MassDOT/RMV will hold a public hearing on Wednesday, December 31, 2014, at 10 a.m. in the MassDOT Board Room at the State Transportation Building located at 10 Park Plaza, 3rd Floor, Room 3830 in Boston on proposed changes to the state’s Plate Definition Regulation -- 540 CMR 2.05.

The changes proposed would formalize the position that the RMV has taken that passenger plates may be issued to vehicles involved in Transportation Network Companies such as Uber and Lyft. Included in the proposed regulation change is the following definition of Transportation Network Company:

Transportation Network Company is a corporation, partnership, sole proprietorship, or other entity operating in Massachusetts that, for consideration, will arrange for a passenger to be transported from an agreed-upon point of departure to an agreed upon destination by a driver. A Transportation Network Company must hold a valid Transportation Network Company Certificate issued by the Department of Public Utilities or a notice issued by the Department of Public Utilities within the preceding six months certifying that, as of the date of the notice, the Department of Public Utilities is not issuing Transportation Network Company Certificates.

Transportation Network Company Rider or TNC Rider is an individual who uses a Transportation Network Company to arrange transportation from an agreed-upon point of departure to an agreed-upon destination.

Transportation Services are the transportation of a passenger from an agreed-upon point of departure to an agreed-upon destination for consideration.

Transportation Network Company Driver or TNC Driver is an individual who, on behalf of a Transportation Network Company, provides Transportation Services to TNC Riders.

Personal Transportation Network Vehicle is a vehicle that is registered to a Transportation Network Company Driver and used by that Transportation Network Company Driver to provide Transportation Services for a Transportation Network Company.

The proposed changes to the regulation would place regulation of Transportation Network Companies (TNC) in the hands of the Department of Public Utilities and set the following requirements for TNC drivers:

4.5

(a) A TNC Driver shall not provide Transportation Services to a Passenger unless a Transportation Network Company has pre-arranged for the TNC Driver to provide Transportation Services to the passenger from an agreed-upon point of departure to an agreed-upon destination. A TNC Driver shall not solicit or accept on-demand summoning of a ride, otherwise known as “street hail” or “hail pick-up.”

(b) A Transportation Network Company shall make available to prospective TNC Riders the method by which the Transportation Network Company calculates fares or the applicable rates being charged and an option to receive an estimated fare.
(c) A TNC Driver must:
1. Be at least 21 years of age;
2. Possess a valid driver’s license; and
3. Possess proof of personal motor vehicle insurance as required under M.G.L. ch. 90 for the Personal Transportation Network Vehicle being used.

(d) No individual whose operator driving record, as maintained on behalf of the Merit Rating Board under M.G.L. ch. 6C, Section 57A, contains any of the following traffic violations shall operate a Personal Transportation Network Vehicle:
1. More than three traffic violations, as defined by the Division of Insurance, in the preceding three-year period; or
2. A major traffic violation, as defined by the Division of Insurance, in the preceding three-year period

(4.75)

(a) The Department of Public Utilities (“DPU”) shall act as the licensing authority to which a Transportation Network Company shall apply for a certificate to provide TNC Services. The DPU may issue such a certificate if the DPU finds that public convenience and necessity require that the applicant be allowed to provide Transportation Services.

(b) The DPU shall have general supervision and regulation of, and jurisdiction and control over Transportation Network Companies as common carriers.

(c) The DPU shall ensure that, before enabling a Transportation Network Driver to access its digital network, a Transportation Network Company shall:
1. Conduct, or have a third party conduct, a background check that shall include Criminal Record Information (CORI) and Multi-state/Juris Criminal Records Locator or other similar nationwide database, and National Sex Offender Registry database; and
2. Conduct, or have a third party conduct, a driving record check.

(d) The DPU shall further ensure that:
1. A Transportation Network Company shall not arrange for a passenger to be transported by any Transportation Network Driver who appears on the National Sex Offender Registry or who has a conviction in the past ten years for crimes of violence, sexual abuse, driving under the influence of drugs or alcohol, hit and run, attempting to evade the police, driving with a suspended or revoked license, felony robbery, or felony fraud.
2. A Transportation Network Company shall maintain appropriate liability insurance.

(e) In the event that the DPU is unwilling or unable to ensure that Transportation Network Companies in general or a Transportation Network Company in particular comply with the above requirements, the Registrar of Motor Vehicles shall have the power to prohibit the operation of some or all personal Transportation Network Vehicles or take such further action with respect to such vehicles as otherwise authorized by law or regulations.

A complete copy of a marked-up version of the regulation is available by clicking here.

Persons interested in attending or offering comments at the hearing are welcome. A picture ID is required for admission to the State Transportation Building and the DOT Board Room. Written comments on the proposed changes are also welcome and must be received by 3 p.m. on December 31, 2014. Written comments may be emailed to TNC.Comments@dot.state.ma.us or mail to MassDOT Legal Department, Regulations, RMV, 10 Park Plaza 3rd Floor, Boston, MA 02116.
While we’re on the subject of Transportation Network Companies, we wanted to share an Overview of the most common vehicle and ride-sharing organizations that exist. Some of these firms provide cars and drivers and others simply provide the vehicle. ALL of them represent insurance problems for drivers and passengers alike.

We’ve included brief descriptions of Uber, Lyft, SideCar, FlightCar, RelayRides, ZipCar and GetAround as well as how the Massachusetts Auto Policy might respond to claims involving these types of services.

To read/print the 7-page overview, click here.

As always, please feel free to contact Donna McKenna or Kathy Cormier by phone at 800.972.9312 or 508.634.2900 or by email at dmckenna@massagent.com or kcormier@massagent.com.