ALONG

BY MATT ALDERTON

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On the morning of Oct. 28, 2014, taxicabs were scarce in Washington, D.C. Whether you were a senator on Capitol Hill, a student in Georgetown, a commuter in Adams Morgan or a tourist in Foggy Bottom, you were hard-pressed to hail a ride. If you happened to walk down Pennsylvania Avenue at 11 a.m., you saw—and likely heard—the reason why: For the third time in a matter of months, more than 100 taxis were circling Freedom Plaza

FOR THE RIDE

in downtown D.C., zealously honking their horns in protest of "transportation network companies" like Uber, Lyft and Sidecar.

Cabbies, who have staged similar protests in cities such as Boston, Chicago and San Francisco, say transportation network companies—also known as TNCs—are infringing unfairly on their business. "Unfairly" because while public vehicles for

Photo by Mark Wilson/Getty Images

District of Columbia taxi drivers protest on Pennsylvania Ave. in front of the D.C. Council's Wilson building, Oct. 28, 2014, in Washington, DC. District cab drivers protested as the D.C. Council debated approval to legislation that would allow transportation network companies such as Uber and Lyft to continue operating in the District.

TRANSPORTATION MEETS TECHNOLOGY

The California Public Utilities Commission—which in 2013 became the first state body to regulate ride-sharing services—coined the term "transportation network company" to describe a company that "provides transportation services using an online-enabled platform to connect passengers with drivers using their personal vehicles."

The world's largest TNC, Uber, launched in 2009 and currently operates in more than 290 cities in 55 countries, including the U.S. and Canada. It was followed by Lyft and Sidecar in 2012, which operate in 65 and 10 U.S. cities, respectively. All three services allow consumers to use an app on their smartphone or tablet to "hail" a ride from a nearby driver who is transporting passengers using his or her personal vehicle. Drivers and passengers can use the app to rate one another, and to pay for their ride using a stored credit card.

"Lyft is a people-powered movement driven by drivers and passengers," explains Lyft spokesperson Chelsea Wilson. "We're not looking to build a better taxi service; rather, we're combining technology and humanity to create an enjoyable, affordable and safe ride experience while also fundamentally changing the way people get around."

Their contention that they are technology companies—not transportation providers—is central to TNCs' business model—and by extension, to their position in regulatory debates. "At its core, Uber is a smartphone app that connects riders and drivers, and connects riders with a safe, reliable and seamless ride," says Uber spokesperson Lauren Altmin. "I think that's the most important thing to remember: Uber is a technology company."

Whatever you call these companies, consumers have wholeheartedly and irreversibly embraced them. "Ride-sharing is a completely new industry, but it's caught on," continues Altmin, who stresses the inherent benefits of ride-sharing, including flexible employment opportunities for drivers, increased transportation access for underserved neighborhoods and, because TNCs offer alternative transportation to

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hire (e.g., taxicabs and limousines) are strictly regulated by state and local government, TNCs are not.

"There's still a significant amount of rides taken by public vehicles for hire in the District; however, that number is down from around 22 million in 2013 to just over 20 million in 2014," explains Neville Waters, public information officer for the District of Columbia Taxicab Commission. "It's hard to say what the direct correlation is to [TNCs]—there are many other issues that have impacted drivers, including the fact that more people are turning to bikes, carpooling, public transportation and walking—but there are definitely fewer people riding in public vehicles for hire, and drivers are certainly feeling some competitive pressures as a result."

In response to those competitive pressures, along with questions regarding the safety and security of ride-sharing, jurisdictions nationwide are asking themselves whether they should regulate TNCs in the same manner that they have long regulated taxis and limos. On the same day as the capital's taxicab protest, its city council answered a resounding "yes" by casting a near-unanimous vote in favor of the Transportation Network Services Innovation Act of 2014, which establishes new regulatory requirements for TNCs operating in Washington, D.C.

As lawmakers elsewhere consider similar measures, AAMVA jurisdictions with regulatory authority over taxis and TNCs are in a unique position to serve as arbiters brokering a critical compromise between them, the result of which can be increased safety, competition and innovation. "The competition is between public vehicles and private vehicles," Waters says. "As regulators, we are the referees on the sideline."

impaired drivers, enhanced public safety. "We're transforming the way people move around their cities, with millions of trips happening every week."

THE CASE FOR REGULATION

The fact that there are millions of trips happening every week is precisely why TNCs must be regulated, according to Richard Holcomb, commissioner of the Virginia Department of Motor Vehicles, which recently concluded its own legislative tango over TNCs.

"First of all, this is obviously a business model that offers a tremendous option to our citizens, and, therefore, should clearly be allowed to operate," Holcomb says. "However, any time you're moving a citizen, the state has an obligation and a duty to ensure that it's being done safely."

State and local governments want to ensure that drivers and vehicles are safe—and so do TNCs, which have a record of supporting regulations that reinforce policies they already have in place, such as criminal background checks for drivers, but opposing those regulations that place undue financial and administrative burdens on their drivers, such as those requiring drivers to pay for vehicle permits or full-time commercial insurance coverage.

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—Cian Cashin, director of Government Affairs, AAMVA

"We're very much in favor of comprehensive and smart regulation," states Altmin, who says TNCs prefer that those regulations be unique to their business model, governing them as technology rather than transportation companies. "In the U.S. alone, over 20 [states or municipalities] have now adopted permanent regulatory frameworks for ride-sharing, a transportation alternative that didn't even exist four years ago. This demonstrates a trend with momentum across the U.S. More and more cities and states are crafting new legislation specifically for ride-sharing options, rather than forcing old rules onto modern innovations."

There's the rub, according to AAMVA's director of Government Affairs, Cian Cashin. When parties perform the same functions with different requirements, the potential exists for an unfair competitive advantage. "Oversight and taxation should be applied evenly to people—no matter how they fit into the regulatory structure—if they are performing the same tasks," he says. "It's a really difficult thing for jurisdictions. They don't want to jeopardize or damage industries that have been doing their due diligence toward compliance, but neither do they want to stifle innovation in the transportation industry that provides benefits to their constituencies."

WITH WHOM ARE YOU RIDING?

Within the last few years, a number of "transportation network companies" have begun operating in the U.S. and Canada. Here's a look at six ride-sharing services that continue to grow in popularity among consumers.

UBER
The largest TNC in the world, Uber classifies itself as a "technology company" that connects passengers to drivers through its mobile application.

LYFT
Lyft is Uber's biggest rival in the U.S., operating in 65 cities across the country. Lyft drivers can be identified by a 5-inch-long pink "glowstache" on their dashboard.

SIDECAR
Sidecar is a TNC that allows users to choose their driver based on ETA, vehicle or price; the price is set before the trip begins.

WINGZ
A TNC exclusively for airport transportation, Wingz allows passengers to book their ride to or from the airport in advance. Prices are set before the trip.

CARMA
Carma Carpooling enables people to find and connect with others nearby who are making a similar drive so they can share their commute.

RELAYRIDES
In contrast to ride-sharing, RelayRides is a car-sharing service. It allows car owners to rent out their vehicles to others who want to use them.

DESTINATION: COMPROMISE

Since 2013, eight states and the District of Columbia have adopted legislation investigating, authorizing or regulating TNCs, including Colorado, which in June 2014 became the first state to pass a ride-sharing law, and Illinois, which in January 2015 became one of the latest to do so. At least 34 more states have introduced legislation—and that's to say nothing of the many municipalities that have likewise introduced and passed regulations, including Seattle, Chicago and San Francisco, just to name a few.

In some jurisdictions, TNC regulating authority falls to DMVs. In others, it's taxicab commissions. And in still others, public
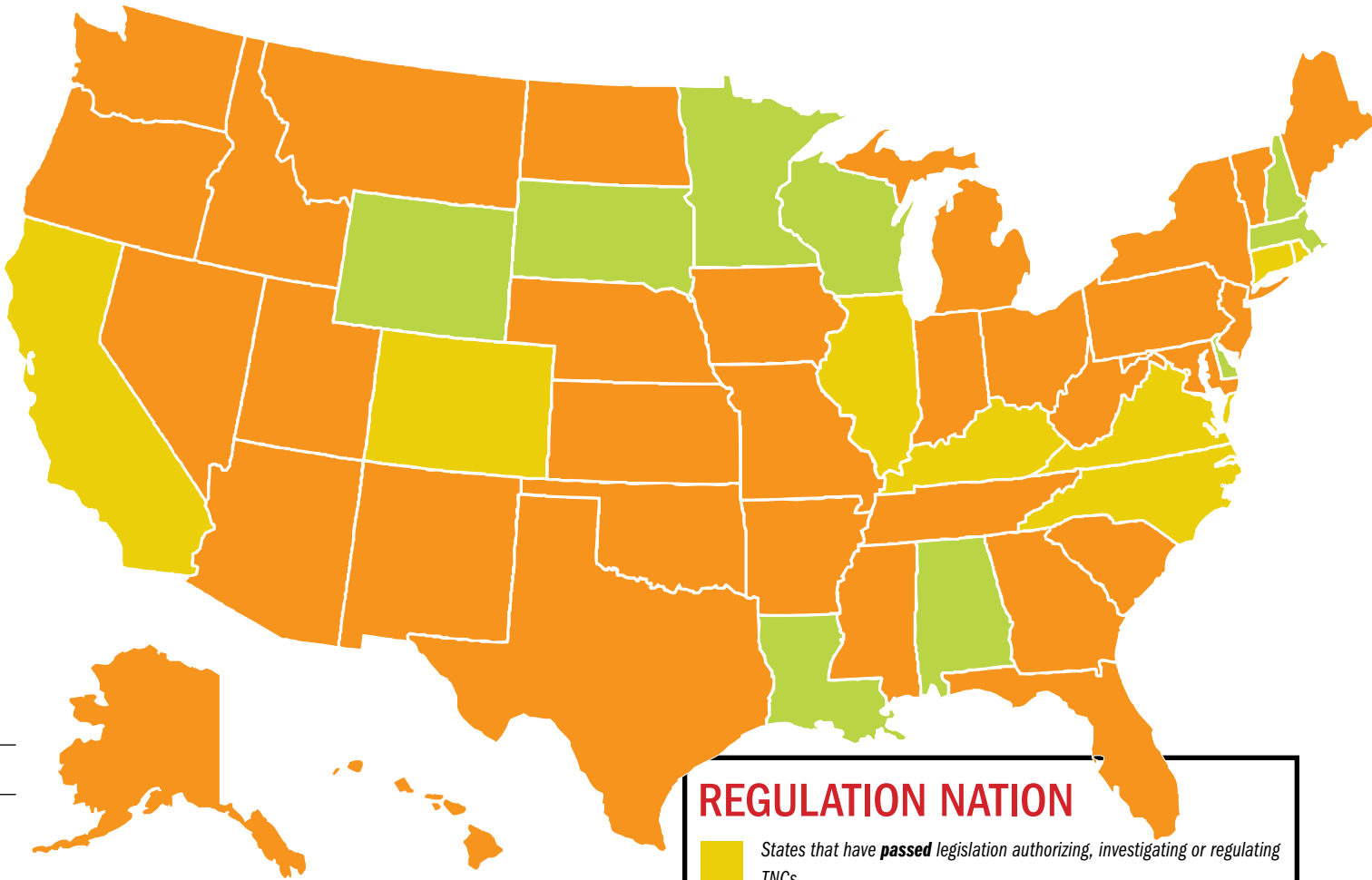
REGULATION NATION

States that have **passed** legislation authorizing, investigating or regulating TNCs

States that have **introduced** legislation authorizing, investigating or regulating TNCs

States with **no** legislation around TNCs

VISIT **MOVEMAG. ORG** TO WATCH A VIDEO ABOUT TRANSPORTA-TION NETWORK COMPANIES.

utilities commissions. While regulating frameworks differ, best practices remain the same, according to Holcomb, who holds up Virginia's legislation—Senate bill 1025 and House bill 1662, which will be administered by the Virginia DMV when they become law on July 1, 2015—as a model for compromise.

"Did everyone like every aspect of it? No. Did everyone hate every aspect of it? No. But we brokered a compromise, and at the end of the day we had a bill that everyone—taxis, insurance companies, TNCs, law enforcement, airports— said they could support," Holcomb says.

Signed on Feb. 17, 2015 by Gov. Terry McAuliffe, Virginia's TNC law includes several key provisions that can serve as starting points for DMVs commencing the regulatory process:

● **Licensing:** A highlight of Virginia's law is its licensure provision, which requires a TNC to pay the DMV an initial licensing fee of $100,000, with annual renewals of $60,000 thereafter. TNCs have generally avoided licensing by contending that they are technology, not transportation, companies; gaining an admission that they are, indeed, motor carriers is a major accomplishment, according to Holcomb, because it gives the

DMV the funding it needs to administer the new regulations.

● **Driver Screening:** TNCs must ensure drivers are at least 21 years old and properly licensed to drive; conduct comprehensive criminal background checks and driving record checks on potential drivers; and automatically reject drivers with DUIs or violent crime convictions.

● **Vehicle Standards:** Drivers must use personal vehicles that meet state registration and safety inspection requirements. Additionally, vehicles have a maximum seating capacity; must be registered with the DMV for TNC use; and must display an identifying decal issued by the DMV, as well as one identifying the TNCs with which the vehicle is associated.

● **Insurance:** Insurance was one of the largest points of contention, according to Holcomb, who says some stakeholders wanted drivers to have 24/7 coverage while others wanted to mandate coverage only when drivers were carrying passengers. The final bill requires a minimum level of coverage—personal or commercial—when drivers have their app turned on, with

additional coverage—greater than that required of a taxi—whenever they're carrying a passenger.

- **Operations:** Among other things, TNCs must display basic driver information to passengers via their app; give passengers an electronic receipt at the end of their trip; provide to DMV and law enforcement officers who request it information about individual trips arranged through the TNC; and adopt a policy of nondiscrimination on the basis of passengers' points of origin and destination. Additionally, TNCs are prohibited from accepting street hails.
- **Recordkeeping:** TNCs must maintain records for law enforcement on ride-specific data, and for regulators, records needed to demonstrate compliance with the law. They must retain records for three years.

D.C.'s law includes many of the same provisions, according to Waters, who says highlights include an annual fee paid to the taxicab commission in lieu of the passenger surcharge collected and paid by taxicabs; criminal background checks on drivers; driver registration with the taxicab commission; annual safety inspections; a prohibition on street hails; and liability insurance covering drivers when they're en route to and carrying passengers.

"These are all things that we are very much in agreement with," Altmin says of D.C.'s legislation, which Uber developed collaboratively with local lawmakers whom it spent $314,074 lobbying in 2014, according to media reports. "We worked hand-in-hand with the city council to make sure the law worked for D.C., worked for us and, ultimately, worked for the community."

DMVs: THE VOICE OF REASON
In March, both Uber and Lyft promised to pull out of San Antonio, citing "onerous" and "duplicative" regulations passed by the city council. For the same reasons, Lyft likewise suspended operations in Columbus, Ohio, in January, while Uber ceased operations in Nevada in November 2014.

Jurisdictions that want to promote consumer choice, passenger safety and fair competition—all three—must take a balanced approach, TNCs and DMVs agree.

"DMVs can play an important role in ensuring that a regulatory framework prioritizes public safety while still allowing people to take advantage of new economic opportunities," says Lyft's Wilson.

To accomplish exactly that, consider the following lessons learned by Holcomb during his TNC exercise:

- **Engage, then unite, stakeholders.** "We met in small groups, soliciting input from each group individually before we brought everyone together as a group," explains Holcomb, who says individual attention allowed each stakeholder group

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to feel heard and represented, which ultimately fostered compromise.
- **Leverage lobbyists.** When TNCs paid lobbyists to negotiate their position with lawmakers, the DMV used those relationships to successfully communicate its own position—which is how the DMV ultimately got the TNCs to agree that they would be classified in Virginia as motor carriers. "They served as a tremendous liaison not only from their clients to us, but from us to their clients," explains Holcomb, who says TNCs' lobbyists understood and communicated to their clients the value of compromise. "They helped educate the TNCs."
- **Encourage transparency.** When regulation efforts in Virginia commenced, Holcomb received more than 1,000 angry emails from TNC drivers and passengers. He responded to each and every message. "Public relations is always really important, and I learned a lot from those emails," Holcomb says. "As a result, we found common ground and have heard some very positive things from the user community and from the driver community, thanking us for our pro-business, pro-passenger, pro-safety approach to regulating this new industry."
- **Embrace technology.** TNCs are powered by technology—and so are their users, who expect to be engaged via Web, email and social media. "It's a different group to communicate with and traditional tools are not going to get your message out to the people who ultimately need to receive it," Holcomb says.
- **Think ahead.** Implementing and enforcing Virginia's new law places additional burdens on the DMV, which avoided being overwhelmed by being as proactive as possible. "Don't wait until the last minute for implementation," Holcomb advises. "We knew we had a bill that was working its way through the legislature, so even before the governor signed the bill we started having internal meetings about what the requirements were going to be and how we were going to implement them."

One final word of wisdom, according to Cashin: Instead of assuming the position of "regulator," start by playing the role of "diplomat." "It takes incredible diplomacy skills to bring together people that don't traditionally get along—business entities and the regulators that have governance and oversight over them," he concludes. "The worst thing you can do is be reactive. Take a step back, listen to what the issues are from every perspective available, then develop your plan going forward." **m**