

**STATE OF MARYLAND
OFFICE OF PEOPLE'S COUNSEL**

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BILL NO.: **Senate Bill 868**
Public Utilities – Transportation Network Services

COMMITTEE: **Senate Finance**

HEARING DATE: **March 24, 2015**

SPONSOR: **Senator Ferguson**

POSITION: **Oppose**

Senate Bill 868 exempts certain types of companies and individuals providing transportation services from the Public Service Commission's existing regulatory scheme for common carriers, and sets up a separate regulatory structure for "transportation network services." The Bill effectively creates three major exemptions from current law:

- Transportation network companies, as defined, are exempt from the current requirements for common carriers
- The rates and fees are exempt from all rate regulation
- The for-hire driving requirements, which apply to drivers, common carriers and the vehicle used for transportation, do not apply to transportation network companies, the drivers or the vehicles.

These exemptions go to the core of regulatory oversight over transportation services for the public. In contrast, the Public Service Commission (PSC or Commission) is conducting a

rulemaking (RM55) session at present that addresses and protects these key public safety and consumer protection requirements.

The Bill creates a new category of “transportation network services,” which encompasses both a “transportation network company” and a “transportation network operator.” The company uses a digital network or software application (for example, a smart phone app) to connect a person seeking transportation and a person offering transportation. The statutory scheme would be a separate part of the Public Utilities Article. The bill requires “transportation network companies” to register with the PSC, and to create a registration process for transportation network operators (i.e., drivers) to register *with the TNC*. The TNC then is required to maintain specified oversight over the drivers in terms of registry, driver conduct, safety inspections, records and insurance requirements. The Bill also has specific requirements for TNCs to apply to drivers, including background checks, a zero-tolerance policy for drugs and alcohol, discriminatory conduct prohibitions, disclosure of fees and insurance requirements, and vehicle condition.

OPC agrees that the use of new technology and mobile applications to provide a more efficient, convenient and satisfactory experience for consumers seeking transportation services is a positive development. However, the use of “digital connectors” between the service providers and the consumers does not change the underlying nature of the service provided – whether it is public transportation or hospitality services (for example, the recent controversies over AirBnB in New York City and San Francisco). It also does not mean that an entity should be treated any differently in terms of regulatory oversight than other providers of the same types of services, who are admittedly subject to the regulatory authority of the Commission. The core issues of

public safety, consumer protection and reasonable pricing remain the same whatever the technology used to deliver the services.

In the case of Uber Technologies, Inc. in particular, the Public Service Commission has found, based on an extensive evidentiary record, that the company's services meet the definition of a common carrier. The Commission also instituted a rulemaking, which is ongoing, to consider new regulations for TNCs and their driver. OPC has been an active participant in all of these proceedings, and in particular, has submitted comments supporting the framework of the proposed regulations.

Unfortunately, this Bill would negate the core regulatory oversight features of that approach, and implement instead a registration and "self-regulation" model of oversight. In particular, the TNC and not the Commission would be solely responsible for criminal background checks and vehicle inspections, and maintenance of records. The Commission's oversight over TNCs is severely limited, as is their access to TNC records. This is particularly significant, given that TNCs are frequently located in other states, such as California. Given the lack of funding for oversight, even this level of oversight would be extremely difficult to do.

For these reasons, the Office of People's Counsel respectfully requests an UNFAVORABLE report on Senate Bill 868.