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## Is Ridesharing Safe?

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### EXECUTIVE SUMMARY

**R**ideshare companies Uber and Lyft are facing predictable complaints as they continue to grow. Many of these complaints concern safety, with some in the taxi industry claiming that ridesharing is less safe than taking a traditional taxicab.

Ridesharing safety worries relate to the well-being of drivers, passengers, and third parties. In each of these cases there is little evidence that the sharing economy services are more dangerous than traditional taxis. In fact, the ridesharing business model offers big safety advantages as far as drivers are concerned. In particular, ridesharing's cash-free transactions and self-identified customers substantially mitigate one of the worst risks associated with traditional taxis: the risk of violent crime.

An analysis of the safety regulations governing vehicles for hire does not suggest that ridesharing companies ought to be more strictly regulated. It does highlight, however, that in many parts of the country lawmakers and regulators have not adequately adapted to the rise of ridesharing, which fits awkwardly into existing regulatory frameworks governing taxis.

There will be many real and substantive issues to sort out as the rideshare industry continues to develop. In particular, heavily regulated taxi drivers have a valid point when they complain that they have to compete on an unlevel playing field with less regulated rideshare companies. But the appropriate response to this problem is to rationalize and modernize the outdated and heavy-handed restrictions on taxis—not to extend those restrictions to ridesharing.

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## INTRODUCTION

The rise of the so-called “sharing economy,” in which customers and service providers interact in a peer-to-peer marketplace facilitated by the Internet, has been accompanied by predictable complaints both in the United States and abroad. While the sharing economy has proven popular in a variety of fields such as transportation, accommodation, and cuisine, it remains hampered in many jurisdictions across the world by outdated regulations and political opposition from established competitors.

In the case of sharing economy companies Uber and Lyft,<sup>1</sup> both of which offer ridesharing services via their smartphone apps, taxi companies have taken steps to block their growth, while some legislators and regulators have attempted to craft new rules aimed at regulating ridesharing. In the United States cease and desist orders have been issued to Uber and Lyft, which have faced pressure to conform to regulations designed for taxis. The two companies have also both been the subjects of protests held by taxi drivers, who claim that Uber and Lyft are unfairly flouting existing regulations.

While companies like Lyft, Uber, and other players in the sharing economy have been facing resistance, some investors have indicated that they believe these innovators are here to stay. Uber, for example, has enjoyed a multi-billion dollar valuation since June 2014.<sup>2</sup>

However, critics claim that rideshare companies, by ignoring existing regulations, enjoy an unfair competitive advantage over their regulated competitors in the taxi industry. Furthermore, they argue that the absence of effective ridesharing regulation threatens not only competitors but consumers as well.

In particular, they claim that peer-to-peer ridesharing is less safe than traditional taxi service. “All of these components—primary commercial auto liability insurance coverage, criminal background checks that involve the use of fingerprinting and are conducted by public entities, vehicle inspections that make certain that the vehicle is held to a certain standard, drug testing—cost money, and they

cost somewhere between 35% and 40% of all of a typical taxi company’s operating costs,” says Dave Sutton, spokesperson for Who’s Driving You?, a national anti-ridesharing campaign backed by the taxi industry. “These companies are skirting all of these costs, and it’s how they’re able to provide cheaper service. People love cheaper service, but it comes at an absolute cost and risk to the community.”<sup>3</sup>

These claims about the safety of ridesharing relate to the well-being of both drivers and passengers, as well as third parties who might suffer personal injury or property damage in accidents involving ridesharing vehicles. In all of these cases, however, there is little evidence that the sharing economy services are more dangerous than traditional taxis. Indeed, the ridesharing business model offers big safety advantages as far as drivers are concerned. That said, there are legitimate concerns about how ridesharing is insured, which will need to be sorted out as the new industry continues to develop. Overall, however, concerns about the safety risks of ridesharing are overblown—not terribly surprising, as they are being trumpeted most loudly by industry groups with a big financial stake in maintaining the heavily regulated status quo.

## SAFETY FOR DRIVERS

Uber (originally called UberCab) launched in San Francisco in 2010. Its original black car service uses professional drivers with chauffeur’s licenses and commercial liability insurance. In 2012 the company introduced a new peer-to-peer ridesharing service, UberX, which allows any car owner who passes Uber’s background checks to use Uber’s app to pick up passengers. As of September 2014 the company operated in over 200 different cities in 45 countries around the world.

Lyft introduced its peer-to-peer ridesharing service in 2012 and currently operates in more than 65 U.S. cities. Cars offering rides through Lyft can often be identified by a furry pink mustache on the front grill, which Lyft drivers are encouraged to attach.

Any discussion of the relative safety of ride-sharing versus traditional taxis should begin with the drivers, who historically have borne the greatest safety risks associated with rides for hire. In particular, taxi drivers face an unusually high risk of being victimized by crime. According to data from the Census of Fatal Occupational Injuries gathered by the Bureau of Labor Statistics (BLS), the occupational fatal injury rate (which includes homicides) of taxi drivers and chauffeurs ranged from 14.7 per 100,000 to 19.7 per 100,000 between 2006 and 2012—many times higher than the rate of all workers (see Figure 1).<sup>4</sup>

The BLS's Census of Fatal Occupational Injuries shows that homicides make up a significant portion of total work-related taxi service deaths (See Figure 2). Between 2003 and 2012 homicides accounted for between 56 percent (in 2005) and 80 percent (in 2003) of all work-related deaths in the taxi industry.<sup>5</sup> Taxi drivers also face an unusually high risk of non-fatal violent assaults.

Why are taxi drivers so vulnerable? First, they often carry cash, which criminologist

Marcus Felson has called “the mother’s milk of crime.”<sup>6</sup> Second, their job consists of giving rides to anonymous strangers: “picking up hitchhikers” is how James Szekely, director of the International Taxi Driver’s Safety Council, describes driving a cab.<sup>7</sup> It is therefore unsurprising that taxis make such inviting targets for robberies.

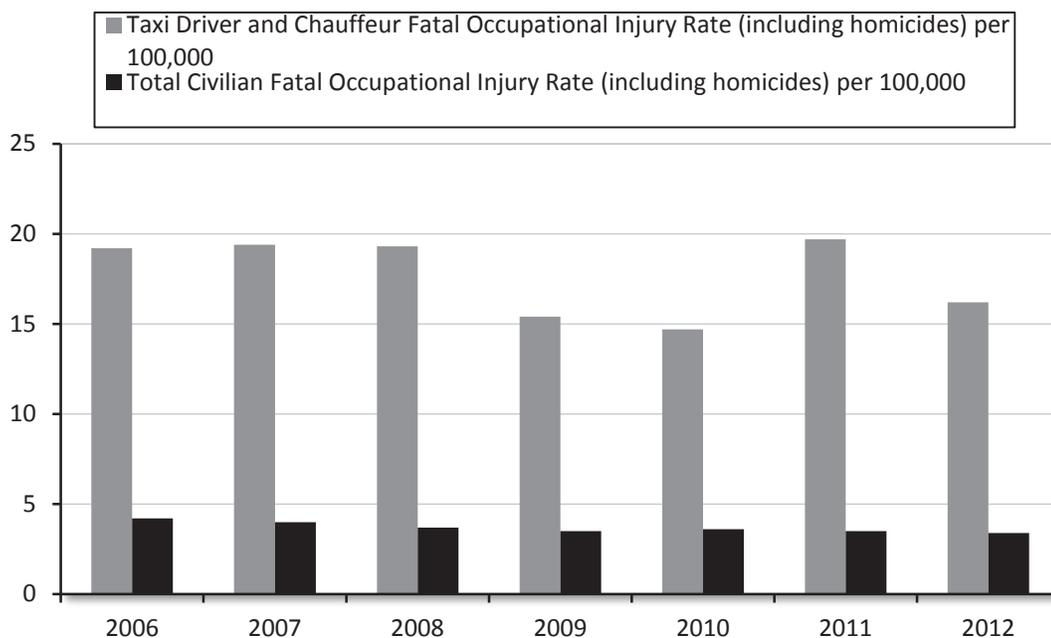
Uber and Lyft rides, by contrast, are notable for two reasons: no cash ever changes hands, and passengers are not anonymous. These important differences remove major incentives for violent assaults and furthermore ensure that any Uber or Lyft passenger who commits a crime during a ride will be easier to apprehend.

When a customer opens an Uber or Lyft account, she enters her credit card information and the credit card details are linked to the customer’s account. Uber and Lyft transactions are made automatically at the end of trips; no cash is needed to pay fares.

The introduction of electronic payment mechanisms has a proven track record of reducing crime. In a March 2014 working pa-

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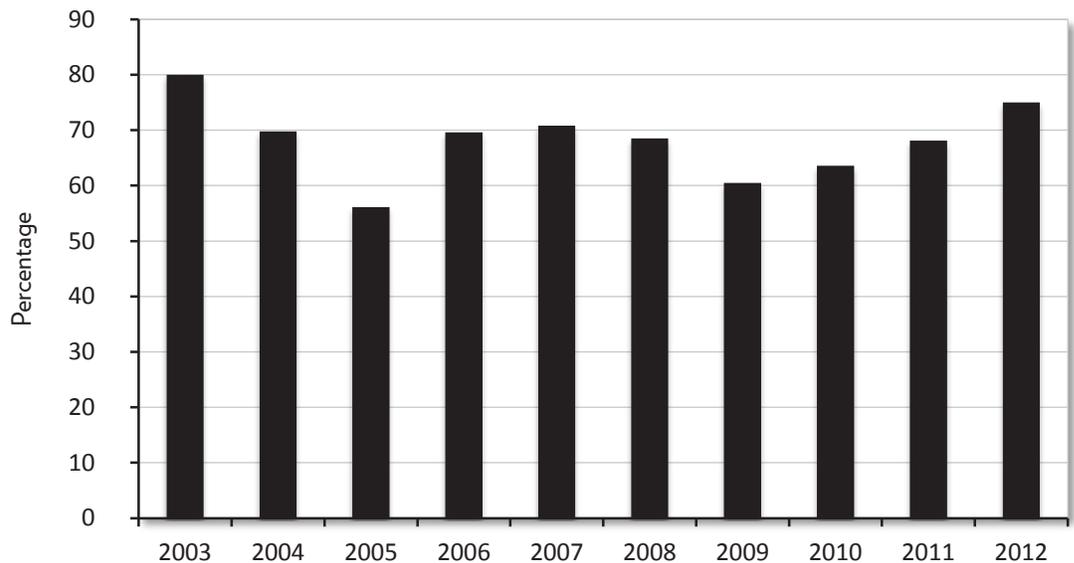
**Figure 1**  
Taxi Driver and Chauffeur Fatal Occupational Injury Rate vs. Total Fatal Occupational Injury Rate



Source: Census of Fatal Occupational Injuries, Bureau of Labor Statistics.

“Experiences such as Nuzzi’s highlight the fact that Uber’s platform can allow for drivers to exhibit unacceptable and disturbing behavior.”

**Figure 2**  
Percentage of Taxi Service Work-Related Deaths That Are Homicides



Source: Census of Fatal Occupational Injuries, Bureau of Labor Statistics.

per for the National Bureau of Economic Research, researchers examined the effect of delivering welfare payments via debit card instead of paper checks in Missouri as part of the Electronic Benefit Transfer (EBT) program. The pilot programs began in mid 1997. According to the researchers’ estimates “the overall crime rate decreased by 9.8 percent in response to the EBT.”<sup>8</sup>

It is increasingly common for taxis to accept credit cards, and it can be reasonably assumed that if this trend continues the number of taxi drivers who are the victims of violent crime will decrease. However, even if it were the case that every taxi accepted credit cards, the drivers would still not have the significant safety advantage Uber and Lyft drivers enjoy knowing the identity of their passengers.

### **PASSENGERS’ PRIVACY CONCERNS**

While it is the case that rideshare drivers enjoy an advantage over taxi drivers in knowing some of their passengers’ personal information, this feature has raised privacy concerns. In March 2014 Olivia Nuzzi, a reporter for *The Daily Beast*, wrote that at the end of an

Uber ride the driver showed her a photo he had taken of her before the ride began.<sup>9</sup> This driver emailed Nuzzi and *The Daily Beast* after Uber deactivated him. Nuzzi also reported that another Uber driver in New York City had contacted one of her friends via Facebook.<sup>10</sup> The driver asked the friend whether Nuzzi was single. Uber representatives have claimed that its drivers are required to record passengers’ first and last names on a trip record in order to comply with New York City’s Taxi and Limousine Commission (TLC) regulations.<sup>11</sup> However, the TLC denies that such personal information has ever been required when reporting trip data.<sup>12</sup>

Experiences such as Nuzzi’s highlight the fact that Uber’s platform can allow for drivers to exhibit unacceptable and disturbing behavior. However, Uber and Lyft passengers rate drivers at the end of trips, which allows for quick feedback from customers. The ability rideshare passengers have to report a driver’s behavior quickly via a rating system (as Nuzzi did) is an improvement over many of the processes in place for reporting bad taxi drivers.

Privacy worries relating to Uber concern not only the company allowing drivers to ac-

cess the names of passengers, but also its tracking of users' locations. In September 2014 venture capitalist Peter Sims wrote about how someone he barely knew was able to track his location while he was in an Uber SUV in New York City by looking at a screen that was on display at Uber's Chicago launch party.<sup>13</sup> The screen showed the real-time locations of New York City "known people" using Uber.

In November 2014 Uber announced that it was investigating Josh Mohrer, an Uber New York executive, after he reportedly told a *BuzzFeed* reporter that he had been "tracking" her during her Uber ride to Uber's New York headquarters.<sup>14</sup> The reporter never gave Mohrer permission to track her location. Uber claimed that Mohrer's use of its "God View" tool, which allows corporate employees to view the location of Uber vehicles and those requesting rides, was in violation of Uber's privacy policy.<sup>15</sup> In the wake of this news, Uber announced that it would be improving its privacy policy with help from the law firm Hogan Lovells.<sup>16</sup> Uber also disciplined Mohrer following its investigation.<sup>17</sup>

News of how Uber and some Uber drivers use passengers' data has been unsettling. That Uber is working on improving its privacy policy is a welcome development, but it remains to be seen whether the company will learn from its past mistakes and implement changes that will adequately address legitimate privacy concerns. What is clear is that Uber, like other rideshare companies, has an enormous financial incentive to do the right thing. Unlike traditional taxi companies that often enjoy a legally protected monopoly, rideshare companies face plenty of competition. Accordingly, if they don't meet their customers' reasonable expectations of privacy, they will pay for their failure in the marketplace.

## SCREENING DRIVERS

Rideshare drivers can pose other risks to passengers besides violating their privacy and stalking them. They can be rude or even violent, and they can be dangerous behind the

wheel. Indeed, with Uber and Lyft's growing popularity has come a steady trickle of reports of their drivers behaving badly. Are ridesharing passengers taking their lives into their hands with poorly vetted and potentially dangerous drivers?

In July 2014 a man accused an Uber driver in Washington, D.C., of kidnapping him and his colleagues and speeding away from a taxi inspector before coming to a stop on an exit ramp. Uber deactivated the driver.<sup>18</sup>

In June 2014 an UberX driver in San Francisco who already had a drug-related charge and conviction was charged with two misdemeanor battery counts after allegedly assaulting a passenger in November 2013. One of the battery counts was related to a fight with an UberX passenger. Uber deactivated the driver, and an Uber spokesman said that the company would leave the matter to the criminal justice system.<sup>19</sup>

In January 2014 footage emerged of what appears to be a Lyft driver in San Francisco punching a pedestrian in November 2013.<sup>20</sup> The driver claimed that he was not working for Lyft at the time of the incident. Similarly, after an UberX driver hit and killed a 6-year-old girl in San Francisco on New Year's Eve in 2014, his attorneys claimed that he was between fares at the time of the incident.<sup>21</sup> Uber likewise claimed that he was not working for Uber at the time of the accident.<sup>22</sup>

It is inevitable that, among a large and growing group of rideshare drivers, some of them will turn out to be bad apples. Traditional taxi drivers sometimes have run-ins with the law as well. The operative question is: Are Uber and Lyft taking proper precautions to protect their passengers' safety? Are they screening their drivers adequately?

Uber requires that an applicant driver have none of the following on his or her record over the past seven years: hit and runs, fatal accidents, reckless driving, violent crimes, sexual offenses, gun-related violations, resisting or evading arrest, driving without insurance, or "DUI or other drug-related violations or severe infractions."<sup>23</sup>

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Lyft requires that no driver have a DUI or drug-related violation or an “extreme” infraction (such as a hit and run or felony) on record in the past seven years.<sup>24</sup> Lyft also requires that applicants have no more than three moving violations and no major violations (driving on a suspended license, driving 21+ mph over the speed limit) in the past three years. Any applicant with a record of violent crimes, felonies, sexual offenses, theft, property damage, or drug-related offenses in the past seven years of address history is prohibited from being a Lyft driver.<sup>25</sup>

These requirements are often more strict than those imposed on taxi drivers in some of America’s most populous cities.

In Chicago a successful chauffeur license applicant cannot have been found guilty of a “forcible felony”<sup>26</sup> or have been discharged for serving a sentence imposed for a “forcible felony” for five years before the application.<sup>27</sup> Nor can the applicant have been on parole or under another noncustodial supervision related to a forcible felony within five years. The five-year requirement applies not only to forcible felonies but also to a range of other crimes including sexual abuse and drunk driving.<sup>28</sup>

Taxi cab driver applicants in Philadelphia cannot have been convicted of a felony in the five years prior to the application.<sup>29</sup> In San Jose, the chief of police or the Appeals Hearing Board may reject a taxicab driver permit applicant who within five years of the application has committed an act of violence, dishonesty, or fraud.<sup>30</sup>

San Diego regulations state a for-hire driver’s identification card shall not be issued to anyone who has been released from prison after serving time for a violent crime or theft in the five years before the application.<sup>31</sup>

Thus, Uber’s and Lyft’s background check requirements are stricter than the screening requirements for many American taxi drivers. It is the national norm for there to be a five-year window for felonies in the taxi industry.<sup>32</sup>

When it comes to driving while intoxicated, Uber and Lyft are also stricter than their traditional competitors in some of America’s

most populous cities. Here again, both Uber and Lyft look at the past seven years in screening rideshare driver applicants for DUI convictions. Any convictions during that period are disqualifying.

According to the Philadelphia Parking Authority, “A [taxi and limousine] Driver’s Certificate shall not be issued to an individual who has been convicted of DUI within the past three (3) years.”<sup>33</sup> San Diego regulations state that a for-hire vehicle driver’s identification card will not be issued to any applicant who was convicted of drunk driving five years before the processing of the application.<sup>34</sup>

The Dallas City Code states that a taxi driver’s license will not be issued to an applicant “convicted of, or discharged by probation or deferred adjudication for, driving while intoxicated” within the past 12 months or more than once in the past five years.<sup>35</sup>

San Jose’s Municipal Code states that the chief of police or the Appeals Hearing Board may reject a taxicab driver’s permit application if the applicant “has been convicted of reckless driving or driving under the influence of any drug or intoxicating liquor, regardless of whether the incident resulted in bodily injury or death” in the five years before the application.<sup>36</sup>

In Los Angeles, a taxi driver permit applicant not considered a previously permitted driver cannot obtain a permit “if her last three to five years Department of Motor Vehicles printout indicates” she has a conviction of driving under the influence of alcohol or drugs (not resulting in injury) in the five years prior to the application.<sup>37</sup>

Uber and Lyft’s stated criteria regarding applicant drivers’ backgrounds thus compare favorably with the standards applied to taxi drivers in some of the country’s biggest cities. But do Uber and Lyft really follow through in applying these criteria effectively? After all, both rideshare companies allow would-be drivers to apply to use their service remotely and do not conduct fingerprint scans. By contrast, fingerprint scans are employed in background checks on taxi driver applicants in cit-

ies such as New York, Los Angeles, Chicago, and San Jose. Some have argued that Uber and Lyft's failure to conduct fingerprint scans means that their background checks are not as rigorous as those carried out by many taxi companies.

Uber and Lyft employ two outside firms—Hirease and SterlingBackcheck, respectively—to conduct background checks on their driver applicants. These firms look through publically available records (such as county court documents) and sex offender registries to gather information on a rideshare applicant. Uber and Lyft's decisions on allowing drivers to use their services are based on the information provided by Hirease and SterlingBackcheck.

In February 2014 Uber announced that it was expanding its background check requirements to include not only a Multi-State Criminal Database check but also federal and county checks in order to pick up on county data not reported to the Multi-State Criminal Database.

SterlingBackcheck examines data from arresting agencies and other sources, such as Departments of Corrections and the Administrative Office of the United States Courts, which have made information available to consumer reporting agencies. SterlingBackcheck also checks a Lyft driver applicant's record based on the address history for the last seven years using both federal court and county court data. This means that the search may go back well in excess of seven years if the applicant lived at the first address a long time.

Some have faulted Uber and Lyft for not including fingerprint scans as part of their background checks. However, fingerprint databases do not contain a full case history of the individual being investigated, and in some instances an FBI fingerprint check may unfairly prevent a qualified taxicab driver applicant from being approved. The FBI fingerprint database relies on reporting from police departments, and other local sources, as well as other federal departments and is not a complete collection of fingerprints in the United States.

Critics of the FBI fingerprint database point to its incomplete or inaccurate information. In July 2013 the National Employment Law Project (NELP) released a study on the FBI's employment background checks and found that "FBI records are routinely flawed." Also, while law enforcement agencies are diligent when it comes to adding fingerprint data of arrested or detained persons to the federal data, they are "far less vigilant about submitting the follow-up information on the disposition or final outcome of the arrest."

This lack of vigilance is significant because, as the NELP study goes on to point out, "About one-third of felony arrests never lead to a conviction. Furthermore, of those initially charged with a felony offense and later convicted, nearly 30 percent were convicted of a different offense than the one for which they were originally charged, often a lesser misdemeanor conviction. In addition to cases where individuals are initially overcharged and later convicted of lesser offenses, other cases are overturned on appeal, expunged, or otherwise resolved in favor of the worker without ever being reflected on the FBI rap sheet."<sup>38</sup>

A case could be made that it is worth having Uber, Lyft, and taxi companies rely on an overly cautious background screening process which does not accurately reflect dropped charges or convictions of lesser offenses. However, both rideshare companies and taxi companies ought to use a background check system that allows for qualified and safe drivers to work. The FBI fingerprint check allows for otherwise qualified driver applicants to be potentially unfairly declined because of flaws in the FBI's record keeping.

Indeed, lawmakers and regulators who have written rideshare regulations have demonstrated that they do not think fingerprints should be necessary for rideshare background checks. Colorado's SB 125, the first piece of statewide legislation to recognize the legality of ridesharing, does not require Lyft and Uber rideshare driver applicants to submit fingerprints as part of the background check.<sup>39</sup> Nor do the regulations governing ridesharing driv-

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er background checks in California require that applicants submit fingerprints. Instead, the California regulations require a background check “based on the applicant’s name and social security number.”<sup>40</sup>

It is understandable that both Uber and Lyft would oppose mandatory fingerprint checks because such a requirement would make their driver sign-up process considerably more burdensome. However, if future legislation related to ridesharing does impose a fingerprint requirement for background checks, it would not be surprising if Uber and Lyft accepted the requirement as a long-term compromise. Nevertheless, given the problems with the FBI’s fingerprint database, Uber and Lyft’s current reliance on other records for vetting their driver applicants seems defensible.

Uber and Lyft both have criteria for background checks that are stricter than the requirements for taxi driver applicants in many American jurisdictions. It cannot be reasonably claimed that an UberX or Lyft driver who has been cleared through a thorough background check is more of a danger to passengers than a taxi driver in most of America’s most populous cities.

## VEHICLE INSPECTIONS

Bad drivers are not the only source of safety risk for ridesharing passengers and innocent third parties. Old, poorly maintained vehicles can also pose dangers. Critics of ridesharing argue that Uber’s and Lyft’s cars are not subject to the same rigorous safety inspections as conventional taxis—and, therefore, that they are less safe.

It is true that frequent taxicab safety inspections are commonplace in big cities. In Los Angeles, regulations state that taxis must be inspected by the Los Angeles Department of Transportation on an annual basis.<sup>41</sup> In New York City, yellow taxis must be inspected three times a year, boro taxis twice a year, and black cars, limos, and liveries once a year.<sup>42</sup> In Philadelphia, regulations require taxis to be inspected twice a year.<sup>43</sup> When a Chicago taxicab is

inspected depends on the age of the vehicle. If a Chicago taxi is less than two years old it must be inspected annually, while older taxis must be inspected semiannually.<sup>44</sup> Washington, D.C., taxicabs are, like Chicago cabs older than 2 years, subject to semiannual inspections.<sup>45</sup> San Jose and San Diego taxis are inspected annually.<sup>46</sup>

Taxis in some of America’s most populous cities are thus inspected far more often than many personal cars. According to the American Automobile Association, only 17 U.S. states require that private vehicles undergo a periodic safety inspection.<sup>47</sup> Among those states that do not require periodic safety inspections are some of the most populous ones, including California, Florida, New Jersey, and Ohio.

Uber, for its part, does not require regular vehicle inspections (that is, in addition to any inspections that may be mandatory for all vehicles in a given state). However, Uber does review photos of vehicles before a rideshare driver applicant is approved.<sup>48</sup> Moreover, Uber requires that all cars using its app be 2004 model year or newer.<sup>49</sup> Lyft does require that a driver applicant’s car undergo an in-person inspection before she can use the app to pick up passengers. In addition, Lyft requires its cars to be no older than the 2000 model year.<sup>50</sup>

Uber and Lyft may rely less on periodic, centralized inspection systems than some of their competitors in the taxi industry, but they make more intensive use of continuous, decentralized inspections—by their passengers. Uber and Lyft enable and encourage passengers to rate their drivers and their vehicles after every ride. Complaints about substandard vehicles can result in a driver being discontinued.

Does the failure of Uber and Lyft to require regular inspections of all their vehicles constitute a significant lapse in safety standards? The available evidence says no. Although periodic safety inspections, like chicken soup, can’t hurt, there is little evidence that they help either. The findings of studies over the years have been mixed, but more recent academic studies conclude that state inspection programs do not result in measurable improvements in road safety. For example, Marc Poi-

tras of the University of Dayton and Daniel Sutter of Troy University, coauthors of a 2002 paper, found that their results “lend support to existing studies that find inspection ineffective in reducing roadway casualties.”<sup>51</sup>

It is worth noting in this regard that the clear policy trend in recent years has been to move away from mandatory periodic safety inspections for private vehicles. Back in 1975, 31 states and the District of Columbia required regular inspections; now only 17 states do.<sup>52</sup> The District scrapped regular mandatory inspections in 2009, a move that reportedly saved the nation’s capital \$400,000 a year. The D.C. city council stated that there was no data suggesting that the inspections saved lives.<sup>53</sup>

Notwithstanding the above, both the new Colorado statute and California regulations now require annual inspections for ridesharing vehicles. As other states adopt their own laws and rules pertaining to ridesharing, they may well follow Colorado and California’s example and impose similar requirements. Uber and Lyft have been content to acquiesce in such mandates in exchange for rules that recognize the basic legality of ridesharing. From their perspective, the added cost may well be worth paying. From the perspective of public safety, however, little will be gained if regular mandatory inspections of ridesharing vehicles become the nationwide norm.

## INSURANCE

One of the most commonly raised safety concerns about ridesharing relates to insurance. The problem is that peer-to-peer ridesharing occupies a no-man’s-land that falls between the traditionally distinct domains of personal and commercial insurance. Full-time professional drivers are generally covered by commercial insurance for any accidents that occur while driving on company business. The rest of us, meanwhile, obtain policies to cover the risks that attend our own “amateur” driving.

Rideshare drivers do not fit comfortably into this traditional framework. Many ride-

share drivers provide rides on a part-time basis and do not have commercial insurance—which typically is much more expensive than personal liability policies.<sup>54</sup> The drivers’ personal policies, however, by and large expressly exclude from coverage any injuries or damage caused when a driver is carrying passengers for a fee. This state of affairs raises the troubling possibility that the new ridesharing industry is imposing risks—on drivers, passengers, and third parties—that are not adequately insured.

Lurking behind these concerns about insurance are unresolved legal questions about who exactly is liable when a ridesharing vehicle is involved in an accident. Uber and Lyft, for their part, have staked out legal positions denying liability for accidents that occur in the use of their services. They argue that, like dating sites, they are merely facilitating matches between drivers and passengers and thus they bear no legal responsibility for injuries or property damage caused by drivers. It remains to be seen whether or to what extent this denial of liability will hold up in court. Indeed, the assignment of liability may shift over the course of a rideshare driver’s day. When the Uber or Lyft app is turned off, it seems clear enough that the driver is not engaged in providing transportation services and thus that rideshare companies should bear no responsibility in the event of an accident. When the driver is actually carrying passengers, the case is strongest that rideshare companies are liable. But what about when the app is turned on but the driver has not yet accepted a ride request from a new passenger? Is the driver engaged in commercial activity at that point or not? Who should be liable for accidents that occur in those circumstances?

For the time being at least, Uber and Lyft have resolved these difficulties by purchasing insurance to cover accidents involving their drivers. From the time a driver accepts a request for a car until that passenger is dropped off, both companies now offer \$1 million worth of primary coverage for death, injury, and damages when the rideshare driver is at fault. They also offer \$1 million in coverage for

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death, injury, and damages suffered by either rideshare drivers or passengers when the other party is at fault and is either uninsured or lacks adequate coverage. In addition, provided the driver maintains personal comprehensive and collision insurance, the companies provide contingent comprehensive and collision insurance to cover damage to the driver's vehicle up to \$50,000. For Uber this coverage comes with a \$1,000 deductible, while for Lyft the deductible is \$2,500.<sup>55</sup>

Uber and Lyft also provide limited coverage when a driver has the app turned on but has not yet accepted a fare. Specifically, both of the companies' policies provide contingent coverage for death and injury up to \$50,000 per person and \$100,000 per accident, and up to \$25,000 for physical damage. This coverage applies only if the driver's personal auto insurance policy doesn't provide coverage.

The insurance coverage provided by Uber and Lyft compares favorably with insurance requirements for taxis in major cities. In New York City and Los Angeles, for example, taxis are required to carry driver liability insurance that covers up to \$100,000 per individual or \$300,000 per incident—well below the \$1 million per incident cap that applies to Uber and Lyft vehicles. In Washington, D.C., taxi driver liability only has to be covered up to \$25,000 per individual and \$50,000 per incident.<sup>56</sup> Philadelphia's taxis are only required to carry \$35,000 in liability insurance.<sup>57</sup> In Chicago, the taxi driver liability insurance coverage has to be covered up to a combined single limit of \$350,000 per incident.<sup>58</sup> Another city with a combined single limit is San Diego, which requires “not less than \$1,000,000 per occurrence, combined single limit for bodily injury and property damage.”<sup>59</sup>

Uber's and Lyft's current policies are also generally consistent with new regulatory requirements imposed by recent state-level legislation. This year Colorado and California passed legislation relating to ridesharing insurance. Both Colorado's SB 125 and California's AB 2293 set different requirements for (1) the period when a driver's app is turned

on but no ride request has been accepted and (2) the period between when a ride request is accepted and the passenger is discharged. For the latter period, the states require \$1 million in primary coverage for driver liability, just as Uber's and Lyft's policies currently provide. For the former period, the states require coverage of \$50,000 for death and injury per individual, \$100,000 for death and injury per incident, and \$30,000 for property damage. These requirements match Uber's and Lyft's current policies except that (1) the laws require primary coverage for the period when a driver has a rideshare app open but does not have a passenger in the car, whereas Uber and Lyft for now offer contingent coverage that kicks in only if the driver's personal policy fails to apply<sup>60</sup> and (2) the laws require \$30,000 in coverage for property damage, as opposed to the \$25,000 in coverage now supplied under Uber and Lyft's policies. The laws' requirements go into effect on January 15, 2015, in the case of Colorado and on July 1, 2015 for California.<sup>61</sup>

Although Uber and Lyft have now largely resolved the issue of adequate insurance for risks associated with ridesharing, it is entirely possible that the insurance industry will eventually develop new products that supplement drivers' personal auto policies with coverage for ridesharing activities. Along these lines, Lyft announced in May 2014 that it was collaborating with MetLife Auto & Home to come up with individual policies for its drivers. Of course, given that the insurance industry is among the most heavily regulated in the country, it would not be surprising if considerable time elapses before new insurance products hit the market. And it could turn out that it is more efficient for rideshare companies like Uber and Lyft to continue purchasing insurance as at present than for drivers to insure themselves for their ridesharing activities.

## CONCLUSION

The rapid growth of ridesharing provided by Uber, Lyft, and other companies dem-

onstrates that consumers are far from fully satisfied with existing taxi service. The heavily regulated taxi industry, frequently subject to onerous restrictions and simultaneously shielded from competition, all too often provides shoddy and unreliable service at inflated prices. So it is more than a little ironic when that industry and its supporters attack ridesharing in the name of concern for consumer safety and welfare. But it should not come as a surprise, as government restrictions on who can legally provide a given service are usually justified in the name of consumer protection—even though such justifications are frequently threadbare, and the real effect of such regulations is to protect incumbent producers rather than consumers.<sup>62</sup>

Nevertheless, the emergence of a new industry that puts people into strangers' cars does give rise to legitimate safety concerns. Furthermore, ridesharing's business model of matching consumers with independent service providers raises novel legal issues regarding whether and to what extent rideshare companies are legally liable for the actions of the drivers that use their apps. Finally, ridesharing's dependence on nonprofessional part-time drivers confounds the traditional distinction in the heavily regulated insurance industry between commercial and personal insurance.

Notwithstanding these legitimate concerns and questions, the good news is that scare stories about ridesharing's safety and insurance risks are wildly overblown. Indeed, ridesharing's cash-free transactions and self-identified customers substantially mitigate one of the worst risks associated with traditional taxis: the risk of violent crime. Meanwhile, Uber's and Lyft's screening of drivers is comparable and in some ways superior to screening of taxi drivers, and Uber's and Lyft's auto insurance policies offer better coverage than that provided for taxis in some major U.S. cities.

There will be many real and substantive issues to sort out as the rideshare industry continues to develop. In particular, heavily regulated taxi drivers have a valid point when they complain that they have to compete on an un-

level playing field with less regulated rideshare companies. But the appropriate response to this problem is to rationalize and modernize the outdated and heavy-handed restrictions on taxis—not to extend those restrictions to ridesharing.<sup>63</sup> Meanwhile, if rideshare companies continue to grow, there is a risk that they will start flexing their new political muscle to protect their own market position and block rival newcomers. As far as the future of ridesharing is concerned, the biggest risks to consumer welfare come not from safety issues but from politics.

## NOTES

1. Many other new companies are offering variations on the services provided by Uber and Lyft. Sidecar offers peer-to-peer ridesharing through its app but allows drivers to set their own prices. Wingz provides ridesharing specifically for trips to the airport. Summon offers an app that matches customers with either taxis or peer drivers. FlyWheel and Curb offer apps to allow consumers to arrange rides on their phones with existing taxi and limousine services. NuRide, CarPooling.com, and Carma facilitate carpooling in which drivers are not paid, while RelayRides, FlightCar, and GetAround offer "car sharing" in which car owners rent their vehicles to other drivers. See R. J. Lehmann, "Blurred Lines: Insurance Challenges in the Ride-Sharing Market," R Street Policy Study no. 28, October 2014, <http://www.rstreet.org/policy-study/blurred-lines-insurance-challenges-in-the-ride-sharing-market/>. For the sake of analytical simplicity, the focus of this paper is on Uber and Lyft, the current leading providers of peer-to-peer ridesharing.

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4. Data from the Bureau of Labor Statistics’ Census of Fatal Occupational Injuries (<http://www.bls.gov/iif/oshcfoir.htm#2012>).
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  10. Ibid.
  11. According to the Uber representative who spoke to Nuzzi, “The New York City and Limousine commission, along with the vast majority of jurisdictions across the country, do require first and last names on what is commonly called a waybill or trip record.” Polly Mosendz, “Uber Drivers Have Privacy Problems Too,” *Newsweek*, November 19, 2014, <http://www.newsweek.com/uber-taxi-e-hailing-riding-app-travis-kalanick-emil-michael-josh-mohrer-uber-285642>.
  12. Author correspondence with New York City’s Taxi and Limousine Commission (TLC) official. The Uber representative cited in Nuzzi’s article was asked by the author to clarify which TLC regulation requires Uber to record passengers’ first and last names. The author received no response.
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22. *Ibid.*

23. Uber blog, <http://blog.uber.com/driverscreening>.

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25. A seven-year "address history" refers to a history of the available records for the jurisdictions the applicant has lived in for the last seven years.

26. "Forcible felony" means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual" (720 ILCS 5/2-8).

27. Chicago Code § 9-104-030 2 (F).

28. *Ibid.*: "any crime involving moral turpitude, or

for the illegal sale or possession of any controlled substance, indecent solicitation of a child, criminal sexual abuse or operating a motor vehicle while under the influence of alcohol or narcotic drugs."

29. Philadelphia Parking Authority Taxicab and Limousine Regulations: "An applicant shall not have been convicted of a felony in the past five years in any jurisdiction," <http://philapark.org/wp-content/uploads/2011/01/TLD-Regulations.pdf>.

30. San Jose Municipal Code Title 6, Chap. 6.64.500 M: "within five (5) years prior to the date of application, has done any act involving violence, dishonesty or fraud with the intent to substantially injure another, or substantially benefit the applicant or another."

31. San Diego MTS Ordinance 11, Section 1.12, g (2): "No for-hire vehicle driver's identification card shall be issued or renewed to" someone "who has been convicted of a felony involving a crime of force or violence against any person, or the theft of property, unless five (5) years have elapsed since his or her discharge from a penal institution or satisfactory completion of probation for such conviction during which period of time his or her record is good."

32. Alfred LaGasse, CEO of the Taxicab, Limousine & Paratransit Association, cited in Tim Potter, "About 1 in 10 Wichita Cab Drivers Has a Felony Record," *Wichita Eagle*, March 8, 2014, <http://www.kansas.com/news/local/crime/article1136560.html>.

33. Philadelphia Parking Authority <http://philapark.org/wp-content/uploads/2011/01/TLD-Regulations.pdf>.

34. San Diego Metropolitan Transit System Ordinance 11: "Any person who, within the five (5) years immediately preceding the processing of the application, has been convicted of or held by any final administrative determination to have been in violation of any statute, ordinance, or regulation reasonably and rationally related to the for-hire vehicle industry or any similar business operation

which would have authorized the suspension or revocation of the driver's identification card in accordance with Section 1.14 of this Ordinance." Section 1.14 of the ordinance includes "reckless driving or driving while under the influence of intoxicating liquors and/or narcotics."

35. Dallas City Code, Volume II, Chap. 45-3.2, 8 (A)-(B).

36. San Jose Municipal Code Title 6, Chap. 6.64.500J.

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38. Madeline Neighly and Maurice Emsellem, "Wanted: Accurate FBI Background Checks for Employment," *The National Employment Law Project*, June 2013.

39. Andy Vuong, "Colorado First to Authorize Lyft and Uber's Ridesharing Services," *Denver Post*, June 5, 2014, [http://www.denverpost.com/business/ci\\_25907057/colorado-first-authorize-lyft-and-ubers-ridesharing-services?source=infinite](http://www.denverpost.com/business/ci_25907057/colorado-first-authorize-lyft-and-ubers-ridesharing-services?source=infinite); Kim Lyons, "Ride-Share Companies Lyft and Uber May Get Boost in Harrisburg," *Pittsburgh Post-Gazette*, September 14, 2014, <http://www.post-gazette.com/business/2014/09/14/Ride-share-companies-may-get-boost-in-Harrisburg/stories/201409140060>.

40. California Public Utilities Commission's Overview of Limousine and Transportation Network Company Regulations: [http://www.cpuc.ca.gov/NR/rdonlyres/208D6DD5-F4A3-4A66-8B7C-65CDB0F4265E/0/TNCLimoRegulation\\_v1.pdf](http://www.cpuc.ca.gov/NR/rdonlyres/208D6DD5-F4A3-4A66-8B7C-65CDB0F4265E/0/TNCLimoRegulation_v1.pdf).

41. "All vehicles shall be inspected by the Department on a yearly basis. Each taxicab operator shall assure that after reasonable notice to operator all appointments for annual vehicle inspections with the Department are kept. Cancellations by either party shall be upon a minimum of one business days notice, unless circumstances prevent

otherwise." Taxicab Rules and Regulations of the Board of Taxicab Commissioners, City of Los Angeles, [http://ladot.lacity.org/stellent/groups/departments/@ladot\\_contributor/documents/contributor\\_web\\_content/lacityp\\_029021.pdf](http://ladot.lacity.org/stellent/groups/departments/@ladot_contributor/documents/contributor_web_content/lacityp_029021.pdf).

42. New York City Tax and Limosine Commission, "Taxicab Factbook," [http://www.nyc.gov/html/tlc/downloads/pdf/2014\\_taxicab\\_fact\\_book.pdf](http://www.nyc.gov/html/tlc/downloads/pdf/2014_taxicab_fact_book.pdf).

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54. According to a recent report by the R Street Institute, commercial auto insurance can cost as much as \$8,000 to \$10,000 a year. The average annual cost of personal insurance, meanwhile, was only \$797 in 2011. See Lehmann.

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