

POINT TO POINT TRANSPORT (Taxi & Hire Vehicles) Regulation 2017

Submission by



Ride Share Drivers Association of Australia

www.rsdaa.org.au

Promoting the interests of its members through involvement in the formation of Ride Share Legislation.

The members of the RSDAA come from all walks of life and work in the ride-share industry for many different reasons, some drive full time, some have full-time jobs and drive on weekends, some drive to fill in gaps between other jobs, some drive to keep themselves busy in retirement.

Whatever their reasons for driving, they all want to give their passengers a great experience, and all want the respect and protection afforded to most other workers in Australia; we help them to achieve these goals.

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NSW Parliamentary Submission

The Ride Share Drivers Association of Australia appreciates the opportunity to make this submission in relation to the Proposed Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017.

Introduction

The Ride Share Drivers Association of Australia (RSDAA) is the key independent representative body for rideshare drivers across Australia. We represent our members and other supporters that operate independent small business rideshare operations and advocates for fair ride share legislation.

The RSDAA was formed and incorporated on 1st April 2016 and provides a voice for ride share business operators and ride share drivers. We also aim to provide policy makers with a more balanced and reasoned view of operating in the ride sharing industry whilst advocating for better conditions with ride share companies throughout Australia.

The primary goal of the association is to represent the interests of drivers who operate small independent businesses in the rideshare industry.

The RSDAA is a fully independent and a non-profit Association. The current committee are all experienced ride share drivers and therefore have the hands on experience that is best suited to provide policy makers with the information of what customers want, what is fair for drivers and how to best achieve an integrated, safe accessible ride share industry for all Australians. We own vehicles, maintain their safety, have the knowledge of the towns and cities we operate in and most importantly have direct contact with the community delivering transport services daily.

Rideshare in New South Wales

Australia is known for its high standards & respected employment conditions. Our true blue Aussie culture should continue to include high level working conditions that incorporate protection against foreign Corporations.

For people choosing to drive on a part-time or casual basis, rideshare presents an opportunity to gain additional income. Part-time or occasional ridesharing can work only if there are limited costs and regulatory barriers to entry.

Australian rideshare drivers expect fair working conditions. Drivers are expecting that our Government will lead the way for Workers rights globally as it has done in the past. An improved rideshare employment model is required and warranted specifically based on the Rideshare Industry setting standards relating to maximum hours worked and minimum rates per hour to protect drivers rights and to promote public safety.

The RSDAA believes that rideshare drivers in the industry whom rideshare income makes up more than 50% of their annual income should be entitled to sick pay, holiday pay, workers compensation and superannuation.

The new regulatory changes are an important opportunity to lead the way for Workers Rights globally, Australia needs to show that it respects its citizens and will not allow International Corporations to impact its Citizens working conditions.

Proposed Regulations & Rates of Remuneration

The proposed Regulations introduce an increased burden on the entire Rideshare Industry which will more than likely force the majority of the industry out of business.

Drivers are the providers of the Point to Point Industry, they fulfil transport services to the general public and businesses, who over the past few years have grown to rely on rideshare services. Yet these drivers are overloaded with increasing expenses to which our Government does not seem to provide realistic support. Drivers need to be protected against rate drops from Corporations and also against industry related expenses which will force rideshare drivers to earn well below the Australian minimum wage.

The Ride Share Drivers Association of Australia (RSDAA) recommends that

1. Fair & Sustainable rates of remuneration be enshrined into NSW regulations.
2. A set base fee or a minimum fare is required to protect drivers and should be subject to regular Consumer Price Index increases
3. No extra costs are burdened onto rideshare drivers of NSW
4. CTP Insurance increases be kept to an absolute minimum unless there are substantial increases to driver rates.

From a NSW drivers perspective the rideshare industry is becoming an unviable industry for drivers in New South Wales, outside of the Sydney based area. Uber is now operating in Byron Bay, Newcastle, Central Coast and Wollongong where it is considered a non-viable income for hard working Australians due to low driver rates.

According to NRMA Car Operating Calculator (as at May 2017) a 2016 Toyota Camry costs approx. \$0.75 – \$0.80 cents / km to operate. This figure includes (insurance, registration & Petrol).

The current kilometre rate in Wollongong, Central Coast, Newcastle & Byron Bay is currently \$1.10 /km

For this industry to remain sustainable, the rates need to be increased to at least \$1.70 per kilometre, 50 cents per minute and with a flag fall of \$3.00

Even then drivers will still only be able to do perhaps a few trips per hour.

That being the case, with increased rates the driver would show a small profit of about \$8.45 per job—a little under \$17 an hour, or, if we base it on a 40-hour week, approximately \$700 per week.

Another factor that is not being taken into consideration is the number of kilometres driven to collect passengers. This is another additional cost which could add approximately a \$2 loss to every trip.

Rates need to be enshrined into legislation so that the exploitation of ride share drivers by ride-booking entities does not continue.

It is obvious that NSW Rideshare Drivers cannot earn a sustainable income at these rates. If vehicle depreciation from excessive wear and tear of vehicle is to be included these drivers would NOT actually be earning any income.

The accepted figure is that 25% of drivers work more than 40 hours per week, and 50+% work 10 hours or less per week, with the balance of drivers working between 10 and 40 hours. Based on these figures the extra cost burden set out in new regulations would be onerous and would force more than 50% of drivers out of the industry as they would simply be unable to pay these extra costs. It must be also kept in mind that these cars used for booked hire work are often private family owned motor vehicles.

Proposed Regulations & Rates of Remuneration (continued...)

A rate of at least \$1.70 per kilometre plus .50 cents per minute with a flag fall of \$3.00 would be the minimum sustainable rate for the ongoing survival of this fledgling industry.

The RSDAA does not support any additional charges being imposed on drivers. If booked hire drivers are going to be hit with substantial increases in setting themselves up with no extra income to offset that, there will be a huge failure rate and drivers will be forced back into welfare situations which will bring additional strain on our economy long term.

In my personal opinion and in the capacity of President of the Ride Share Drivers Association of Australia, I do not believe it is in the interest of NSW Drivers to drive for Uber outside of the Sydney zone.

Driver Turnover

Even rideshare drivers in Sydney are not happy with current rates hence the high turnover of drivers. I would like to raise the issue of driver turnover, I believe that if these figures were provided by the current market dominator, Uber, it would prove my point that driving for a rideshare company is not a viable income. I would suspect that the number of new drivers signing up each month would be disproportionate to the number of drivers dropping off every month. We are seeing this as driver numbers seem to plateau.

Driver awareness is slowly being raised, currently upon sign up new drivers are NOT aware of the expenses required to run a rideshare vehicle. After a period of approximately 3 months of driving they become aware of their obligations and expenses and it has been quoted that 5% of drivers are still driving after a 2 year period.

Instead of being self-funded, many of our retired and semi-retired drivers have now turned to Centrelink and are now a drain on the country's finances as pension recipients

Fair & Sustainable Contracts

In relation to fair and sustainable contracts, the RSDAA believes that for the booked hire industry to survive there needs to be a contract between the operator and the independent driver partner that is based on New South Wales Law and enforceable through the courts of Australia.

Currently, the Uber contract states that any action must be through the courts of the Netherlands. In many jurisdictions this has been found to be illegal, and rulings have been made that driver partners are in fact employees. It is not the intention of the RSDAA to see drivers classified as employees, but it is our intention to see the introduction of contracts based on local law which are enforceable in our court system.

Driver's legal rights are mostly contained in contract law, the *Competition and Consumer Act 2010* and separate discrimination laws. These laws do not provide the same level of protections and fairness that would be expected by the community. Self-employed drivers are not able to enter any form of contract negotiation with ride share facilitators – it is a simple take it or leave it scenario.

Current Regulations

We saw 2016 bring awareness and conformity to the rideshare industry although the Government has exhibited an inability to enforce the existing legislation in relation to ABN, GST, GST Registration, Vehicle Business Registration and insurance requirements for rideshare drivers.

I would estimate that at this current point in time, that between 30%-40% of Rideshare drivers actually are aware of their obligations and are meeting current requirements of ABN, GST, Business Rego & insurance requirement regulations for NSW.

Proposed Safety Standards and Obligations

[**Background p7, paragraph 2: Safety standards and obligations**](#)

The new proposed system by RMS requires booking service providers to use the RMS website to “pull down” information on driver offences. This is not a sustainable option for booking service providers or for the rideshare industry. This is a serious concern and poses security risks to the general public and booking providers. The RSDAA does not support this proposal as we see this as a security risk if managed by booking providers. Booking service providers are to be provided driver offence information from drivers within 7 days of any changes in driver status. Booking service providers should be given access to driver offence information via the RMS or governing body, in order to be accurately informed of accurate driver information if service providers are to be held accountable.

Since the Point to Point Transport Commissioner was appointed on 12th October 2016 we have had no direct correspondence or directive which would assist us to guide our database of drivers (RSDAA). Drivers obligations have not been clarified, therefore rideshare drivers do not understand their responsibilities under the current regulations and the implications of the new proposed Regulations is also currently proving to also be undirected.

GST Collection

The Federal Court ruled in a recent case against Uber that rideshare drivers are treated the same as taxis, and therefore have to pay GST from the first dollar earned on the full amount. The RSDAA does not agree with this ruling.

It also needs to be mentioned that Uber have recently lost a court case in the Federal Court of Australia (Uber B.V. v Commissioner of Taxation [2017] FCA 110) where they were trying to avoid paying GST in Australia. As there is currently no GST collected on the fares by Uber this burden has now been placed onto the shoulders of drivers to pay GST on the full amount of the fare from the first dollar earned not the Nett amount after payment of commissions to Uber.

Our concern here is that there is no GST component actually shown on passenger receipts which signifies that GST is not being collected from passengers on Rideshare platforms but yet this sole burden is being placed on drivers. We believe that a GST component should be included in Rideshare tax receipts issued by Booking providers.

Driver Authorities

The RSDAA also would like to see a cap on the number of Drivers Authorities issued as currently the main ride share operator is signing up upwards of 300 new drivers per week flooding the market and making the whole industry marginally viable at best. This not only affects the Booked hire sector but the Taxi and Limousine sector as well with flow on to all other sectors within the industry.

As stated earlier in this submission more than 50% of drivers work a small number of hours and because of poor returns do not stay driving for any extended period, but they still have a valid DA. We support the concept that if a driver is no longer actively using his/her DA then that DA should be surrendered.

Signage (Clause 22,2 & 22,5 Hire vehicle signs and markings)

The RSDAA has no objection to signage being displayed on to vehicles being used for Booked Hire but would recommend that a single generic sign be used. With the number of operators already working in booked hire it is feasible that a driver could have upwards of 5 different signs displayed rear back windshield which would result in a serious safety risk to say the least.

We would suggest that a generic sign indicating vehicle is a “Rideshare Vehicle” would cover the whole of the booked hire signage issue with little impact on safety and not giving any advertising benefit to any operator. Perhaps this signage could be provided by the Government agency or appropriate licenced authority and then could be enforced as a compulsory legal requirement.

Police Checks

Police check requirements need to be strengthened across all platforms. Disabled and indigenous people should not be disadvantaged. This will ensure the safety of Ride Share Drivers and the general public. Zero blood alcohol level to be maintained across all personalised transportation.

Penalty Points

There are references to Penalty Points throughout the regulations documents. Further information needs to be administered on how these penalties will be administered with additional information on consequences for drivers and booking service operators.

Authorisation Fees, Passenger Service Levy (Division 3, 45)

There are substantial omissions relating to how often these fees & levies will be payable. There is also a requirement for a clearer definition of who is responsible for the levy as it seems ambiguous. The clause reads that a booking service provider cannot add the levy to a booking transaction cost.

Authorisation Fees of \$0.03 payable for each passenger service transaction carried out by the provider needs to be expanded as to whom this fee applies to.

Current CTP Premiums & Proposed Increases

Current NSW CTP Premiums are the highest in Australia, vehicle owners currently pay on average \$635 for a premium. This is a real social equity issue. Currently, I cannot see that there would be any data to support the increases in compulsory third party for booked hire work. It is a new industry and, as a member of the Ride Share Drivers' Association, I am not aware of any major accidents involving any of our members that warrant the proposed increases on that scale.

NSW Compulsory Third Party Insurance Scheme (NCTP)

This is a major reform planned to be introduced by the Berejiklian-Barilaro Government. This new scheme is proposed to be applicable from 1 December 2017. The plan of this scheme is for a significant reduction in CTP Premiums except in the case of Ride Share drivers.

The proposed Bill is a hybrid scheme which will increase CTP expenses for the majority of NSW Ride Share Drivers. Under the proposed new reform the average Taxi premiums are expected to fall by up to 40%. The new reform will actually bring additional pressure to NSW Ride Share drivers.

The proposed CTP changes will mean NSW's costs will be greater and out of step with other Australian states which average between \$450-\$600 for CTP. NSW full time ride share drivers CTP costs have the potential to cost drivers well over a thousand dollars.

I am aware that the intention is to promote a more level playing field for Point to Point Transport but the added expense of new CTP arrangements will decimate the Ride Share Industry as a whole as NSW Drivers will not be able to earn a viable income.

The planned base premium with a top-up or refund based on vehicle usage has been put into place to accurately reflect a motor vehicle's risk and usage but the Point to Point Transport does not seem to realise that Ride Share Drivers are forced to work longer and longer hours each month to make ends meet and the added expense will make Driving a non-viable option for NSW Drivers.

I fully understand that CTP reform is a very difficult reform which is why no government has successfully navigated it in two decades. This Scheme will not benefit NSW Rideshare Drivers it will only add additional costs to an industry that is already bordering non-viable. Once again my concerns here are with the fact that NSW drivers are overloaded with increasing expenses to which our Government does not seem to provide realistic support. Drivers need to be protected against additional industry related expenses which will force rideshare drivers to earn well below the Australian minimum wage if premiums are to be paid on the basis of the distance travelled by rideshare vehicles.

Conclusion

The RSDAA supports an open booked Point to Point Transport market and further Point to Point reforms. The public wants change, but Ride Share Drivers need protection where the market fails to uphold the public interest and benefits of an integrated and coordinated transport market in New South Wales.

It is obvious that NSW Rideshare Drivers cannot earn a sustainable income at current rates. If vehicle depreciation from excessive wear and tear of vehicle is to be included these drivers would not actually be earning any income.

Rates need to be enshrined into legislation so that the exploitation of ride share drivers by ride-booking entities does not continue and that the proposed Regulations do not introduce an increased burden on the entire Rideshare Industry which will more than likely force the majority of the industry out of business.

The Ride Share Drivers Association of Australia is hopeful that this submission can raise the awareness that is required to enable hardworking Australian Drivers the opportunity to continue working in the Ride Share Industry. I hope the information that has been provided today will help to put in place laws that will make the Point to Point Transport Industry a fair and equitable environment for Australians.

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