (C) the conduct occurred within one year after the two most recent prior instances of conduct cited in the prior civil penalty assessment notices; and
    - (D) the conduct occurred after the person's receipt of two or more prior civil penalty assessment notices.
- (i) The civil penalty assessment notice shall contain the maximum penalty amounts prescribed for the violation; the amount of the penalty surcharge pursuant to § 24-34-108(2); and a separate provision for a reduced penalty of 50 percent of the maximum penalty amount if paid within ten days after the civil penalty assessment notice is tendered.

**6726. – 6799. [Reserved].**