



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

[R15-106]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
Article 9 New Article
R17-5-901 New Section
R17-5-902 New Section
R17-5-903 New Section
R17-5-904 New Section
R17-5-905 New Section
R17-5-906 New Section
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:
Authorizing statutes: A.R.S. §§ 28-366, 41-2065(A)(4), and Laws 2015, Ch. 235, § 15
Implementing statutes: A.R.S. §§ 28-9552, 28-9556, and 41-2052
Statute or session law authorizing the exemption: Laws 2015, Ch. 235, §§ 14 and 15
3. The effective date of the rule and the agency's reason it selected the effective date:
August 21, 2015 (upon filing with the Office of the Secretary of State).
a. If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
This rulemaking provides a written process for making available to the Department for review, records required to be maintained by the owners of livery vehicles, taxis, and limousines under A.R.S. § 41-2097, and records required to be maintained by transportation network companies under A.R.S. §§ 28-9554 through 28-9556, in relation to:
Vehicle safety and emissions inspections;
Driver pre-employment criminal background checks; and
Owner enforcement of a zero-tolerance policy on the use of drugs or alcohol by drivers providing, or available to provide, passenger transportation.
As provided under A.R.S. § 41-1032(A)(1), the immediate effectiveness of these rules will preserve the public peace, health, or safety by allowing the Department of Transportation or the Department of Weights and Measures (as applicable) to collect and record information relating to a transportation service provider's agent for service of process or designated point of contact.
The rules benefit the public by allowing the Department to expedite issuance of transportation network company permits in support of innovative ride sharing technology that will provide Arizona citizens with new job opportunities and more options for hiring a vehicle for in-state travel.
b. If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
Not applicable



4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:

None

5. The agency's contact person who can answer questions about the rulemaking:

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6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

Laws 2015, Chapter 235, requires the owners of transportation network companies to maintain certain records that shall be made available to the Department of Transportation on request as provided under A.R.S. Title 28, Chapter 30, Article 3. Additionally, the new laws require that the owners of taxis, livery vehicles, and limousines used to provide passenger transportation maintain certain records and make those records available to the Department of Weights and Measures on request. Therefore, the Department of Transportation and the Department Weights and Measures must coordinate rulemaking efforts to ensure successful implementation of the legislative changes provided under Laws 2015, Chapter 235.

As provided under A.R.S. § 41-2097, the Department of Weights and Measures may continue to enforce certain provisions relating to the owners of taxis, livery vehicles, and limousines until July 1, 2016, when regulatory oversight of all for-hire transportation service providers finally transitions to the Department of Transportation. Those provisions include requesting for review all records relating to vehicle maintenance, drug testing of vehicle operators, and criminal background checks conducted on drivers (whether employees or lessees).

This rulemaking establishes the process the Department of Transportation may use when necessary to measure a transportation service provider's level of compliance with the new laws. The rules provide the guidelines necessary for the Department to establish appropriate business relationships and perform adequate oversight to ensure the successful and continued operation of livery vehicles, taxis, transportation network company vehicles, transportation network companies, and limousines throughout the state.

To facilitate the transition of the regulatory oversight of all for-hire transportation service providers from the Department of Weights and Measures to the Department of Transportation, this rulemaking:

Creates a new Article for all rules applicable to for-hire transportation service providers, including the owners of taxis, livery vehicles, limousines, and transportation network companies;

Authorizes the issuance of a new transportation network company permit to a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3;

Establishes the application fee the Department shall charge for the issuance of a transportation network company permit;

Provides all owners of livery vehicles, taxis, limousines, and transportation network companies a written process for making certain records available to either the Department of Weights and Measures or the Department of Transportation for review (as applicable); and

Ensures that transportation network companies are regulated under A.R.S. Title 28, Chapter 30, Article 3, and not as a taxi, livery vehicle, or limousine service.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not review or rely on any study relevant to the rules.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Laws 2015, Chapter 235, extends the state preemption of municipal regulation to include transportation network companies and their use of transportation network company vehicles. However, an exception provided under A.R.S. § 41-2052 will allow the operator of a public airport to establish the number of livery vehicles, taxis, transportation network company vehicles, transportation network companies, and limousines that may conduct business



at the public airport or set additional or more restrictive requirements for the conduct of that business at the public airport.

9. The summary of the economic, small business, and consumer impact, if applicable:

Laws 2015, Ch. 235, § 14, expressly provides the Department of Weights and Measures or the Department of Transportation, as applicable, an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6. For this rulemaking, the Department is not required to prepare and file the economic, small business, and consumer impact statement generally required under the Administrative Procedure Act.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules provide for the issuance of a transportation network company permit to a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3. The transportation network company permit is a “general permit” in that the activities and practices authorized by this class of license are the same for all companies issued the permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rules are not more stringent than any applicable federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted to the Department.

13. A list of any incorporated by reference material and its location in the rule:

The rules incorporate no material by reference.

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rules were not previously made, amended, repealed or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 9. TRANSPORTATION SERVICE PROVIDERS

Section

- R17-5-901. Definitions
- R17-5-902. Transportation Network Company Permit - Initial Application; Issuance; Fee
- R17-5-903. Transportation Network Company Permit - Renewal Application; Issuance; Fee
- R17-5-904. Transportation Network Company Permit and Renewal - General Provisions
- R17-5-905. Transportation Service Provider - Record Review
- R17-5-906. Transportation Service Provider - Designated Point of Contact

ARTICLE 9. TRANSPORTATION SERVICE PROVIDERS

R17-5-901. Definitions

In addition to the definitions provided under A.R.S. § 28-9551, when applicable to a transportation network company, and A.R.S. § 41-2051, when applicable to an owner of a taxi, livery vehicle, or limousine, the following definitions apply to this Article unless otherwise specified:



“Applicant” means a person that meets the statutory requirements of a transportation network company as prescribed under A.R.S. Title 28, Chapter 30, Article 3.

“Designated point of contact” means a person employed by a transportation service provider who has the authority to gather and provide records to the Department on request.

“Transportation network company permit” means a document issued by the Department to an applicant that meets the requirements prescribed under A.R.S. Title 28, Chapter 30, Article 3, as authorization to conduct transportation network services in this state.

“Transportation service provider” means the owner of a taxi, livery vehicle, limousine, or transportation network company.

“Violation” means a failure to maintain or make available to the Department any records the transportation service provider is required to maintain and provide to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556, when applicable to a transportation network company, and A.R.S. § 41-2097, when applicable to an owner of a taxi, livery vehicle, or limousine.

R17-5-902. Transportation Network Company Permit - Initial Application; Issuance; Fee

- A.** An applicant for a transportation network company permit issued by the Department under A.R.S. § 28-9552, shall apply to the Department by:
1. Completing and submitting online the application form provided by the Department at www.azdot.gov;
 2. Providing the full name and contact information of the applicant’s agent for service of process in this state;
 3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3;
 4. Filing a legible illustration of the applicant’s trade dress; and
 5. Paying a \$1,000 application fee as provided under A.R.S. § 28-9552(A).
- B.** Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit.
- C.** The application fee paid to the Department under subsection (A) is refundable in full if the transportation network company permit application is:
1. Denied by the Department, or
 2. Withdrawn by the applicant before the Department issues a transportation network company permit.
- D.** A transportation network company permit issued by the Department under this Section expires three years after issuance and may be renewed as provided under R17-5-903.

R17-5-903. Transportation Network Company Permit - Renewal Application; Issuance; Fee

- A.** A transportation network company shall apply to the Department for renewal of a transportation network company permit issued by the Department under A.R.S. § 28-9552 and R17-5-902, no earlier than 90 days, and no later than 30 days, before the permit expires by:
1. Completing and submitting online the renewal application form provided by the Department at www.azdot.gov;
 2. Filing with the Department a legible illustration of the applicant’s trade dress if different than the illustration already on file with the Department;
 3. Certifying that the transportation network company meets the requirements of A.R.S. Title 28, Chapter 30, Article 3; and
 4. Paying a \$1,000 renewal application fee as provided under A.R.S. § 28-9552(A).
- B.** Upon receipt and acceptance of all required documents, fees, and certifications, the Department shall issue to an applicant a transportation network company permit renewal.
- C.** A transportation network company permit renewal issued by the Department under this Section expires three years after the date the existing transportation network company permit expires.
- D.** The holder of an expired transportation network company permit may apply to the Department for a new transportation network company permit using the initial application procedure provided under R17-5-902.

R17-5-904. Transportation Network Company Permit and Renewal - General Provisions

- A.** A transportation network company permit or renewal issued by the Department under this Article shall include an assigned number that remains effective until either withdrawn by the Department or until it expires.
- B.** A transportation network company permit or renewal issued by the Department under this Article shall not be transferred or assigned, in whole or in part, to any person other than the person to whom the permit is issued, except upon a merger, change in control, or sale of substantially all of the transportation network company’s assets to an entity that assumes the duties and obligations of the permit. The transportation network company shall notify the Department within 30 days of such a transfer or assignment, and the Department shall have 30 days beginning on such notification to nullify the transfer or assignment based on the criteria set forth in this Article. An initial public offering shall not be deemed to trigger a transfer or assignment under this Section.

R17-5-905. Transportation Service Provider - Record Review

- A.** The Department, after providing reasonable notice to a transportation service provider, may review with or without cause all records a transportation service provider is required to make available to the Department on request as provided under A.R.S. §§ 28-9554 through 28-9556, when applicable to a transportation network company, and A.R.S. §



41-2097, when applicable to an owner of a taxi, livery vehicle, or limousine.

- B.** A transportation service provider shall make all records described under subsection (A) available to the Department for review at an Arizona location.
- C.** The Department shall conduct a record review during the transportation service provider's normal business hours.
- D.** The Department shall provide a copy of its review report to the transportation service provider's designated point of contact. The report shall include the review results and indicate any violations found.

R17-5-906 Transportation Service Provider - Designated Point of Contact

- A.** A transportation service provider shall provide to the Department the name and contact information of the transportation service provider's designated point of contact in this state.
- B.** A transportation service provider shall notify the Department within 10 business days of making a change to the name or contact information of the transportation service provider's designated point of contact in this state.