

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102
(415) 552-9292 FAX (415) 252-0461

Policy Analysis Report

To: Supervisor Mar
From: Budget and Legislative Analyst 
Date: June 9, 2014
Re: Impact of Transportation Network Companies in San Francisco

Summary of Requested Action

Pursuant to your request, the Budget and Legislative Analyst has conducted a study of the impact of Transportation Network Companies (TNCs) in San Francisco. As requested, this report includes: (1) a profile of the taxi and transportation network company (TNC) industries pointing out differences between each, including benefits, challenges, and risks; (2) the impact of TNCs on the taxi industry, paratransit service, and transportation access; and, (3) regulatory developments that have taken place in other jurisdictions.

For further information about this report, contact Fred Brousseau at the Budget and Legislative Analyst's Office.

Executive Summary

- Transportation Network Companies (TNCs) provide for pre-arranged transportation services for compensation through online-enabled applications or platforms (such as smart phone apps) that connect passengers with drivers who provide the services in their personal vehicles.
- The Transportation Network Company industry is relatively new; the industry name was formally established in September 2013 by the California Public Utilities Commission (CPUC) when it adopted the first set of State regulations specifically governing these businesses in California. The CPUC asserted jurisdiction over TNCs by classifying them as charter-party carriers, or transportation providers that provide pre-arranged services for a fee and are subject to regulation by the CPUC. Limousines and many shuttle services are examples of charter-party carriers.
- State law delegates authority for regulation of taxis to cities or counties since taxis are not classified as charter-party carriers since their services can be pre-arranged *or* on demand such as hailing a cab on the street. The San Francisco Municipal Transportation Agency (SFMTA) oversees regulation of the taxicab industry for the City and County of San Francisco (the City).

- There are approximately 9,000 permitted taxi drivers in San Francisco, many part-time, who operate 1,856 full-time and 120 part-time specialized vehicles, according to SFMTA. There are an estimated 5,000 – 10,000 TNC drivers operating in San Francisco and approximately 9,000 taxicab drivers, including part-time drivers in both groups. Comparisons between the two industries and some of their regulations are shown in Exhibit 1.
- The emergence and rapid growth of Transportation Network Companies (TNCs) in San Francisco and elsewhere over the last five years has created job opportunities for numerous individuals using their personal automobiles and enabled City residents and visitors with smartphones to more easily utilize a greater supply of for-hire transportation options than provided by the taxi industry alone. For drivers, the industry offers easier entry to jobs compared to the taxicab industry, more flexibility, and, in many cases, better pay.

**Exhibit 1: Comparative Characteristics and Regulations
Taxi Industry vs. Transportation Network Companies**

| | Taxi Industry (regulated by San Francisco Municipal Transportation Agency) | Transportation Network Companies (TNCs) (regulated by California Public Utilities Commission) |
|---|---|--|
| # Vehicles | 1,976 (1,856 full-time + 120 part-time) | 5,000 -10,000 |
| # Drivers | 9,000 | 5,000 -10,000 |
| # Companies | 27 | 5 |
| Extent of required criminal background checks | Each driver’s entire adult history | Most recent 7 years |
| Extent of DMV record background checks | 10 years | Up to 7 years |
| Training requirements | 4 days taxi school, with exam. 1 day SFMTA training, with exam. | TNCs required to provide training but no specific content or exam required in State regulations. |
| Liability insurance requirements | Taxi companies to carry \$1 million in primary commercial liability insurance per occurrence, covering bodily injury to drivers and passengers and vehicle damage | TNCs to carry \$1 million in commercial liability per incident while drivers are “providing TNC services”. Disagreements between State and TNCs about extent of driver coverage and definition of “providing TNC services”. |
| Workers’ compensation insurance | Taxi companies to provide for all drivers while on duty. | TNCs not required to provide for drivers. |
| Pricing | Regulated by City’s SFMTA. Rates cannot be changed without SFMTA approval. | Not regulated by State. Rates can be changed by companies at any time. |
| Current Rates | <ul style="list-style-type: none"> ▪ \$3.50 for 1st 1/5 of a mile ▪ \$0.55 for each additional 1/5 of a mile (~\$2.75 per mile) ▪ \$0.55 for each minute of waiting or traffic delay ▪ No minimum fare | Average rates in San Francisco (not including surge prices): <ul style="list-style-type: none"> ▪ \$3.94 base fare/pick-up fee ▪ \$1.96 per mile ▪ \$0.36 per minute ▪ \$0.50 in other fees ▪ \$8.00 minimum fare |

- The taxicab industry is regulated by the City to provide a reasonable assurance of driver and passenger safety and risk reduction. The City also regulates taxicab prices and the number of taxicabs that can operate in the City, providing a predictable supply of taxis and a known and guaranteed price structure. This predictability also means that the supply of vehicles does not increase above the maximum number allowed when there are increases in demand.
- The City also requires that taxis provide paratransit services and provides incentives to ensure that taxi service is available for disabled passengers.
- The TNC industry presents similar risks to drivers, passengers, the public and the City as the taxicab industry if: (1) drivers lack necessary skills and qualifications for driving the public, (2) vehicles used to transport passengers are not safe, (3) adequate private insurance is not in place to cover medical care, vehicle damage and lost income for drivers, passengers and the public in the event of an accident, (4) administrative remedies are not in place to resolve company, driver and passenger complaints and issues, and (5) the same level of controls are not in place to prevent discrimination by TNC drivers against certain classes of passengers such as non-ambulatory disabled passengers.
- Unlike regulated taxi companies, as private enterprises, TNCs can change their prices based on demand or other variables at the discretion of the individual companies. The absence of price regulation also means that TNC services may not always be a feasible transportation alternative for members of the public who rely on predictable pricing to meet a fixed or limited budget.
- The Budget and Legislative Analyst's review of the taxicab and TNC industries in San Francisco and their respective regulations identified a number of areas where risk to TNC drivers, passengers, the public and the City is higher due to less stringent State regulation of these businesses compared to regulation of the City's taxicab industry, including:
 - An increase in the number of vehicles for hire on City streets, increasing wear and tear of the streets, congestion and emissions, though the net increase in these areas cannot be determined since it is not known what mode of transportation TNC passengers used prior to their use of TNC services (e.g., private vehicles, public transit, bicycles, etc.) or how many TNC passengers have foregone ownership of a private vehicle due to the availability of TNC vehicles.
 - Less stringent driver background checks and training requirements for TNCs under current State regulations, leading to the possibility of less well trained drivers and undetected criminal backgrounds.
 - Less liability and no workers' compensation insurance coverage requirements for TNC drivers under current State regulations and a lack of clarity about the exact type of coverage required of TNCs for their drivers and whether or not TNC drivers are fully covered at all times they are working.

Gaps in insurance coverage raise the risk of the City incurring costs not covered by TNC or drivers' personal insurances such as hospital and medical care for injuries to drivers, passengers and the public, damage to City property resulting from accidents involving TNC vehicles, and income replacement for drivers unable to drive due to an accident.
 - Less stringent State vehicle inspection requirements for TNCs compared to City requirements for taxicabs. The City's taxicab regulations are enforced by a staff of 20

Full-Time Equivalent positions (FTEs) at SFMTA; the counterpart enforcement function at the CPUC is staffed by 29 positions that cover all TNCs in California as well as all other regulated charter-party carriers statewide.

- No formal process for driver or company citations or revocations of operating permits is in place for TNCs compared to the structured administrative hearing process in place for the taxicab industry in San Francisco.
- Unlike City requirements for taxi companies, no requirement is in place for TNCs to maintain a business presence and staff in San Francisco to deal with found property.
- Unlike City requirements for taxi companies in San Francisco, no greenhouse gas emission reduction standards have been imposed by the State for TNCs.
- No requirements or incentives are in place for TNCs to participate in the City's paratransit program by providing transportation services to disabled passengers, including those who are non-ambulatory, as is the case for the City's taxi companies. The CPUC does require that TNCs provide Accessibility Plans specifying how their apps will be modified so passengers can indicate special needs and to ensure that drivers will not discriminate against such customers.
- Actual and potential City costs incurred as a result of TNCs operating in San Francisco under the current regulatory structure include: (1) approximately \$1.5 million estimated by San Francisco International Airport staff in annual lost fee revenue from TNC vehicles that are operating illegally at the airport, (2) Up to \$500,000 in Fiscal Year 2014-15 City business license revenue to the extent that TNC drivers are not registering with the City as independent contractor businesses, and (3) hospital and health care costs and income replacement costs of an unknown amount due to TNC vehicle accidents resulting in injured or disabled individuals and/or damaged City property not covered by TNC or personal insurance

Policy Options for Consideration by the Board of Supervisors

This report identifies risks to the City, Transportation Network Company drivers and passengers, the City's taxi industry, and the general public as well as estimated and potential costs incurred by the City as a result of the recent growth in Transportation Network Company (TNC) services in San Francisco. Although the City's ability to regulate TNCs appears to be limited by State law and the CPUC's assertion of jurisdiction over these businesses in 2013, regulatory oversight of TNCs is still new, evolving and subject to change.

The Budget and Legislative Analyst offers the following policy options for consideration by the Board of Supervisors if the Board wishes to address some of the risks and potential costs and impacts to the City identified in this report stemming from the burgeoning TNC industry:

1. The Board of Supervisors could request that SFMTA propose incentives and approaches to working with taxicab industry representatives to incorporate more of the technology, flexibility and customer benefits of TNC businesses in to the existing taxicab industry.
2. Pass a resolution urging the California Public Utilities Commission to strengthen its current TNC rules and regulations to minimize risks associated with TNC operations in San Francisco and to make them commensurate with City regulations for the San Francisco taxicab

industry such as more clear and comprehensive insurance coverage requirements, more transparent pricing, and more thorough driver training programs and background checks, among others.

3. Request that the City's Director of Transportation, in consultation with the City Attorney, prepare an opinion on whether or not TNC services qualify as "pre-arranged transportation services" and are therefore subject only to CPUC regulation, given that pre-arrangement for TNC services can occur on the street with minimal advance notice, similar to hailing a taxi, or if the TNCs are operating as taxi companies and therefore should be subject to some or all pertinent requirements for the taxicab industry codified in the City's Transportation Code.
4. If the Director of Transportation and City Attorney conclude that TNC service is not the same as "pre-arranged transportation services" regulated by the CPUC, the Board of Supervisors could request that the City Attorney participate in the pending lawsuit against the CPUC as an amicus party and take certain positions against some or all of the CPUC's assertion of jurisdiction in that lawsuit (Third District Court of Appeal, *Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California* (Case # C076432)).

Background: Taxi and TNC Industries in San Francisco

The following sub sections provide an overview of the taxi and TNC industries in California, including their estimated size and regulatory structure. A summary of these differences is provided in Exhibit 3 below.

Overview of the Taxi Industry in San Francisco

As defined by State law, City code, and City staff, taxicabs licensed to operate in San Francisco provide metered point-to-point transportation services for not more than eight passengers per vehicle within San Francisco and to and from San Francisco International Airport, to Oakland International Airport and to other locations outside San Francisco. Taxis may provide ride services to customers on a pre-arranged basis (e.g. through a company's central dispatch system) or on an on-demand basis (e.g. being hailed from a sidewalk, at a taxi stand, at the taxi line at San Francisco International Airport). Under State law, taxicab transportation services must be regulated at the local (city and/or county) level.¹ In San Francisco taxicab services are regulated by the Municipal Transportation Agency (SFMTA) under Article 1100 of the City's Transportation Code.

There are approximately 9,000 taxi driver permit holders authorized to operate by the City and County of San Francisco (the City), including those that drive full-time, part-time, or not at all according to Ms. Christiane Hayashi, Deputy Director of Taxis and Accessible Services at SFMTA. There are currently 27 independent taxi companies permitted to operate in the City with approximately 1,800 vehicles in operation. SFMTA requires taxi companies and drivers to obtain permits, or medallions, in order to operate taxicabs. Any taxicab in operation must possess a medallion, which are issued by SFMTA to taxi companies and individual drivers and is the Agency's method for regulating the supply of taxis. The number of medallions is determined by the SFMTA Board of Directors from time to time based on the availability of service compared to the demand for that service, and the public interest. These determinations are not made more than once per 12-month period. The most recent "public convenience and necessity" hearing was held by the San Francisco Municipal Transportation Agency Board of Directors on April 16, 2013, and authorized the issuance of 320 additional medallion permits between 2013 and 2015. According to Ms. Hayashi, by December 31, 2014, there will be 1,856 full-time and 120 part-time licensed taxicabs operating in San Francisco, including 100 wheelchair accessible taxi vehicles.

The City's Transportation Code sets forth several requirements for the taxicab industry. Major regulations of the taxi industry in San Francisco include:

- **Driver Experience, Background Checks, and Training:** The Transportation Code requires all applicants for taxi driver permits to submit fingerprints to SFMTA, which provides the Agency access to the applicants' entire adult criminal history.² The SFMTA also reviews the driver's Department of Motor Vehicles (DMV) history for

¹ California Government Code Section 53075.5

² According to Ms. Hayashi, only government agencies are permitted to conduct fingerprint background checks.

the preceding 10 years. Applicants for taxi driver permits must then attend one of several private four-day taxi schools, which are operated by private third parties, but with a curriculum stipulated by SFMTA. Taxi school curriculums cover the Vehicle Code, minimum City standards, the geography of the City, and crime prevention. Applicants must pass an exam at the conclusion of the four day taxi school. Following the taxi school, applicants must attend a SFMTA-led training covering taxi industry regulations, bicycle safety, and the paratransit system and disability sensitivity. Drivers must pass a second exam, which is administered at the conclusion of the SFMTA training.

Additionally, in order to obtain a medallion, SFMTA verifies that the applicant has been a full-time driver during four of five consecutive calendar years immediately preceding the applicant's medallion hearing, take another written knowledge test and provide fingerprints for another background check.

- **Insurance:** All taxicab companies must carry primary, full-time commercial liability insurance, which is currently stipulated by insurance policies required for participation in the City's paratransit program (SFMTA requires that all taxicab companies participate in the paratransit program). These insurance policies provide auto liability coverage of a minimum of \$1,000,000 per occurrence combined single limit for bodily injury liability and property damage liability including liability to passengers. Further, taxicab companies must maintain insurance that covers all vehicles.
- **Regulated Metered Pricing:** The Transportation Code requires that all taxicabs install taxi meters of certain makes and models with a seal from the Department of Public Health Weights and Measures. Further, taxis may only charge fees and rates that are approved by the SFMTA Board of Directors at least every other fiscal year.

Currently, the established taxi fare is \$3.50 for the first 1/5 of a mile; \$0.55 for each additional 1/5 of a mile or fraction thereof (or \$2.75 per mile after the first mile); and \$0.55 for each one minute of waiting or traffic delay time. There are also certain authorized fees, such as bridge tolls, airport fees, a cleaning charge, etc., that may be charged under appropriate circumstances. Overcharging a passenger is both a criminal misdemeanor and an administrative violation.

- **Workers' Compensation:** Taxi companies in San Francisco are required by SFMTA to carry workers' compensation insurance covering every driver.
- **Paratransit Services:** Under the federal Americans with Disabilities Act the SFMTA is required to offer paratransit service to qualified disabled individuals who are not able to use the transit system because of a disability or disabling health condition. SFMTA meets this requirement in part by mandating that all taxi companies participate in the City's paratransit program, which provides transportation (van and taxi) services to qualified disabled individuals. In order to comply with this requirement, all taxi vehicles and drivers must accept debit cards provided by SFMTA's paratransit broker used by paratransit passengers and may not discriminate against such passengers.

In addition to the general requirement that taxis participate in the paratransit program, SFMTA also incentivizes the use of accessible vehicles (known as “ramp taxis”) for paratransit customers who use wheelchairs by offering leases with deeply discounted monthly payments to taxi companies leasing ramp medallions. This is intended to compensate for the additional costs associated with the wheelchair accessible ramp taxis.³ SFMTA also offers other incentives such as the right to move to the front of the taxi line at San Francisco International Airport, if a driver picks up wheelchair customers outside of the downtown area.

- **Administrative Hearings for Citations/Loss of Permits:** The Transportation Code requires public administrative hearings for drivers or taxi companies whose permits are revoked or suspended or who receive administrative fines and for permit applicants who are assessed administrative fines.
- **Business Presence, Staffing, and Found Property:** The Transportation Code requires that all taxicab companies maintain a principal place of business within the City and staff that place of business with at least one person Monday through Friday from 9:00 a.m. to 5:00 p.m. The companies must also maintain published telephone numbers and designate a manager who will serve as the central point of contact for all regulatory compliance matters. Further, every taxicab company must be able to receive inquiries about found property on a 24-hour basis, receive and respond to communications and information requests from SFMTA, document and track all found property and turn it over to the company’s dispatch for processing, and comply with State laws regarding found property. A dispatch service must provide a live operator to answer phones 24 hours per day, 365 days per year.
- **Vehicle Maintenance and Inspection:** The Transportation Code sets minimum standards for vehicle integrity, body condition, cleanliness, mileage, and age. Further, the Transportation Code requires all taxis to be inspected by the SFMTA or its designee every 12 months for regular vehicles and every six months for spare vehicles or vehicles with 200,000 miles or more. The inspections take place at a date and time designated by the SFMTA on these schedules and at any other time deemed necessary by the SFMTA.
- **Reduced Emissions:** The City adopted an ordinance in 2009 to accomplish clean air goals by regulating the taxi fleet. The Transportation Code requires that, each taxicab company maintain average per vehicle (not including accessible or “ramp” vehicles) greenhouse gas emissions at a level 20% below 1990 taxi fleet greenhouse gas emissions by the year 2012, which translates to to a goal of 38 tons of emissions reduced per vehicle per year. According to the July 2013 report on taxi companies’

³ According to Ms. Hayashi, the additional costs of an accessible (ramp) taxi (vs. a standard taxi vehicle) affect both taxi companies and drivers, and include: (1) a higher purchase cost; (2) a higher maintenance cost; (3) higher fuel costs; and, (5) a higher level of training for a driver. Additionally, transporting individuals who use wheelchairs takes more time, because sometimes the customer requires a higher level of assistance, and in all cases the driver must take the time to properly secure the wheelchair using securement straps that are installed in the vehicle. “Time is money” to a taxi driver, who has a 10-hour shift in which to make a profit above the expense of leasing the taxicab, which makes it harder to ensure wheelchair service unless additional incentives or subsidies are offered.

carbon footprint, the average company's carbon emissions is about 27 percent below the City's 2012 target (28.01 tons per vehicle per year vs. the goal of 38 tons per vehicle per year). Further, the SFMTA's July 2013 report on clean vehicles in the taxi fleet shows that about 97 percent of the taxi fleet consists of hybrid or natural gas vehicles. The SFMTA has acquired grant funding to deploy 25 electric taxis and install three Level III fast-charging stations to support the new electric taxi fleet.

- **Enforcement Resources:** As of FY 2014-15, SFMTA will employ a total of 15.0 FTE positions to regulate the taxicab industry. These positions include 8.0 FTE Taxi Investigators for Citywide enforcement as well as 1.0 FTE Enforcement Manager to ensure compliance with the pertinent sections of the Transportation Code and represent the SFMTA in administrative hearings, as well as 1.0 FTE Deputy Director, 1.0 FTE Executive Secretary, 3.0 FTE Senior Clerks, and 1.0 FTE Junior Management Assistant. According to Ms. Hayashi, SFMTA plans on hiring an additional 2.0 FTE Customer Service Agents in FY 2014-15 to staff its customer service window. Five additional positions with responsibility for all ground transportation will be employed by the Airport starting on July 1, 2015.

Overview of the Transportation Network Company Industry in San Francisco

Transportation Network Companies (TNCs) provide prearranged transportation services for compensation using an online-enabled application or platform (such as smart phone apps) to connect passengers with drivers who provide the service in their personal vehicles. The companies that comprise the industry are relatively new and were not defined as Transportation Network Companies until September 2013 when the California Public Utilities Commission (CPUC) created the name and adopted the first set of State regulations specifically governing these businesses.

The CPUC asserted itself as the regulatory body with jurisdiction over TNCs by classifying them as charter-party carriers, which are defined in State law as transportation services for hire on a pre-arranged basis, which are regulated by the CPUC.⁴ Taxis are not classified as charter-party carriers as passengers can arrange for taxi services on a pre-arranged basis or on an impromptu basis such as hailing a cab on the street or at a taxi stand. State law delegates authority for regulation of taxis to cities or counties by ordinance or resolution.⁵ TNCs are regulated by the California Public Utilities Commission (CPUC) under its Safety and Enforcement Division.

Ms. Hayashi of SFMTA estimates that there could be between 5,000 and 10,000 TNC vehicles operating in San Francisco. Mr. Barry Korengold of the San Francisco Cab Drivers Association (SFCDA) states that the SFCDA has a database of over 6,500 unique license plates associated with TNCs in San Francisco. Ms. Hayashi considers that to be a reasonable estimate of the number of TNC vehicles operating in San Francisco, but notes that it is based on observations only, meaning there could be more, and that the number is growing. She also points out that this informal effort by taxi drivers to count TNCs is the only source of information on TNC vehicle numbers available to City officials.

⁴ California Public Utilities Code Sections 5351 – 5363.

⁵ California Public Utilities Code Sections 5353(g).

The five known TNCs that have filed permit applications with the CPUC and are operating in San Francisco are: (1) Uber; (2) Lyft; (3) Sidecar; (4) Wingz (formerly Tickengo); and, (5) Summon (formerly known as InstantCab). In addition, Raiser, LLC, a subsidiary of Uber, operates a service called Uber X, which is a lower cost version of the parent company's luxury service known as UberBlack.⁶ A company called Flywheel, which only partners with licensed taxi fleets and drivers, operates a smart phone application that allows customers to prearrange rides with taxicabs in San Francisco. Flywheel is not considered a TNC because it does not connect passengers with drivers who are using their personal vehicles.

The CPUC began regulating TNCs after its September 2013 Public Utilities Commission decision⁷ to "adopt rules and regulations to protect public safety while allowing new entrants to the transportation industry." These rules and regulations, which were established last fall and are subject to change, cover the following areas:

- **Permit and Fees to Operate:** TNCs must obtain a permit from the CPUC in order to operate legally on California's streets and highways. Applicants must pay a \$1,000 initial fee and \$100 for annual renewals. TNCs must also pay 0.33 percent of their California gross revenues plus a \$10 administrative fee on a quarterly basis to the CPUC.
- **Insurance Requirements:** The CPUC requires TNCs to obtain proof of insurance from each TNC driver before the driver begins providing service and for as long as the driver remains available to provide service.
 - In its Decision of September 23, 2013, the CPUC also requires each TNC to "maintain commercial liability insurance policies providing not less than \$1,000,000 per incident coverage for incidents involving vehicles and drivers while they are providing TNC services. The insurance coverage shall be available to cover claims regardless of whether a TNC driver maintains insurance adequate to cover any portion of the claim". The CPUC Decision did not specify if the TNCs' policies would be primary or excess, but the language indicates that they should "drop down" and provide coverage beyond what an individual driver may have.
 - The phrase "while providing TNC services" has not been defined and has been a subject of disagreement between the TNCs and the State, as discussed further below. The required insurance coverage must also:
 - Be disclosed on each company's app and website; and,
 - Be filed under seal with the CPUC as part of applying for a license;

Each TNC must file its un-redacted certificate of insurance with the CPUC where they are kept under seal

⁶ UberBlack provides a network for prearranging rides with licensed chauffeurs of black sedans and SUVs.

⁷ Decision 13-09-045 dated September 19, 2013.

In April 2014 the State Insurance Commissioner, Mr. Dave Jones, sent a letter to the President of the CPUC outlining findings and recommendations that emerged from an investigative hearing held by the California Department of Insurance (CDI) in March 2014 relating to insurance issues and TNCs. Specifically, the CDI found that drivers' personal automobile insurance does not cover TNC-related driving and auto insurers are not planning to offer coverage of this risk in the near future. The CDI concluded that as long as TNCs are encouraging drivers to use their personal vehicles to drive passengers for a profit, a risk for which personal automobile insurance is not available, those companies should bear the insurance burden.

The Insurance Commissioner provided the following eight recommendations to the CPUC to ensure that drivers, passengers, and third parties are adequately protected from the risk of TNC-related for-hire transportation:

1. The CPUC should expand its definition of "when providing TNC services" to include all three distinct periods including: (1) when a driver has an app open, but has not been matched with a passenger (i.e., when waiting for passenger requests); (2) when a driver has been matched to a passenger and is en route to pick-up that passenger; and, (3) when there is a passenger in the vehicle. Currently, there is disagreement between TNCs and the CPUC and some insurance carriers over whether CPUC's definition of "when providing TNC services" applies to the first period when the app is open, but there is no match. A number of TNCs have argued that this period is not part of "providing transportation service" and that they are therefore not liable or responsible for this period.
2. The CPUC should require \$1 million *primary* commercial liability insurance during all three periods as: (a) the CPUC rules do not specify that the insurance should be "primary", (b) personal automobile insurance minimum coverage is too low for drivers who are operating their vehicle for a livery purpose⁸ and (b) insurance companies and brokers have informed CDI that Californians cannot purchase either personal automobile insurance that covers driving passengers for hire or livery insurance on a personal vehicle.
3. TNCs should carry additional coverage that protects drivers and passengers. Specifically, these companies should be required to carry \$1,000,000 in uninsured/underinsured motorist coverage to protect drivers and passengers; TNCs should be required to carry comprehensive and collision insurance that mirror what the driver has purchased on his or her personal automobile insurance; and, the CPUC should require TNCs to provide disclosures to advise drivers who do not have comprehensive and collision coverage that their car will likely not be covered by the company's

⁸ Livery purpose meaning for commercial use.

insurance in an event that would normally trigger collision or comprehensive coverage.⁹

4. The CPUC should require drivers to provide effective notice to their personal automobile insurers of their affiliation with a TNC and provide a copy of that notification to the TNC. Also, drivers should be made aware of the potential of losing his or her personal automobile insurance coverage by driving for a TNC.
 5. TNCs should be required to share app data with the drivers' personal automobile insurer during the insurance company's investigation of an accident.
 6. The CPUC should require that TNCs provide their drivers with evidence of the TNC's insurance coverage which the driver can share (with law enforcement or with other drivers involved in a collision) in the case of an accident during a TNC-covered period.
 7. The CPUC should require TNCs to provide prominent disclosures about the risk to both drivers and passengers of developing "private clients" who schedule rides directly with the driver, outside of the app (some taxi drivers have private clients who schedule rides directly, outside the normal dispatch channels). While insurance for taxis and limos are in effect 24 hours per day, 365 days per year, the CPUC-required TNC insurance is not in effect when the driver is providing a ridesharing service that is prearranged without using the TNC app.
 8. The CPUC should delay its new insurance requirements by 60 days to give all the TNCs time to ensure the additional coverage outlined in the CDI recommendations.
- **Driver Background Checks and Oversight:** The CPUC requires TNCs to ensure their drivers' Department of Motor Vehicles (DMV) records have no more than three points¹⁰ within the preceding three years, no "major violations" (e.g. reckless driving, hit and run, or driving with a suspended license conviction) within the preceding three years, and no driving under the influence (DUI) conviction within the past seven years. Further, TNCs are required to check the DMV records of the drivers prior to allowing them to use their app and quarterly thereafter.

The CPUC also requires TNCs to participate in the California DMV Employer Pull Notice Program to obtain timely notice when major incidents, such as convictions and accidents, are added to a TNC driver's driving record.

⁹ Collision coverage pays for damages to the driver's vehicle caused by a collision with another vehicle or object. Comprehensive coverage pays for loss or damage to the driver's vehicle that doesn't occur in an auto accident. The types of damages comprehensive insurance covers include loss by fire, wind, hail, flood, vandalism or theft.

¹⁰ When drivers are given tickets by a law enforcement official or when a driver gets into an accident they are assigned points. Each incident is assigned a point. Depending on the type of traffic ticket, a driver can receive from one to two points for a traffic ticket. Accidents are assigned one point.

- **Driver Training:** The CPUC does not have specific driver training requirements for TNCs, but all TNCs were required to submit a written Driver Training Program to the CPUC by November 4, 2013. The CPUC September 19, 2013 decision simply stated that “TNCs must ensure that all drivers are safely operating their vehicle prior to the driver being able to offer service.”

The Budget and Legislative Analyst’s review of TNC driver training program reports submitted to the CPUC found that they range from a description of a company’s requirement that drivers receive training on how to use their app to an online driver education program combined with an in-person mentor pairing. All of these training programs appear to be brief, do not include substantive curriculums, do not generally include any kind of knowledge exams, and do not generally include information on how to provide proper service to passengers with special needs.

- **Pricing:** There are no CPUC requirements regarding the pricing of TNC services. Pricing of TNC services varies by and within companies and may be changed by TNCs at any time, or according to location, weather conditions, special events, or, hypothetically, among different classes of customers. Pricing of TNC services has fluctuated widely as TNCs lower prices to compete with each other for market share and, in some cases, raise prices at times and in locations of high transportation demand (“surge pricing”). TNCs that provide a platform for passengers to hail licensed taxi cabs generally charge the passenger a \$1 service fee on top of the taxi fare, and charge the driver ten to twenty percent of the metered fare.

A difference between metered taxi prices and TNC pricing is that taxis may charge by distance traveled and by time spent waiting, but not both at the same time. On the other hand, TNCs may charge for distance traveled and time spent in transit at the same time, though, in general, TNC fares per mile are lower than those of taxis. Further, taximeters are devices approved by the Department of Weights and Measures to measure time and distance for the purpose of paid taxi transportation services, whereas the TNCs use smartphones for this purpose. GPS technology used in smartphones has not been approved for calculating transportation fares charged to the public, but a working group of the federal Weights and Measures Division is working to develop standards for such use. The TNC company pricing schemes are summarized in Exhibit 2 below:

| Exhibit 2: Summary of TNC Pricing as of May 2014 | |
|--|---|
| Company | Pricing Scheme |
| Summon (formerly InstantCab) | <p>The Summon website states that it's pricing is as follows:</p> <ul style="list-style-type: none"> • Cost per Mile: \$1.50 (\$1.35 with FareBack¹¹) • Cost per Minute: \$0.30 (\$0.27 with FareBack) • Base Fare: \$3.50 (\$3.15 with FareBack) • Minimum Fare: \$6.00 • No surge or prime time tips are charged. <p>Summon uses a "flat fares" scheme during special events, which the company states is not affected by traffic, and is measured on a per mile basis. The company's website states that its flat fare amounts are subject to change based on the event. The company's website states that pricing provides the following example of how flat fares are broken down per mile:</p> <ul style="list-style-type: none"> • Fares from 0-2 miles - \$15 • Fares from 2-4 miles - \$30 • Fares from 4-6 miles - \$45 • Fares from 6-10 miles - +\$15 incrementally |
| Lyft | <p>Lyft allows riders in some cities to name their own price for their rides. However, in San Francisco Lyft charges the following to its passengers:</p> <ul style="list-style-type: none"> • Cost per Mile: \$1.35 • Cost per Minute: \$0.27 • Pick Up Charge: \$2.25 • Trust and Safety Fee¹²: \$1.00 • Minimum Fare: \$5.00 • Cancellation Fee: \$5.00 |
| Sidecar | <p>Sidecar's website states that its drivers set their own prices and that passengers are able to choose their ride based on estimated time of arrival or by price. The site further states that drivers' prices are disclosed prior to the passenger requesting the ride. Drivers may set their prices based on passenger demand, amenities offered in their vehicle, or any other factor.</p> |
| Wingz (formerly Tickengo) | <p>Wingz provides a platform for ridesharing to San Francisco and Oakland International Airports. The company offers flat fees of \$35 from most areas of San Francisco to SFO International Airport and \$49 to Oakland International Airport from any part of San Francisco.</p> |

¹¹ FareBack is a discount provided to riders for his/her first 10 rides per month.

¹² Lyft's website states that its Trust & Safety fee supports its "industry-leading safety standards, including upfront and ongoing driving record checks, background checks, and our \$1,000,000 per-occurrence liability insurance policy."

| Company | Pricing Scheme |
|-------------|---|
| Uber/Raiser | <p>Uber offers four different types of services through its app in addition to connecting passengers to taxicabs. The company's website states that the pricing is as follows:</p> <ul style="list-style-type: none"> • Uber X: <ul style="list-style-type: none"> ○ Cost per mile: \$1.50 ○ Base Fare: \$3.00 ○ \$0.30 per minute ○ Safe Rides Fee: \$1.00 ○ Minimum Fare: \$6.00 ○ Cancellation Fee: \$5.00 • Uber XL: <ul style="list-style-type: none"> ○ Cost per mile: \$2.15 ○ Base Fare: \$5.00 ○ \$0.45 per minute ○ Safe Rides Fee: \$1.00 ○ Minimum Fare: \$8.00 ○ Cancellation Fee: \$5.00 • UberBLACK: <ul style="list-style-type: none"> ○ Cost per mile" \$3.50 ○ Base Fare: \$7.00 ○ \$0.55 per minute ○ Minimum Fare: \$15.00 ○ Cancellation Fee: \$10.00 • UberSUV: <ul style="list-style-type: none"> ○ Cost per mile" \$3.75 ○ Base Fare: \$15.00 ○ \$0.90 per minute ○ Minimum Fare: \$25.00 ○ Cancellation Fee \$10.00 <p>The company's site states that at times of intense demand, its rates change over time to keep vehicles available.</p> |

Source: Budget and Legislative Analyst's review of TNC websites as of May 23, 2014.

Note: All fares shown are subject to change without approval by the CPUC or any public agency.

- **Paratransit Services:** Unlike taxicabs, TNCs are not required to participate in the City's paratransit program, a program administered by SFMTA that the City is required to provide under federal law, as the CPUC has not required TNCs to provide such services. However, the CPUC did mandate that all TNCs provide an Accessibility Plan to the CPUC by November 2013, which was complied with by all of the TNCs operating in San Francisco. These plans were required to include the following:
 - A timeline for modifying apps so that they allow passengers to indicate their access needs, including, but not limited to, the need for a wheelchair accessible vehicle. A passenger should be allowed to state other access needs, either from a drop-down menu with room for comments or through a field requesting information.

- A plan for how the TNC will work to provide appropriate vehicles for passengers who specify access needs, including, but not limited to, a plan to provide incentives to individuals with accessible vehicles to become TNC drivers.
- A timeline for modifying apps and TNC websites so that they meet accessibility standards.
- A timeline for modifying apps so that they allow passengers to indicate that they are accompanied by a service animal, and for adopting a policy that service animals will be accommodated.
- A plan for ensuring that drivers' review of customers will not be used in a manner that results in discrimination, including any policies that will be adopted and any monitoring that will take place by the TNC to enforce this requirement.

Further, the CPUC requires that all TNCs provide an annual report starting in September 2014 detailing the number and percentage of their customers who have requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles.

- **Workers' Compensation:** TNCs do not provide workers' compensation insurance to their drivers as these companies assert that the drivers are contractors, rather than employees. Further, the CPUC has not placed any mandates on the TNC industry regarding workers' compensation. Depending on individual TNC drivers' personal insurance, they may have optional income continuation and medical payments coverage, but, if they don't have such coverage, or if there are limitations to their coverage, their insurance would not provide lost wages, compensation for future losses, medical costs and benefits payable to dependents, as is typically covered by workers' compensation insurance.
- **Administrative Hearings for Citations/Loss of Permits:** The CPUC's rules and regulations over TNCs does not specify an administrative hearing process for citations or revocation of permits other than to state that, "if a passenger files a complaint against a TNC or TNC driver with the Commission, Commission staff shall have the right to inspect TNC records and vehicles as necessary to investigate and resolve the complaint to the same extent the Commission and Commission staff is permitted to inspect all other charter-party carriers".
- **Business Presence, Staffing, and Found Property:** The CPUC does not mandate that TNC's provide a business presence in the cities and/or counties in which they operate nor has the CPUC specified requirements for staffing or processing found property. There is no requirement for a designated point of contact for regulatory matters as is required of the taxicab industry in the City's Transportation Code.
- **Vehicle Maintenance and Inspection:** The CPUC requires TNCs to inspect a driver's vehicle, or have the vehicle inspected (based on a 19 point inspection) at a facility licensed by the California Bureau of Automotive Repair prior to commencing TNC service, but there is no requirement that additional periodic inspections be conducted.

- **Enforcement Resources:** According to Ms. Cynthia McReynolds, Senior Investigator with the Transportation Enforcement Branch of the CPUC, the CPUC has 29 staff members, 21 of which are investigators, available statewide (split between offices in Los Angeles and San Francisco) to oversee charter-party carriers such as limousines and now TNCs. The Transportation Enforcement Branch is responsible for regulating about 31,000 vehicles, which works out to one enforcement staff member (investigator) per 1,476 vehicles. This compares to about one SFMTA enforcement staff member for every 250 vehicles for taxis in San Francisco. According to Ms. McReynolds, the CPUC's Transportation Enforcement Branch issued a total of 58 citations in 2013 with fine amounts ranging from \$1,000 to \$20,000.

A summary of the differences between the taxi industry and the TNC industry and risks associated with some of those differences is displayed in Exhibit 3 below.

| Exhibit 3: Taxi vs. TNC Industry in San Francisco and Associated Risks | | | |
|---|---|---|--|
| Element | Taxi Industry | TNC Industry | Potential Risks/Notes |
| Estimated Number of Vehicles | 1,856 full-time and 120 part-time ¹³ | 5,000 to 10,000 ¹⁴ | It is now estimated by SFMTA and the San Francisco Cab Drivers Association (SFCDA) that there are at least twice as many TNC vehicles on the streets of San Francisco as taxi vehicles. The increase in such vehicles adds significantly to for-hire transportation options for San Francisco residents and visitors. This extra capacity may also be: (a) creating more wear and tear on the City's street though information is not available about what mode of transport TNC passengers were using prior to TNCs (e.g., taxis, own vehicles, public transit, bicycles), (b) slowing down public transit, and increasing congestion, emissions, and risk of collisions with pedestrians, bicycles and other vehicles. |
| Estimated Number of Drivers | 9,000 | 5,000 to 10,000 ¹⁵ | See comments above for Estimated Number of Vehicles. |
| Upfront Costs to New Drivers | \$215 for taxi school & background check; \$155.50 for driver permits (going up to \$255.50 on 7/1/14) (currently waived by SFMTA as an incentive for new drivers). ¹⁶ | No known fees required by the State, but TNCs may require new drivers to pay for the background checks. | The lower cost to become a TNC driver could be contributing to the recent decrease in taxi drivers and taxi driver applicants reported by taxi industry representatives. |

¹³ Estimated by Ms. Christiane Hayashi, Deputy Director of Taxis and Accessible Services Division

¹⁴ Ibid

¹⁵ Ibid

¹⁶ In addition to costs shown, some drivers choose to purchase their own medallions; others lease them from taxicab companies. Purchase is not required.

| Element | Taxi Industry | TNC Industry | Potential Risks/Notes |
|---|---|---|--|
| Driver Experience/ Background Checks | SFMTA conducts fingerprint-based checks on entire adult criminal history & preceding 10 years of DMV history. Before becoming medallion holders, applicants must show that they've driven a taxi full-time for four of the last five consecutive preceding years. | TNCs are required to check 7 years of criminal history using a search based on a Social Security Number. TNCs are required to review 7 years of DMV records, which is 3 years less than the requirement for taxi drivers. There are no apparent minimum requirements set by most TNCs. The CPUC requires that TNC drivers be at least 21 years of age. | TNCs' required criminal and driving background checks are limited by law to seven years because they are private entities. TNC drivers with hazardous or criminal activity histories could be approved for driving for a TNC. As a public agency, SFMTA conducts more extensive checks of potential taxi drivers, including a complete adult criminal history based on fingerprints and 10 years of DMV history. |
| Driver Training/ Safety | SFMTA requires: (1) four days of taxi schooling with a specified curriculum and an exam and (2) a one day session at SFMTA, with a second exam, to learn about regulations and operating safely with bicycles & passengers with special needs. Additional training required for operators of ramp (accessible) taxis. | CPUC only requires provision of a driver safety training plan from TNCs. | The disparity in training programs presents a heightened risk of inexperienced and/or ill-prepared TNC drivers on the streets. SFMTA's driver training is more extensive than the TNC training programs, which mostly focus on teaching drivers how to use the company's app. The SFMTA training program consists of at least two exams while the TNC programs generally do not have standardized exams. |

| Element | Taxi Industry | TNC Industry | Potential Risks/Notes |
|--------------------|---|--|---|
| Insurance Coverage | <p>The City requires that all taxicab companies must carry primary commercial auto liability coverage of a minimum of \$1 million per occurrence combined single limit for bodily injury liability and property damage liability including liability to passengers. All vehicles must be covered at all times they are on duty.</p> | <p>The CPUC requires that TNCs carry commercial liability for \$1 million per incident involving vehicles and drivers “while they are providing TNC services.” There is no requirement for collision insurance covering drivers’ vehicles.</p> | <p>The State Insurance Commissioner and other stakeholders have voiced concerns that there are gaps in coverage required by the CPUC, including:</p> <ul style="list-style-type: none"> ▪ No coverage during period when driver is on duty but waiting for a matched passenger. ▪ Strong possibility that driver’s personal auto insurance will not cover any incidents occurring when driving passengers for hire. ▪ Lack of clarity about the nature of TNC insurance: the CPUC requires that TNCs carry commercial liability insurance but regulations do not specify that this coverage be primary. However, the CPUC did require that the TNCs’ policies cover incidents even if the drivers’ personal insurance does not. ▪ No requirement that TNCs’ insurance includes medical payment, comprehensive, collision and uninsured/underinsured motorist coverage to protect drivers, passengers and the public. <p>These gaps in coverage raise the risk that drivers, the City and members of the general public may incur costs associated with injuries stemming from accidents caused by or involving TNC vehicles that are not covered by TNC or driver insurance.</p> <p>The State Insurance Commissioner reported that, as of February 2014, two TNCs, Uber and Lyft, voluntarily increased their coverage by adding uninsured/underinsured motorist coverage, which provides coverage to drivers and passengers injured by such motorists, and collision coverage, which provides coverage for vehicle damage. Other TNCs were not reported to have added these coverages to</p> |

| Element | Taxi Industry | TNC Industry | Potential Risks/Notes |
|------------------------------|---|---|--|
| Insurance <i>(cont'd)</i> | | | <p>their policies. Uber’s liability coverage for periods when a driver’s app is open but has not yet identified a passenger match is less than the \$1 million otherwise required by the CPUC. There is no State requirement ensuring that the TNCs will maintain these additional coverages in the future. TNC coverage does not cover illegal street hail pick-ups by TNC drivers.</p> |
| Pricing | <p>Taxi charges are regulated by taximeters, which are approved by the State and periodically inspected by the City. Changes to fares occur only when approved by the SFMTA Board of Directors. The current charges are:</p> <ul style="list-style-type: none"> ▪ \$3.50 for 1st 1/5 of a mile ▪ \$0.55 for each additional 1/5 of a mile (~\$2.75 per mile) ▪ \$0.55 for each minute of waiting or traffic delay ▪ No minimum fare <p>Taxis are not permitted to charge passengers based on distance and time at the same time. Taxi meters automatically account for this.</p> | <p>Pricing of TNC transportation services is not metered or regulated, varies by company, can include premium or “surge” charges during periods of high demand, and can be changed by each company at any time and on any basis. The average rates¹⁷ of TNCs operating in San Francisco (not including surge prices) are:</p> <ul style="list-style-type: none"> ▪ \$3.94 base fare/pick-up fee ▪ \$1.96 per mile ▪ \$0.36 per minute ▪ \$0.50 in other fees ▪ \$8.00 minimum fare <p>TNCs may charge passengers based on distance AND time at the same time.</p> | <p>While average TNC fares currently do not appear to vary significantly from taxi fares, fares are regulated, more stable and more transparent across the taxi industry than the TNC industry. There is no public process for consumers to provide input about any permanent or temporary (“surge pricing”) changes in TNC prices.</p> <p>One noteworthy difference between the fares charged by each is that taxis do not charge distance and waiting fees at the same time, while TNC may charge passengers based on the distance traveled AND the amount of time to the destination at all times,. However, TNC charges per mile are, on average, less than taxi rates. TNCs may change their fares on any basis (time, location, special events, weather, public emergencies, marketing promotions, and potentially, classes of customers).</p> |

¹⁷ This average includes rates from Summon, Lyft, and Uber (UberX and UberBlack). It does not include rates from Sidecar as those rates are determined by the company’s drivers nor does it include rates from Wingz as the company solely provides services to and from San Francisco and Oakland International Airports. Additionally, it does not include rates from more expensive specialty services provided by Uber such as UberXL and UberSUV.

| Element | Taxi Industry | TNC Industry | Potential Risks/Notes |
|-----------------------|---|--|--|
| Workers' Compensation | SFMTA considers taxi drivers to be independent contractors, but requires taxi companies to provide workers' compensation insurance to all drivers in accordance with State law that requires such coverage for taxi drivers. | TNCs are not required by the CPUC to provide workers' compensation. TNCs have claimed that their drivers are independent contractors, not employees. | Taxi and TNC drivers face the risk of becoming permanently and totally disabled by an automobile accident or being unable to work due to an accident. Unless they have some income continuation coverage in their personal insurance that would be allowed by their carrier, TNC drivers that are permanently disabled or become unable to work while driving for a TNC have no protection from loss of income due to a catastrophic injury and therefore may have to rely on publicly funded programs. |
| Paratransit Services | <p>Taxi companies are required to participate in the City's paratransit program, which the City is required to manage under federal law. Under this program, SFMTA requires that taxi companies accept the debit cards used by paratransit passengers as a valid form of payment and that they may not discriminate against paratransit passengers. In addition, SFMTA subsidizes the use of approximately 100 accessible vehicles by select taxi companies. These vehicles are made available to wheelchair users on an on-demand basis, which Ms. Hayashi states is a service that most jurisdictions are not able to provide.</p> <p>SFMTA has an explicit process for investigating complaints, including discrimination complaints filed by paratransit customers. If a complaint is substantiated it can result in the suspension or revocation of a driver's permit.</p> | The CPUC requires TNCs to provide Accessibility Plans, describing how the companies' apps will be modified so that passengers can indicate special needs and a plan for ensuring that drivers will not discriminate against such customers. TNCs are not required to participate in the City's paratransit program and are not required or incentivized by the CPUC to provide wheelchair accessible vehicles. | <p>Since providing paratransit service is not required of the TNCs by the CPUC, it remains to be seen if their paratransit services will be comparable to what is provided by the taxi industry due to the additional costs of purchasing/leasing, maintaining, and operating accessible vehicles which SFMTA subsidizes for the taxi industry.</p> <p>Unlike public administrative hearings stipulated in the City's Transportation Code for the taxicab industry, there is no regular public forum for any complaints of discrimination against disabled passengers to be heard by a public body for TNCs. Such complaints could be filed with the CPUC and would assumedly be investigated following standard procedures for investigations of charter-party carriers. However, no explicit process has been established for investigation complaints about TNC discrimination or other matters.</p> <p>Ms. Hayashi notes that accepting service animals is made optional in several of the TNC's disability plans filed with the CPUC.</p> |

| Element | Taxi Industry | TNC Industry | Potential Risks/Notes |
|-------------------------|---|---|---|
| Administrative Hearings | The City's Transportation Code provides for due process in the form of public administrative hearings for drivers or taxi companies whose permits are revoked or suspended or who receive administrative fines and for permit applicants who are assessed administrative fines. | No formal hearing process has been established for TNCs that receive citations or have had their operating permits revoked by the CPUC other than the Commission's ruling that complaints shall be resolved to the same extent that complaints are investigated and resolved for other charter-party carriers. As to TNC drivers, they do not have access to a formalized hearing process or any other recourse if they are suspended or terminated by a TNC. | The City's oversight of complaints and enforcement of Transportation Code regulations are very structured and allow for an open and fair hearing process while providing mechanisms to keep taxi companies and their drivers accountable. The CPUC oversight of complaints and enforcement of its rules and regulations is at a nascent stage and its effectiveness and balance is largely unknown. |

| Element | Taxi Industry | TNC Industry | Potential Risks/Notes |
|---------------------------------|---|---|--|
| Business Presence | The Transportation Code mandates that all taxi companies maintain a business presence in San Francisco, a minimum level of on-site staffing, and established systems for dealing with found property. Dispatch services must provide live operators 24/7/365. | The CPUC has issued no requirements for TNCs to establish a business presence, provide minimum on-site staffing, telephone access to live operators or specific requirements for processing found property. | The City's mandates for a business presence, minimum staffing, live operators, and processing of found property is much more stringent than the CPUC's rules for TNCs. There is no State mandate for TNCs to have an established system for found property at this time, which may result in less consistent customer service from TNCs for lost property and complaints. Unless TNCs voluntarily provide these services, consumers may have fewer recourses in the event of lost property or other problems resulting from their use of TNC services. |
| Vehicle Maintenance/ Inspection | The Transportation Code sets minimum standards for taxi vehicle integrity, body condition, cleanliness, mileage, and age. The SFMTA inspects all taxis every 12 months or more at a date and time set by SFMTA, and twice yearly for high-mileage vehicles. | The CPUC places responsibility for a 19-point vehicle inspection on TNCs. Unlike inspections of taxis by SFMTA staff, CPUC staff does not inspect vehicles used by TNCs. | The City regulation and oversight of taxi vehicle maintenance and inspection appears to be much more rigorous and tightly controlled than the CPUC's oversight of TNC vehicles. |
| Emissions | The SFMTA sets greenhouse gas emissions standards on the taxi fleet within the City. The taxi fleet exceeded those standards by about 27 percent in [Year]. Further, by 2013, 97 percent of the taxi fleet were made up of "clean" vehicles (hybrid or fueled by compressed natural gas). | The CPUC has not set any specific goals or mandates for emissions standards of TNC vehicles. | The emergence of the TNC industry may have led to an increase in emissions if more vehicles are on the streets of San Francisco than before the advent of the industry, though this depends on the mode of transit previously used by the now TNC customers. Unlike taxis, TNCs are not subject to any "clean vehicle" requirements by the CPUC. |
| Enforcement | The SFMTA Taxi and Accessible Services Division has 20.0 FTE dedicated to regulation, oversight, and enforcement of Transportation Code rules for taxi companies and their drivers in San Francisco. | According to Ms. Cynthia McReynolds, Senior Investigator with the Transportation Enforcement Branch of the CPUC, the CPUC has 29 staff members, 21 whom are investigators, available statewide (split between offices in Los Angeles and San Francisco) to oversee charter-party carriers, livery vehicles, and now TNCs. | Based on the staff resources dedicated to enforcement, the Budget and Legislative Analyst concludes that there is a stronger likelihood that the rules and regulations governing the taxicab industry are more likely being enforced by the 20 SFMTA positions responsible for enforcement compared to enforcement of TNC regulations by the 29 CPUC investigative staff positions responsible for enforcement of State laws and regulations of all charter-party carriers, including TNCs, statewide. |

Source: SFMTA, CPUC, SF Transportation Code Section 1100, and websites of various TNCs.

Impact of the TNC Industry in San Francisco

While the establishment and growth of the TNC industry in San Francisco has increased the supply of private passenger transportation services, it has also reportedly led to a decline in the number of available licensed taxi vehicles and a decline in the number of accessible vehicles available to City residents according to Ms. Hayashi of the SFMTA. Additionally, there is a fiscal impact on the City though a precise amount cannot be reported at this time.

Supply and Availability of Private Passenger Transportation Services

While neither the SFMTA nor the CPUC¹⁸ maintain statistics on the number of TNC vehicles or drivers, there is some company-specific and anecdotal evidence to suggest that the number of TNC drivers has increased considerably in the last two years and that the taxi companies are losing a significant number of drivers to TNCs. In May 2014, representatives from Sidecar and Uber were quoted in the San Francisco Examiner stating that recruitment of drivers continues to grow,¹⁹ although specific numbers were not provided for either company and it wasn't clear if they were referring to San Francisco only or a broader region. To the extent that these drivers are helping to meet the demand for point to point transportation services, consumers with smart phones are benefiting from a greater range of choice and availability albeit potentially at the cost of less transparent pricing, known gaps in insurance coverage, and a less consistent process for filing complaints or recovering lost property.

Data on lost revenue from unrecovered shifts²⁰ from Luxor Cab, one of the larger fleets in the City, (with 256 vehicles, shows a dramatic increase in the number of uncovered shifts. The Luxor data shows that in the eight-month period between January 2013 and August 2013, Luxor lost \$222,020 in revenue due to uncovered shifts.²¹ In the successive eight-month period, from September 2013 to April 2014, Luxor's lost revenue increased to \$1,050,609, a nearly six-fold increase. Mr. Charles Rathbone, Assistant Manager of Luxor Cab, states that as recently as two years ago it was extremely rare to have unfilled vehicle shifts due to a lack of drivers, but that it is now common to see as many as 12 taxicabs sitting idle in the company's lot due to unfilled shifts. Mr. Rathbone states that the increase may be due in part to SFMTA's recent decision to increase the size of the taxi fleet, but attributes most of the unrecovered revenue to a decrease in the number of drivers who are interested in driving taxis

¹⁸ Beginning in September 2014, TNCs will be required by the CPUC to report the number of drivers that have completed the company's driver training course. However, this number will represent the total number of TNC drivers for each company statewide. TNCs will also be required to report the level of service provided by zip code, but have no duty to report numbers of vehicles.

¹⁹ *SF Taxi Driver Supply Continues to Decline as Muni Plans Another Ad Campaign*, Kwong, Jessica; 5/6/2014; [San Francisco Examiner](http://www.sfexaminer.com/sanfrancisco/sf-taxi-driver-supply-continues-to-decline-as-muni-plans-another-ad-campaign/Content?oid=2790290) Available at: <http://www.sfexaminer.com/sanfrancisco/sf-taxi-driver-supply-continues-to-decline-as-muni-plans-another-ad-campaign/Content?oid=2790290>

²⁰ Taxi companies in San Francisco, like Luxor, earn revenue by charging drivers for the use of the company's vehicles during specific dates and times (aka "shifts"). When there is no driver to utilize the vehicle during a shift, it results in lost revenue to the taxi company, which purchases, maintains, equips and insures the vehicle.

²¹ Uncovered shifts are primarily due to the lack of a driver to utilize available vehicles, but can also include other factors such as drivers that are permitted to fill vehicle shifts without a fee and the use of vehicles for driver training, which are also provided free of charge by some taxi companies.

mostly due to recruitment to TNCs. Mr. Rathbone further notes that drivers are being enticed to drive for TNCs as there are no up-front costs to become a TNC driver.

Supply and Availability of Accessible Vehicles

It appears that the increase in TNCs and the corresponding decrease in taxi drivers may be leading to a decrease in the number of vehicles available to provide rides to non-ambulatory (wheelchair) passengers. While taxi companies are required to accept payment from paratransit users who use debit cards provided under the City's program, taxi companies are not required to provide wheelchair accessible vehicle services ("ramp taxis") to the public. In order to ensure that ramp taxi service is provided, SFMTA helps to subsidize the provision of such vehicles through direct leases. According to data from the SFMTA, the number of wheelchair pickups decreased by 46.6 percent from 1,379 in January 2013 to 736 in March 2014, as seen in Exhibit 4 below.

**Exhibit 4: Taxi Wheelchair Pick-ups in
San Francisco
January 2013 to March 2014**

| <u>Month</u> | <u>Number of Pick-ups</u> |
|----------------|-------------------------------|
| January 2013 | 1,379 |
| February 2013 | 1,238 |
| March 2013 | 1,398 |
| April 2013 | 1,288 |
| May 2013 | 1,323 |
| June 2013 | 1,164 |
| July 2013 | 1,074 |
| August 2013 | 864 |
| September 2013 | 713 |
| October 2013 | 659 |
| November 2013 | 598 |
| December 2013 | 637 |
| January 2014 | 736 |
| February 2014 | 642 |
| March 2014 | 736 |

Source: SFMTA

According to Ms. Hayashi, the drop in calls to the dispatch services is due a lack of available vehicles for pick-ups and that paratransit customers are likely either taking less trips or making arrangements with friends and relatives. Ms. Hayashi states that SFMTA has responded to this drop by initiating a program whereby the Agency will directly lease eight ramp taxis directly to drivers at \$500 per month, which she states is a very low cost for drivers.

Fiscal Impact of TNCs to the City and County of San Francisco

The Budget and Legislative Analyst has identified several areas of actual and potential fiscal impact on the City stemming from the proliferation of TNCs. These include:

- 1) Approximately \$1.5 million estimated by San Francisco International Airport staff in annual lost fee revenue from TNC vehicles that are operating illegally at the airport.

Mr. Mike Nakornkhet, Manager of Financial Planning and Analysis at San Francisco International Airport, estimates that the annual forgone revenue from TNC drop-off and pick-up activity at SFO's terminals is approximately \$1.5 million. The majority of this revenue would come from trip fees. Airport staff estimates that there are approximately 385,000 annual trips to and from SFO in TNC vehicles, or about 34 percent of annual limousine trips (if these trips were legal, the airport would otherwise receive \$3.75 per trip). The remainder of the revenue would come from an annual registration fee of \$55 per vehicle. Airport staff estimates that the number of TNC vehicles operating at the airport is about 1,000, or 20 percent of the number of permitted limousines, resulting in lost revenues of about \$55,000.

- 2) Potential uncollected business registration fees of up to \$500,000 in annual revenue.

Like taxi drivers, TNC drivers are considered independent business entities and therefore are required to obtain and pay for an annual business license. Beginning in FY 2014-15 this fee will be \$100 per permit (previously it was \$25). Assuming 5,000 TNC drivers in San Francisco, annual revenue from these drivers will be an estimated \$500,000 in FY 2014-15. To the extent that TNC drivers are not obtaining business licenses and paying these fees, possibly due to a lack of awareness that this is required of this relatively new type of business, the City could be missing out on up to \$500,000 in annual revenue.

- 3) Hospital and health care costs of an unknown amount due to TNC vehicle accidents resulting in injured individuals and/or damaged City property not covered by TNC or personal insurance

As discussed above, there are gaps in TNC drivers' insurance coverage and, to the extent drivers, passengers and third parties sustain injuries from TNC vehicles that are not covered by TNC, TNC driver or other insurance, their medical care and, possibly, income replacement costs could become City costs.

- 4) Costs of an unknown amount due to possible additional wear and tear on City streets

As discussed above, the TNC industry in San Francisco could have added an estimated 5,000 - 10,000 vehicles to City streets. The growth in TNCs reflects a significant demand for additional modes of transportation and additional vehicles on the streets but it is not known if this has caused a net increase in vehicles on the street as that depends on what modes of transportation TNC passengers were

previously using. However, assuming that at least some TNC passengers would otherwise have been using public transportation, bicycles, walking or using taxicabs, it is likely that the growth in TNC service in San Francisco has resulted in an increase in vehicles using City streets. Besides the net costs associated with this increase, the City is also experiencing indirect impacts such as delays in traffic flow, Muni bus service, increased emissions and related fiscal impacts.

Other Impacts

SFMTA staff state that there has been a significant increase in vehicles on the streets and in the number of citations for double parking as well as picking up and dropping off passengers in bus zones in the last two years. Mr. Eric Richholt, a Taxi Investigator with the Taxi and Accessible Services Division of the SFMTA, states that the increase in vehicles and citations is primarily due to more TNC vehicles and limousines on the streets particularly on weekend evenings in areas with a concentration of nightlife establishments including Polk Street, Valencia Street, 11th Street, and Fillmore Street.

TNC Regulatory Developments in Other Jurisdictions

Numerous jurisdictions across the nation and around the world are taking steps or considering taking steps to regulate TNCs. Some noteworthy developments in other jurisdictions include the following.

City of Seattle

On March 17, 2014, the Seattle City Council passed an ordinance creating a pilot program for TNCs and affiliated drivers and vehicles that included: (1) minimum operating requirements for TNCs and affiliated drivers; (2) mandatory vehicle inspections; (3) a zero tolerance drug use policy for affiliated drivers; (4) minimum insurance requirements for TNCs and affiliated vehicles; (5) rate transparency²² for TNCs; and, (6) licensing fees.

The ordinance also raised the maximum number of taxicab licenses issued by the City and enables the Director of Finance and Administrative Services to issue a moratorium suspending the issuance of TNC licenses and vehicle endorsements (permits) upon finding that the continued issuance of both threatens public safety or raises substantial consumer protection concerns. It should be noted that in Washington, the state government does not have jurisdiction over these services. However, faced with some uncertainty over the fate of the City of Seattle's law, in May the Metropolitan King County Council also introduced a law to require minimum insurance coverage for TNCs.

By April 2014, a coalition group collected twice as many signatures as needed to establish a ballot measure repealing the City of Seattle's TNC ordinance. Following that

²² The City of Seattle requires TNCs to provide the Director of Finance and Administrative Services with written documentation explaining its rate structure, demonstrating that it is consistent with State law, including how tolls or other related charges shall be charged to passengers. Regardless of the type of rate charged by a TNC, the rate shall be disclosed to the passenger and acknowledged via the electronic TNC dispatch system before the trip is initiated (before the passenger enters the vehicle).

development, the City's mayor entered into a currently underway 45-day negotiation with the TNCs to potentially repeal the ordinance and establish new regulations.

State of Colorado

The State of Colorado legislature recently passed (and the State's governor is reportedly expected to sign) a new law regulating TNCs, which would be the nation's first TNC law to emerge from a state legislative body. The bill puts TNCs under the oversight of the State's Public Utilities Commission. The bill would mandate that TNCs obtain permits, which would require that all drivers pass criminal-background and driving-history checks. In addition, the driver's cars would have to pass vehicle inspections, and be clearly marked as TNC cars.

The bill would also require drivers to carry personal insurance, in addition to the commercial insurance Uber and Lyft provide. According to the Houston Chronicle, Colorado's bill sponsors say their bill fixes the confusion over which insurance carrier- if any- would cover the period when a driver is out looking for passengers by requiring the TNCs' commercial insurance to kick in the moment the rider is connected to a driver through the cellphone app. When a driver is on the app but waiting to be hailed, the bill specifies that the companies' insurance will be in place.

Jurisdictions that Have Considered Action

While several jurisdictions around the nation have considered jurisdiction, the following state and cities are three examples of three policy initiatives to regulate TNCs:

In New Mexico a cease and desist order was issued against Lyft pending a hearing on whether it is an illegal taxi service. Lyft has disregarded this order based on its belief that it is not violating the law.²³

In Houston, the City Council is considering legislation to set minimum insurance requirements, require drivers to pay the City a fee of two percent of their gross annual receipts, require drivers to get City-approved background checks, and require drivers to hold permits issued by the City.²⁴

In Texas, the Austin City Council declined to authorize TNC operations in 2013, but recently passed a resolution requesting the City Manager to explore appropriate parameters for a pilot program to allow their operation.²⁵

²³<http://www.houstonchronicle.com/news/us/article/Lyft-defies-New-Mexico-order-to-stop-operating-5500996.php>

²⁴<http://www.bizjournals.com/houston/blog/nuts-and-bolts/2014/04/the-debate-rages-on-city-proposes-code-revisions.html?page=all>

²⁵<http://austin.culturemap.com/news/city-life/05-16-14-city-council-ridesharing-passes-resolution-uber-lyft-sidecar/>

Judicial Review of CPUC Decision

At the conclusion of the administrative process before the CPUC, the Taxicab Paratransit Association of California (TPAC) filed suit challenging the substance of the CPUC's decision in the state appellate court, (*Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California* (Third District Court of Appeal, Case # C076432). The opening brief argues that the CPUC's decision to differentiate TNCs from taxis and limousines is not supported by the evidence and that the CPUC exceeded its legal authority in creating a new class of TNC permit.

A second lawsuit for filed in the California Supreme Court, which asserts that the CPUC failed to comply with the California Environmental Quality Act (CEQA) because it failed to consider reasonably foreseeable environmental impacts that would be caused by licensing a new fleet of for-hire vehicles. Both suits request expedited consideration of the issues.

Policy Options for Consideration by the Board of Supervisors

This report identifies risks to the City, Transportation Network Company drivers and passengers, the City's taxi industry, and the general public as well as estimated and potential costs incurred by the City as a result of the recent growth in Transportation Network Company (TNC) services in San Francisco. . Although the City's ability to regulate TNCs appears to be limited by State law and the CPUC's assertion of jurisdiction over these businesses in 2013, regulatory oversight of TNCs is still very new and evolving.

The Budget and Legislative Analyst offers the following policy options for consideration by the Board of Supervisors if the Board wishes to address some of the risks and potential costs and impacts to the City identified in this report stemming from the burgeoning TNC industry:

1. The Board of Supervisors could request that SFMTA propose incentives and approaches to working with taxicab industry representatives to incorporate more of the technology, flexibility and customer benefits of TNC businesses in to the existing taxicab industry.
2. Pass a resolution urging the California Public Utilities Commission to strengthen its current TNC rules and regulations to minimize risks associated with TNC operations in San Francisco and to make them commensurate with City regulations for the San Francisco taxicab industry such as more clear and comprehensive insurance coverage requirements, more transparent pricing, and more thorough driver training programs and background checks, among others.
3. Request that the City's Director of Transportation, in consultation with the City Attorney, prepare an opinion on whether or not TNC services qualify as "pre-arranged transportation services" and are therefore subject only to CPUC regulation, given that pre-arrangement for TNC services can occur on the street with minimal advance notice, similar to hailing a taxi, or if the TNCs are operating as taxi

companies and therefore should be subject to some or all pertinent requirements for the taxicab industry codified in the City's Transportation Code.

4. If the Director of Transportation and City Attorney conclude that TNC service is not the same as "pre-arranged transportation services" regulated by the CPUC, the Board of Supervisors could request that the City Attorney participate in the pending lawsuit against the CPUC as an amicus party and take certain positions against some or all of the CPUC's assertion of jurisdiction in that lawsuit (Third District Court of Appeal, *Taxicab Paratransit Association of California v. Public Utilities Commission of the State of California* (Case # C076432)).