

## Massachusetts: Legislation regulating transportation network companies becomes law



David M. Kall | Thursday, September 8, 2016

In early August, Massachusetts' Gov. Charlie Baker signed [Bill H.4570](#) into law, promptly [declaring](#) that the legislation creates a modern statewide regulatory framework for transportation network companies, with a priority on public safety.

According to the governor, the measure includes support for the following, ensuring that Massachusetts remains a leader for innovative new technologies:

- Transparent pricing
- Properly marked and inspected vehicles
- Clear insurance standards
- Authorization of service at Boston Logan International Airport and the Boston Convention and Exhibition Center
- The strongest state background check requirements in the nation

In reporting on the new law, [Boston.com](#) highlighted its key facets:

- Imposition of a 20-cent fee on ride-hailing companies, including Uber and Lyft, to be allocated as follows:

- 10 cents from each ride to cities and towns to pay for transportation needs
- 5 cents from each ride to the state's transportation fund
- 5 cents from each ride to the state's economic development arm to fund a program that would provide financial assistance to taxi and livery services, helping them adopt technology, develop their workforce, and otherwise improve their services.
- Required two-part background checks for all drivers, one conducted by the companies themselves, and the other by the state
- Required vehicle inspections in addition to the mandatory annual personal motor vehicle checks
- Required commercial insurance while trips are in progress.

In addition, the law makes it possible for ride-sharing services to pick up customers at Boston's Logan Airport, and the convention and exhibition center.

Finally, H 4570 establishes a Ride-for-Hire task force. Its purpose is this:

[T]o review the current laws, regulations and local ordinances governing licensed hackneys, taxis, livery and transportation network companies in the commonwealth and to make recommendations concerning public safety, consumer protection and the economic fairness and equity of the regulatory structure governing the ride for hire industry.

The Department of Public Utilities has oversight authority, and is responsible for promulgating the necessary rules and regulations

In late August, a few weeks after Gov. Baker's approval, *U.S News & World Report* editorial criticized the so called "Uber law" as "taxation without representation," asserting that while "[m]uch of the law is the same standard boilerplate used by other states...Massachusetts' law has some new and frustrating twists." One of these is that the Massachusetts measure built in a "carve-out for a specific kind of service provider in the transportation industry, rather than creat[ing] a truly level playing field for all transportation services," like Fort Worth, Texas, and Melbourne, Florida, have done recently. This was a missed opportunity to "disrupt and improve archaic taxi laws," which have restricted competition and given a "monopoly-like power" to the old-school taxi companies.

Perhaps most worrisome, the author declared, is the establishment of the Ride-for-Hire task force:

Despite the seemingly neutral makeup of the task force members, the long history of taxi regulation, as well as economic research, indicates that special interest groups will convince the members to advocate for even more regulation. Existing companies have a strong incentive to lobby for anti-competitive laws that create barriers to entry for new entrepreneurs and for regulations that raise the operating costs of their rivals

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Similarly, *Forbes* contended that “[t]axing Uber and Lyft to bailout [Boston’s] flailing taxi competitors makes about as much sense as taxing car makers to rescue the horse-and-buggy industry or taxing DVDs to save VHS tapes. Massachusetts did it anyway.” However, the “cab cartel” needs the money, as ridership dropped by 22 percent causing a 25 percent, or \$33 million, subsequent reduction in revenue in the first half of 2015.

Better, according to the *Forbes* piece, would be to “jettison both the Uber tax and the medallion system entirely.” This would promote free market fairness with an even playing field, containing fewer regulatory “speed bumps.”

Prior to H 4570 becoming law, Boston had amended certain state regulations to provide standards for transportation network companies. The Boston Taxi Owners Association then sued, claiming that the amendments, and Boston’s alleged failures to enforce existing local regulations against transportation network companies, created an arbitrary, two-tiered system between transportation network companies and taxicabs that violated their property rights, among other things. The court **dismissed** this claim, with the admonition that “a medallion owner has no right to exclude others from the market.”

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