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Uber v. Regulation: "Ride-Sharing" Creates a Legal Gray Area

Yanelys ("Yani") Crespo[*]

Technological innovations are quickly re-shaping our world and even changing the way we travel from place to place. Although the concept of "ride-sharing" only just emerged in 2010, it has rapidly gained popularity and expanded across the globe, offering a new way to get around major cities via a mobile application that instantly links drivers and passengers through the phone's GPS system. At the forefront of this movement is Uber—the multi-billion-dollar company and pioneer of ride-sharing that has experienced unprecedented growth and success in its short existence. However, Uber's expansion into most major cities across the United States has not been free of controversy or difficulties. For example, Uber has received major pushback from the taxi industry, which was once virtually free of competition, but is now quickly losing its grasp as a popular mode of transportation in the markets Uber has expanded into. In addition, city and state regulators in highly-regulated markets such as Miami, Florida have created significant legal hurdles for companies like Uber to enter into new markets based primarily on the regulators' inability to fit these innovative companies into existing regulations for taxis, resulting in a legal gray area. This article will examine the development of the immensely popular and controversial ride-sharing industry. Specifically, this article will focus on the unprecedented growth of the ride-sharing industry's pioneer, Uber, and the legal hurdles Uber has encountered while expanding into highly-regulated markets,

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which have resisted this new collaborative form of transportation that has now become synonymous with "taking an Uber."

I. INTRODUCTION

The past five years have brought with them groundbreaking technological innovations. Perhaps the most significant innovation has been the emergence of a new economy in which individuals engage in peer-to-peer transactions through companies that have created groundbreaking digital platforms to connect consumers.[1] This new form of collaborative consumption is commonly referred to as "The Sharing Economy"—the concept of "internet-based sharing of underutilized space, skills, and stuff," including time, for both monetary and non-monetary benefits.[2] The sharing economy facilitates and fosters "community ownership, localized production, sharing and cooperation, small-scale enterprise," and economic and environmental consciousness.[3]

Historically, the legal system was not intended to regulate relationships in a technologically-driven shared environment.[4] Rather, "our laws were designed to regulate relationships in a competitive economy, not a collaborative one."[5] Generally, "the law tends to prefer binary divisions,"[6] which companies in the sharing economy do not particularly follow and tend to stray away from, "resulting in a *legal gray area*."[7] City regulators and the legal system alike have resisted the concept of "ride-sharing," facilitated through mobile applications by companies such as Uber and Lyft[8].These ride-sharing companies demand a change in the law that they believe is inevitable. However, regulators have the difficult task of determining where these companies fit within existing laws; this determination has created a number of legal issues for ride-sharing companies in many of the cities where they have expanded, which this Commend will discuss in detail.

The ride-sharing sector is home to companies such as Uber, which offers the appeal of a private driver with the ease of hailing a taxi.[9] In most

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1 *See* Molly Cohen & Corey Zehngebot, *What's Old Becomes New: Regulating the Sharing Economy,* 58 BOS. B.J., Spring 2014, at 34.

2 *Id.*

3 Jenny Kassan & Janelle Orsi, *The Legal Landscape of the Sharing Economy*, 27 J. ENVTL. L. & LITIG. 1, 2 (2012)

4 *See id.* at 13.

5 *Id.*

6 Cohen & Zehngebot, *supra* note 1, at 34.

7 *Id.* (emphasis added).

8 As of December 31, 2015, Sidecar ceased its operations as a ride and delivery service and no longer exists. *See* Sunil Paul, *So long Sidecar and* thanks, Median.com (Dec. 29, 2015), https://medium.com/@SunilPaul/so-long-sidecar-and-thanks-74c8a0955064#.1fl7ckujm.

9 Glenn Harlan Reynolds, *Regulators wreck Uber innovation: Column*, USA TODAY (June 10, 2014), http://www.usatoday.com/story/opinion/2014/06/09/uber-lyft-taxi-transportation-regulators-column/10198131/.

cities, taxi and limo services operate in a non-market economy heavily regulated with rules prohibiting and even criminalizing competition.[10] Consequently, without competition, these regulated industries have few incentives to innovate, leading to mediocre performance and quality.[11] When Uber and other ride-sharing companies burst their way into this monopolistic industry, regulators responded by fining drivers, impounding vehicles, and, in some cases, banning the services outright.[12] The fact is that ride-sharing companies threaten the very existence of taxi companies by merely competing with them. Simply put, regulation and innovation do not work together in the current regulatory scheme.[13]

This article will look into the development of the ride-sharing movement and its major companies, Uber and Lyft, in Part II. In Part III, this article will focus on Uber, discussing how it was started, how it works, and its successful expansions into three cities across the United States. Then, in Part IV, this article will discuss Uber's major challenges and controversies with the legal system and city regulators, including existing regulations, insurance issues, safety concerns, and driver liability. Finally, in Part V, this article will present an argument for potential solutions for Uber and its adversaries to coexist in the transportation industry.

II. DEVELOPMENT OF "RIDE-SHARING"

A. The Trend Toward a Sharing Economy: Legal Conundrums

In the sharing economy, individuals can share rooms (or couches) in their homes, seats in their cars, parking spaces, money, and even time in the day.[14] What initially began as small-scale, not-for-profit sharing has become a big business.[15] In 2013, Forbes estimated that the sharing economy generated approximately $3.5 billion in revenue.[16] A report issued by PricewaterhouseCoopers ("PwC") estimated that the five main sharing economy sectors generated $15 billion in global revenues in 2014.[17] By 2025, these same sectors could generate potential revenue

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10 *See infra* note 223.
11 *See id.*
12 *See id.*
13 *See* Kassan & Orsi, *supra* note 3, at 13.
14 Cohen & Zehngebot, *supra* note 1, at 34.
15 *See id.*
16 *Id.*
17 John Hawksworth & Robert Vaughan, *The sharing economy – sizing the revenue opportunity*, PWC, http://www.pwc.co.uk/issues/megatrends/collisions/sharingeconomy/the-sharing-economy-sizing-the-revenue-opportunity.jhtml (last visited Mar. 8, 2016) (explaining that the five main sharing sectors are peer-to-peer lending and crowd-funding, online staffing, peer-to-peer accommodation, car sharing, and music and video streaming).

worth over $335 billion.[18] These staggering opportunities for growth and revenue have enticed many to join this access-driven, sharing movement. However, not everyone has embraced this collaborative consumption methodology. For example, industries like hotels and taxis, which had been relatively without competition for years, have had to cope with these new, innovative companies entering and disrupting the market.[19] These industries argue "that the upstart companies are not complying with health, safety, insurance, tax, and other regulations."[20] Many city officials across the country tend to agree with them.

The main challenge in this new economy is that the sharing platforms do not fit into our current legal framework. At the forefront of this dilemma is the fact that our laws were not designed to regulate collaborative relationships, transactions, and organizations.[21] Instead, our legal system was primarily developed to manage economic, binary relationships—i.e., public and private, employer and employee, landlord and tenant, producer and consumer.[22] However, "in the sharing economy, many of these relationships overlap;" as such, it can be difficult to determine which laws or regulations (if any) may apply.[23] This legal gray area has created incredibly difficult legal obstacles and inconveniences for those seeking to enter new markets. Many cities have addressed these issues by either creating exemptions or new regulations for these companies, or simply prohibiting them from operating in their cities.[24]

No matter how the various local governments choose to deal with the collaborative companies of this new economy, the issues that come with regulating digital platforms in the sharing territory are guaranteed to change the legal landscape significantly. Those changes in the legal landscape of the once stable transportation industry are beginning to take form in many urban cities through the enactment of new laws and regulations specially tailored for ride-sharing companies. The recent fast-paced growth towards a sharing economy invariably means that even the most highly-regulated markets will need to re-evaluate and re-develop their current legal framework to include the collaborative companies of this new economy.

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18 *Id.*

19 *See* Deven R. Desai, *The New Steam: On Digitization, Decentralization, and Disruption*, 65 HASTINGS L.J. 1469, 1477 (2014).

20 *Id.*

21 Kassan & Orsi, *supra* note 3, at 13.

22 *See id.* at 13-14.

23 *Id.* at 14.

24 Cohen & Zehngebot, *supra* note 1, at 36.

B. *Transportation Alternatives in the Sharing Economy*

Amidst resistance from many highly regulated cities like Miami and Las Vegas, the idea of sharing cars and other forms of transportation has taken hold in most major urban settings.[25] The ride-sharing movement took off in 2010—a time when the country was re-emerging from a severe economic recession, social media was booming, and smartphones were becoming a commonplace necessity for most.[26] The sharing economy basically developed out of a dire need for *access* to things that many individuals either did not or could not afford to own themselves.[27] "Access trumps ownership because it gives you a lot of freedom and flexibility and choice, without a lot of the hassles of ownership, including high fixed costs."[28] With mobile ride-sharing apps like Uber, Lyft, and previously Sidecar,[29] passengers get the use and benefits of an automobile without having to own one.[30] Ride-sharing companies have presented those who cannot afford the cost of gasoline, car payments, and insurance with a viable and necessary transportation alternative.

Ride-sharing companies do not actually own any vehicles, but instead act primarily "as technology platforms that connect clients with drivers through a smartphone app."[31] "Riders are connected with drivers using their phones' GPS," which acts much like the functional equivalent of

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25 *See* Sonari Glinton, *For Ridesharing Apps Like Lyft, Commerce is a Community*, NPR: ALL TECH CONSIDERED (Nov. 14, 2013, 4:56 PM), http://www.npr.org/blogs/alltech considered/2013/11/14/245242805/for-ridesharing-apps-like-lyft-commerce-is-a-commu nity.

26 *Id.*

27 *See id.*

28 *Id.*

29 Sidecar was a ride-sharing company founded in San Francisco in 2012, pioneering the way for Uber and Lyft by offering a "ride marketplace" model in which passengers could quickly hail a driver through use of the app for a very low price in major U.S. cities. Unlike its competitors, Sidecar's app allowed passengers to choose a driver based on price made available to passengers before the driver is matched. Moreover, Sidecar did not participate in surge pricing during peaks of high demand. *See* Reuters, *Rideshare Pioneer Sidecar Hits Exit Ramp, Will Shut Down Thursday*, NBCNEWS.COM (Dec. 30, 2015), http://www.nbcnews.com/business/business-news/rideshare-pioneer-sidecar-hits-exit-ramp-will-shut-down-thursday-n487951. Despite its contribution to innovation in the ride-share industry, Sidecar ultimately shut down its ride-share and delivery services on December 29, 2015. The closure of the company was due, in large part, to the immense competition, investor funding, and continued growth of Uber and Lyft into new markets versus Sidecar's availability in only a handful of cities, minimal funding compared to its competitors, and lack of sufficient market saturation to compete. *See* Carolyn Said, *Ride-sharing pioneer Sidecar to shut down ride, delivery* service, SF GATE (Dec. 29, 2015), http://www.sfgate.com/business/article/Ride-sharing-pioneer-Sidecar-to-shut-down-ride-6726144.php.

30 *See* Glinton, *supra* note 25.

31 John G. Browning, *Emerging Technology and Its Impact on Automotive Legislation*, 91 DEF. COUNS. J. 83, 84 (2014).

hailing the nearest taxi.[32] The drivers, who use the app in the same way as the riders, may be individuals or existing car services.[33] The companies promote their services as a way to better utilize the empty seats in most cars, thus lowering fuel usage and transportation costs. In addition, these services can serve areas not covered by a public transit system and are also capable of serving spontaneous, one-time trips.[34] As revolutionary as it seems, the concept of ride-sharing is not "new"; it works much the same way as carpooling and hitchhiking.[35] "What is different is the technology"—with the use of a smartphone, users have the ability to instantly find a driver and quickly catch a ride across the city.[36]

Although ride-sharing has many benefits, it has been controversial for various reasons. First, most states and major cities throughout the U.S. have regulations for taxi services, some of which can be extremely strict and difficult to comply with.[37] Second, because ride-sharing companies stress that they do not provide transportation services, opponents argue that the companies "circumvent the regulations and licensing fees that taxicab [and limo] companies have to contend with."[38] Lastly, issues regarding insurance, liability, and safety have created numerous problems for ride-sharing companies wishing to enter highly regulated markets.[39] Simply put, "[t]hese are 21st century businesses that are operating with 20th century laws."[40]

C. *Major Players in Ride-Sharing*

1. Uber: "Everyone's Private Driver"

Founded in 2009 by Travis Kalanick, Uber provides city residents in over 300 cities worldwide with a convenient and efficient way to request transportation services from existing transportation providers and independent drivers.[41] Uber launched its operations in San Francisco

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32 *Id.*
33 *Id.*
34 *See* Kassan & Orsi, *supra* note 3, at 11.
35 Mark Murphy, *Ride-sharing services: When to use them and when to avoid them*, *Travel*, FOX NEWS (Oct. 6, 2014), http://www.foxnews.com/travel/2014/10/06/ridesharing-services-when-to-use-them-and-avoid-them/.
36 *Id.*
37 *See* Browning, *supra* note 31, at 84.
38 *Id.*
39 *See* i*d.* at 85.
40 *Id.* (footnote omitted).
41 Travis Kalanick, *Uber Policy White Paper 1.0: Principled Innovation: Addressing The Regulatory Ambiguity Around Ridesharing Apps*, BLOG.UBER (Apr. 12, 2013), http://blog.uber.com/2013/04/12/uber-policy-white-paper-1-0/ [http://www.benedelman.org/uber/uber-policy-whitepaper.pdf] [hereinafter Kalanick, *Uber Policy White Paper*].

during the summer of 2010 with only a few cars and a handful of employees.[42] Initially, Uber worked almost exclusively with commercially licensed, insured, and regulated entities to provide rides via professional drivers.[43] "After entering credit-card information on the app, anyone could summon a car with the press of a button."[44] The smartphone's GPS then pinpoints the user's location for pickup, and the cost of the ride is automatically charged to the customer's account (including tip).[45] By finding a safe, efficient, and cost-effective way to link passengers and drivers, Uber has revolutionized the transportation industry.

In 2012, a "host of clone companies," i.e., Lyft and Sidecar, emerged in the market, offering "incredibly low-cost transportation by working exclusively with unlicensed, non-commercially insured vehicles and drivers."[46] These companies referred to their approach as "ride-sharing."[47] CEO Kalanick observed the effect these companies had in highly regulated markets for over a year, choosing to avoid participation due to the regulatory risks involved.[48] However, because of the regulatory ambiguity for this new form of transportation, Kalanick believed Uber was disadvantaging itself by not participating in ride-sharing.[49] Thus, Kalanick created a ride-sharing policy for Uber, which included various safeguards and insurance standards above and beyond what local regulators had in place in most cities.[50]

In response to competition by Lyft and Sidecar, Uber launched UberX in July 2012 as an affordable alternative to its luxury UberBlack counterpart.[51] Advertised as the low-cost Uber, UberX has transformed the manner in which urban city dwellers get around.[52] UberX now offers private drivers to the masses at a low cost, something that was once considered a luxury; it has become Uber's main source of revenue since 2013.[53] Today, Uber offers seven different transportation services: UberX,

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42 Kara Swisher, *Man and Uber Man*, VANITY FAIR, Dec. 2014, http://www.vanityfair.com/business/2014/12/uber-travis-kalanick-controversy.
43 Kalanick, *Uber Policy White Paper*, *supra* note 41.
44 Swisher, *supra* note 42.
45 *Id.*
46 Kalanick, *Uber Policy White Paper*, *supra* note 41.
47 *Id.*
48 *Id.*
49 *Id.*
50 *Id.*
51 *See* Tess Russell, *The New UberX: Better, Faster and Cheaper Than a Taxi*, UBER NEWSROOM (June 11, 2013), https://newsroom.uber.com/us-california/uberx-cheaper-than-a-taxi/.
52 Mickey Rapkin, *Uber Cab Confessions*, GQ, Mar. 2014, http://www.gq.com/news-politics/newsmakers/201403/uber-cab-confessions.
53 *See id.*

UberTaxi, UberBlack, UberSUV, UberLux, and in select cities, UberPool and UberHighway.[54]

Uber's explosive success can be attributed, in part, to the ease of using the service in cities where taxis are a subpar form of transportation. "No longer do people need to search for those elusive taxi stands, wonder about tipping practices . . . [or] find the right way to ask for a receipt. Uber takes care of all of that."[55] Uber's rapid growth can also be attributed to its successful social media campaigns and utilization of political advocacy amidst heavy regulation and opposition.[56] According to an article by the *Washington Post*, "local lobbying registration records indicate that [Uber] has hired private lobbyists in at least 50 U.S. cities and states, and has hired at least 161 people to lobby for its interests."[57] In addition, Uber's vast influence on its users has attracted bipartisan interest from politicians, including President Obama's former campaign manager, David Plouffe, who now acts as the company's Senior Vice President of Policy and Strategy.[58]

2. Lyft: "A ride whenever you need one"

Uber's biggest rival is Lyft—a San Francisco-based mobile car service app co-founded by John Zimmer (COO) and Logan Green (CEO).[59] Lyft launched its beta test phase in San Francisco on August 28, 2012,[60] and has since expanded into 209 cities throughout the U.S. with plans to expand globally.[61] Using the Lyft app, "people can see other drivers who are nearby, how long it will take for a car to arrive and request a ride."[62] Lyft's services were designed around affordability– a ride with Lyft is roughly thirty percent less than the same ride in a taxi.[63] Moreover, Lyft's services were initially cheaper than Uber's only service offered at the time,

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54 *See generally* UBER, https://www.uber.com/ride/ (last visited Mar. 8, 2016).

55 Mohamed A. El-Erian, *Uber and the Coming Disruption of Finance,* BLOOMBERGVIEW (Oct. 22, 2014), http://www.bloombergview.com/articles/2014-10-22/uber-and-the-coming-disruption-of-finance.

56 *See* T.C. Sottek, *Uber has an army of at least 161 lobbyists and they're crushing regulators*, THE VERGE (Dec. 14, 2014, 2:55 PM), http://www.theverge.com/2014/12/14/7390395/uber-lobbying-steamroller.

57 *Id.*

58 *Id.*

59 *See* Sam Gustin, *Lyft: Ride-Sharing Startup Zimride Hits the Gas Pedal in San Francisco*, TIME (Sept. 4, 2012), http://business.time.com/2012/09/04/need-a-lyft-ride-sharing-startup-zimride-hits-the-gas-pedal/.

60 *Id.*

61 *See generally* LYFT, https://www.lyft.com/cities (last visited Mar. 8, 2016).

62 Tomio Geron, *Will Ride-Sharing Apps Replace Car Ownership?*, FORBES (July 9, 2012, 8:55 PM), http://www.forbes.com/sites/tomiogeron/2012/07/09/will-ride-sharing-apps-replace-car-ownership/.

63 *See id.*

which functioned more like a private chauffeur until the development of UberX.[64]

Under Lyft's original vision, every Lyft ride would be unique, as drivers were encouraged to customize their cars and welcome passengers to sit up front with them.[65] In addition, the signature pink mustaches on Lyft vehicles helped spread the word about Lyft and fostered brand recognition.[66] Lyft initially did not charge passengers for their rides, but instead suggested donations, which could be given to the driver after each ride via the smart phone app.[67] However, Lyft quickly changed its donations concept to payments that are charged from a passenger's credit card information stored in the app upon completion of the ride.[68] Today, Lyft offers three ways to ride—Lyft, Lyft Plus, and Lyft Line.[69]

Uber and Lyft have been engaged in a fierce competition to be the go-to app for replacing taxis and other transportation services.[70] However, Uber seems to have the upper hand, "dominating [Lyft] in terms of revenue, riders, revenue per rider, and absolute growth rates."[71] According to a report from *Future Advisor* tracking data from June 2013 to May 2014, "Uber was seeing revenues twelve times that of Lyft, with $26.4 million going to Uber and $2.2 million going to Lyft."[72] In addition, during that same time period, Uber "provided more than seven times the rides that Lyft [did]" and "added new customers about five times faster," despite Uber charging more per ride.[73] Although the services may appear interchangeable, the report found that "only 2.5% of all riders used both services, showing that there are few who aren't loyal to one over another."[74]

Amidst the heated competition, Lyft has worked its way into practically every conversation about the ride-sharing industry alongside its rival, Uber. As of September 2014, the Lyft service "book[ed] 2 million

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64 *Id.*

65 Kim Lyons, *Is Lyft too friendly to battle Uber?*, PITT. POST GAZETTE (Dec. 19, 2014, 11:40 PM), http://www.post-gazette.com/news/transportation/2014/12/19/Lyft-leaves-room-for-creativity/stories/201412190015.

66 *See id.*

67 Catherine Gacad, *Anything But a Taxi . . . Comparing Lyft, Sidecar, and Uber*, DOTCOMPLICATED (Sept. 18, 2013), http://dotcomplicated.co/content/2013/09/anything-but-a-taxi-comparing-lyft-sidecar-and-uber/.

68 *See generally* LYFT, https://www.lyft.com/how (last visited Mar. 8, 2016).

69 *See id.*

70 Rebecca Borison, *REPORT: Uber Generates 12x More Revenue Than Lyft, Despite Charging More Per Ride*, BUS. INSIDER (Sept. 11, 2014, 1:18 PM), http://www.businessinsider.com/uber-12x-revenue-over-lyft-2014-9 [hereinafter, Borison, *REPORT*].

71 *Id.*

72 *Id.*

73 *Id.*

74 *Id.*

rides per month, and . . . gross revenue [was] up 40 percent month over month."[75] That same September, CEO Zimmer also announced that the company is looking to expand to 100 cities globally during 2015.[76] Lyft markets its services as a fun and socially interactive transportation alternative, while Uber originally prided itself on offering a refined, private and professional transportation service.[77] Uber's CEO has referred to Lyft as a clone; however, Lyft's CEO disagrees: "We launched in 2012 . . . .There was no peer-to-peer or low-cost competitor. So we innovated in this space."[78]

III. UBER

A. Why Uber?

Valued at over $50 billion,[79] Uber has become more valuable in its mere six years of existence than any other start-up in recent years, including the technology giants Facebook, Google, and Amazon.[80] In fact, there have only been two venture capital-backed companies that have exceeded the $50-billion mark: Facebook and now Uber.[81] Notably, Uber happened to reach that $50-billion mark two years earlier than Facebook, which reached its valuation in seven years versus Uber's five.[82] Backed by technology giants (and corporate rivals) such as Microsoft and Google, Uber aims at immersive global expansion and investing in new and innovative technologies.[83]

From 2013 to 2014, "Uber [sic] expanded from 60 cities in 21 countries . . . to 250 cities in 50 countries . . . ."[84] As of June 2015, Uber had approximately one million drivers operating in 300 cities across 58

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75 Josh Lipton, *Lyft may expand to 100 cities globally in 2015*, CNBC (Sept. 17, 2014, 3:01 PM), http://www.cnbc.com/id/102009880#.
76 *Id.*
77 *Id.*
78 *Id.*
79 Douglas MacMillan & Telis Demos, *Uber Valued at More Than $50 Billion*, WALL ST. J. (July 31, 2015), http://www.wsj.com/articles/uber-valued-at-more-than-50-billion-1438367457.
80 Al Ramadan, Christopher Lochhead, & Dave Peterson, *Behind Uber's soaring value*, FORTUNE (Dec. 11, 2014), http://fortune.com/2014/12/11/behind-ubers-soaring-value/.
81 MacMillan & Demos, *supra* note 87.
82 *Id.*
83 *Id.*
84 Tracey Lien & Andrea Chang, *Now worth $40 billion, upstart Uber outraces other tech models*, L.A. TIMES (Dec. 4, 2014, 6:35 PM), http://www.latimes.com/business/la-fi-uber-funding-20141205-story.html.

countries.[85] Uber was the first of its kind in the peer-to-peer transportation industry, and it created brand recognition for itself by offering professional, consistent, and efficient service to its passengers. Unlike other companies in the over $40-billion club (e.g., Time Warner Cable and Delta Airlines), Uber has little overhead because most of the drivers are not on payroll, but rather get paid for the rides they give, with Uber "taking a percentage of each transaction between driver and passenger."[86] Notably, at its current growth rate, "the Uber platform is generating 20,000 new driver jobs every month," with UberX drivers earning median incomes of over $70,000 per year in established cities.[87] Furthermore, "the Uber platform generates $2.8 billion per year for the U.S. economy, and [that number] is growing."[88] Apart from the economic benefits, Uber's presence in a city contributes to less incidents involving impaired driving, improving the welfare and safety of many major U.S. cities.[89]

Although Uber's entry into the transportation market created opportunities for competition, Uber has maintained a position far ahead of its competition.[90] For example, the rental company Hertz "has a market capitalization of $11 billion—about one-fourth of Uber's."[91] In addition, as of May 2014, Uber's revenue was twelve times that of its largest rival, Lyft.[92] By mid-2015, Uber was taking market share from taxis and other transportation services at an alarming rate. Based on expense reports from business travelers in the first quarter of 2015, Certify, an expense management company specializing in small businesses, reported that "an average of 46 percent of all total paid car rides were through Uber in major markets across the U.S."[93] In contrast, "the percentage of rides in taxis, limos and shuttles fell from 85 percent to 53 percent over the same period."[94] Although Uber's competitors offer essentially the same service, Uber has "focused on getting consumers to understand what the company

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85 Luz Lazo, *Uber Turns 5, Reaches 1 Million Drivers and 300 Cities Worldwide. Now What?*, WASH. POST (June 4, 2015), http://www.washingtonpost.com/blogs/dr-gridlock/wp/2015/06/04/uber-turns-5-reaches-1-million-drivers-and-300-cities-worldwide-now-what.

86 *Id.*

87 Craig Walker, *An Uber Impact: 20,000 Jobs Created on the Uber Platform Every Month*, UBER: NEWSROOM (May 27, 2014), https://newsroom.uber.com/an-uber-impact-20000-jobs-created-on-the-uber-platform-every-month-2/.

88 *Id.*

89 *Id.*

90 Lien & Chang, *supra* note 84.

91 *Id.*

92 *Id.*

93 Andrew Bender, *Uber's Astounding Rise: Overtaking Taxis in Key Markets*, FORBES (Apr. 10, 2015, 11:42 AM), http://www.forbes.com/sites/andrewbender/2015/04/10/ubers-astounding-rise-overtaking-taxis-in-key-markets/.

94 *Id.*

is about, and it made itself attractive to potential drivers."[95] Early on, Uber established itself as a household name, and many people now associate taking a ride via a ride-sharing app with "taking an Uber."[96]

Although Uber has been extremely popular with its users, "the company has faced significant pushback from the taxi cab industry and state and federal regulators."[97] These opponents believe that the ride-sharing companies need regulation, which "requires balancing the safety and welfare of the public with the potential for new economic development opportunities."[98] In contrast, "proponents, typically a younger, urban demographic," view the backward-looking regulations "as protectionism, serving entrenched operators in the market like taxicabs and hotels."[99] Despite the opposition, with Uber's current influx of investments, the company will be well equipped to take on the taxi industry, politicians, negative press, and any other hurdles it may encounter.

B. Successful Expansions

1. Chicago, Illinois

Uber announced its expansion into Chicago on September 22, 2011—making it one of the first few cities with the service.[100] Prior to Uber's official launch in Chicago, over 1,000 users had signed up to use the service in the windy city.[101] CEO Kalanick believed Chicago could potentially be the highest growth market for Uber, partially due to the nightlife, the large number of sports arenas, and the frigid weather for most of the year, which makes it nearly impossible to hail a taxi.[102]

At the time of Uber's launch, the black car industry in Chicago was not as heavily regulated, as opposed to other cities that make it nearly impossible for Uber and its drivers to operate.[103] However, about one year after Uber's entry into Chicago, the city's Department of Business Affairs and Consumer Protection "proposed regulations that would prohibit

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95 Lien & Chang, *supra* note 84.
96 *Id.*
97 *Id.*
98 Cohen & Zehngebot, *supra* note 1, at 6.
99 *Id.*
100 Travis Kalanick, *Chicago- Uber's Biggest Launch to Date?*, UBER: NEWSROOM (Sept. 22, 2011), http://blog.uber.com/2011/09/22/chicago-ubers-biggest-launch-to-date/.
101 Leena Rao, *Uber Brings Its Disruptive Car Service to Chicago*, TECHCRUNCH.COM (Sept. 22, 2011), http://techcrunch.com/2011/09/22/uber-brings-its-disruptive-car-service-to-chicago/.
102 *Id.*
103 *Id.*

Uber's black car service from operating in Chicago."[104] Uber responded by sending thousands of emails and tweets to its users asking them to sign their petition, utilizing the hash tag #UberCHILove.[105] Uber customers in Chicago reacted so powerfully that politicians postponed their decision, even though the bill was ultimately approved and later vetoed by the Governor after Uber proposed the possibility of bringing hundreds of jobs to Chicago if the bill was vetoed and/or amended.[106]

After years of negotiations, on December 3, 2014, Illinois lawmakers approved a bill that places certain insurance and safety standards on ride-sharing companies.[107] The bill effectively allowed ride-sharing companies to legally operate in Illinois, something Uber publicized "as a compromise bill that prioritizes rider safety while preserving transportation choices and economic opportunity for drivers."[108] About one week after the ride-sharing bill was passed, Chicago regulators approved a plan to create apps "that would allow users to hail taxis from various operators in the city, using a smartphone."[109] The app-creating plan is part of the "Taxi Driver Fairness Reforms package," which would update outdated taxicab regulations.[110] According to Chicago's Mayor Rahm Emanuel, "These reforms represent what is necessary to further modernize this growing industry."[111]

Since the company's 2013 launch of UberX in Chicago, "Uber has more than 20,000 active driver-partners on its platform, who have collectively earned over $200 million . . . doing more than two million trips per month in Chicago alone."[112] Despite some hurdles, Uber has continued to expand rapidly throughout the Chicago market, planning to hire 10,000 more drivers.[113] In the words of Uber's Chief Advisor Plouffe,

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104 Allen Penn, *Proposed Chicago Regulations to Shut Down Uber Black- We Need Your Help!*, UBER: NEWSROOM (Nov. 1, 2012), http://blog.uber.com/2012/11/01/uberchilove/.
105 *Id.*
106 Jim Dallke, *Regulation on Uber and Lyft Get Ironed Out as Illinois Lawmakers Approve Ridesharing Bill*, CHI. INNO (Dec. 4, 2014, 1:24 PM), http://chicagoinno.streetwise.co/2014/12/04/uber-lyft-see-ridesharing-regulations-with-illinois-bill/.
107 *Id.*
108 Patrick Yeagle, *Uber Ridesharing Service Headed to Springfield?*, ILL. TIMES (Dec. 8, 2014, 12:12 AM), http://illinoistimes.com/article-14807-uber-seeks-drivers-in-springfield.html.
109 Mike Isaac, *Chicago and New York Officials Look to Build Uber-Like Apps for Taxis*, N.Y. TIMES: BITS BLOG (Dec. 11, 2014, 6:14 PM), http://bits.blogs.nytimes.com/2014/12/11/chicago-and-new-york-officials-look-to-build-uber-like-apps-for-taxis/.
110 *Id.*
111 *Id.*
112 Jim Dallke, *Uber Gives Numbers on the Fast Growth of UberX After 2 Years in Chicago*, CHI. INNO (July 22, 2015, 8:06 AM), http://chicagoinno.streetwise.co/2015/07/22/uber-gives-numbers-on-the-fast-growth-of-uberx-after-2-years-in-chicago/.
113 *Id.*

"The Windy City is a wonderful example of what can happen when ridesharing is able to grow and thrive."[114]

2. Washington D.C.

On December 15, 2011, Uber announced that it would be rolling into Washington D.C., making the District its sixth launch.[115] The service was an instant hit with city residents, but the city's taxi commissioner and other officials began impounding cars and ticketing drivers one month later.[116] Amidst the negative backlash and publicity, Uber never stopped operating—the kind of resistance that the company has shown in virtually every market.[117]

When Uber introduced its low-cost UberX in July 2012, D.C. city officials responded by making it nearly impossible for UberX to be a viable option.[118] The D.C. City Council informed Uber, just days before the company's launch of UberX, of its intention "to pass an amendment to the taxi modernization bill that would make it illegal for Uber to lower its prices or to offer a low cost service in any form."[119] The transportation bill introduced by councilwoman Mary Cheh, literally called "Uber Amendments," would effectively require Uber to set their minimum fare, even for short trips, at "no less than 5 times a taxi's minimum fare."[120] As it had done in Chicago, Uber vehemently fought back. The company reached out to users asking for support, sending tens of thousands of emails and tweets with the hash tag #UberDCLove.[121] Ultimately, Cheh reversed the amendment and "sponsored a nearly inverse piece of legislation that establishes a legal framework for 'digital dispatch' in the district."[122]

On October 28, 2014, amid hundreds of protesting taxi drivers, the Washington D.C. City Council voted to approve "the Vehicle for Hire Innovation Amendment Act of 2014," which allows "app-based car

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114 *Id.*

115 Travis Kalanick, *Uber and DC: Opposites Attract*, UBER: NEWSROOM (Dec. 15, 2011), http://blog.uber.com/2011/12/15/uber-and-dc-opposites-attract/.

116 Christine Lagorio-Chafkin, *Resistance is Futile: Uber Loves a Good Fight*, INC. MAG. (July/Aug. 2013), http://www.inc.com/magazine/201307/christine-lagorio/uber-the-car-service-explosive-growth.html.

117 *Id.*

118 Travis Kalanick, *Strike Down the Minimum Fare Language in the D.C. Uber Amendment*, UBER: NEWSROOM (July 9, 2012), http://blog.uber.com/2012/07/09/strike-down-the-minimum-fare/.

119 *Id.*

120 *Id.*

121 Lagorio-Chafkin, *supra* note 116.

122 *Id.*

services [like Uber] to continue operating permanently in the District."[123] In sum, "the amendment establishes a legal framework to regulate the app-based companies," including "requirements that drivers be at least 21, pass a criminal background check, hold liability insurance, and have their cars undergo safety checks."[124] Uber applauded the District's "smart, more modern regulation," which is the kind that Uber seeks in every market it enters.[125] Uber executive Plouffe commented that the new legislation in D.C. was a model for other cities.[126]

While it seems like Uber has won, the D.C. taxi industry is not waving a white flag just yet. In December 2014, the D.C. Taxicab Commission announced "that it would begin beta testing the 'Universal D.C. TaxiApp' in March [of 2015]."[127] Through the app, "[r]iders will be able to hail one of the city's 7,000 licensed taxis if they're in the area, but private services like Uber and Lyft will still be allowed."[128] D.C. will be the first city to launch its own app of this kind, but major cities like Chicago and New York are also working on similar apps.[129] On the heels of the upcoming presidential election in 2016, the "on-demand economy" companies have fueled debates among the candidates for both the Republican and Democratic parties.[130] With Uber at the forefront, the impact of the ride-sharing economy has reached precedential heights.

3. Denver, Colorado

On September 7, 2012, Uber announced it would be launching its services in Denver, Colorado.[131] After just six months in the city, Uber had

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123 Tom Sherwood, *D.C. Council Votes to Keep App-Based Car Services in the District*, NBC WASHINGTON (Oct. 28, 2014, 7:25 PM), http://www.nbcwashington.com/news/local/DC-Taxis-to-Protest-Councils-Planned-Uber-Vote-280640202.html.

124 *Id.*

125 Paul Nussbaum, *Uber Exec Calls D.C.'s New Ride-Share Regulations a Model*, GOVERNING THE STATES AND LOCALITIES (Oct. 30, 2014), http://www.governing.com/topics/urban/gov-uber-plouffe-washington-regulations.html.

126 *Id.*

127 Colin Lecher, *Washington DC is Making a Taxi App to Take on Uber*, THE VERGE (Dec. 13, 2014, 3:40 PM), http://www.theverge.com/2014/12/13/7387727/washington-dc-taxi-app-uber.

128 *Id.*

129 Lori Aratani, *D.C. Taxi Drivers Get Their Own App*, WASH. POST BLOG (Dec. 12, 2014), http://www.washingtonpost.com/blogs/dr-gridlock/wp/2014/12/12/d-c-taxi-drivers-get-their-own-app/.

130 David McCabe & Tim Devaney, *Hillary Clinton's Uber Problem*, THE HILL (July 24, 2015, 6:01 AM), http://thehill.com/business-a-lobbying/248999-hillary-clintons-uber-problem.

131 Will McCollum, *Denver Launch: Sky High in the Mile High City*, UBER: NEWSROOM (Sept. 7, 2012), http://blog.uber.com/2012/09/07/denver-launch-sky-high-in-the-mile-high-city/.

attracted tens of thousands of registered users.[132] However, after numerous complaints from the city's taxi and limo drivers, the Colorado Public Utilities Commission "proposed new or amended rules that would effectively drive Uber out of the state."[133] These rules were never approved; and instead, in June 2014, Colorado became the first state to enact legislation that authorized the use of mobile ride-sharing apps.[134] Colorado's "Transportation Network Company Act" places specific insurance and safety requirements on companies like Uber and Lyft.[135] Uber spokeswoman Eva Behrend praised the Colorado legislators' decision: "Colorado is on the cutting-edge of innovation and technology. Their leaders understand that laws should not stand in the way of consumer choice, innovation and the natural evolution of the way people travel . . . ."[136]

Colorado's landmark legislation has brought with it progressive improvements for ride-sharing companies, including Denver International Airport's decision to allow Uber and Lyft to operate at its main terminal.[137] Although the taxicab industry is still trying to fight ride-sharing in Denver, most have accepted and even embraced it. For instance, after an incident where a Denver police officer mistakenly told an Uber driver from Seattle that he was giving illegal rides, the Denver Police Department responded by establishing a new training program for its officers.[138] The training was established as a means to ensure that all officers were aware of current ride-sharing legislation regulating these now legal means of transportation.[139] As of June 2015, Uber sought to recruit 1,000 more drivers for the Denver metropolitan area to meet the high demand for its

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132 Andy Vuong, *Uber Regulatory Circus Drives into Denver*, THE DENV. POST (Feb. 18, 2013, 2:23 PM), http://www.denverpost.com/business/ci_22617550/uber-regulatory-circus-drives-into-denver (last updated April 30, 2016, 2:41 AM).

133 *Id.*

134 Patrick Hoge, *Uber, Lyft Praise Colorado's New Ride-Share-App Rules*, DENV. BUS. J. (June 6, 2014, 7:23 AM), http://www.bizjournals.com/denver/news/2014/06/wride-share-app-rules.html?page=all (last updated June 6, 2014, 7:30 AM).

135 *Id.*

136 *Id.*

137 Jesse Paul, *UberX Joins Lyft in Offering Ride-Share Service to Denver Airport*, THE DENV. POST (Dec. 1, 2014, 3:35 AM), http://www.denverpost.com/2014/12/01/uberx-joins-lyft-in-offering-ride-share-service-to-denver-airport/ (last updated June 28, 2016, 3:00 PM).

138 Taylor Soper, *Denver Police will train officers on Uber law following 'inappropriate' incident with Seattle driver*, GEEKWIRE (Sept. 16, 2014), http://www.geekwire.com/2014/denver-pd-uber-ride-sharing/.

139 *Id.*

services.[140] In a statement, Colorado Governor John Hickenlooper praised Uber's willingness to hire drivers and create new and additional earning opportunities for Colorado's residents.[141]

IV. UBER'S CHALLENGES AND CONTROVERSIES

A. Highly-Regulated Taxi Industries: Uber's Launch in Miami, Florida

After a slew of emails, tweets, and phone calls from thousands of South Florida residents demanding better transportation options, Uber finally launched its UberX service in Miami on June 4, 2014.[142] Following months of lobbying in Tallahassee to change taxi laws in South Florida, Uber decided to ignore the regulations and enter the lucrative market. Miami-Dade County's taxi laws effectively ban ride-sharing companies from operating legally, as vehicles-for-hire are subject to burdening restrictions.[143] For example, a passenger is required to request a vehicle an hour before the pick-up time.[144] Further, Miami-Dade's stringent regulation "requires limos and black cars to charge a minimum fare that is more than three times the hourly rate of taxi cabs, a price currently set at $80 . . . with the required two-hour minimum, or $70 for a one-stop ride."[145] Miami-Dade is not alone in treating the companies as unlicensed taxi services—Austin, Las Vegas, New Orleans, and Portland are just some of the other cities trying to keep out the ride-sharing companies.[146]

In Miami and many other large cities, taxicab drivers are required to carry "medallions"—"the prohibitively expensive for-hire licenses" needed to legally operate a cab in the city.[147] "Miami-Dade has a fixed

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140 Greg Avery, *Uber Expanding in Colorado, Looks for Thousands More Drivers*, DENV. BUS. J. (June 11, 2015), http://www.bizjournals.com/denver/blog/boosters_bits/2015/06/uber-expanding-in-colorado-looks-for-thousands.html.

141 *Id.*

142 Natalia Montalvo, *¡Hola Miami!*, UBER: NEWSROOM (June 4, 2014), http://blog.uber.com/miamilaunch.

143 Donna Tam, *Miami Officials Propose Law Changes to Allow Uber Service,* C NET (June 13, 2013, 11:47 AM), http://www.cnet.com/news/miami-officials-propose-law-changes-to-allow-uber-service/.

144 *Id.*

145 *Id.*

146 Patricia Mazzei, *Miami-Dade Looks to Other Cities in Struggle to Deal with Lyft, Uber*, MIAMI HERALD (June 21, 2014, 6:16 PM), http://www.miamiherald.com/2014/06/21/4191799/miami-dade-looks-to-other-cities.html.

147 Raymond Francois, *Taxi Drivers are Lyft and Uber Drivers, Too*, MIAMI HERALD (July 21, 2014, 11:31 AM), http://www.miamiherald.com/2014/07/21/4246926/taxi-drivers-are-lyft-and-uber.html.

number of taxi medallions—2,121—each worth more than $300,000."[148] Similarly, in cities like New York, Boston, and Chicago, the price of medallions has at times surpassed $1 million, $700,000, and $350,000, respectively.[149] The majority of cab drivers cannot afford to own one of these pricey permits; these drivers have to pay anywhere from $550 to $750 per week to taxi companies that own or administer the medallions just to be able to lease these licenses and operate legally.[150] In addition, drivers can get removed from the taxi company's insurance for any small accident unless the drivers "pay the company $2,000 and fix the car [themselves], as the cab company's insurance only covers the passengers," not the drivers or their cars.[151]

The exploitative conditions of Miami's taxi industry have caused many cab drivers to switch over to Uber and Lyft. In a *Miami Herald* op-ed written by Miami taxicab driver Raymond Francois, he describes the unfair practices and conditions faced by most cab drivers in South Florida.[152] Francois states that the job of a taxi driver is among the top ten lowest-paying and most dangerous jobs in the U.S.[153] Many members of the New Vision Taxi Drivers Association in Miami, including Francois, support legalizing Uber and Lyft and have turned to the companies in desperation, as most of them make poverty-level wages.[154] "When we work with taxi companies, we pay them 80 percent of what we make; when we drive for Uber or Lyft, we keep 80 percent of what we make."[155]

Although Uber has immense financial backing and the support of its loyal users, the city's established taxicab companies and their owners, " . . . with their decades-long foothold in the community, have a stronger grip on local politics."[156] Miami-Dade has issued $2,000 in fines to Uber and Lyft drivers and even impounded vehicles in some cases; however, Uber and Lyft took care of the penalties and continued operating in the city.[157]Amidst the taxi companies' resistance and after months of operating illegally in Miami, "the Miami-Dade County Commission gave initial approval [on July 15, 2014,] to a proposal legalizing the ride-sharing

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148 Mazzei, *supra* note 146.

149 Emily Badger, *Investors Who Can't Bet on Uber are Betting Instead on the Death of Taxi Medallions*, WASH. POST BLOG (Dec. 19, 2014), http://www.washingtonpost.com/blogs/wonkblog/wp/2014/12/19/investors-who-cant-bet-on-uber-are-betting-instead-on-the-death-of-taxi-medallions/.

150 Francois, *supra* note 147.

151 *Id.*

152 *See id.*

153 *Id.*

154 *Id.*

155 *Id.*

156 Mazzei, *supra* note 146.

157 *Id.*

companies'" services in the city.[158] The legislation would allow ride-sharing companies to operate in Miami under a new section of the county's regulations.[159] However, as of April 2015, County commissioners "declined to endorse a legislative package that would give Uber, Lyft and other app-based car services permission to run competing services against Miami-Dade's taxi companies."[160]

In early January 2016, through the use of its popular app-based political advocacy efforts, Uber pounced on Miami-Dade commissioners who had proposed legislation that would make it "impossible" for Uber to continue to operate in the city.[161] And, as has been the case in many other cities, Uber's efforts prevailed, as the Miami-Dade County Commission withdrew proposed rules that Uber stated would drive it out of the city if passed.[162] In a surprising move, the commissioners responded to the withdrawn legislation by giving "preliminary approval to rival legislation that Uber supports and the taxi industry opposes."[163] The commissioners' preliminary vote moved Uber's heated debate in Miami involving entrenched interests and the regulated industries they influence one step closer to a legally operating Uber in Miami.[164]

Despite the unclear legal situation in Miami, Uber continued to vehemently defy authority and continued to operate throughout Florida, showing the company's resilience in the face of adversity. In July 2015, Uber revealed its plans to maintain its presence in South Florida, announcing the opening of its Miami headquarters in the popular metropolitan Brickell area.[165] With the support of Miami-Dade Mayor Carlos Gimenez, it appears that Uber is here to stay: "I can't believe that

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158 Patricia Mazzei, *Commissioners Give Initial OK to Legalizing Lyft, UberX in Miami-Dade*, MIAMI HERALD (July 15, 2014, 11:24 AM), http://www.miamiherald.com/news/local/community/miami-dade/article1975603.html.

159 *Id.*

160 Douglas Hanks, *Uber Fails to Win First Round in Push for New Miami-Dade Rules,* MIAMI HERALD (Apr. 21, 2015, 6:36 PM), http://www.miamiherald.com/news/local/community/miami-dade/article19177665.html.

161 Douglas Hanks, *In Email Blitz, Uber Threatens to Pull Out of Miami-Dade*, MIAMI HERALD (Jan. 14, 2016, 2:26 PM), http://www.miamiherald.com/news/local/community/miami-dade/article54698295.html.

162 Douglas Hanks, *Pro-Uber Bill Wins Early Vote in Miami-Dade After Foe Stands Down* MIAMI HERALD (Jan. 20, 2016, 11:44 AM), http://www.miamiherald.com/news/local/community/miami-dade/article55610460.html.

163 *Id.*

164 *See id.*

165 *See* Brian Bandell, *Uber Leases Office On Brickell For Miami Headquarters*, S. FLA. BUS. J. (July 20, 2015), http://www.bizjournals.com/southflorida/news/2015/07/20/uber-leases-office-on-brickell-for-miami.html.

we claim to be a 21st Century city and it is not legal here. If it were legal here, I would probably be using it here. It is the future and it is here."[166]

Finally, on May 3, 2016, Uber's efforts to keep Uber in Miami paid off – after nine hours of debates and commentary, Miami-Dade commissioners passed ordinances that legalized the Uber business model on a 9-2 vote.[167] Apart from legalizing the business model of ride-sharing companies, the County Commissioners also voted to adopt "legislation that . . . dismantles some of the county's regulation of taxis and shifts screening of for-hire drivers from local regulators to the companies themselves . . . ."[168] For example, no longer will taxis be required to undergo county customer-service training and subject themselves to government automobile inspections; however, taxi companies "will be required to offer the same kind of app-based hailing software" that Uber and Lyft offer.[169] Just one day later, however, over 2,100 taxi medallion owners in Miami-Dade filed a class action lawsuit in the Eleventh Judicial Circuit Court in and for Miami-Dade County, alleging the following four counts against the County: Count I – Violation of Right to Equal Protection; Count II – Declaratory Judgment; Count III – Injunctive Relief; and Count IV – Inverse Condemnation.[170] The $1 billion class-action lawsuit was filed by Coral Gables attorney Ralph Patino, who, albeit acknowledging sub-par service from many taxis in the City, demands equal protections for taxi drivers under the new law, opining that the County "is unfairly giving an advantage to deep-pocketed and tech-heavy newcomers."[171]

Despite the victory in Miami, Uber's battles in Florida continue. After a statewide campaign pushing for uniform legislation for ride-sharing companies throughout the state of Florida, the Florida Senate decided at the end of its legislative session in March 2016 to go another year without

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166 Brian Bandell, *Six Questions with Miami-Dade Mayor Gimenez: Beckham Stadium, Uber and More*, S. FLA. BUS. J. (July 14, 2014, 7:35 AM), http://www.bizjournals.com/southflorida/blog/morning-edition/2015/07/six-questions-with-miami-dade-mayor-gimenez.html.

167 Douglas Hanks, *Uber and Lyft Are Now Legal in Miami-Dade, and Taxi Owners Vow to Fight Back*, MIAMI HERALD (May 3, 2016, 7:38 PM), http://www.miamiherald.com/news/local/community/miami-dade/article75436467.html.

168 *Id.*

169 *Id.*

170 *See* Amended Class Action Complaint and Demand for Jury Trial, *Miadeco Corp. v. Miami-Dade Cty.*, No. 16-4244 (Fla. 11th Cir. Ct. May 4, 2016), https://cbsmiami.files.wordpress.com/2016/05/amended-complaint.pdf.

171 Douglas Hanks, *Taxis Suing Miami-Dade for $1 billion over New Uber Law*, MIAMI HERALD (May 4, 2016, 12:41 PM), http://www.miamiherald.com/news/local/community/miami-dade/article75555187.html.

passing important ride-sharing legislation.[172] Instead, counties and cities are still burdened with the task of setting rules for these companies.[173] This has led to additional confusion regarding these inconsistent laws and hindering the establishment of uniform, statewide insurance and safety requirements for at least another year.[174] Until the Florida Senate overcomes the influential grip that entrenched special interests have over its decisions can it truly act for the public welfare and safety of its citizens, who will unfortunately be left without clarity as to ride-sharing regulations until the next legislative session.

B. Insurance Coverage

Since the first day ride-sharing companies burst their way through the transportation market, long-standing taxi companies and city officials have questioned the companies' insurance coverage for drivers and passengers. Uber clarified this ride-sharing insurance ambiguity in a blog post on March 14, 2014.[175] From the time a driver accepts a trip request on the Uber app until the completion of the ride, Uber's partners have $1 million of coverage for driver liability, covering drivers from trip acceptance to passenger drop-off.[176] In addition, if a driver's personal insurance policy is found not to cover an accident in between trips, Uber's new policy provides contingent coverage for a driver's liability at the highest requirement of any state in the U.S., providing coverage "for bodily injury up to $50,000/individual/incident with a total of $100,000/accident and up to $25,000 for property damage."[177]

Generally, taxi companies have a "cap" on their insurance policies.[178] "For example, in Chicago, taxicabs have a maximum of $350,000 per-incident insurance policy"—meaning, even if a victim is critically injured, that amount is the maximum he or she could recover.[179] "Uber, [on the other hand,] has implemented a $1 million uninsured-motorist policy that provides passengers with added protection in the event of an accident,"

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172 *See* Charles Elmore, *Uber, Lyft Florida Bill Dies*, PALMBEACHPOST: PROTECTING YOUR POCKET (Mar. 11, 2016), http://protectingyourpocket.blog.palmbeachpost.com/2016/03/07/uber-uncorks-app-against-fla-senate-president-for-selling-us-out/.
173 *See id.*
174 *Id.*
175 *See* Nairi Hourdajian, *Insurance for Ridesharing with Uber*, UBER: NEWSROOM (Mar. 14, 2014), http://blog.uber.com/uberXridesharinginsurance.
176 *Id.*
177 *Id.*
178 Richard Levin, Esq., *Uber Has Uninsured-Motorist Coverage, Do You? Umbrella Insurance Policies Protect Passengers and Drivers*, 1 (June 13, 2014), 2014 WL 2653538 (WJINSC).
179 *Id.* at 1.

offering much more liability coverage than traditional taxis.[180] In Uber's prior arrangement, drivers were not covered for accidents occurring in between trips—this period is commonly referred to as the "insurance gap."[181] This coverage gap in Uber's policy was discovered in 2014 on New Year's Eve in San Francisco, when an Uber driver struck and killed a six-year-old girl. The driver had not accepted a request for a ride, so the accident was not covered under Uber's policy.[182] Since then, Uber addressed this issue by implementing the additional insurance described above in its March 2014 update.[183]

Although Uber and other ride-sharing companies have made major improvements to their insurance policies, drivers are still confused as to whether they have to report claims to their personal insurance before Uber will pay. This uncertainty leads many drivers to commit insurance fraud by lying to their insurance companies about claims and their current work status.[184] The fact is that most personal insurers are "unwilling to cover commercial activity," and full commercial insurance "can cost up to 10 times as much as personal insurance."[185] This "don't-ask-don't-tell strategy" employed by many Uber drivers generally works until they become involved in an accident on the job.[186] For example, it has been reported that GEICO "tells agents to reject car-service app drivers and refer them to GEICO's fraud unit."[187] State Farm, although not banning app-related claims outright, has stated that it is not comfortable insuring people who use their cars primarily for ride-sharing work.[188]

Some of these coverage problems were resolved in Spring 2015, when the first "hybrid insurance policies" became widely available.[189] Drivers with hybrid policies should no longer be forced to commit fraud on their personal insurance, as the policies will be expressly aimed toward ride-sharing drivers.[190] As of August 2015, insurance companies such as Allstate, Farmers, USAA, MetLife, and even GEICO are now offering coverage for ride-for-hire drivers in the form of new policies or

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180 *Id.*
181 *See id.* at 2.
182 *Id.*
183 *See* Hourdajian, *supra* notes 175-76.
184 Ellen Huet, *Rideshare Drivers Still Cornered into Insurance Secrecy*, FORBES: TECH (Dec. 18, 2014, 2:45 PM), http://www.forbes.com/sites/ellenhuet/2014/12/18/uber-lyft-driver-insurance/ [hereinafter Huet, *Insurance*].
185 *Id.*
186 *Id.*
187 *Id.*
188 *Id.*
189 *Id.*
190 *See* Huet, *Insurance*, *supra* note 184.

endorsements.[191] In addition, California and Colorado have enacted new laws that will make insurance provided by ride-sharing companies the primary insurance affording coverage at all times while the app is turned on. – i.e., "insurance that steps in first when one or more policy could apply."[192] But neither the hybrid policies, nor the new laws require that the ride-sharing apps' collision insurance be primary—leaving collision coverage very "spotty."[193]

C. *Safety Concerns and Liability*

1. Uber's Safety Policies

On its website, Uber has an entire section dedicated to its safety policies—promising the safest rides on the road.[194] Uber promises that from the moment riders request a ride until they arrive at their destinations, the Uber experience is the safest available for riders, drivers, and the residents of the cities in which Uber operates.[195] With regard to rider safety, all Uber drivers must go through a rigorous background check—a three-step screening process, which includes county, federal and multi-state checks.[196] In addition, Uber's screening process includes prospective and regular checks of drivers' motor vehicle records.[197] In order for drivers to pass Uber's screening process, they cannot have committed any of the following offenses within the past seven years: DUI or other drug related or severe driving infractions, hit and runs, fatal accidents, history of reckless driving, violent crimes, sexual offenses, gun related violations, resisting/evading arrest, and driving without insurance or driving with a suspended license in the past three years.[198]

As Uber struggles to address numerous complaints in dozens of cities, one of the company's biggest problems remains to be its screening process for drivers. In San Francisco, an Uber driver was arrested for allegedly striking a passenger on the head with a hammer during a dispute over the route he was taking.[199] Similarly, in Orlando, an Uber driver was arrested,

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191 Mark Vallet, *Which Insurers Offer Ridesharing Policies?*, INSURANCE.COM (Aug. 19, 2015), http://www.insurance.com/auto-insurance/coverage/insurance-rideshare-uber-lyft.html.

192 Huet, *Insurance*, *supra* note 184.

193 *Id.*

194 UBER, https://www.uber.com/safety (last visited Mar. 11, 2016).

195 *Id.*

196 Joe Sullivan, *Details on Safety*, UBER: NEWSROOM (July 15, 2015), https://newsroom.uber.com/details-on-safety.

197 *Id.*

198 *Id.*

199 Sam Frizell, *Uber Driver Arrested in San Francisco for Hammer Attack*, TIME: U.S. (Sept. 27, 2014), http://time.com/3436848/uber-hammer-attack/.

and faced a possible battery charge, after a woman passenger said the driver placed his hand inside her shirt during the ride.[200] After the death of a six-year-old girl on New Year's Eve, Uber promised to improve its screening process for drivers by, among other things, "cross-referencing criminal databases and the national sex offender registry," and monitoring motor vehicle records more frequently.[201] However, Uber's efforts have not been adequate enough for some city officials like the Los Angeles and San Francisco District Attorneys, who filed a joint lawsuit against Uber on December 9, 2014.[202] The lawsuit accused Uber of making false and misleading statements to passengers regarding the quality of background checks it performed on drivers, seeking a permanent injunction requiring Uber to stop violating California law.[203]

Also in December 2014, Uber received additional negative publicity when an Uber driver allegedly raped a woman in India; subsequently, Uber executives promised changes.[204] Phillip Cardenas, Uber's Head of Global Safety, issued a statement addressing Uber's "commitment to safety."[205] Specifically, Uber promised that the company would build new safety programs and improve its existing ones throughout 2015.[206] The items in Uber's plan include: custom tools for enhanced driver screening, Uber Safety Advisory Board, a code of conduct for drivers, safety Incident Response Teams around the world to provide 24/7 support in the event of a safety incident, and advisory and training partnerships.[207]

2. Uber's Liability for its Drivers: Independent Contractors or Employees?

Uber's liability (or lack thereof) for its drivers' acts and conduct has been one of the most controversial topics of the ride-sharing debate. Uber

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200 *Police: Florida Uber Driver Arrested After Groping Woman*, MIAMI.CBSLOCAL.COM (Sept. 26, 2014), http://miami.cbslocal.com/2014/09/26/police-florida-uber-driver-arrested-after-groping-woman/.

201 Joshua Brustein, *How Uber Can Benefit From Regulation*, BUS.WK. (Dec. 18, 2014), http://www.businessweek.com/articles/2014-12-18/for-uber-following-driver-screening-rules-may-make-sense.

202 *Id.*

203 Press Release, Shiara Davila-Morales, S.F and L.A. County DAs Announce Settlement With Lyft, Filing Against Uber, L.A. Dist. Attorney's Office (Dec. 9, 2014), http://fortunedotcom.files.wordpress.com/2014/12/120914_san_francisco_and_los_angeles_county_das_announce-settlement_with_lyft_filing_against_uber.pdf.

204 BBC News India, *India Uber taxi driver accused of Delhi rape*, BBC (Dec. 7, 2014), http://www.bbc.com/news/world-asia-india-30368479.

205 Phillip Cardenas, *An Update from the Uber Safety Team*, UBER: NEWSROOM (Mar. 25, 2015), https://newsroom.uber.com/an-update-from-the-uber-safety-team/.

206 *Id.*

207 *Id.*

stresses that it "is not a transportation carrier" and it "does not provide transportation services."[208] Instead, Uber has stated time and time again that the drivers who sign up with Uber are independent contractors, and therefore the "*true* transportation companies."[209] With regard to this subject, Uber spokesman Taylor Bennett commented: "They're independent contractors . . . .We don't hire drivers. We're a technology company. We provide the app that they use, that connects passengers with drivers. They have the flexibility of being their own boss."[210] Because ride-sharing companies do not "own" the vehicles, traditional liability arguments typically directed toward an agency-like relationship may not apply.[211] Uber's terms of service "make it clear over and over again that they are not liable under any circumstances for bad things that might happen when you use the service."[212]

By classifying itself as a software company connecting drivers to riders, Uber avoids having to pay its drivers minimum wage and overtime, health care benefits, payroll taxes, or workers' compensation insurance.[213] This type of classification, however, is not uncommon; for example, FedEx had "for years fought vigorously to defend its independent contractor method of operation" until the Ninth Circuit Court ruled, in a key decision, "that FedEx misclassified its drivers as independent contractors."[214]

The primary criteria the Internal Revenue Service (IRS) uses to determine employee status is who "controls" the worker.[215] According to the IRS, "anyone who performs services for you is your *employee* if you

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208 Browning, *supra* note 31, at 84.
209 *Id.*
210 Dick Hogan, *Uber Ride Service Would Bring Controversy*, NEWS-PRESS.COM (Sept. 10, 2014), http://www.news-press.com/story/money/2014/09/10/uber-ride-service-bring-controversy/15421511/.
211 Browning, *supra* note 31, at 85.
212 Ellen Huet, *Uber Rider Might Lose An Eye From Driver's Hammer Attack. Could Uber Be Held Liable?*, FORBES: TECH (Sept. 30, 2014), http://www.forbes.com/sites/ellenhuet/2014/09/30/uber-driver-hammer-attack-liability/ [hereinafter Huet, *Liability*]. "YOU EXPRESSLY WAIVE AND RELEASE THE COMPANY FROM ANY AND ALL ANY LIABILITY, CLAIMS OR DAMAGES ARISING FROM OR IN ANY WAY RELATED TO THE THIRD PARTY TRANSPORTATION PROVIDER."
213 Celia Ampel, *Uber Appeal Focuses on Question: Are Drivers Contractors or Not?*, DAILY BUS. REV. (May 29, 2015) at LEXIS.
214 Robert W. Wood, *Florida Says Uber Drivers are Employees, But FedEx, Other Cases, Promise Long Battle*, FORBES: TAXES (May 26, 2015, 8:52 AM), http://www.forbes.com/sites/robertwood/2015/05/26/florida-says-uber-drivers-are-employees-but-fedex-other-cases-promise-long-battle/.
215 *Id.*

can control what will be done and how it will be done."[216] In contrast, "an individual is an *independent contractor* if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done."[217] Accordingly, the factors that provide evidence of the degree of control and independence for the IRS's classification generally fall into three categories – behavioral, financial, and the type of relationship – all which must be weighed by employers determining employment status.[218] Misclassifying someone as an independent contractor when they should have been classified as an employee could result in the IRS imposing severe penalties and back taxes.[219]

To illustrate the significance of this classification for Uber, take Darrin McGillis, a former Uber driver in Florida, who filed for unemployment after he was involved in a car accident and subsequently discharged by Uber.[220] The Florida Department of Economic Opportunity agreed with McGillis' argument that he was a former employee, and not an independent contractor, of Uber, thereby qualifying for unemployment benefits.[221] This type of decision, which is being mirrored in similar lawsuits throughout the country, could drastically affect Uber's business model and cost the company millions.[222] The existence of sharing economy companies as digital platforms creates wrinkles in the law regarding their liability when things go wrong. Until there is a court opinion directly on the subject, the area of liability for companies like Uber remains uncertain.

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216 IRS, *Employee (Common-Law Employee)*, IRS.GOV, http://www.irs.gov/Businesses /Small-Businesses-&-Self-Employed/Employee-Common-Law-Employee (last updated July 7, 2016) (emphasis added).

217 IRS, *Independent Contractor Defined*, IRS.GOV, http://www.irs.gov/Businesses/ Small-Businesses-&-Self-Employed/Independent-Contractor-Defined (last updated July 7, 2016) (emphasis added).

218 IRS, *Independent Contractor (Self-Employed) or Employee?*, IRS.GOV, http://www. irs.gov/Businesses/Small-Businesses-&-Self-Employed/Independent-Contractor-Self-Employed-or-Employee (last updated July 7, 2016).

219 Rhonda Abrams, *Strategies: Contractor or Employee?*, USA TODAY (July 31, 2015, 7:30 AM), http://www.usatoday.com/story/money/columnist/abrams/2015/07/30/strateg ies-contractor-employee/30855747/.

220 Ampel, *supra* note 213.

221 *Id.*

222 Justin Fox, *Uber and the Not-Quite-Independent Contractor*, BLOOMBERG: BLOOMBERG VIEW (June 23, 2015, 11:59 AM), http://www.bloombergview.com/articles/ 2015-06-23/uber-drivers-are-neither-employees-nor-contractors.

V. POTENTIAL SOLUTIONS FOR UBER AND ITS ADVERSARIES TO COEXIST

A. New or Modified Laws

As existing laws cause problems for ride-sharing companies who continue operating in most cities, there comes a point where either existing laws must be modified to include these new kinds of services, or new laws must be created. In current highly regulated cities like Miami, the truth is that "innovation and regulation don't mix."[223] That is so because regulated industries, which discourage and even prohibit competition, operate outside market-based schemes.[224] Because innovative companies like Uber act as a competitor, "they are directly or indirectly banned."[225] Simply put, there is no place for Uber as the law currently stands in heavily regulated cities like Miami. To coexist with taxis, what Uber and other ride-sharing companies need is new or modified legislation and regulation.

When President Lyndon Johnson created the Department of Transportation in 1966, "he said that one of the agency's goals would be to 'bring new technology to every mode of transportation.'"[226] Nearly fifty years later, Uber and its rival competitors are making that goal a reality.[227] Innovative technology in the transportation industry gives people choices in how they want to get around and whether they want to utilize the empty space in their cars, the effects of which open "a channel for billions of dollars in capital to spur economic growth and create new jobs."[228] By allowing highly regulated industries with entrenched interests to "win," everyone else essentially loses out on choice—i.e., utilizing idle space in your car, deciding not to own a car in an urban setting, or choosing the manner in which you move safely from place to place.

By following the models of cities like Chicago, Denver, and Washington D.C., officials in highly regulated cities can create legislation that address the unique services that these ride-sharing companies offer. Instead of treating these companies as "unlicensed taxi services," as Miami-Dade County has done for over one year, the County should follow the states that have reached a compromise to allow these companies to

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223 Larry Downes, *Lessons from Uber: Why Innovation and Regulation Don't Mix*, FORBES: TECH (Feb. 6, 2013, 5:00 AM), http://www.forbes.com/sites/larrydownes/2013/02/06/lessons-from-uber-why-innovation-and-regulation-dont-mix/.

224 *Id.*

225 *Id.*

226 James C. Courtovich, *What Uber and School Choice Have in Common*, WALL ST. J. (Sept. 28, 2014), http://online.wsj.com/articles/james-courtovich-what-uber-and-school-choice-have-in-common-1411945071.

227 *Id.*

228 *Id.*

legally operate. In fact, Uber's own David Plouffe has publicly stated that the company welcomes new regulations and wants to work alongside lawmakers to establish "new 'smart and modern' laws that match what companies like Uber and Lyft offer."[229] According to Plouffe, "Uber should be regulated . . . .But with regulations that account for the fact that this is different than hailing a taxi on a street, or calling a taxi on a landline 30 years ago."[230]

The strong demand for alternatives in the transportation industry is evident from the millions of users Uber has attracted in just five years of existence. Currently, fourteen cities across the U.S. have established new regulations specifically tailored for the unique services being offered by ride-sharing companies. [231] And, as Uber continues to establish a permanent place for itself in the transportation industry, other cities will likely be following suit.

B. Improved Safety Policies

Along with Uber's successes came many controversies, especially in 2014. After several sexual assault allegations and incidents involving its drivers, many city officials questioned Uber's screening policies for its drivers. Notably, Uber and its competitors "generally do not require their drivers to submit to the kinds of background checks that local and state regulators require for taxi operators."[232] In response to the criticisms surrounding its screening policies after the string of controversies in 2014, Uber publicly announced its commitment to change its current safety procedures.[233] Uber claims that its screening procedures, which are engaged through the use of private security companies, are superior to those offered by taxi companies.[234] However, many regulators and law enforcement officials disagree, stating that private screening companies "often use incomplete or outdated databases that are less comprehensive than traditional fingerprint-based checks, which are constantly updated."[235]

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229 Taylor Soper, *Here's why Uber doesn't wait for cities to establish new regulations before launching*, GEEKWIRE.COM (Oct. 30, 2014), http://www.geekwire.com/2014/uber-pouffe/.

230 *Id.*

231 *Id.*

232 The Editorial Board, *Strong Safety Rules for Taxis and Uber*, N.Y. TIMES (Dec. 24, 2014), http://www.nytimes.com/2014/12/25/opinion/strong-safety-rules-for-taxis-and-uber.html?_r=0 [hereinafter *Strong Safety Rules*].

233 *See* Cardenas, *supra* note 205.

234 *Id.*

235 *Id.*

Unlike the government background checks that taxi drivers are subjected to, Uber does not require its drivers to undergo fingerprinting and strongly opposes bills requiring the company to do so in order to legally operate in a city.[236] Fingerprinting databases can serve to alert taxi companies to each new arrest of a driver.[237] In contrast, Uber has to regularly check in with the security firms in order to obtain updated information on its drivers.[238] After various lawsuits were filed against the company, including the most recent class action filed by Uber riders themselves, Uber clearly needs to update and improve its safety policies.[239]

Currently, if an individual wishes to become an Uber driver, he or she simply submits his or her name and identification to the company for a background check.[240] However, those individuals do not have to prove that the identity provided is actually theirs through, for example, fingerprinting.[241] "Someone with a criminal record could, in theory, become an Uber driver using the identity of a sibling or a friend with a clean history."[242] Uber's chief security officer, Joe Sullivan, responded to these public policy concerns in a July 2015 blog post on the company's website.[243] Sullivan defends Uber's background checks, which include a social security trace and a criminal background check on approved drivers in a series of national, state and local databases for addresses and convictions within the last seven years.[244] Upon identifying a criminal record, the private company engaged to provide background checks (i.e., Accurate and/or Checkr) sends a representative to the courthouse to pull the record.[245] Upon reviewing certain criteria, the potential driver will be

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236 Douglas Hanks, *Uber faces fingerprinting fight in Miami-Dade*, THE MIAMI HERALD (Feb. 25, 2016), http://www.miamiherald.com/news/local/community/miami-dade/article 62532202.html.
237 The Editorial Board, *supra* note 232.
238 *Id.*
239 Ellen Huet, *Uber Face Class-Action Lawsuit Over $1 'Safe Rides Fee'*, FORBES (Dec. 27, 2014), http://www.forbes.com/sites/ellenhuet/2014/12/27/uber-class-action-lawsuit-safe-rides-fee/ ("Two Uber riders filed a class-action lawsuit against the car-service app company this week, claiming they should not have had to pay the $1 'Safe Rides Fee' Uber tacks on to each ride because the company's background checks were misleadingly represented as 'industry leading.'" The class-action lawsuit seeks restitution for every $1 Safe Rides Fee charged to every U.S. Uber customer.)
240 *Id.*
241 *Id.*
242 *Id.*
243 Joe Sullivan, *Details on Safety*, UBER: NEWSROOM (July 15, 2015), http://newsroom. uber.com/2015/07/details-on-safety/ (ensuring that several databases were being used to screen Uber-driver applicants. These databases include the National Sex Offender Registry, the National Criminal Search, the Motor Vehicle Registration, and several databases used to flag suspected terrorists.)
244 *Id.*
245 *Id.*

subject to disqualification from using the Uber service.[246] For example, potential UberX drivers may be disqualified from Uber if the driver is found to have had a total of three minor violations or incidents in the past three years, including accidents and normal speeding tickets.[247] Sullivan concludes that although each background check system may have its own flaws, "we believe that the procedures used by Uber . . . stack up well against the alternatives in terms of safety—while not disadvantaging people who may have been arrested but never charged."[248]

C. Address Insurance Discrepancies

With many Uber drivers committing insurance fraud by lying to their personal insurance providers, it is clear that Uber needs to address certain discrepancies in its policies. For starters, Uber does not currently offer collision insurance for the time when a driver has the app on, but has not accepted a request—the insurance gap period.[249] If drivers happen to get into an accident during that period, "their personal insurer could easily deny the claim if they consider it commercial activity, and the driver would be stuck paying for car repairs."[250]

There are proposed solutions with regard to the insurance gap problem. The National Association of Insurance Commissioners (NAIC) released a White Paper in 2015 regarding the issue and possible solutions.[251] The NAIC states that the ideal insurance solution for Transportation Network Companies (TNC) "is for ride-hailing drivers to have coverage on a full time basis available for all ride-hailing activities."[252] Further, in order to achieve the NAIC's coverage solution, "the least complex approaches are that either the driver would purchase commercial coverage or the TNC would provide full coverage for all three TNC activity periods."[253] Other solutions proposed by the NAIC include hybrid policies, modifying outdated laws to accommodate the TNC's, and creating new policy endorsements for existing policyholders.[254] NAIC's recommended solutions, which are currently being implemented and

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246 *Id.*
247 *Id.*
248 *Id.*
249 Huet, *Insurance*, *supra* note 184.
250 *Id.*
251 *Transportation Network Company Insurance Principles for Legislators and Regulators*, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (Mar. 31, 2015), http://www.naic.org/documents/committees_c_sharing_econ_wg_exposure_adopted_tnc_white_paper_150331.pdf.
252 *Id.* at 13-14.
253 *Id.* at 14.
254 *Id.* at 13-15.

utilized in several states, provide a potential "end" to one of ride-sharing's most persistent debates.

VI. CONCLUSION

Sharing economy companies have disrupted (and continue to disrupt) once established and stabilized industries around the world. These companies offer significant fiscal, social, ecological, and entrepreneurial benefits—including increasing jobs and bringing value to underutilized space, skills, and items.[255] Standing in the way of most sharing economy companies' potential for future growth are outdated regulations.[256] Because the sharing economy is such a new concept, many city officials have had difficulty dealing with how to regulate the unique sharing companies. Further, many of the services offered by these companies simply do not fit within existing regulations, but lie somewhere in between. This legal gray area has created many challenges and obstacles for those wishing to enter highly regulated markets.

From the age of railroads to the advent of computers, the maxim that "[the] law will always be outpaced by the speed of technological innovation" has been exemplified throughout history.[257] Alongside technological innovation comes uncertainty in the law. Just as laws have had to change with technological advancements in the past, they will also have to change with the advent of this new, on-demand economy. Instead of fighting an inevitable change, regulators should embrace innovation and find a way to coexist with the many companies of the sharing economy. And consequently, innovation and regulation may be able to work (mix) together after all.

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[255] Sarah Cannon & Lawrence H. Summers, *How Uber and the Sharing Economy Can Win Over Regulators*, HARV. BUS. REV. (Oct. 13, 2014), https://hbr.org/2014/10/how-uber-and-the-sharing-economy-can-win-over-regulators/.

[256] *Id.*

[257] Browning, *supra* note 31, at 84.