

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 14R-0737TR

IN THE MATTER OF THE TEMPORARY RULES IMPLEMENTING SENATE BILL 14-125
CONCERNING THE REGULATION OF TRANSPORTATION NETWORK COMPANIES.

DECISION ADOPTING TEMPORARY RULES

Mailed Date: July 8, 2014
Adopted Date: July 2, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of temporary rules to implement portions of Senate Bill 14-125 (SB 125). SB 125 defined the manner in which Transportation Network Companies (TNCs) may operate in Colorado. A TNC “uses a digital network to connect riders to drivers for the purpose of providing transportation.” Section 40-10.1-602(3), C.R.S. For the reasons set forth in this decision, we adopt temporary rules pursuant to the authority stated in § 24-4-103(6), C.R.S.

2. SB 125 adds Part 6 to Article 10.1 of Title 40 and amends §§ 40-1-102, C.R.S., 40-7-112, C.R.S., 40-10.1-101, C.R.S., 40-10.1-103, C.R.S., and 40-10.1-117, C.R.S. It became effective on June 5, 2014.

3. The Commission may adopt a temporary rule without engaging in the processes required for a permanent rule “only if the agency finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of these section [to complete a permanent rulemaking] would be contrary to the public interest and

makes such a finding on the record.” § 24-4-103(6), C.R.S. As detailed below, we find § 24-4-103(6) authorizes the adoption of temporary rules to address an immediate need to implement a permitting process and to ensure public safety on specified matters.

4. SB 125 requires TNCs to obtain a permit from the Commission before operating in Colorado. Section 40-10.1-606(1), C.R.S. “The Commission shall determine the form and manner of application for a Transportation Network Company permit.” Section 40-10.1-606(3), C.R.S. The General Assembly made SB 125 immediately effective upon the Governor’s signature, thus indicating a policy of authorizing TNCs to operate and provide transportation services in Colorado as soon as practical. Awaiting completion of a permanent rulemaking under Title 24 to determine the form and manner of a permit application would delay the process for authorizing TNCs to operate in the state. Adoption of an immediate rule therefore would promote the General Assembly’s policy of authorizing TNC operations.

5. SB 125 also contains important public safety provisions, some of which are effective immediately, others becoming effective within 90 days, and still others becoming effective January 15, 2015. Section 40-10.1-605(1)(d)(IV), C.R.S., requires TNCs to confirm within 90 days that their drivers are medically fit to drive, all pursuant to Commission rules. SB 125 limits the number of consecutive hours a driver may offer or provide services to 12; however, it does not address the length of time after a 12-hour consecutive driving period that a driver is not permitted to resume the offering or provisioning of TNC services. Section 40-10.1-605(1)(e), C.R.S. The bill requires TNCs to conduct safety inspections on a vehicle before use for TNC services; but, it does not prescribe the standards applicable to these inspections. Section 40-10.1-605(1)(g)(I), C.R.S. This legislation also imposes certain insurance and financial responsibility requirements upon TNC operations, some of which are

effective 90 days after the bill's effective date and others on January 15, 2015. Section 40-10.1-604(2), (4), C.R.S.

6. These matters and their statutorily-imposed timeframes require our immediate attention to protect public safety. We also find that the time necessary to conduct a permanent rulemaking on these issues would result in delays and risk the safety of Colorado consumers. Thus, immediate adoption of temporary rules addressing certain safety requirements is imperatively necessary to preserve public health, safety, and welfare.

7. We therefore adopt the following temporary rules:

a) Rules implementing the application process and requiring TNCs to provide necessary information before the issuance of a permit (§ 40-10.1-606, C.R.S.). Our temporary rules grant TNCs approximately 50 days until September 1, 2014, to certify compliance with certain statutory requirements and file the application. The Commission will address permit renewals in a permanent rulemaking.

b) Rules clarifying the filing of proof of financial responsibility, as applicable under § 40-10.1-604, C.R.S.

c) Rules clarifying the length of time after a 12-hour consecutive period a driver must not be permitted to resume providing services to the public. Consistent with existing Commission rules, we pattern these rules on the federal hours of service rules found in 49 C.F.R. 393. The Commission has incorporated these federal rules for other transportation services, and they provide practical and clear standards to drivers, transportation providers, and Commission Staff.

d) Rules clarifying the requirement that drivers are medically fit to drive.

e) Rules for vehicle inspection requirements, as applicable.

6. SB 125 addresses numerous administrative and safety issues in addition to those forming the basis of temporary rules; we have selected for these temporary rules provisions from SB 125 requiring our immediate attention. In a permanent rulemaking, we will revisit these temporary rules and other provisions of SB 125.

7. SB 125 contains other provisions promoting safety that are self-effectuating and do not require clarifying or supplemental rules at this time. For example, § 40-10.1-605(3), C.R.S., requires drivers to provide criminal history records to the TNC, and persons convicted of certain listed offenses shall not serve as TNC drivers. The Commission's decision not to adopt rules addressing this provision does not diminish its effectiveness or that of other self-effectuating provisions.

8. We take this action in accordance with §§ 40-2-108(2) and 24-4-103(6), C.R.S.

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

10. The temporary rules in legislative (strikeout/underline) format, the temporary rules in final version format, and a copy of SB 14-125 are available through the Commission's E-Filings system¹ at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=14R-0737TR

¹ From the *Electronic Filings* (E-Filings) system page (<https://www.dora.state.co.us/pls/efi/EFI.homepage>), the rules can be accessed by selecting "Search" and entering this docket number (14R-0737TR) in the "Proceeding Number" box and then selecting "Search".

II. ORDER

A. The Commission Orders That:

1. 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 above discussion.

2. The temporary rules shall be effective on the mailed date of this Decision.

3. 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.

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
July 2, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners