

CHAPTER 30
HB 219-FN - FINAL VERSION

9Mar2023... 0461h

2023 SESSION

23-0603
10/04

HOUSE BILL

219-FN

AN ACT relative to certain public utilities statutes.

SPONSORS: Rep. Vose, Rock. 5; Rep. Harrington, Straf. 18

COMMITTEE: Science, Technology and Energy

AMENDED ANALYSIS

This bill recodifies the RSA chapter on transportation network companies, and establishes a legislative committee to study statutory provisions no longer associated with administration by the department of energy or the public utilities commission.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to certain public utilities statutes.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 30:1 Repeal; Current Transportation Network Companies. RSA 376-A, relative to transportation
2 network companies, is repealed.

3 30:2 New Chapter; Transportation Network Companies; Recodified from RSA 376-A. Amend RSA by
4 inserting after chapter 359-T the following new chapter:

5 CHAPTER 359-U

6 TRANSPORTATION NETWORK COMPANIES

7 359-U:1 Definitions. In this chapter:

8 I. "Department" means the department of safety.

9 II. "Digital network" means any online enabled technology application service, website, or system
10 offered or utilized by a transportation network company that enables the prearrangement of rides with
11 transportation network company drivers.

12 III. "Personal vehicle" means a vehicle that is used by a transportation network company driver to
13 provide a prearranged ride and is:

14 (a) Owned, leased, or otherwise authorized for use by the transportation network company
15 driver; and

16 (b) Not a motor carrier or taxicab under RSA 376:2.

17 IV. "Prearranged ride" means the provision of transportation by a driver to a rider, beginning
18 when a driver accepts a ride requested by a rider through a digital network controlled by a transportation
19 network company, continuing while the driver transports a requesting rider, and ending when the last
20 requesting rider departs from the personal vehicle. A prearranged ride does not include transportation
21 provided through any of the following:

22 (a) A motor carrier or taxicab as defined in RSA 376:2.

23 (b) Shared expense carpool or van pool arrangements.

24 (c) A regional transportation provider.

25 V. "Transportation network company" (TNC) means a corporation, partnership, sole
26 proprietorship, or other entity, that has a permit issued by the department and is operating in New
27 Hampshire, that uses a digital network to connect transportation network company riders to transportation
28 network company drivers who provide prearranged rides. A transportation network company shall not be
29 deemed to control, direct, or manage the personal vehicles or transportation network company drivers that
30 connect to its digital network, except where agreed to by written contract.

31 VI. "Transportation network company driver" (TNC driver) means an individual who:

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1 (a) Receives connections to potential passengers and related services from a transportation
2 network company in exchange for payment of a fee to the transportation network company; and

3 (b) Uses a personal vehicle to offer or provide a prearranged ride to riders upon connection
4 through a digital network controlled by a transportation network company in return for compensation or
5 payment of a fee.

6 VII. "Transportation network company rider" (rider) means a person who uses a transportation
7 network company's digital network to connect with a transportation network driver who provides
8 prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

9 359-U:2 Not Other Carriers. No TNC or TNC driver is a motor carrier, nor do they provide taxicab
10 services pursuant to RSA 376:2. No TNC or TNC driver shall be required to:

11 I. Apply for a common carrier certificate under RSA 376:4 or a contract carrier permit under RSA
12 376:7; or

13 II. Register personal vehicles under RSA 376:24.

14 359-U:3 TNC. Permit Required. No person shall operate a TNC in New Hampshire without first
15 having obtained a permit from the department, provided that any transportation network company
16 operating in the state before the effective date of this chapter may continue to operate in the state until the
17 department establishes a permit process and provides a reasonable period in which to apply for and
18 obtain a permit. The department shall issue a permit to each applicant that meets the requirements for a
19 TNC under this chapter, and pays an annual permit fee of \$500 to the department. The permit shall be
20 issued annually and shall be effective on the date of issue.

21 359-U:4 Agent. Every TNC shall appoint an agent for service of process in the state of New
22 Hampshire.

23 359-U:5 Fare. On behalf of a TNC driver, a TNC may charge a fare for the services provided to riders
24 provided that if a fare is collected from a rider, the TNC shall disclose to the rider the fare or the fare
25 calculation method on its website, within the vehicle, or on the online application service. The TNC shall
26 also provide riders with the applicable rates being charged and the option to receive an estimated fare
27 before the rider enters the TNC driver's vehicle.

28 359-U:6 Identification of TNC Vehicles and Drivers. The TNC's digital network or website shall
29 display a picture of the TNC driver, and the license plate number of the motor vehicle utilized for providing
30 the prearranged ride before the rider enters the TNC driver's vehicle.

31 359-U:7 Receipt. Within a reasonable period of time following the completion of a trip, a TNC shall
32 transmit an itemized receipt to the rider on behalf of the TNC driver.

33 359-U:8 Financial Responsibility of TNCs. On the effective date of this chapter and thereafter:

34 I. Every TNC driver, or TNC on behalf of the driver, shall maintain primary motor vehicle
35 insurance that recognizes that the driver is a TNC driver or otherwise uses a vehicle to transport
36 passengers for compensation and covers the driver:

37 (a) While the driver is logged on to the TNC's digital network; or

38 (b) While the driver is engaged in a prearranged ride.

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1 II. The following motor vehicle insurance requirements shall apply while a participating TNC
2 driver is logged on to the TNC's digital network but is not engaged in a prearranged ride:

3 (a) Primary motor vehicle liability insurance, consistent with RSA 259:61, in the amount of at
4 least \$50,000 for death and bodily injury per person; \$100,000 for death and bodily injury per incident; and
5 \$25,000 for property damage, including the duty to defend.

6 (b) Coverage consistent with New Hampshire financial responsibility laws.

7 III. The coverage requirements of paragraph II may be satisfied by any of the following:

8 (a) Motor vehicle insurance maintained by the TNC driver;

9 (b) Motor vehicle insurance maintained by the TNC; or

10 (c) Any combination of subparagraphs (a) and (b).

11 IV. The following motor vehicle insurance requirements shall apply while a TNC driver is engaged
12 in a prearranged ride:

13 (a) Primary automobile liability insurance that provides at least \$300,000 for death, bodily
14 injury, and property damage.

15 (b) Coverage consistent with New Hampshire financial responsibility laws.

16 V. The coverage requirements of paragraph IV may be satisfied by any of the following:

17 (a) Motor vehicle insurance maintained by the TNC driver;

18 (b) Motor vehicle insurance maintained by the TNC; or

19 (c) Any combination of subparagraphs (a) and (b).

20 VI. If insurance maintained by the TNC driver in paragraphs II and IV has lapsed or does not
21 provide the required coverage, insurance maintained by the TNC shall provide the coverage required by
22 this section beginning with the first dollar of a claim and shall have the duty to defend and indemnify such
23 claim.

24 VII. Coverage under a motor vehicle insurance policy maintained by the TNC shall not be
25 dependent on a personal motor vehicle insurer first denying a claim nor shall a personal motor vehicle
26 insurance policy be required to first deny a claim.

27 VIII. Insurance required by this section shall be placed with an admitted insurer that has the
28 requisite certificate of authority to write motor vehicle insurance pursuant to RSA 401:1. Insurance
29 required under this section may be placed with an unadmitted surplus lines insurer consistent with the
30 provisions of RSA 405:24 through RSA 405:31, that has a credit rating of no less than "A-" from A.M. Best
31 or "A" from Demotech or a similar rating from another rating agency recognized by the insurance
32 department.

33 IX. Every TNC driver shall carry physical or electronic proof of coverage satisfying paragraphs II
34 and IV with him or her at all times during his or her use of a vehicle in connection with a TNC's digital
35 network. In the event of an accident, a TNC driver shall provide this insurance coverage information to
36 the directly interested parties, automobile insurers, and investigating police officers. Upon request, a TNC
37 driver shall also disclose to directly interested parties, automobile insurers, and investigating police
38 officers, whether he or she was logged on to the TNC's digital network or on a prearranged ride at the time
39 of an accident.

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1 359-U:9 Disclosures. Every TNC shall disclose in writing to the TNC driver the following:

2 I. The insurance coverage, including the types of coverage and the limits for each coverage, that
3 the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC's digital network.

4 II. That the TNC driver's own motor vehicle insurance policy might not provide any coverage
5 while the TNC driver is logged on to the TNC's digital network or is engaged in a prearranged ride,
6 depending on its terms.

7 III. That the TNC driver shall contact the driver's personal vehicle insurer or insurance producer
8 and lienholder to advise the insurer or producer and lienholder that the driver will be providing TNC
9 services.

10 IV. That if the personal vehicle that the TNC driver uses to provide TNC services has a lien
11 against it, using the personal vehicle for TNC services without physical damage coverage may violate the
12 terms of the contract with the lienholder.

13 V. That if a TNC's insurer makes a payment for a claim covered under comprehensive coverage
14 or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business
15 repairing the personal vehicle or jointly to the owner of the personal vehicle and the primary lienholder on
16 the covered personal vehicle.

17 359-U:10 Motor Vehicle Insurance Provisions.

18 I.(a) Insurers that write motor vehicle insurance in New Hampshire may exclude any and all
19 coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or
20 injury that occurs while a TNC driver is logged on to a TNC's digital network or while a driver provides a
21 prearranged ride. The right to exclude all coverage may apply to any coverage included in a motor
22 vehicle insurance policy including, but not limited to:

23 (1) Liability coverage for bodily injury and property damage.

24 (2) Uninsured and under insured motorist coverage.

25 (3) Medical payments coverage.

26 (4) Comprehensive physical damage coverage.

27 (5) Collision physical damage coverage.

28 (b) If the coverage has been excluded under this paragraph, and the insurance required to be
29 maintained by the TNC driver under RSA 359-U:8, II and IV has lapsed or does not provide the required
30 coverage, the state financial responsibility requirements in RSA 259:61, I, including costs of defense, shall
31 be satisfied by the TNC's motor vehicle insurance policy, beginning with the first dollar of a claim. Nothing
32 in this section implies or requires that a personal motor vehicle insurance policy provide coverage while
33 the TNC driver is logged on to the TNC's digital network, while the TNC driver is engaged in a
34 prearranged ride, or while the TNC driver otherwise uses a vehicle to transport passengers for
35 compensation. Nothing in this section shall be construed to require an insurer to use any particular policy
36 language or reference to this section in order to exclude any and all coverage for any loss or injury that
37 occurs while a driver is logged on to a TNC's digital network or while a TNC driver provides a prearranged
38 ride. Nothing in this section shall be deemed to preclude an insurer from providing primary or excess
39 coverage for the TNC driver's vehicle, if it chooses to do so by contract or endorsement.

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1 II. No automobile insurer that excludes the coverage described in RSA 359-U:8 shall have a duty
2 to defend or indemnify any claim expressly excluded thereunder. Nothing in this section shall be deemed
3 to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in
4 New Hampshire prior to the enactment of this chapter, that excludes coverage for vehicles used to carry
5 persons or property for a charge or available for hire by the public. An automobile insurer that defends or
6 indemnifies a claim against a driver that is excluded under the terms of its policy, shall have a right of
7 contribution against other insurers that provide automobile insurance to the same driver in satisfaction of
8 the coverage requirements of RSA 359-U:8 at the time of loss.

9 III. In a claims coverage investigation, TNCs shall immediately provide, upon request by 3 directly
10 involved parties or any insurer of the TNC driver if applicable, the precise times that a TNC driver logged
11 on and off of the TNC's digital network in the 12-hour period immediately preceding and in the 12-hour
12 period immediately following the accident. Insurers under RSA 359-U:8 shall disclose, upon request by
13 any other insurer involved in the particular claim, the applicable coverage, exclusions, and limits provided
14 under any automobile insurance maintained under RSA 359-U:8.

15 359-U:11 Zero Tolerance for Drug or Alcohol Use.

16 I. The TNC shall implement a zero tolerance policy regarding a TNC driver's activities while
17 accessing the TNC's digital platform. The zero tolerance policy shall address the use of drugs or alcohol
18 while a TNC driver is providing prearranged rides or is logged into the TNC's digital network but is not
19 providing prearranged rides, and the TNC shall provide notice of this policy on its website, as well as
20 procedures to report a complaint about a TNC driver with whom a rider was matched and whom the rider
21 reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

22 II. Upon receipt of such rider complaint alleging a violation of the zero tolerance policy, the TNC
23 shall suspend such TNC driver's access to the TNC's digital platform as soon as possible, and shall
24 conduct an investigation into the reported incident. The suspension shall last the duration of the
25 investigation.

26 III. The TNC shall maintain records relevant to the enforcement of this requirement for a period of
27 at least 2 years from the date that a rider complaint is received by the TNC. The suspension shall last the
28 duration of the investigation.

29 359-U:12 TNC Driver Requirements.

30 I. Before allowing an individual to accept trip requests through a TNC's digital platform:

31 (a) The individual shall submit an application to the TNC, which includes information
32 regarding his or her address, age, driver's license, motor vehicle registration, automobile liability
33 insurance, and other information required by the TNC.

34 (b) The TNC shall conduct, or have a third party conduct, a local and national criminal
35 background check for each applicant that shall include:

36 (1) Multi-state/multi-jurisdiction criminal records locator or other similar commercial
37 nationwide database with validation (primary source search); and

38 (2) U.S. Department of Justice National Sex Offender Public Website.

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1 (c) The TNC shall obtain and review, or have a third party obtain and review, a driving history
2 research report from such individual.

3 II. No individual shall act as a TNC driver on the TNC's digital platform who:

4 (a) Has had more than 3 moving violations in the prior 3-year period, or one major violation in
5 the prior 3-year period, including, but not limited to, attempting to evade the police, reckless driving, or
6 driving with a suspended or revoked license.

7 (b) Has been convicted, within the past 7 years, of driving under the influence of drugs or
8 alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property
9 damage, and/or theft, acts of violence, or acts of terror.

10 (c) Is a match on the United States Department of Justice National Sex Offender Public
11 Website.

12 (d) Does not possess a valid driver's license.

13 (e) Does not possess proof of registration for the motor vehicle used to provide prearranged
14 rides.

15 (f) Does not possess proof of automobile liability insurance for the motor vehicle used to
16 provide prearranged rides.

17 (g) Is not at least 19 years of age.

18 359-U:13 Vehicle Safety. Prior to permitting a TNC driver to accept trip requests through the TNC's
19 digital platform, the TNC shall ensure that the TNC driver's personal vehicle meets New Hampshire's
20 vehicle safety requirements for private motor vehicles.

21 359-U:14 Street Hails Prohibited. No TNC driver shall solicit or accept street hails.

22 359-U:15 Discrimination Prohibited; Accessibility.

23 I. The TNC shall adopt a policy of nondiscrimination on the basis of destination, race, color,
24 national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with
25 respect to riders and potential riders and notify TNC drivers of such policy.

26 II. TNC drivers shall comply with all applicable laws regarding nondiscrimination against riders or
27 potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex,
28 disability, age, sexual orientation, or gender identity.

29 III. TNC drivers shall comply with all applicable laws relating to accommodation of service
30 animals.

31 IV. No TNC shall impose additional charges for providing services to persons with physical
32 disabilities because of such disabilities.

33 V. Every TNC shall provide riders an opportunity to indicate whether they require a wheelchair
34 accessible vehicle. If a TNC cannot arrange a wheelchair accessible prearranged ride in any instance, it
35 shall direct the rider to an alternate provider of wheelchair accessible service, if available.

36 359-U:16 Records. Every TNC shall maintain the following customer records:

37 I. Individual trip records for at least one year from the date each trip was provided.

38 II. TNC driver records at least until the one year anniversary of the date on which a TNC driver's
39 customer relationship with the TNC has ended.

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1 359-U:17 Controlling Authority. Notwithstanding any other provision of law, TNCs and TNC drivers
2 are governed exclusively by this chapter and any rules by the department of safety consistent with this
3 chapter. No municipality or other local entity may impose a tax on, or require a license for, a TNC, a TNC
4 driver, or a vehicle used by a TNC driver where such tax or licenses relates to providing prearranged
5 rides, or subject a TNC to the municipality's or other local entity's rate, entry, operational, or other
6 requirements, except that an airport that is federally obligated may charge a TNC fee, as may be
7 amended from time to time, which is not greater than a fee applied to a taxicab service.

8 359-U:18 Penalties. The department shall adopt rules pursuant to RSA 541-A for penalties,
9 including:

10 I. The department may assess an administrative penalty for violations of this chapter in an
11 amount not to exceed \$500 for a first offense and \$1,000 for a subsequent offense. Failure to pay such a
12 penalty shall result in revocation of the TNC permit.

13 II. The department may suspend or revoke the TNC permit for repeated violations of this chapter.

14 III. Any person who subverts the intent and purposes of this chapter by filing false, misleading, or
15 substantially inaccurate statements with the department shall be guilty of a violation.

16 359-U:19 General Duties and Powers of the Commissioner; Rulemaking; Confidentiality of TNC
17 Records.

18 I. The commissioner shall regulate transportation network companies.

19 II. The commissioner shall administer and enforce RSA 359-U and shall adopt rules, pursuant to
20 RSA 541-A, relative to the administration of RSA 359-U.

21 III. The commissioner may adopt rules, pursuant to RSA 541-A, relative to:

22 (a) Audits for compliance with this chapter and rules relative to the administration of RSA
23 359-U;

24 (b) Procedures for permit application and renewal;

25 (c) Account and record systems;

26 (d) Preservation of records and accounts; and

27 (e) Procedures for investigating and disposing of complaints, including a hearing process.

28 IV. Any rider, driver, trip, or financial records inspected by the department or any duly authorized
29 representative of the department under this chapter are designated confidential, are not subject to
30 disclosure to a third party by the department or duly authorized representative of the department without
31 the prior written consent of the transportation network company, and are exempt from disclosure under
32 the RSA 91-A. Nothing in this section shall be construed as limiting the applicability of any other
33 exemptions under RSA 91-A.

34 359-U:20 TNC Drivers; Independent Contractors. TNC drivers are presumed to be independent
35 contractors and not employees of the TNC provided all of the following conditions are met:

36 I. The TNC does not prescribe specific hours during which a TNC driver must be logged into the
37 TNC's digital platform.

38 II. The TNC imposes no restrictions on the TNC driver's ability to utilize digital platforms from
39 other TNCs.

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1 III. The TNC does not assign a TNC driver a particular territory in which prearranged rides can be
2 provided.

3 IV. The TNC does not restrict a TNC driver from engaging in any other occupation or business.

4 V. The TNC and TNC driver agree in writing that the TNC driver is an independent contractor of
5 the TNC.

6 30:3 Reference Changed; Motor Vehicle Records; Transportation Network Companies. Amend RSA
7 260:14,V-a, (a)(2) to read as follows:

8 (2) For use with respect to requests as to whether a driver meets the requirements of
9 RSA ~~[376-A:12]~~ **359-U:12**.

10 30:4 Committee Established; Legislative Examination of Laws; Public Utilities. There is established a
11 legislative committee to examine certain laws codified under RSA Title XXXIV, Public Utilities, to
12 determine if they should be amended, recodified, or repealed.

13 I. The members of the committee shall be as follows:

14 (a) Four members of the house of representatives, appointed by the speaker of the house of
15 representatives.

16 (b) One member of the senate, appointed by the president of the senate.

17 II. Members of the committee shall receive mileage at the legislative rate when attending to the
18 duties of the committee.

19 III.(a) The committee shall examine certain laws codified under RSA Title XXXIV, Public Utilities,
20 to determine if they should be amended, recodified, or repealed. Specifically the committee shall
21 examine:

22 (1) RSA 362-E, on the telecommunications equipment assistance program.

23 (2) RSA 367, on the formation and union of railroad corporations; leases and extensions.

24 (3) RSA 368, on railroad trustees and holding companies.

25 (4) RSA 372, relative to laying out railroads.

26 (5) RSA 373, relative to crossings, stations, fences, cattle guards, bridges, and bridge
27 guards, and including optional rulemaking under RSA 21-L:12-a, VII.

28 (6) RSA 377, relative to railroad transportation of passengers, baggage, and freight.

29 (7) RSA 379, relative to joint, connecting, and terminal service, and including optional
30 rulemaking under RSA 21-L:12-a, X and XI.

31 (8) RSA 380, relative to railroads; fire damage and prevention.

32 (9) RSA 381, relative to railroad police, and including rulemaking under RSA 21-P:14,
33 II(p) and appointment under RSA 228:62-a.

34 (10) RSA 382, relative to maintenance of parks by railroads and bus lines.

35 (b) The committee shall seek the input, advice, and expertise of any agency or organization
36 with knowledge of the subject matter, including at least the department of energy, the public utilities
37 commission, the department of transportation, and the department of safety.

38 IV. The members of the committee shall elect a chairperson from among the members. The first
39 meeting of the committee shall be called by the first-named house member. The first meeting of the

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1 committee shall be held within 45 days of the effective date of this section. Three members of the
2 committee shall constitute a quorum.

3 V. The committee shall report its findings and any recommendations for proposed legislation to
4 the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk,
5 the governor, and the state library on or before November 1, 2023.

6 30:5 Effective Date.

7 I. Section 4 of this act shall take effect upon its passage.

8 II. The remainder of this act shall take effect July 1, 2023.

Approved: May 17, 2023

Effective Date:

Section 4 effective May 17, 2023

Remainder effective July 1, 2023

