

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 274.00: TRANSPORTATION NETWORK COMPANIES

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274.01: Purpose and Scope

(1) Purpose. In furtherance of the public interest, safety, and convenience, 220 CMR 274.00 establishes rules and regulations governing the oversight of Transportation Network Companies, provision of Transportation Network Services within the Commonwealth, and suitability requirements of Transportation Network Drivers.

(2) Scope. 220 CMR 274.00 applies to every Transportation Network Company, Transportation Network Driver, and Transportation Network Vehicle within the Commonwealth.

274.02: Definitions

For the purposes of 220 CMR 274.00, the terms set forth shall be defined as follows, unless context requires otherwise.

Background Check Clearance Certificate or Clearance Certificate. Verification issued by the Transportation Network Company Division to a Transportation Network Driver

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and Transportation Network Company, electronically or otherwise, that a Transportation Network Driver successfully completed the two-part background check pursuant to 220 CMR 274.06 and is suitable to provide Transportation Network Services.

Cruising. The driving of a Transportation Network Vehicle on the streets, alleys or public places of motorized travel in search of or soliciting hails from a person in the street, alleys or public places of motorized travel.

Department. The Department of Public Utilities.

Digital Network. Any online-enabled application, software, website or system offered or utilized by a Transportation Network Company that enables Pre-arranged Rides with Transportation Network Drivers.

Division. The Transportation Network Company Division established by the Department to implement, administer and enforce M.G.L. c. 159A½.

Pre-arranged Ride or Ride. A period of time that begins when a Transportation Network Driver accepts a ride through a Digital Network and the Transportation Network Driver commences his or her route to pick up a Transportation Network Rider, continues while the Transportation Network Driver transports the Transportation Network Rider, and ends when the Transportation Network Rider safely departs from the Transportation Network Vehicle or when a Transportation Network Rider cancels the Ride.

Transportation Network Company or TNC. A corporation, partnership, sole proprietorship or other entity that uses a Digital Network to connect Transportation Network Riders to Transportation Network Drivers to pre-arrange and provide transportation.

Transportation Network Company Permit or Permit. A document issued, electronically or otherwise, by the Division authorizing a TNC to provide Transportation Network Services in the Commonwealth.

Transportation Network Driver or Driver. An individual certified by a TNC to provide Transportation Network Services, or an individual applying to a TNC to provide Transportation Network Services.

Transportation Network Driver Certificate or Driver Certificate. The certification to become a Driver and the authorization to provide Transportation Network Services issued, electronically or otherwise, by a TNC to a Driver.

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Transportation Network Rider or Rider. A passenger in a Pre-arranged Ride provided by a Driver, provided that the passenger personally arranged the Ride or the arrangement was made on the passenger's behalf.

Transportation Network Services or Services. The offer and provision of Pre-arranged Rides for compensation or on a promotional basis to Riders or prospective Riders through a Digital Network, covering the period beginning when a Driver is logged onto a Digital Network and is available to receive a Pre-arranged Ride or while in the course of providing a Pre-arranged Ride and ending when the Ride is completed.

Transportation Network Vehicle or Vehicle. A vehicle that is used by a Driver to provide Services.

### 274.03: Transportation Network Company Permit Process

- (1) TNC Permit General Requirements.
  - (a) A TNC shall maintain a valid Permit in order to provide Services within the Commonwealth.
  - (b) A TNC shall, in a manner that the Division prescribes, apply to the Division for a Permit and apply annually to renew its Permit. The Division shall not grant or renew a Permit unless it is consistent with the public interest for the TNC to render Services within the Commonwealth.
  - (c) To obtain a Permit, a TNC shall submit the following to the Division:
    1. Written verification of an established oversight process pursuant to 220 CMR 274.03(2);
    2. The proposed removable decal or trade dress that the TNC will issue to its Drivers pursuant to 220 CMR 274.08(1);
    3. The proposed document or means by which the TNC will use to obtain a Driver's consent for a background check pursuant to 220 CMR 274.06(1)(b);
    4. Documentation of the multi-state criminal and motor vehicle driving history database search by which the TNC shall conduct a nationwide background check pursuant to 220 CMR 274.06(2)(a);
    5. Proof of adequate insurance as certified by the Division of Insurance in accordance with M.G.L. c. 159A½ and M.G.L. c. 175, § 228;
    6. The proposed Driver Certificate that the TNC shall issue to its Drivers and make available within its Digital Network; and
    7. A Permit fee as determined by the Secretary of Administration and Finance pursuant to M.G.L. c. 159A½, § 3(e).
  - (d) The Division may request additional information from a TNC to determine whether to issue or renew a Permit.

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- (2) TNC Oversight Process. Consistent with the public interest of the Commonwealth, a TNC shall have an oversight process in place to:
- (a) Conduct Driver background checks in accordance with 220 CMR 274.06;
  - (b) Ensure that Drivers comply with 220 CMR 274.07 and 220 CMR 274.09;
  - (c) Maintain a 24-hour toll-free customer service hotline, online webpage, email system, and functionality within its Digital Network to respond to questions and complaints;
  - (d) Ensure the security, protection and privacy of Driver and Rider personal information in accordance with M.G.L. c. 93H, 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth* and 220 CMR 274.10;
  - (e) Ensure that the TNC and its Drivers do not discriminate against Riders or potential Riders with special needs, disabilities or visual impairments, which shall include but not be limited to ensuring that there are no additional charges or increased fares and that wheelchairs and service animals are accommodated;
  - (f) Comply with the insurance requirements of M.G.L. c. 175, § 228 and 220 CMR 274.09;
  - (g) Ensure that its Drivers' Vehicle(s) are in compliance with M.G.L. c. 90, § 7A;
  - (h) Ensure that its Digital Network displays a clear and conspicuous total cost and price structure of each Ride before the Ride commences;
  - (i) Prohibit the use of excessive minimum or base rates;
  - (j) Ensure that Drivers maintain a valid Driver Certificate; and
  - (k) Maintain a real-time roster of Drivers who provide Services.

### 274.04: Transportation Network Driver Requirements

- (1) To provide Services, a Driver must:
- (a) Have a valid Clearance Certificate;
  - (b) Have a valid Driver Certificate;
  - (c) Have access to a Vehicle registered in the Commonwealth and inspected pursuant to M.G.L. c. 90, § 7A, or access to a Vehicle registered in another state that complies with the inspection requirements of that state; and
  - (d) Comply with 540 CMR: *Registry of Motor Vehicles* promulgated pursuant to M.G.L. c. 90, § 7A.
- (2) A Driver shall provide Rides only through a Digital Network and shall not otherwise solicit, accept, arrange or provide Services through street hails, Cruising or street solicitations.

### 274.05: Transportation Network Driver Certificate

- (1) A Driver shall not provide Services without a valid Driver Certificate.

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- (2) A TNC shall not issue a Driver Certificate to a Driver unless the TNC verifies that the Driver has:
- (a) A valid TNC background check pursuant 220 CMR 274.06(2);
  - (b) A valid Clearance Certificate pursuant to 220 CMR 274.06(3)(c);
  - (c) Adequate automobile insurance pursuant M.G.L. c. 175, § 228; and
  - (d) Complied with the Vehicle requirements set forth in 220 CMR 274.08.
- (3) A Driver Certificate shall include:
- (a) Driver's legal name;
  - (b) Up-to-date facial image of the Driver;
  - (c) License plate number of the Vehicle in use;
  - (d) A statement that the Driver has successfully completed the two-part background check required by 220 CMR 274.06; and
  - (e) A statement or recognizable logo to identify which TNC issued the Driver Certificate.
- (4) A Driver Certificate shall be readily available to a Rider within a TNC's Digital Network at all times during the provision of Services. A Driver shall post his or her Driver Certificate, issued by the TNC for which the Driver is providing Services, inside the Vehicle so that it is clearly visible to the Rider while Services are provided.

### 274.06: Transportation Network Driver Background Check

- (1) Driver Background Check Process.
- (a) To provide Services, each Driver must successfully complete a two-part background check in accordance with 220 CMR 274.21. First, a TNC shall complete a background check pursuant to 220 CMR 274.06(2) and second, the Division shall complete a background check pursuant to 220 CMR 274.06(3).
  - (b) Prior to the Division's background check, a TNC shall obtain a Driver's consent, consistent with 803 CMR 2.00: *Criminal Offender Record Information (CORI)*, for the Division to conduct a background check.
  - (c) After obtaining consent to conduct a Driver background check, a TNC shall submit its Driver roster to the Division, which shall include the following Driver information:
    1. Legal first name;
    2. Legal middle name (if known);
    3. Legal last name;
    4. Former name(s) (if known);
    5. Current address (if known);
    6. Place of birth (city and state) (if known);
    7. Driver's license number;
    8. Driver's license state;
    9. Date of birth;

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10. Last six digits of social security number;
11. Electronic mail address; and
12. A Driver's consent, consistent with 803 CMR 2.00: *Criminal Offender Record Information (CORI)*, to conduct a background check.

(d) If the two-part background check does not reveal a condition provided for pursuant to 220 CMR 274.21, the Division shall issue a Clearance Certificate to the Driver and to each relevant TNC.

(2) TNC Background Check.

(a) A TNC shall conduct a nationwide background check for each Driver, which shall, at a minimum, include a review of the following:

1. Multi-state criminal history database;
2. Multi-state motor vehicle driving history database; and
3. U.S. Department of Justice National Sex Offender Public website.

(b) A TNC shall conduct the nationwide background check for each Driver not less than once every six months.

(c) In addition to the requirements of 220 CMR 274.06(2), nothing shall prohibit a TNC from maintaining internal Driver suitability requirements.

(d) If a TNC learns of and verifies a Driver's arrest for a crime or a citation for a driving infraction that would disqualify a Driver pursuant to 220 CMR 274.21 from providing Services, the TNC shall immediately suspend or revoke the Driver Certificate and notify both the Driver and the Division immediately.

(e) Upon the suspension or revocation of a Driver Certificate or Clearance Certificate in accordance with 220 CMR 274.06(2)(d) or (3)(d), a TNC shall promptly bar access to its Digital Network by the individual whose name appears on the suspended or revoked Driver Certificate or Clearance Certificate.

(3) Division Background Check.

(a) The Division shall conduct a Driver background check based on information that the Division receives from the Department of Criminal Justice Information Services, Sex Offender Registry Board, Warrant Management System, Registry of Motor Vehicles, and other reliable sources. The Division shall determine whether the background check reveals any condition pursuant to 220 CMR 274.21.

(b) If a Driver has a disqualifying condition pursuant to 220 CMR 274.21, the Division shall issue a negative determination of suitability to the Driver and relevant TNC(s) stating the reasons therefor.

(c) The Division shall issue a Clearance Certificate to a Driver that has not been disqualified pursuant to 220 CMR 274.06(2) or (3).

(d) If the Division learns of and verifies a Driver's arrest for a crime or a Driver's citation for a driving infraction that would render the Driver

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unsuitable to provide Services pursuant to 220 CMR 274.21, the Division shall immediately suspend or revoke the Driver's Clearance Certificate and notify the relevant TNC(s). After having been so notified, the TNC shall immediately suspend or revoke the Driver Certificate until the Division determines otherwise.

(e) The Division shall conduct the background check pursuant to 220 CMR 274.06(3) not less than once annually.

### 274.07: Hours of Service

- (1) A Driver shall not offer or provide Services for more than 12 consecutive hours in a 24-hour period.
- (2) A TNC shall adopt a policy to ensure that, after 12 hours of providing Services in a 24-hour period, the Driver shall log out of the Digital Network for not less than eight consecutive hours. For purposes of this provision, the Division does not presume that a Driver logs onto a Digital Network if the login period does not exceed five minutes.
- (3) A TNC shall bar access to its Digital Network for a period of not less than 24 consecutive hours to any Driver who violates any requirement set forth in 220 CMR 274.07.
- (4) A TNC shall create a written enforcement policy to comply with 220 CMR 274.07 and shall file its enforcement policy, and subsequent changes or updates to its enforcement policy, with the Division during a TNC's Permit application and application for renewal.

### 274.08: Transportation Network Vehicle Requirements

- (1) A TNC shall issue a Division-approved removable decal or trade dress to a Driver before the Driver provides Services. The Driver shall apply the removable decal or trade dress to the front and back panels of the Vehicle at all times while the Vehicle is used to provide Services. The removable decal or trade dress must be reflective, illuminative or otherwise visible at night or in low-light environments.
- (2) A Driver who ceases to be authorized to provide Services for any reason shall return the decal or trade dress to the respective TNC within 14 business days.
- (3) Every Vehicle shall receive an annual inspection pursuant to M.G.L. c. 90, § 7A. Vehicles registered in another state shall comply with the inspection requirements of that state.
- (4) Every Vehicle shall comply with the insurance requirements set forth in M.G.L. c. 175, § 228.

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### 274.09: Insurance

- (1) A TNC shall provide the Division with proof of adequate insurance, as certified by the Division of Insurance and in accordance with M.G.L. c. 159A½ and M.G.L. c. 175, § 228, prior to receiving a Permit from the Division.
- (2) Upon receipt of a Permit, and before a Driver can provide Services, a TNC shall clearly and conspicuously provide a Driver with the following disclosures:
  - (a) A statement that the Driver's own automobile insurance policy might not provide coverage during the provision of Services;
  - (b) A statement of the automobile insurance coverage that the TNC provides, including the types of coverage and the limits for each coverage, in each circumstance:
    1. A Driver logged onto the Digital Network and available to receive transportation requests, but not engaged in a Pre-arranged Ride;
    2. A Driver engaged in a Pre-arranged Ride; and
    3. A Driver not logged onto the Digital Network nor engaged in a Pre-arranged Ride.
- (3) Within seven business days of receiving a Driver Certificate, a Driver shall disclose to the automobile insurance carrier, whose coverage applies to the Vehicle(s) used by the Driver to provide Services, that the Vehicle is used to provide Services.

### 274.10: Data Protection

- (1) A TNC shall protect from unauthorized disclosure all personal information of a Rider or Driver in the TNC's possession, including but not limited to a Rider or Driver's first name and last name, or first initial and last name, in combination with any one or more of the following data elements that relate to such individual; provided, however, that personal information shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public:
  - (a) Social security number;
  - (b) Driver's license number or state-issued identification card number;
  - (c) Financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to the individual's financial account;
  - (d) Personal cellular or home phone number;
  - (e) Home address;
  - (f) Electronic mail address; or
  - (g) Global Positioning System (GPS) coordinates of a Pre-arranged Ride and for any time thereafter.
- (2) A TNC shall notify a Rider or Driver of its use of personal information. Notification shall be unambiguous and may be through a TNC's Digital Network or



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website. After notification, a TNC shall obtain the consent of a Rider or Driver prior to its use of personal information. Notification and consent may be obtained by a Rider's or Driver's accepting a TNC's terms of service within its Digital Network or another means of acceptance by a Rider or Driver of the proposed use of his or her personal information.

(3) A TNC shall maintain a data security policy, in accordance with 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth*, that protects Rider and Driver personal information, which the TNC shall file with the Division in its Permit application and renewal application.

### 274.11: Record Maintenance and Retention

(1) A TNC shall maintain true and correct records. A TNC, or third party on behalf of a TNC, may maintain records in electronic format, provided that copies can be reproduced in their original format.

(2) A TNC shall maintain the following records, at a minimum, during a Driver's period of providing Service and for one year thereafter:

- (a) A Driver's application submitted to the TNC; and
- (b) The disclosures provided to the Driver within the TNC's terms of service, including the Driver's acknowledgement of said terms.

(3) A TNC shall maintain the following records, at a minimum, for a period of not less than three years:

- (a) The following data for each Pre-arranged Ride:
  1. Driver's Vehicle license plate number;
  2. Identity of Driver;
  3. Identity of Rider;
  4. Date and time of Ride;
  5. Origination address;
  6. Destination address;
  7. Date, time, and location of drop-off; and
  8. Method of payment;
- (b) A roster of Drivers for each calendar year, which shall be maintained from three years from the date that the roster is generated;
- (c) Records pertaining to the price of Rides; and
- (d) Records pertaining to accessibility of Riders with special needs, disabilities, and visual impairments.

(4) A TNC shall maintain the following records, at minimum, for a period of not less than seven years:

- (a) Any suspension or revocation of a Driver Certificate, or any disciplinary actions taken against a Driver, and the reason(s) therefore;

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(b) Incidents reported, from any source, to a TNC relative to a Driver or Rider, and any actions that the TNC has taken, if any, to resolve said incidents; and

(c) Results of each Driver background check pursuant to 220 CMR 274.06(2).

(5) The Division may issue orders, rules and guidelines relative to the content, form and information that a TNC shall retain and maintain.

274.12: Reporting Requirements

(1) The Division shall issue orders, guidelines and forms relative to the content of information that a TNC shall report to the Division.

(2) Annually, a TNC shall report to the Division the following:

(a) By February 1<sup>st</sup> of each calendar year, a TNC shall submit a report for the number of Rides from the previous calendar year, including:

1. City or town where each Ride originated;
2. City or town where each Ride ended;
3. Aggregated and anonymized trip route and length (miles and minutes); and
4. Location of Vehicle accidents;

(b) By March 31<sup>st</sup> of each calendar year, a TNC shall report its intrastate operating revenues for the previous calendar year. If a TNC fails to report its intrastate operating revenues to the Division by March 31<sup>st</sup> of any calendar year, the Division may estimate a TNC's intrastate operating revenues. A TNC's intrastate operating revenue shall include but not be limited to any Rider picked up at the following:

1. Airport;
2. Train station;
3. Bus terminal; or
4. Any other kind of port.

(3) A TNC shall report monthly to the Division a detailed accounting of all Driver and Rider complaints, received through any means, and the actions that the TNC has taken, if any, to resolve said complaints.

(4) A TNC shall report the following to the Division immediately:

- (a) A Driver suspension pursuant to M.G.L. c. 159A½, § 4(e); and
- (b) Receipt of a Driver violation of any aspect of M.G.L. c. 159A½ or 220 CMR 274.00.

(5) In the event of a breach of security or unauthorized disclosure involving a Driver or Rider's personal information, as defined in 220 CMR 274.10(1), a TNC shall notify the Division as soon as practicable and without unreasonable delay, and

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notify the Division upon compliance with M.G.L. c. 93H, § 3. A breach of security shall be the unauthorized acquisition or unauthorized use of unencrypted data or encrypted electronic data and the confidential process or key that is capable of compromising the security, confidentiality or integrity of personal information, maintained by a TNC, or on the TNC's behalf, that creates a substantial risk of identity theft or fraud. A good faith but unauthorized acquisition of personal information by or on behalf of a TNC, or employee or agent thereof, for the lawful purposes of such TNC, is not a breach of security unless the personal information is used in an unauthorized manner or subject to further unauthorized disclosure. A breach shall not include the authorized use of personal information for which the TNC obtained consent under 220 CMR 274.10(2). A TNC may delay disclosure as necessary pursuant to M.G.L. c. 93H, § 4.

### 274.13: Inspection and Audit

- (1) For purposes of verifying a TNC's compliance with the requirements of M.G.L. c. 159A½ and 220 CMR 274.00, the Division may inspect a sample of records that the TNC maintains. If, after this initial review, the Division has reasonable basis to conclude that the TNC is not in compliance with M.G.L. c. 159A½ or 220 CMR 274.00, the Division may, upon reasonable notice, conduct a supplemental audit of records that it deems necessary and reasonable.
- (2) In response to a complaint or incident, the Division may inspect any of the TNC's records related to the complaint or incident at issue.
- (3) The Division shall quarterly audit records relating to 220 CMR 274.06(2).
- (4) Within ten business days of receiving a request from the Division pursuant to 220 CMR 274.13, the TNC shall transmit requested records to the Division via a secure delivery method, which may include use of encryption security.
- (5) If a Division audit is conducted by an agreed upon third party, the cost of the audit shall be borne and paid by the TNC that is under audit.

### 274.14: Enforcement

- (1) If a Driver is cited for a violation for 220 CMR 274.08(1), each TNC for which the Driver provides Services shall be subject to a \$500 monetary penalty by the Division. Each TNC subject to the fine shall have 30 business days to rebut the presumption that the Driver provided Services at the time of violation.
- (2) If a TNC is found in violation of M.G.L. c. 159A½ or 220 CMR 274.00, the Division shall take appropriate enforcement action that it deems necessary, including but not limited to:
  - (a) Refrain from issuing Clearance Certificates;

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- (b) Suspend, revoke, or deny a Permit; and
  - (c) Issue monetary penalties.
- (3) In determining the enforcement action, the Division shall consider, without limitation:
- (a) The size of the TNC based on the TNC's intrastate operating revenues for the previous calendar year pursuant to 220 CMR 274.12(3)(b);
  - (b) The gravity of violation, which shall include but not be limited to the degree of the TNC's compliance with payment of tolls at the commercial rate pursuant to M.G.L. c. 159A½, § 3(c)(v);
  - (c) The degree to which the TNC exercised good faith in attempting to achieve compliance or to remedy non-compliance;
  - (d) Degree of compliance with existing state and local rules and regulations; and
  - (e) Any previous violations by the TNC cited by the Division.

274.15: Appeals

- (1) A Driver aggrieved by a negative determination of suitability shall have a right of appeal to the Division. Appeals shall be considered on an individual basis, not a per-application basis. Appeals of mandatory disqualifications shall be limited to determining whether a genuine issue of material fact exists on the records received by the Division. Appeals of presumptive disqualifications, including discretionary disqualifications, shall be presumed to entitle the Driver to an appeal hearing at which the Driver may submit evidence on his or her behalf.
- (2) At a Driver appeal hearing, the Division shall consider the following factors in determining whether a Driver has met his or her burden of rebutting the presumption of unsuitability:
- (a) Relevance of the record to the position sought;
  - (b) Nature of the work to be performed;
  - (c) Time since the disposition;
  - (d) Age of the candidate at the time of the offense;
  - (e) Seriousness and circumstances of the offense;
  - (f) Number of offenses;
  - (g) Pending charges;
  - (h) Evidence of rehabilitation or lack thereof; and
  - (i) Any other relevant information.
- (3) Records from government entities shall constitute *prima facie* evidence of the facts contained therein.
- (4) The Division shall first provide a TNC notice and an opportunity for hearing before exercising enforcement action pursuant to 220 CMR 274.14(2). A TNC may appeal any enforcement action taken after a Division hearing to the Department.

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(5) Appeals shall be filed within 30 business days from the date of the receipt of the decision for which the party is aggrieved. The appeal shall specifically set forth the grounds upon which the appellant claims to be aggrieved by the decision.

(6) A Driver or TNC aggrieved by a final order or decision issued after exhaustion of all administrative appeals may appeal for judicial review in the Superior Court within 30 business days after receipt of such order or decision. Any proceedings in the Superior Court shall, insofar as applicable, be governed by M.G.L. c. 30A, § 14, and may be instituted in the Superior Court for the county:

- (a) Where the parties or any one of the parties reside or have their principal place of business within the Commonwealth;
- (b) Where the Division has its principal place of business; or
- (c) Suffolk.

(7) An appeal by an aggrieved party of a final order or decision shall, unless otherwise ordered by the Division, Department, or a court of competent jurisdiction, not operate as a stay of the decision.

### 274.16: Notice

Any notice sent to the physical or electronic mail address that the Division has on file for a party shall constitute *prima facie* evidence that the party received the notice.

### 274.17: Third-party Contractors

A TNC may contract with a third party to comply with M.G.L. c. 159A½ and 220 CMR 274.00. A record kept or function performed by a TNC's third-party contractor or agent shall be construed as if kept or performed by the TNC itself. A TNC shall hold a third-party contractor and agent to the same standards as required of a TNC pursuant to M.G.L. c. 159A½ or 220 CMR 274.00. If a TNC's third-party contractor or agent violates any statute, rule, regulation, or order of the Division, the TNC shall be held as if it violated said statute, rule, regulation, or Division order.

### 274.18: Agent of Service

A TNC shall maintain a locally-based agent of service with regular hours of business during weekdays. A TNC shall provide the Division with the identity and contact information of the agent as part of its Permit application and application for renewal. A TNC shall immediately update the Division with any change of its agent or agent contact information.

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### 274.19: Waiver

On its own motion, or for good cause shown, and not contrary to statute, the Division may waive any provision of 220 CMR 274.00.

### 274.20: Severability

The provisions of 220 CMR 274.00 shall be deemed severable if any particular provision(s) is (are) rendered invalid by judicial determination or by statutory amendment.

### 274.21: Suitability Standard

All categories are construed as within time frames (look-back periods) during which a Driver shall not have a particular condition, offense, or violation. All conditions, offenses, and violations are construed to include Massachusetts law or like/similar law(s) of another state, the United States, a military, territorial or Native American tribal authority, or any other jurisdiction. All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.

All look-back periods for criminal conditions, offenses, and violations commence upon the date of disposition; provided, however, that if the disposition results in incarceration in any institution, the look-back period shall commence upon release from incarceration. All look-back periods for motor vehicle conditions, offenses, and violations commence upon the date of finding of the condition, offense, or violation; provided, however, that if the violation resulted in a license suspension, the look-back period shall commence upon the termination of the suspension.

A conviction is a mandatory disqualification for all look-back periods. A continuance without a finding is a mandatory disqualification if within seven years and a presumptive disqualification if after seven years. All conditions within the present look-back period and the three-year look-back period are mandatory disqualifying conditions, offenses, and violations. A discretionary disqualification is a presumptive disqualification.

## **PRESENT**

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### **Age Requirements**

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- (a) Must be at least 21 years old;
- (b) If under 23 years old, must have held a valid United States driver's license for not less than three years; and
- (c) If 23 years of age or older, must have held a valid United States driver's license for not less than one year

### **Open/Unresolved Criminal Proceeding(s)**

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Any outstanding or unresolved criminal proceeding, the disposition for which would result in a

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negative determination of suitability, including but not limited to cases of active probation.

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**Open/Unresolved Motor Vehicle Violation(s)**

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Any outstanding or unresolved driving infraction that would result in a negative determination of suitability.

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**Open/Unresolved Criminal Warrant(s)**

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Any outstanding or unresolved warrant for arrest.

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**Sex Offender Registration**

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Required to register as a sex offender in any jurisdiction.

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**THREE YEARS**

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**Multiple Traffic Violations**

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- (a) More than four traffic violations, as defined by 211 CMR 134.00 Appendix A: *Traffic Law Violations*, and M.G.L. c. 159A½, § 7; or
- (b) Any one major traffic violation pursuant to 211 CMR 134.00 Appendix A: *Traffic Law Violations*.

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**FIVE YEARS**

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**License Suspension**

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Any suspension of driver's license for reasons related to the operation of a motor vehicle, including:

- (a) license suspension for three or five surchargeable incidents as defined by 211 CMR 134.00 Appendix A: *Traffic Law Violations* and subsequent failure to take the related driver retraining course within the prescribed amount of time;
- (b) license suspension for seven surchargeable incidents as defined by 211 CMR 134.00 Appendix A: *Traffic Law Violations*;
- (c) refusal to take a chemical breath test;
- (d) immediate threat;
- (e) complaint fraud; or
- (f) racing.

**SEVEN YEARS**

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**Felony Conviction**

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A conviction for an offense with an available maximum penalty of more than 2½ years' imprisonment.

**Felony Fraud**

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Including but not limited to:

- M.G.L. c. 90, § 24B (counterfeiting motor vehicle documents)
- M.G.L. c. 266, § 30 (larceny – over \$250 only)
- M.G.L. c. 266, § 30B (unlawful possession of theft detection shielding device or deactivator)
- M.G.L. c. 266, § 30C (use of counterfeit receipt with intent to defraud)
- M.G.L. c. 266, § 30D (organized retail crime)
- M.G.L. c. 266, § 31 (obtaining signature by false pretenses)
- M.G.L. c. 266, § 32 (fraudulent conversion of property by captain of vessel)
- M.G.L. c. 266, § 33 (larceny by false pretenses relating to contracts, banking transactions or credit)
- M.G.L. c. 266, § 35A (false material statements in connection with mortgage lending)
- M.G.L. c. 266, § 37 (uttering fraudulent checks)
- M.G.L. c. 266, § 37C (fraudulent use of credit cards – felony form only)
- M.G.L. c. 266, § 39 (destruction or concealment of will)
- M.G.L. c. 266, § 40 (common and notorious thief)
- M.G.L. c. 266, § 50 (fraud or embezzlement by state treasury employee)
- M.G.L. c. 266, § 51 (fraud or embezzlement by city, town or county employee)
- M.G.L. c. 266, § 52 (fraud or embezzlement by bank officer or employee)
- M.G.L. c. 266, § 53A (misconduct by bank officer or employee)
- M.G.L. c. 266, § 55 (embezzlement by liquidating agent or receiver)
- M.G.L. c. 266, § 56 (embezzlement by broker or agent)
- M.G.L. c. 266, § 57 (embezzlement by fiduciary)
- M.G.L. c. 266, § 60A (buying or selling stolen trade secrets)
- M.G.L. c. 266, § 66 (fraudulent issue of stock)
- M.G.L. c. 266, § 67 (false entry in corporate books)
- M.G.L. c. 266, § 67A (false statement in procurement)
- M.G.L. c. 266, § 67B (presentation of false claims)
- M.G.L. c. 266, § 67C (false entry in records relating to capital construction projects)
- M.G.L. c. 266, § 73 (obtaining goods under false pretenses)
- M.G.L. c. 266, § 74 (fraudulent use of corporate credit)
- M.G.L. c. 266, § 75 (obtaining property by trick – over \$250 only)
- M.G.L. c. 266, § 76 (gross fraud or cheat at common law)
- M.G.L. c. 266, § 110 (false invoice of cargo)
- M.G.L. c. 266, § 111 (false affidavit or protest)
- M.G.L. c. 266, § 111A (insurance fraud)
- M.G.L. c. 266, § 111B (motor vehicle insurance fraud)
- M.G.L. c. 266, § 111C (fraudulently obtaining benefits under insurance contract)
- M.G.L. c. 267, § 1 (false or forged records)



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M.G.L. c. 267, § 2 (forged tickets)  
M.G.L. c. 267, § 3 (forged seal of land court)  
M.G.L. c. 267, § 4 (forged railroad company stamp)  
M.G.L. c. 267, § 5 (uttering false record)  
M.G.L. c. 267, § 6 (uttering forged ticket)  
M.G.L. c. 267, § 7 (forged bill of credit issued by treasurer)  
M.G.L. c. 267, § 8 (forged bank bill or note)  
M.G.L. c. 267, § 9 (possession of ten or more counterfeit notes)  
M.G.L. c. 267, § 10 (uttering counterfeit note)  
M.G.L. c. 267, § 11 (common utterer)  
M.G.L. c. 267, § 12 (possession of counterfeit notes)  
M.G.L. c. 267, § 13 (possession of tools for counterfeiting)  
M.G.L. c. 267, § 17 (possession of ten or more counterfeit coins)  
M.G.L. c. 267, § 18 (possession of fewer than ten counterfeit coins)  
M.G.L. c. 267, § 19 (common utterer of counterfeit coins)  
M.G.L. c. 267, § 20 (tools for making counterfeit coin)  
M.G.L. c. 267, § 27 (possession of worthless bank notes)  
M.G.L. c. 267, § 28 (uttering worthless bank notes)  
M.G.L. c. 268, § 1 (perjury)  
M.G.L. c. 268, § 2 (subordination of perjury)  
M.G.L. c. 268, § 3 (attempt to procure perjury)  
M.G.L. c. 268, § 6 (false report before state departments)  
M.G.L. c. 268, § 13 (corrupting masters, auditors, jurors, arbitrators)  
M.G.L. c. 268, § 13B (willfully misleading to obstruct a criminal investigation)  
M.G.L. c. 268, § 13E (tampering with record document for use in judicial proceeding)  
M.G.L. c. 268, § 36 (compounding or concealing a felony)  
M.G.L. c. 268, § 39 (perjury related to motor vehicle theft)

### **Motor Vehicle Offenses**

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Any offense under M.G.L. c. 90, § 24  
M.G.L. c. 90B, § 8 (operating under the influence watercraft)  
M.G.L. c. 90F, § 11 (operating a commercial vehicle under the influence)

### **Violent Crimes & Abuse-related Offenses**

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A “violent crime” pursuant to M.G.L. c. 127, § 133E or M.G.L. c. 140, § 121  
M.G.L. c. 209A (abuse prevention or restraining order)  
M.G.L. c. 258E (harassment protection order)  
M.G.L. c. 265, § 13A (assault or assault and battery)  
M.G.L. c. 266, § 16 (breaking and entering nighttime – felony)  
M.G.L. c. 266, § 17 (entering without breaking – felony)  
M.G.L. c. 266, § 18 (breaking and entering daytime – felony)  
M.G.L. c. 266, § 25 (larceny from a person)  
M.G.L. c. 266, § 37 (identity fraud)  
M.G.L. c. 268, § 13B (witness intimidation)

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M.G.L. c. 272, § 53 (indecent exposure and annoying or accosting another person)  
M.G.L. c. 275, § 2 (threats)  
A crime involving the illegal use or possession of weapons

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**TEN YEARS**

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**Habitual Traffic Offender**

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Habitual traffic offender license suspension, by an adjudicatory body or motor vehicle licensing authority.

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**INDEFINITE**

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**Felony Robbery**

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M.G.L. c. 265, § 17 (armed robbery)  
M.G.L. c. 265, § 18 (assault to rob)  
M.G.L. c. 265, § 19 (unarmed robbery)  
M.G.L. c. 265, § 21 (stealing by confining or putting in fear)  
M.G.L. c. 265, § 21A (carjacking)  
M.G.L. c. 266, § 14 (armed burglary)

**Multiple Driving Offenses**

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Two or more of the following offenses, in any combination:

- (a) Any form of operating under the influence;
- (b) Any leaving the scene of personal injury;
- (c) Any leaving the scene of property damage;
- (d) Any negligent operation; or
- (e) Any reckless operation.

**Serious Bodily Injury Offenses**

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Any offense involving the serious bodily injury or death of another person, including but not limited to:

M.G.L. c. 90B, § 8A (operating under the influence causing serious bodily injury – watercraft)  
M.G.L. c. 90B, § 8B (operating under the influence causing death – watercraft)  
M.G.L. c. 90, § 24(2)(a½)(2) (leaving the scene of an accident causing death)  
M.G.L. c. 90, § 24G (motor vehicle homicide)  
M.G.L. c. 90, § 24L (operating under the influence causing serious bodily injury – motor vehicle)  
M.G.L. c. 265, § 13½ (operating under the influence causing manslaughter)

**Sexual Conduct & Abuse Related Offenses**

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Any “sex offense” as defined by M.G.L. c. 6, § 178C and M.G.L. c. 127, § 133E, including but

not limited to:

- M.G.L. c. 265, § 13B (indecent assault and battery on a child under 14 year old)
- M.G.L. c. 265, § 13B<sup>1</sup>/<sub>2</sub> (aggravated indecent assault and battery on a child under 14 years old)
- M.G.L. c. 265, § 13B<sup>3</sup>/<sub>4</sub> (indecent assault and battery on a child under 14 years old by a previously similarly convicted offenders, adjudicated delinquent, or youthful offender)
- M.G.L. c. 265, § 13F (indecent assault and battery on a mentally retarded person)
- M.G.L. c. 265, § 13H (indecent assault and battery on a person age 14 years of age or older)
- M.G.L. c. 265, § 13L (child endangerment)
- M.G.L. c. 265, § 22 (rape)
- M.G.L. c. 265, § 22A (rape of a child with force)
- M.G.L. c. 265, § 22B (aggravated rape of a child under 16 years old with force)
- M.G.L. c. 265, § 22C (rape of a child with force by similarly previously convicted offenders, delinquency adjudications, or youthful offenders)
- M.G.L. c. 265, § 23 (rape and abuse of a child)
- M.G.L. c. 265, § 23A (aggravated rape and abuse of a child)
- M.G.L. c. 265, § 23B (rape and abuse of a child by similarly previously convicted offenders, delinquency adjudications, or youthful offenders)
- M.G.L. c. 265, § 24 (assault with intent to commit rape)
- M.G.L. c. 265, § 24B (assault of a child with intent to commit rape)
- M.G.L. c. 265, § 26 (kidnapping of a child)
- M.G.L. c. 265, § 43 (stalking)
- M.G.L. c. 265, § 43A (criminal harassment)
- M.G.L. c. 272, § 2 (enticing away a person for prostitution or sexual intercourse)
- M.G.L. c. 272, § 3 (drugging persons for sexual intercourse)
- M.G.L. c. 272, § 4A (inducing a minor into prostitution)
- M.G.L. c. 272, § 4B (living off or sharing earnings of a minor prostitute)
- M.G.L. c. 272, § 6 (owner of place inducing or suffering person to resort in such place for sexual intercourse)
- M.G.L. c. 272, § 7 (support from, or sharing, earnings of prostitute)
- M.G.L. c. 272, § 8 (soliciting prostitute)
- M.G.L. c. 272, § 12 (procuring person to practice, or enter a place for, prostitution; employment office procuring person)
- M.G.L. c. 272, § 13 (detaining, or drugging to detain, person in place for prostitution)
- M.G.L. c. 272, § 16 (open and gross lewdness and lascivious behavior)
- M.G.L. c. 272, § 17 (incestuous marriage or intercourse)
- M.G.L. c. 272, § 28 (disseminating to a minor matter harmful to a minor)
- M.G.L. c. 272, § 29A (exposing or exhibiting a child in a state of nudity)
- M.G.L. c. 272, § 29B (dissemination of visual material of a child in a state of nudity or sexual conduct)
- M.G.L. c. 272, § 35A (unnatural and lascivious acts with a child under 16 years old)
- M.G.L. c. 272, § 39 (aggravated rape)
- M.G.L. c. 272, § 105 (upskirting)

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## **Violent Crime II**

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A “violent crime” pursuant to M.G.L. c. 127, § 133E or M.G.L. c. 140, § 121 that is

punishable by ten years or more in state prison.

**DISCRETIONARY**

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A presumptive negative suitability determination may issue if reliable information demonstrates that a Driver acted in a manner that resulted in jeopardy to the health, safety, or welfare of any person, or that a Driver's provision of Services is not consistent with the public interest.

REGULATORY AUTHORITY

220 CMR 274.00: M.G.L. c. 6, § 172(a)(33); c. 25, § 23(a); c. 159A½.