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## **Joint Legislative Public Hearing on 2017-2018 Executive Budget Proposal: Topic Transportation**

Testimony by Spyros Messados submitted on behalf of the Committee for Taxi Safety

Good morning;

Chairman Herman D. Farrell

Chairwoman Catharine Young

Assembly Transportation Chairman David F. Gantt

Senate Transportation Chairman Joseph E. Robach

Distinguished Members of the Senate and Assembly

Thank you for the opportunity to submit testimony on the Governor's proposed Executive Budget.

Contrary to how this issue is being presented by Transportation Network Companies ("TNC's"), the question here is not whether upstate New York should have e-hail service available, but rather, how that service should be regulated. The New York City taxi industry does not want to withhold e-hail service from upstate; that is not the issue here.

Rather, we agree with Governor Cuomo that upstate New Yorkers should have the same level of service that exists in New York City. That level of service should come with the same protections and regulations that the City provides. The core question here revolves around the value of a passenger's safety and wellbeing. Passengers across the state deserve the same level of protection as currently provided in New York City.

Despite their lamentation, Uber and Lyft must meet certain safety requirements in New York City, many of which they have specifically opposed complying with upstate. They have prioritized their own bottom line over providing equal protection and safety for passengers across New York. This, again, raises the question of why TNCs should be allowed to provide different levels of protection to the public outside of New York City than within it?

Today I will outline some of the regulation New York City has in place to protect the public and drivers alike, such as fingerprinting and driver training. Additionally, I will discuss the effect that TNCs have had on New York City streets as well as the job of driving a vehicle for-hire in New York City. Finally, I will end with lessons learned from the growth of TNCs in New York City, including a lack of service for people with disabilities and the importance of enforcement.

## **Fingerprinting**

An independent review of fingerprints and background checks is comprehensive and unbiased: it is the best way to vet an individual who will be responsible for others' lives. This is why it is employed in our state's schools to vet educators. In New York City, every Uber and age

driver must be fingerprinted and background checked before they can be licensed to drive a TLC vehicle. Despite their compliance in NYC and countless other municipalities, TNCs vehemently oppose the use of fingerprinting in upstate New York.

Fingerprint background checks are common sense regulation when operating vehicles for hire. In order to protect the wellbeing of our passengers and pedestrians, a fingerprint check should be absolutely necessary. The fact that TNCs like Uber and Lyft comply with such regulations in New York City but refuse to across the rest of the state begs the question: why do TNCs believe the public should be any less protected outside of New York City versus within it?

## **Driver Training**

Beyond the fingerprint, Drivers in NYC must prove that they are competent enough to be trusted with their passengers' safety. Through the TLC's independent licensing process, all drivers must meet requirements and complete training courses to prove that they are competent, professional, and safe. These requirements include, but are not limited to:

- **Defensive Driving Course:** Drivers must complete a defensive driving course and keep it current within three years through the entirety of licensing period.
- **Driving Record:** Drivers must have no more than 6 DMV points within the 15 month period prior to applying for a license. Drivers also must comply with TLC "Fitness Rules," determining suspension or revocation in the event of excessive violations.
- **Wheelchair Passenger Assistance Training:** Drivers must complete a course in wheelchair passenger assistance, etiquette, and sensitivity.
- **Drug Test:** Drivers must pass a drug test and continue to pass one every year.
- **24 Hour Driver Training Course:** Drivers must attend a comprehensive training course covering topics such as passenger and pedestrian safety, TLC rules, passenger etiquette, and geographic points of interest.
- **TLC Driver Education Exam:** Drivers must pass an education exam to ensure they have diligently completed the training course.
- **Medical Certification:** Drivers must pass a medical examination by a licensed physician to ensure they are fit to drive a TLC vehicle.
- **Minimum Age Requirement of 19 Years Old**
- **No Money Owed for Parking or DMV Tickets**
- **View Sex Trafficking Awareness Video**
- **No Pending Criminal Charges**

These requirements ensure that dangerous drivers will not be able to take advantage of the public by serving as for-hire drivers. Once again this raises the question of why TNCs can comply with these protections in NYC, but so ardently fight them for millions of other New Yorkers.

Under the current proposal TNCs would not have to conduct this kind of vetting, training, and background checks. It is imperative that these issues are addressed before TNCs are given the green light to begin onboarding drivers. As a matter of public safety, these drivers must be appropriately vetted and trained to ensure our loved ones are getting into a vehicle that is safe.

### **TNC Effects on the Nature of Work**

TNCs have had a major effect on the nature of work for drivers. All drivers have suffering incomes due to the sheer number of them in the market. TNC companies like Uber and Lyft have flooded the market with far more drivers than demand warrants. Size is the most important competitive edge for Uber and Lyft, over each other as well as other industries, so this recruitment is a positive for TNCs at the corporate level. The drivers on their platforms, however, suffer as each earns a smaller percentage of fares.

This issue has become very apparent in New York City, where all drivers in every segment are struggling to make a decent living, particularly the TNC drivers themselves. Using City data, we can use the example of Uber to illustrate this:

- Yellow Taxi:
  - ~13,587 cars provide 336,737 average daily trips
  - **Taxis provide approximately 24 average trips per day**
- Uber:
  - >46,000 cars provide 226,046 average daily trips
  - **Ubers provide approximately 5 average trips per day**
- Takeaways:
  - **Yellow taxis are almost 5X as efficient as Ubers in servicing the high levels of demand in NYC**

This discrepancy illustrates the destructive effect TNCs have had on driver incomes and the full-time job of driving for-hire. The Haas Act was introduced in New York City to match supply of taxis with the demand that could provide them full time jobs. In the Depression-stricken years of the 1930s the streets of New York City were very similar to today. Too many cars were on the road competing for too few passengers. Cutthroat competition, suffering driver incomes, and even violence on the streets over fares were common themes in this hyper-competitive environment. These themes have much in common with the state of our industry today.

As TNCs flood the market with thousands and thousands of drivers, each and every driver in the industry (including TNC drivers) is marginalized and further unable to make a livable wage. This explains why only 40% of Uber drivers remain active after one year, as stated by David Plouffe, former Obama advisor and Uber's former Senior Vice President of Policy and Communications. This constant churn of drivers debases the argument that TNCs bring jobs to the areas they serve.

Quite to the contrary, **TNC providers redistribute existing full-time taxi jobs to multiple part-time rideshare jobs.**

With the full-time job of driving a taxi under fire, driver incomes isn't the only thing suffering. Passenger and pedestrian safety has declined drastically since TNCs started flooding the streets with thousands of inexperienced drivers. **Crashes involving for-hire vehicles (as TNCs are categorized in NYC) have more than tripled over the past two years.** City records show that this is the **only jump in numbers for TLC-licensed vehicles over that same period.** Crashes in the yellow taxi segment have actually decreased over this period, despite conducting over 100,000 more rides per day.

Research conducted by Bruce Schaller, former head of policy development at NYC TLC and founder of Schaller Consulting, shows that full-time drivers are statistically the safest drivers. For as long as TNCs continue to break full-time jobs into many part-time jobs, expect the trend of increased crashes and reduced incomes to continue. Protections and regulations in this industry are imperative to avoid these detrimental effects.

### **Lessons Learned**

Some ramifications of rideshare have taken a while to show their effects. Insight into these issues could be highly valuable as you all set the structure within which it will affect upstate. Despite the strong stance that NYC TLC has taken on fingerprinting and licensing, vetting drivers for quality does not solve all potential issues. The rideshare segment has brought with it its own set of unique challenges.

#### *Phones*

TNC drivers often use multiple e-hail platforms at once in an attempt to maximize their fares, running each platform on a different device as to not miss any opportunities. This has led to drivers using three or four different devices in a frantic state, all while trying to navigate traffic. The NYC TLC has yet to address this issue, something that no doubt has contributed to the spike in for-hire crashes.

#### *Fatigue rules*

Because there are so many TNC vehicles competing for rides, TNC drivers have had to work long hours to make a sustainable income. TNC companies reap the benefit of a larger fleet of cars, but drivers and passengers alike suffer. In NYC, there have instances of TNC drivers sleeping in cars and working 19-hour shifts just to make a living. This hyper-competitive atmosphere is detrimental to the safety of our streets, protection of our passengers, and health of our drivers. In response to this, the TLC has passed fatigued driving rules, which keep the amount of hours a driver can work at a sustainable and safe level. Enforcement of the rules has not yet been implemented, but here upstate we have the opportunity to solve this issue before it effects our citizens.

#### *Vehicle Inspections and Restrictions*

In New York City, taxis are inspected three times a year, while for-hire vehicles are inspected only once every other year. Cars being used for commercial use must be inspected. Without such safety measures car owners will often put off repairs and maintenance in order to keep costs in check. This is particularly true in the hyper-competitive environment TNCs bring about. These effects are beginning to take place in NYC's for-hire segment, as passengers complain about the rapidly deteriorating state of the vehicles they are hailing.

Taxis have restrictions on the age and type of vehicle that can be used to transport passengers. Age is critical, as these cars put on far more miles than your typical passenger vehicle. Issues like age, vehicle type, and frequency of inspections all dovetail together, creating a dangerous and slippery slope for TNC service.

### *Accessibility*

Accessibility is another issue that TNC regulation fails to address. Uber, for example, has over 46,000 cars in NYC yet still doesn't have any wheelchair accessible vehicles. On the contrary, yellow taxis fleets are mandated to make 50% of their vehicles accessible. This discriminatory regulation has created a major hole in availability of transport for the disabled community in New York City

TNCs fight any such mandates with fervor, claiming they provide the ability to hail accessible rides when they simply dispatch them to other accessible providers. This does not increase the availability of accessible vehicles in New York City. When the massive growth in the availability of cars is coming from TNCs and TNCs alone, this is a major issue for the disabled community.

### *Income transparency*

In a time when driver incomes are under attack, income transparency has become a saving grace for yellow taxi drivers. Fares are fixed by a regulatory agency and there is a lease cap on what drivers can be charged to ensure that they can make a sustainable income. Despite hyper-competition, such protections have helped them get through the disruption. No comparable regulation exists in the proposed bill. Uber, however, recently paid a \$20 million fine for misleading drivers about earnings. Incorporating income transparency into the bill could save thousands of upstate workers from being exploited for cheap labor.

### *Insurance*

For most drivers, their car insurance does not cover commercial use of their vehicles, and for most umbrella policies, if the underlying coverage is not in place, the umbrella does not apply. As critical, the companies that are to provide insurance have to be licensed by the State. If not, coverage will be routinely denied and the public left without protection. Rates for taxis in New York City are based on commercial rates because the vehicles are being used for commercial purposes. There is no reason at all for vehicles driving commercially not to have commercial rates outside of New York City. Rating them commercially will also prevent the denial of coverage in many instances.

As important, as many people lease their vehicles, their lease contracts will be violated by commercial use as well. One cannot lease a vehicle for personal use as your passenger vehicle, and decide to use it commercially.

### **Enforcement**

With the ballooning number of cars competing for fares in New York City, illegal pickups have become a rampant problem. Hotels and airports have become swarmed with illegal, unlicensed vehicles with Uber signs in their windows. Because these cars are so difficult to distinguish from passenger cars, enforcement officers cannot tell one from the other. Horror stories of passengers in a “fake Uber car” have only been getting worse in the last few months- just type that three word phrase into your web browser and you can see the stories for yourself.

Enforcement is the key to preventing this. It cannot be understated how critical enforcement of regulations will be when it comes to TNCs and for-hire vehicles. In New York City, taxis are painted yellow, which immediately identifies them to enforcement officials. A similar identifier must be placed on TNCs to aid in enforcement, or this issue can get out of hand quickly. All TNC cars should be branded in an identifiable way or have a designated license plate that immediately identifies the vehicle as a commercial TNC. In order to prevent dangerous individuals from leveraging this platform to prey on the public, vehicles licensed for-hire must have proper identifiers.

### *Licensing & Locale*

Illegitimate TNCs are not the only issue that falls under the realm of illegal hails. Many drivers use the umbrella of TNC apps to license themselves in one district but work in another. The number of vehicles from New Jersey, Connecticut, and Rhode Island entering the city daily and stealing rides from hardworking New Yorkers has burgeoned under the TNC banner.

The goal with this legislation is to expand the availability of TNC rides upstate. In doing so, we must prevent these drivers who license themselves upstate from providing the service in New York City and other jurisdictions. Further, we must prevent New York City residents from evading TLC requirements by licensing themselves in other jurisdictions only to drive in New York City. If we fail to do so, we may simply be providing TNC drivers a loophole through NYC’s safety regulation.

For this reason, municipalities should be able to maintain local control of licensing and services to ensure that by licensing more drivers they are actually increasing service to their communities. These municipalities should have the right to increase enforcement and regulation if they begin to witness problems like illegal fares, increased accidents, and threats to public safety, as we have seen in New York City.

Many of these issues stand unresolved with reference to a bill to authorizing TNCs. TNCs provide the same service as local transportation companies, and should not be allowed to skirt regulations aimed at keeping the public safe. Again, I would like to reiterate that the taxi industry in New York City is not asking to prevent TNCs from operating outside of New York City. We

want to educate about the lessons we have learned from going through this process, and hope to ensure that reasonable regulations are in place and there is a level playing field going forward.

If we can provide any additional information, we would be glad to meet with you and further discuss these topics.

Thank you.

