

MINUTES
SENATE TRANSPORTATION COMMITTEE

DATE: Tuesday, March 24, 2015

TIME: 1:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Brackett, Vice Chairman Nonini, Senators Keough, Winder, Hagedorn, Vick, Den Hartog, Buckner-Webb and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Brackett** called the meeting of the Senate Transportation Committee (Committee) to order at 1:06 p.m. and welcomed everyone in attendance.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of February 24, 2015. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

PAGE GRADUATION: **Chairman Brackett** said that the Committee sadly was graduating its Page, Molly Ashby of Meridian, Idaho. Ms. Ashby has served the Committee and the Committee's Secretary well. He had heard excellent comments regarding her work on the Senate floor and with Leadership. **Chairman Brackett** presented Ms. Ashby with gifts of appreciation and letters of recommendation from the Committee. He then invited her to take the podium to share her legislative experience and her future plans.

Ms. Ashby said that serving the Idaho Senate has been an amazing opportunity, and that she would not change the experience for anything. She thanked the Committee members for their kindness and help during the time she had served the Committee. As for her future plans, **Ms. Ashby** will be attending Utah State University in Logan, Utah this fall. Because of her experience here, she had a renewed and intense interest in government. She only hopes she will turn out as good as the members of the Committee. **Ms. Ashby** said she would stand for questions, but there were none.

H 262: **Chairman Brackett** thanked Ms. Ashby and invited Ken McClure of Givens Pursley to take the podium to present **H 262**.

Mr. McClure said he was before the Committee representing Uber, a Transportation Network Company (TNC). **Mr. McClure** asked the Committee Page to distribute two handouts, one that explained what Uber was and how it worked, and another that compared the insurance and safety requirements between a Boise Uber operated car and a Boise taxi.

TNCs represent a new technology that could not have existed ten years ago. Uber connects passengers with drivers through a smartphone application (app). It offers forward-looking transportation options by giving drivers added efficiency and an opportunity to grow their own business while offering passengers access to safe and reliable choices in transportation. No cash is exchanged in the transaction. Uber is available in cities across the country and around the world. It has tried providing services in Boise since October 2014.

H 262 is a new chapter that begins by defining TNCs. Taxis do not meet the definition. TNCs require a thorough background check, vehicle inspection, records are kept, and a driver cannot be street hailed. TNCs are needed because cities are growing beyond their boundaries into larger communities; transportation knows no boundary lines. Commerce interacts with residents throughout the Treasure Valley. Coeur d'Alene is in a similar situation. He said the needs are crying out for uniformity and a city should not be able to thwart this opportunity. Currently, Uber can operate in surrounding cities but not in Boise. He continued by stating that there will be testimony by Julie Hart regarding insurance. That will be addressed in another bill coming from the Idaho House. **Mr. McClure** asked to yield to Bryce Bennett of Uber.

Before yielding, **Chairman Brackett** asked if there were any questions for Mr. McClure.

Senator Keough asked Mr. McClure to point her to the statute that defines vehicles for hire. **Mr. McClure** said there was no statute defining taxis.

Senator Hagedorn asked if TNCs other than Uber were operating in Idaho. **Mr. McClure** said there are other competitors, but to his knowledge none were operating in Idaho.

TESTIMONY:

Bryce Bennett, Manager for Uber in Idaho, began his testimony by offering clarity on how the business works. He said that Uber is a simple idea of a cashless platform using GPS and a smartphone app. An individual requests a ride via their smartphone app and connects with a responding driver nearest to their location. The passenger knows exactly who is picking them up by photo, description and ratings; they get a cost estimate quote. The passenger gets a receipt via email, and the cost is charged to their credit card on file. The driver and the rider can rate each other, which is part of the accessible database for choosing drivers and passengers.

Each driver undergoes a required background check that includes federal and criminal information going back seven years based on Social Security number and date of birth. The National Registry for Sex Offenders is one of the databases that is checked. Insurance coverage is for \$1 million, vehicles are inspected initially and annually thereafter, and the vehicle can't be more than five years old. Uber started in the Treasure Valley in October 2014 by providing an economic opportunity for drivers and a reasonably priced convenience for passengers. Uber has provided tens-of-thousands of transactions in the Treasure Valley in the past six months without incident. From the Meridian, Idaho operation, 50 percent of the transactions were for travel across state lines. This bill will bring regulatory clarity not only for Uber but also for competitors. **Mr. Bennett** stood for questions.

Senator Hagedorn asked how often security background checks were done. **Mr. Bennett** said they were performed annually.

TESTIMONY:

Steve Rutherford, prosecuting attorney for the City of Boise, said that Boise was excited to have Uber come to Idaho despite the short-term issues with an interim operating agreement. An ordinance will be heard at the March 31, 2015 City Council meeting that will allow Uber to operate lawfully in the City of Boise. Boise's concern is public safety; a fingerprint background check is not performed for Uber drivers. Boise's background check for its taxi drivers is the gold standard for safety. Another issue was who conducts safety inspections on a driver's vehicle. Vehicle inspections need to be performed at a registered shop. The inspection costs \$84 from the certified shops registered with the city.

TNCs are involved in cities around the country and all of them have these requirements. For the public's safety, the city is asking that the State mirror those regulations. **Mr. Rutherford** concluded by saying the city is recommending that **H 262** be held in Committee or be amended to include fingerprint background checks and certified maintenance inspections on a driver's vehicle. There were no questions for Mr. Rutherford.

TESTIMONY:

Brian Taggart, a Boise resident, 26-year active duty veteran, and registered Uber driver, said that he was excited to be part of the solution to the ride-sharing problem. **Mr. Taggart**, who has held top-secret clearance and never been fingerprinted, felt the background check was sufficient. He said it was a win-win for all parties. As a real time driver, he stood for questions.

Senator Keough asked what the background check was and how it worked. **Mr. Taggart** said he gave them his permission for the check to be done and his Social Security number, and it was done. **Senator Keough** asked if he had to give his driver's license. **Mr. Taggart** said that he did.

TESTIMONY:

Seth Grigg, Executive Director of the Association of Idaho Cities, said he was collectively representing 200 cities across Idaho. He does not like the local preemption on page 4, lines 23 through 29. It prohibits any city from enacting any kind of ordinance against a TNC. This undermines cities maintaining local control, as is the practice in other states, for as long as local governments don't specifically prohibit their operation. The City of Boise will pass an ordinance to approve Uber to operate within determined parameters. If this bill passes, Uber would be able to operate. There would be no local preemption for them not to operate. **Mr. Grigg** asked that **H 262** be held in Committee or sent to the 14th Order to allow local control to occur. **Mr. Grigg** stood for questions.

Vice Chairman Nonini told Mr. Grigg he had mentioned three things: regulate, fees and taxes. He wanted to know if cities were looking for more revenue or more regulation. **Mr. Grigg** said these types of regulations are not revenue generators for cities. The standards missing are for passenger safety. If a city wants a greater regulated standard, it should be allowed.

Senator Den Hartog asked how cities regulate taxis and whether taxis are able to cross boundaries in order to operate in other cities. **Mr. Grigg** said that his understanding is that Boise is the only city that regulates taxis.

Senator Hagedorn wanted to know if Mr. Grigg knew how cities regulate International Fuel Tax Agreement (IFTA) regulated trucks. **Mr. Grigg** did not have that answer.

TESTIMONY:

Hannah Ball of Eagle, Idaho, a combat veteran of the United State Army, supports **H 262**. She became an Uber driver in November 2014 and has given 200 passenger rides. She is a full time driver and also uses the service on weekends. **Ms. Ball** said that Uber has been a wonderful experience and it delivers a great quality product. She was happy to answer any driver perspective questions the Committee might have.

Senator Hagedorn thanked her and Mr. Taggart for their service to the country.

TESTIMONY: **Geoff Schroeder**, a city councilman in Mountain Home, said that this issue was discussed the previous night in their city council meeting. Mountain Home licenses and regulates taxis, and they have two Uber drivers. The point of a license is to exclude, but the purpose is public safety. Uber's drivers are not taxis so they don't fall under the regulations for taxis, and Uber's safety requirements are more strict than those for Mountain Home taxi drivers. **H 262** does not bother him, and he does not like regulations. He knows there is a dispute between the City of Boise and Uber, but he supports the bill. There were no questions for Mr. Schroeder.

TESTIMONY: **Julie Hart**, Westerberg & Associates, testified on behalf of her client, Enterprise Rental Car. Their concern was with the language on page 2, lines 1 through 5. Uber and Enterprise are in agreement with making a change to the definitions of "drivers for hire" and "drivers ride match or rideshare". She said Mr. McClure made reference to a trailer bill containing amendments to **H 262**. She is happy with that or with the Committee sending the bill to the 14th Order. **Ms. Hart** stood for questions.

Senator Keough asked if Ms. Hart had seen the trailer bill. **Ms. Hart** said she had not and that was a source of concern.

TESTIMONY: **Dawn Peck**, the Bureau of Criminal Identification at the Idaho State Police headquarters, said she is a fingerprint biometric expert. She said the City of Boise wants their drivers fingerprinted because fingerprints don't care about names or Social Security numbers. She has found that many people have multiple names and can get by a public background check; dates of birth and Social Security numbers are interchangeable. Biometric fingerprint checks are done through the Federal Bureau of Investigation's database and other databases throughout the United States and internationally. There were no questions for Ms. Peck.

CLOSING REMARKS: With no others wishing to testify, **Chairman Brackett** invited Mr. McClure to return to the podium to give his closing remarks.

Mr. McClure said he wanted to respond to the City of Boise's upcoming ordinance. Uber will not be in Boise if it passes because the degree of regulatory requirements are too great. The insurance requirement is not imposed on anyone else. The regulations they want to impose will take away this opportunity. Uber goes to great extents with their background check; it checks through more data bases than biometric fingerprints would check. Safety is paramount, but there comes a point where it becomes excessive. **Mr. McClure** used the example of services like electricians or plumbers that come to someone's home; they are not background checked. He believes Uber has gone the extra mile and the public can choose whether to use the service or not. That is the way the market functions. **Mr. McClure** assured Enterprise Rental Cars that their concern would be addressed in the trailer bill. The bill also contains insurance that was removed. The bill would be in the House the following day. **Mr. McClure** thanked the Committee and stood for questions

Senator Buckner-Webb asked if there was any chance that Uber and the City of Boise could bring a working group together to arrive at a compromise. **Mr. McClure** said he would like to say yes, but they have already spent five months working out the differences with staff so that both sides could live with the requirements. The city council, however, said no to that agreement. If that is the current view of the Boise City Council then having Uber in Boise will not work.

Senator Keough said that her concern was the new articles coming from major media outlets. CNN Money said that the head of global safety at Uber said they are enhancing global screening. **Mr. McClure** said the technology is not yet ready. They want to take issue with a passenger being in a vehicle alone. The passenger can choose to use any of the drivers offered; they have a photo of the driver and they have their application to review before deciding to select a specific driver. There is no system of background checks that can guarantee safety 100 percent.

Senator Den Hartog asked which state agency would be charged with oversight and would that cause a problem for the fiscal note as written. **Mr. McClure** said that no state agency is required to have oversight. There are many businesses that do not need a regulator. There were no further questions for Mr. McClure.

MOTION: **Senator Nonini** moved to send **H 262** to the floor with a **do pass** recommendation. **Senator Hagedorn** seconded the motion.

SUBSTITUTE MOTION: **Senator Lacey** moved to hold **H 262** in Committee. **Senator Buckner-Webb** seconded the motion.

DISCUSSION: **Chairman Brackett** asked if there was any discussion on the substitute motion.

Senator Lacey gave examples of many different industries where cities require a license. This bill is a move to take local control away from cities, and he is an advocate for local control. The problem on page 2, line 4 is not a taxicab but a for-hire vehicle. The bill is flawed.

Senator Den Hartog agreed that this bill is overstepping local control and the fact is that Uber has a conflict with the City of Boise. She believes the bill usurps local jurisdictions.

Senator Vick offered a comment to Senator Lacey's statement about licensing services. Plumbers and electricians are licensed by the State, not by cities.

Senator Buckner-Webb stated that she would support the substitute motion.

Senator Hagedorn said he supports the original motion. This is not a Boise issue, this is a state issue. This bill will help people all over the State including rural communities that don't have access to taxis. Uber belongs in all of Idaho.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman Brackett** called for a roll call vote on the substitute motion. **Senators Den Hartog, Buckner-Webb and Lacey** voted aye. **Chairman Brackett, Vice Chairman Nonini, Senators Keough, Hagedorn and Vick** voted nay. Senator Winder was absent for the vote. The motion failed.

ROLL CALL VOTE ON MOTION: **Chairman Brackett** called for a roll call vote on the original motion. **Chairman Brackett, Vice Chairman Nonini, Senators Keough, Hagedorn and Vick** voted Aye. **Senators Den Hartog, Buckner-Webb and Lacey** voted Nay. Senator Winder was absent for the vote. The motion passed. Vice Chairman Nonini will carry the bill on the floor.

ADJOURNED: With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 2:06 p.m.

Senator Brackett
Chair

Gaye Bennett
Secretary