FTA's Taxicab Exception:

Modernizing Public Transit for a Multi-Modal Future

International Association of Transportation Regulators

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I. About the International Association of Transportation Regulator (IATR)

The International Association of Transportation Regulators (IATR) is a non-profit, professional association of government transportation officials. Founded in 1989, the IATR is an educational organization that promotes the exchange of information and best practices among government agencies that license, regulate, and/or contract with for-hire ground transportation and emerging mobility services.

IATR members include subdivisions of international and domestic cities, states, and provinces, as well as federal and quasi-governmental entities such as airports, departments of transportation and motor vehicles, planning agencies, public utilities commissions, and taxi & for-hire vehicle commissions. Collectively, IATR represents **hundreds of agencies worldwide** that regulate both traditional for-hire industries and the newest forms of mobility.

Industries Regulated by IATR Members:

- Taxicabs, liveries, black cars, and limousines
- Paratransit & non-emergency medical transportation (NEMT)
- Micro-transit & micro-mobility (bikes, scooters, e-mopeds)
- Buses & motorcoaches
- Transportation Network Companies (TNCs) and technology platforms
- Autonomous vehicles & robotaxis
- Delivery robots & last-mile logistics
- Flying taxis, drones, and advanced air mobility
- Automated enforcement
- Shared mobility & Mobility-as-a-Service (MaaS), including mobility data standards (APIs, MDS, taximeters, open data platforms)
- Car sharing, pedicabs, and other emerging modes

Mission*: *"Multi-Modal Mobility Innovation For All!"

The mission of the International Association of Transportation Regulators (IATR) is to:

- **"Innovate for a multi-modal future for all,"** by advancing the principles of transportation equity and affordability, sustainability, health and safety, technology innovation and automation, open public data, and sound multi-modal governance.
- **Collaborate** to improve the practice of licensing, enforcement, and administration of for-hire and new mobility regulation through the sharing of information and resources.

- **Develop and disseminate best practices** for transportation regulation, including model regulations, reports, and policy frameworks.
- **Establish a regulatory data commons** by collecting, maintaining, and analyzing transportation-related data, and fostering innovation through hack-a-thons, data challenges, and academic partnerships.
- **Provide a global professional forum** for regulators to exchange ideas, define common issues, and work toward solutions that balance the interests of industry, passengers, and the public.
- **Educate** the public, policymakers, and the business community about the essential role of regulation in delivering safe, equitable, and high-quality mobility services.
- **Build cooperative networks** with local, regional, national, and international agencies to advance shared goals.
- **Stay ahead of change** by monitoring and analyzing policy, legislative, and technological developments impacting mobility regulation.

II. Executive Summary

For decades, the Federal Transit Administration (FTA) has excluded taxicab and Transportation Network Company (TNC) drivers from FTA drug and alcohol testing requirements when passengers use publicly subsidized vouchers and retain the ability to choose among multiple providers. The FTA's newly proposed policy would significantly narrow this exception, asserting that prior guidance mischaracterized the rule and that only services without any contractual or informal relationship with a transit agency—and with trip-by-trip customer choice—should qualify for exemption.

The FTA's proposal to change the "taxicab exception" aims to clarify ambiguity and standardize safety protocols, but it has ignited controversy. There is strong support from safety advocates and equally strong opposition from transit agencies, TNCs, and accessibility advocates and stakeholders. Critics argue that the change would dismantle well-functioning, innovative mobility partnerships, impose costly and impractical compliance burdens on public agencies, and reduce access for paratransit and underserved populations, without demonstrable safety benefits.

This report outlines how existing state-level TNC laws, including zero-tolerance substance policies and background checks, may already serve the safety goals the FTA seeks to promote. In addition, the report questions the FTA's legal and procedural justification for the policy shift, citing decades of consistent agency guidance that supports the broader exemption.

Key Recommendations:

1. **Preserve the Taxicab Exception:** Maintain the existing exception for taxi and TNC drivers where riders use vouchers and have a genuine choice of provider.
2. **Amend the "Customer Choice" Requirement:** Allow passengers to pre-select a preferred TNC or taxi provider without triggering testing requirements for drivers.
3. **Allow Agency-Facilitated Booking:** Transit agencies should be allowed to assist with arranging rides without triggering testing requirements, provided multiple providers are available and no exclusive control is exercised.
4. **Codify the Exception into Law:** Memorialize the current interpretive guidance in the next federal surface transportation reauthorization to ensure legal clarity and continuity of policy.
5. **Recognize State-Level Safety Protections:** Acknowledge the sufficiency of state-mandated zero-tolerance policies, background checks, and real-time enforcement mechanisms as a valid alternative to FTA-mandated drug and alcohol testing for taxi and TNC drivers.
6. **Engage in Stakeholder Collaboration:** Delay implementation of any policy changes and convene a stakeholder forum—including transit agencies, TNCs, taxi operators, accessibility advocates, and state regulators—to build consensus and explore harmonized solutions.

In conclusion, IATR urges the FTA to strike a balance between its essential safety mission and the operational realities and proven safety frameworks of modern mobility partnerships. A more flexible, collaborative approach will better support innovation, equity, and access in public transportation. In light of the FTA's successful Mobility on Demand Sandbox program experiments - as well as the evolution of multi-modalism and public transit partnerships with first/last mile taxi/TNC connections and more efficient/cost-effective wheelchair accessible taxi services - striking that balance has become incredibly important if the U.S. ever wishes to implement Mobility-as-a-Service.

This report has and/or will shared with various relevant IATR subject matter committees and the IATR general membership for additional comment. In addition, the IATR may obtain feedback from relevant members of its advisory board and other experts in the field for feedback and further peer review. IATR also looks forward to feedback and/or collaboration with FTA officials on this important issue.

III. Overview of the FTA Drug and Alcohol Testing Rule & Taxi Exception

The FTA Drug and Alcohol Testing Rule (49 CFR Part 655) is a federal regulation designed to prevent drug use and alcohol misuse in the public transportation industry.[1] It requires all FTA-funded transit agencies and their contractors to test employees who perform safety-sensitive functions, such as operating revenue vehicles, performing maintenance on vehicles or equipment, dispatching or controlling vehicle movement, providing armed security, or being available to operate a vehicle in an emergency. The rule applies to both direct employees and third-party contractors performing these roles on behalf of the transit agency.

To ensure a safe and drug-free transit system, the FTA mandates several types of testing: pre-employment testing before an individual can begin safety-sensitive duties; random testing, conducted throughout the year without prior notice (minimum FTA rates: 50% drug, 10% alcohol); post-accident testing after specific types of incidents; reasonable suspicion testing based on trained supervisor observations; and testing related to the return-to-duty process following a violation, which includes both return-to-duty testing and follow-up testing as directed by a qualified Substance Abuse Professional (SAP).[2]

The rule requires testing for five prohibited drugs—marijuana (THC), cocaine, amphetamines, opiates, and phencyclidine (PCP)—as well as for alcohol. If an employee tests positive for drugs or alcohol or refuses to test, they must be removed immediately from safety-

[1] Under Federal transit law (49 U.S.C. 5331), public transportation recipients and subrecipient of financial assistance under the FTA's Urbanized Area (section 5307), Capital Investment Grant (section 5309), and Rural Area (section 5311) programs, as well as their contractors and subcontractors, must conduct controlled substance and alcohol testing of public transportation employees responsible for safety-sensitive functions—including operating, dispatching, and maintaining revenue service vehicles.

[2] https://focusedcompliancegroup.com/federal-motor-carrier-safety-administration-fmcsr-explained/

sensitive duties and referred for evaluation by an SAP. They may not resume work in a safety-sensitive role until they have completed the SAP's prescribed treatment and testing protocol.

Employers must maintain a compliant drug and alcohol (D&A) testing policy, keep records of all testing and violations, report annual data to the FTA's Drug and Alcohol Management Information System (DAMIS), and ensure that supervisors receive training in recognizing signs of drug and alcohol misuse. This rule is coordinated with DOT-wide procedures under 49 CFR Part 40, which govern the conduct and handling of drug and alcohol tests.

A. The Taxicab Exception

The "taxicab exception" to the FTA Drug and Alcohol Testing Rule excludes certain services from the rule's requirements. The FTA's current FAQs provide the following guidance:[3]

> **Q:** What is the taxicab exception, and when does it apply?
> **A:** When a public transit passenger randomly chooses from among several taxicab companies providing service, the testing regulations do not apply. The rationale for this is the practical difficulty of trying to administer a Drug and Alcohol testing program in connection with multiple companies. An example of this scenario is a guaranteed ride home program. The transit agency contracts with multiple (two or more) taxicab companies in the area, and a passenger may choose which taxicab company to contact to get a ride home. Note that a transit passenger must choose which taxicab service to use each time they take a ride. A blanket selection of a particular company for all rides during a given timeframe does not meet the exception.

Earlier statements regarding the exception contradict the current policy, providing instead that the rule does not apply when the transit agency has no contractual or informal arrangement with local taxicab companies, the transit agency provides user-side subsidies in the form of scrip or vouchers, and the passenger chooses among two or more taxicab companies to offer a trip[4]

The FTA articulated its policy regarding taxicab drivers and other transportation providers in the 1990s through a series of interpretive letters. In 1994, it passed 49 CFR Parts 653 and 654 (the first law mandating D&A testing in transit).[5] The FTA reiterated the policy in the preamble to

[3] https://www.transit.dot.gov/regulations-and-programs/safety/shared-mobility-faqs-related-fta-drug-and-alcohol-program
[4] www.federalregister.gov/documents/2001/08/09/01-19234/prevention-of-alcohol-misuse-and-prohibited-drug-use-in-transit-operations
[5] 59 FR 7531 at 7542 and 7582, Feb. 15, 1994, https://archives.federalregister.gov/issue_slice/1994/2/15/7482-7572.pdf#page=50

the 2001 Drug and Alcohol Abuse Prevention, Treatment, and Rehabilitation final rule (Part 655).[6] According to FTA policy, the drug and alcohol testing rules do not apply to taxicab drivers when public transit patrons (using publicly subsidized vouchers) have the option to choose among taxicab companies to provide service. Conversely, these rules *do* apply when transit patrons do not select the taxi company and must rely on one or two specific taxi companies contracted with the transit agency.

For example, suppose a transit agency subsidizes vouchers for taxi rides but does not control vehicle assignment, routing, or schedule. In that case, those drivers are not considered to be in safety-sensitive roles under FTA's jurisdiction and are therefore not subject to the federal drug and alcohol testing requirements. However, if the taxi service is operated under a formal, dispatch-controlled contract as part of paratransit or ADA service, the exemption would not apply, and those drivers could be subject to testing depending on the level of control exercised by the agency.

The taxicab exception is rooted in the recognition that independently operated taxicabs, even if they occasionally provide service under contract to transit agencies, do not function as part of the agency's fixed-route or demand-responsive transit system unless the agency exercises significant control over the service. This policy recognizes the practical difficulty of administering a Drug and Alcohol testing program to entities that only incidentally provide taxi service on behalf of a public transit agency.

In 2016, the FTA further clarified that the taxicab exception also encompasses Transportation Network Companies (TNCs) (referred to as ridesourcing companies) and has maintained a Shared Mobility Frequently Asked Questions (FAQs) website that has been updated with new interpretations since its inception:[7]

> **Does the taxicab exception apply to ridesourcing companies?** It depends. The rationale for the taxicab exception is the same for ridesourcing companies when a public transit agency has a contractual or other arrangement with two or more ridesourcing companies or taxicab companies to provide a specific service or type of service, and the public transit passenger chooses among the providers. In this case, the public transit agency would have to contract with at least two ridesourcing companies and/or taxicab companies to ensure the passenger has a choice of which provider to contact for a ride.

For decades, the FTA has drawn a clear distinction between taxi services and public transportation, creating the taxicab exception specifically because taxi companies offer transit

[6] 66 FR 41996, Aug. 9, 2001, www.federalregister.gov/documents/2001/08/09/01-19234/prevention-of-alcohol-misuse-and-prohibited-drug-use-in-transit-operations; www.govinfo.gov/content/pkg/FR-2001-04-30/pdf/01-9415.pdf

[7] www.transit.dot.gov/regulations-and-guidance/shared-mobility-frequently-asked-questions

services only as a minor aspect of their broader business model, much like TNC drivers do today. Therefore, taxi operators and TNCs are generally not subject to FTA-mandated drug and alcohol testing requirements unless they are providing services that qualify as public transportation within the framework of an FTA-funded contract.

IV. The Proceedings to Update the FAQs and to Memorialize FTA Policy into Law

A. Summary of Notice of Proposed Policy Statement

In its Notice of Proposed Policy Statement (Docket ID: FTA–2024–0020), published on December 30, 2024, the FTA proposed clarifying and changing its longstanding policy regarding the "taxicab exception" and its treatment of TNCs under the FTA's drug and alcohol testing regulations.[8] The proposed policy clarifies two critical elements: the absence of an agency-provider contract and customer choice for each ride.

Correcting the FAQ Error: The FTA explained that an erroneous FAQ published in 2016 mischaracterized the exception, leading some transit agencies to believe that TNC drivers were broadly exempt from testing requirements whenever more than one provider was contracted. The FTA further asserted that the original and correctly interpreted policy is for the exemption to apply only when there is no contract or informal arrangement between the transit agency and a taxi or TNC provider, and the passenger chooses the provider on a trip-by-trip basis.

FTA's proposal would revise its Shared Mobility FAQs to explicitly state that TNC drivers must be included in an FTA/DOT-compliant drug and alcohol testing program if their services are provided under a contract or informal arrangement with a transit agency *or* if a "passenger does not choose the TNC or taxicab company providing the service for each trip." Conversely, the exemption would still hold in scenarios where (1) there is no contractual or informal arrangement between the transit agency and the TNC/taxi, (2) there are two or more providers available to provide the service, and (3) the passenger randomly selects a provider for each trip (the "customer choice" component). The proposed policy emphasizes that transit agencies using TNCs under contract must either include those drivers in their testing pool or require the TNC to run an FTA/DOT-compliant program.

Define "Customer Choice": The updated policy emphasizes that the exception applies when passengers can choose their provider for each trip, ensuring that the transit agency does not control the selection process. An agency-developed booking app does not, in itself, trigger testing requirements. What matters is whether the passenger controls the provider selection each time they book a trip.

[8] www.federalregister.gov/documents/2024/12/30/2024-30966/notice-of-proposed-policy-statement-regarding-the-applicability-of-ftas-drug-and-alcohol-testing

Allow Agency-Developed Apps: Transit agencies may develop apps to help passengers schedule rides with multiple providers without triggering drug and alcohol testing requirements, provided the app does not constitute a contractual or informal arrangement with any provider. The FTA sought public comment through February 13, 2025, and will finalize the revised FAQs after reviewing submissions.

B. Public Reactions to the Proposed Policy Statement

The public comments on the FTA's proposed policy change reveal a sharp divide rather than a clear consensus.[9]

Currently, there is a conflict between operational flexibility and uniform safety standards. The FTA's proposal has garnered support from D&A testing compliant providers who argue that consistent safety standards should apply to all passengers, regardless of their mode of transportation, whether it is a bus, train, or a TNC. Their advocates emphasize that the existing interpretation of the taxicab exception leads to inconsistent protections and assert that implementing testing is feasible, even for large-scale TNCs. Ned Freeman, the CEO of UZURV, expressed his support in an open letter, stating, "FTA drug and alcohol testing should protect all riders, not just some riders."[10] He challenged the notion that TNCs cannot comply with testing regulations, pointing out that some, like UZURV, are already effectively managing FTA-compliant testing programs on a large scale.

However, there is notable opposition to the proposed policy change. Critics argue that the FTA is misapplying its own "Incidental Use" standard by suggesting that services operated by TNCs are no longer incidental to a transit agency's service. The original intent of the taxicab exception was to characterize these trips as incidental to the core operations of taxi and TNC services.

Public transit agencies and organizations, including the American Public Transportation Association (APTA), have formally requested that the FTA withdraw the proposal. They cite concerns that enforcing drug and alcohol testing obligations on all TNC and taxicab drivers under contract could disrupt service delivery, especially for paratransit riders. These groups argue that without the taxicab exception, essential services like First-and Last-Mile programs may struggle to operate effectively if at all, as they are often best served by taxis and TNCs. A robust network of drivers is crucial for efficiently handling ride requests and ensuring paratransit service is comparable to mass transit. These groups argue that services have scaled with TNCs and taxis over the last decade whereas legacy operators with significant vehicle, driver, and technology constraints had been unable to bring these programs to life in the past.

APTA's letter to the FTA emphasized that this revised interpretation represents a significant change that has not been adequately discussed with stakeholders.[11] They cautioned that finalizing the proposal could jeopardize vital services. Similarly, Alex Elegudin, the former Accessibility Chief for NYC Transit, warned that this new policy could inadvertently harm the disability

[9] www.regulations.gov/document/FTA-2024-0020-0001/comment
[10] uzurv.com/open-letter-to-the-public-transportation-community/
[11] www.regulations.gov/document/FTA-2024-0020-0001/comment

community by forcing agencies back to traditional paratransit systems, which may not be as reliable or accessible as on-demand options.[12]

Transit agencies submitted substantive feedback raising concerns that the FTA's proposed tightening of the taxicab exception would jeopardize innovative, cost-effective mobility partnerships. Bloomington Public Transportation Corporation warned that the proposal "puts at risk successful innovative transit programs" that have increased availability for riders.[13] They cautioned that forcing TNCs into full FTA drug and alcohol testing could dismantle partnerships that currently enhance flexibility and equity.

Requiring full compliance for TNCs and their support networks (*e.g.*, vehicle maintenance) would impose unworkable administrative and financial burdens. Concerns have also been voiced by Uber, with Jen Shepherd, the company's Head of Transit, indicating that the adoption of this policy may lead to a reduction in many transit programs, potentially compromising services that rely on Uber for paratransit and first- and last-mile trips.[14] Transit provider Spare highlighted that the change would "force transit agencies to absorb higher costs" and lose the benefits of digital tools, such as data sharing and streamlined payment processing.[15]

Ultimately, the range of reactions to the proposed policy highlights how the operational models and priorities of different stakeholders influence their positions, with some prioritizing rider safety, others focusing on service efficiency, and others on regulatory burdens.

Stakeholder	Position	Key Themes / Concerns
Transit Riders (500+ comments)	Strongly opposed to the proposal (99% of riders)	Urge withdrawal; highlight the benefits of TNC and taxi service over the past decade
Community Transportation Association of America (CTAA)	Cautiously supportive	Advocates for compliance clarity; concerned about rural and small-system implementation
The Transportation Alliance	Supportive of stricter standards	Argues for equal safety standards across all modes; supports ending broad exemptions
Pinellas Suncoast Transit Authority	Strongly opposed to the proposal	Urges withdrawal; calls for stakeholder forum; warns of disruption to mobility programs
Nashville WeGo Transit Agency	Strongly opposed to the proposal	Urges withdrawal; calls for stakeholder forum; warns of disruption to mobility programs
Massachusetts Bay Transportation Authority (MBTA)	Asks for delay and more outreach & discussion	Likely monitoring implications for paratransit partnerships and cost impacts

[12] www.newsweek.com/progressive-overregulation-turning-americans-disabilities-like-me-second-class-citizens-opinion-2022056
[13] www.regulations.gov/comment/FTA-2024-0020-0006
[14] https://ggwash.org/view/98414/ftas-proposal-to-end-taxicab-exception-for-paratransit-contractors-could-slow-down-rides; www.regulations.gov/comment/FTA-2024-0020-0689
[15] https://downloads.regulations.gov/FTA-2024-0020-0796/attachment_1.pdf

IATR	Engaged in policy dialogue	Hosting forums to explore regulatory harmonization; supports safety, but wary of disruption
Uber	Opposed to proposed changes	Warns of program shutdowns; cites cost and operational burdens
Lyft	Opposed to proposed changes	Concerned about the feasibility of compliance, emphasizes commitment to safety and existing safety protocols
APTA	Strongly opposed to the proposal	Urges withdrawal; calls for stakeholder forum; warns of disruption to mobility programs
Accessibility Advocates	Critical of proposed changes	Highlights negative impact on disability community; advocates for flexible service models
UZURV	Strongly supportive of the proposal	Argues for universal safety standards; demonstrates a successful compliance model
Via	Strongly supportive of the proposal	Emphasizes operational clarity and safety; seeks consistent standards across providers

This proposal marks a significant shift from nearly ten years of established norms regarding TNCs and three decades of established norms concerning Taxis. It would create new legal, operational, and financial challenges for transit agencies and their TNC collaborators.

For many years, transit agencies have depended on the FTA's interpretation of the taxicab exception to provide innovative and cost-effective services for their communities. The proposed policy change not only overlooks this dependency but also lacks a legal foundation, contradicts the FTA's previous guidance, and hinders the implementation of modern mobility solutions that have enabled transit agencies to enhance access and efficiency for underserved communities.

The FTA has consistently maintained a clear stance on the issue over the years. This is evidenced by numerous publications that support the Taxicab Exception, which contradicts the notion that the FTA made an error in this regard.[16] All of this reinforces the argument against the FTA's claim of a mistake.

When changing long-standing policies, federal agencies are obligated to provide substantial justification, especially when those being regulated have organized their operations in

[16] *See, e.g.*, FTA Drug and Alcohol Regulations Update Issue #60, Oct. 2016, www.transit.dot.gov/sites/fta.dot.gov/files/FTA%20Drug%20and%20Alcohol%20Program%20Regulation%20Update%20Issue%2060.pdf; FTA Drug and Alcohol Regulations Update Issue #74, March 2022, www.transit.dot.gov/sites/fta.dot.gov/files/2022-03/Newsletter-Issue-74-508.pdf; FTA Drug and Alcohol Regulations Update Issue #76, October 2022, www.transit.dot.gov/sites/fta.dot.gov/files/2022-10/Newsletter-Issue-76.pdf; FTA Drug and Alcohol Regulations Update Issue #79, December 2023, www.transit.dot.gov/sites/fta.dot.gov/files/2024-03/FTA-Drug-and-Alcohol-Regulations-Updates-March-2024-Issue-80_0.pdf, www.transit.dot.gov/research-innovation/compliance-fta-requirements-transitshared-mobility-partnerships-webinar

accordance with such policies.[17] Yet, this proposal ignores the reliance interests of transit agencies and riders.

V. The Debate

As the FTA revisits its longstanding taxicab exception, a robust debate has emerged over whether narrowing the waiver is justified or whether it will impose undue burdens without yielding measurable safety gains. Critics argue that existing state and local zero-tolerance regimes, background checks, and real-time enforcement already effectively safeguard riders, rendering federal oversight redundant. Proponents of stricter standards argue for a uniform regulatory baseline across all mobility providers. Underpinning this clash are questions of intergovernmental coordination and the proper division of policymaking authority. This section examines (A) the tension between federal authority and local control, (B) the governance implications of shifting oversight responsibilities, and (C) the absence of a demonstrated safety gap necessitating federal oversight.

A. Tension between Federal Authority and Local Control

Tension often arises between federal authority and local control. The FTA establishes national safety standards through various programs, such as Part 655, which focuses on drug and alcohol testing. However, local transit agencies often find themselves innovating within a framework of varied operational constraints.

As federal standards expand, as seen in recent proposals, transit agencies may experience a sense of constraint. They may fear losing the flexibility to contract with TNCs or other non-traditional operators. Many transit systems rely on formal, contract-based partnerships with TNCs to enhance access and promote equity. Yet, the FTA's revised approach could potentially reclassify these arrangements, imposing compliance with federal testing mandates on local operators that are not directly receiving federal funds.

Additionally, regulatory fragmentation presents another challenge. The existing patchwork of state and municipal regulations for TNCs—encompassing aspects such as licensing, insurance, and data sharing—often conflicts with uniform federal safety requirements. This dissonance can leave agencies struggling to keep up, particularly when the federal layer retroactively changes its interpretation of long-standing exemptions, causing what has been termed "compliance whiplash."

B. Governance Implications

At its core, this debate centers around intergovernmental coordination, specifically how federal agencies can foster innovation without stifling local ingenuity or overextending compliance burdens. Additionally, it raises critical questions about the true locus of policymaking authority, particularly as emerging transit models begin to blur traditional boundaries. For instance, when a

[17] *See* FCC v. Fox Television Stations, Inc., 556 U.S. (2009).

third-party broker dispatches a TNC driver through a transit agency-run app, who truly "owns" the safety concerns that arise? To navigate these complexities effectively, we must embrace intergovernmental coordination, allowing oversight frameworks to evolve in a manner that safeguards riders and promotes the advancement of transportation.

C. Absence of a Demonstrated Safety Gap

The FTA Drug and Alcohol Testing Rule was designed to ensure the safety of federally funded transit operations by requiring drug and alcohol testing of "safety-sensitive employees." While the intent of the rule remains valid for traditional public transportation operators, its application to TNCs that provide mobility services on behalf of public transit agencies is neither necessary nor appropriate.

State and local regulations governing alcohol and drug testing for TNC drivers vary across jurisdictions but generally follow a consistent framework centered around zero-tolerance policies that prohibit any amount of intoxication of the driver while providing transportation network services. No states mandate routine or random drug testing for TNC drivers.

While pre-employment drug testing is not required for TNC drivers, most state TNC statutes require comprehensive criminal and motor vehicle background checks for drivers, many of which include automatic disqualification for individuals with DUI/DWI or drug- or alcohol-related convictions within the past three to seven years.[18] Additionally, California and New York require TNCs to participate in continuous DMV record monitoring programs that notify the TNC of new violations or arrests.[19] These requirements functionally preclude individuals with substance-related offenses from serving as TNC drivers.

Moreover, nearly all states mandate that TNCs implement and enforce a zero-tolerance policy regarding the use of drugs or alcohol while operating on the platform.[20] These policies must be disclosed to passengers and provide mechanisms for users to report suspected violations. Upon receipt of a complaint, TNCs are required to suspend the driver pending investigation

[18] *See e,g,*, Ala. Code § 32-7C-29, Alaska Stat Ann § 28.23.100, Ark Code Ann § 23-13-713, California Pub. Util. Code § 5445.2, Conn Gen Stat Ann § 13b-119, Del Code Ann TI 2 § 1913, DC Code Ann § 50-301.29b, Fla Stat Ann § 627.748, Ga Code Ann § 40-5-39, Haw Rev Stat Ann § 279J-9 (excludes drivers with misdemeanor convictions related to driving or any felony), Idaho Code Ann § 49-3710, ILCS CH 625 § 57/15, Ind Code Ann 8-2.1-19.1-5, Iowa Code Ann § 321N.3, Kan Stat Ann 8-2720, La Stat Ann 48:2199, Me Rev Stat Ann T. 29-A § 1675, Md. Code Regs. 20.95.01.26, Mass Gen Laws Ann 159A 1/2 § 4, Mich Comp Laws Ann 257.2107, Miss Code Ann § 77-8-25, Mo Ann Stat 387.420, Neb Rev Stat Ann § 75-326, Nev. Rev. Stat. Ann. § 706A.160, NH Rev Stat Ann § 359-U:12, N.J. Stat. § 39:5H-20, NY VEH & TRAF § 1699, NC Gen Stat Ann § 20-280.6,ND Cent Code Ann 39-34-03, Ohio Rev Code Ann § 4925.04, Okla Stat Ann T. 47 § 1019, 53 Pa Stat Ann § 57A12, R.I. Gen. Laws Section 39-14.2-7, SC Code Ann § 58-23-1650 (South Carolina has a 10 year look-back period), SD Codified Laws § 32-40-4, Tenn Code Ann § 65-15-306, TX OCC § 2402.107, Utah Code Ann § 13-51-107, Vt. Stat. Ann. tit. 23, § 751, Va Code Ann § 46.2-2099.49, Wash Rev Code Ann 46.72B.090, W Va Code Ann § 17-29-13, Wis Stat Ann 440.445

[19] Cal. PUC General Order 158A, N.Y. Vehicle and Traffic Law § 1692(9)

[20] A few states TNC laws do not require zero-tolerance policies or specifically address TNC drivers operating under the influence of intoxicating substances, including Hawaii, Maryland, Massachusetts, Minnesota, Montana, North Carolina, North Dakota, Oregon (allows local regulation of TNCs, which may include drug and alcohol provisions), and Wyoming.

immediately.[21] A few states require the TNC to permanently ban drivers if the complaint is substantiated.[22] However, many laws are silent about repercussions for policy violations. States may have additional requirements. For example, Tennessee also requires TNCs to instruct the rider who files the complaint to report the driver's suspected drug or alcohol use to local law enforcement.[23] This system not only reflects a zero-tolerance culture but also creates a real-time enforcement mechanism that rivals the effectiveness of federal "reasonable suspicion" testing.

These laws typically require TNCs to maintain records of complaints for a specified period (usually 2 to 3 years). However, most do not require TNCs to report substantiated zero-tolerance policy violations to the regulator. California requires TNCs to submit annual reports detailing zero-tolerance complaints against drivers.[24]

Operationally, TNCs differ substantially from the traditional transit providers to which the FTA rule was initially applied. TNC drivers are independent contractors, not employees, and their participation in transit partnerships typically occurs through indirect contracting arrangements with public agencies. As such, they do not meet the conventional definition of "safety-sensitive employees" subject to DOT testing rules.[25] Imposing Part 655 requirements on transit agencies that use TNCs would force public entities to monitor, audit, and verify compliance with federal drug and alcohol testing protocols for a workforce they neither hire nor supervise. This would result in substantial administrative and legal burdens without providing any demonstrable increase in safety outcomes.

There is also no compelling evidence that taxis and TNCs operating in partnership with public transit agencies experience elevated levels of drug- or alcohol-related safety incidents. TNCs have strong market and legal incentives to remove impaired drivers quickly and preserve platform integrity, especially given the availability of ride ratings, complaint systems, and increasing regulatory scrutiny. Although we do not have access to the outcomes of tri-annual reviews or the random drug and alcohol audits conducted on transit agencies, it is reasonable to assume that many of these programs, which have been operational since 2015, have consistently passed both evaluations. The combination of state-level driver screening, mandatory zero-tolerance policies, real-time passenger reporting, and private-sector accountability mechanisms makes the FTA's drug and alcohol testing rule redundant in this context. To preserve operational flexibility and reduce unnecessary regulatory burdens, the FTA should formally exempt TNCs operating in public mobility partnerships from Part 655 compliance requirements.

VI. The Importance of the Taxicab Exception to the Future of Mobility in the U.S.

[21] *See e.g.*, Del Code Ann TI 2 § 1912, Kan Stat Ann 8-2711, 47 Okl. St. Ann. § 1018.
[22] *See e.g.*, Ariz Rev Stat Ann § 28-9554, Nev. Rev. Stat. Ann. § 706A.290
[23] Tenn Code Ann § 65-15-311
[24] Cal. PUC D.13-09-045
[25] *See* 49 C.F.R. § 655.4 (defining "safety-sensitive function" in the context of transit agency employment).

As municipalities and transit agencies nationwide confront worsening congestion, widening equity gaps, and tighter budgets, a seamless, user-focused Mobility as a Service (MaaS) paradigm has emerged as the industry's guiding vision. Central to this evolution is the FTA's taxicab exception, which allows agencies to incorporate taxis and TNCs into a comprehensive, multimodal network without triggering the full weight of federal drug and alcohol testing mandates. By preserving regulatory flexibility, the exception not only enables on-demand, first- and last-mile connectivity but also fosters dynamic public-private partnerships (P3s) in which agencies can leverage private capital, technology, and operational expertise. As we forge the path toward MaaS, the taxicab exception stands out as a pivotal policy tool, shaping funding streams, partnership structures, and, ultimately, the rider's end-to-end experience.

A. FTA Mobility on Demand (MOD) Sandbox Program

Launched in 2016, the FTA's MOD Sandbox Program recognized that traditional transit systems must evolve alongside emerging mobility technologies pioneered by TNCs such as Uber and Lyft. Eleven demonstration projects nationwide tested real-world MOD strategies—on-demand paratransit, overnight service gaps, and integrated trip-planning through TNC apps—under a flexible "sandbox" framework.

By 2025, MOD Sandbox projects will have catalyzed interoperable fare systems, first-- and last-mile solutions, on-demand paratransit, data-sharing protocols, and robust Public-Private Partnerships (P3s). Highlights include:

- **Sound Transit (WA):** First- and last-mile connections and park-and-ride shuttles, boosting overall transit ridership and cost-effectiveness.
- **Pinellas Suncoast Transit Authority (FL):** Offers real-time, cross-disability paratransit services via Lyft, United Taxi, and Care Ride, with wait times of under 15 minutes and seamless e-wallet payments.
- **Miami-Dade Transit (FL):** "Go Nightly" overnight service with Uber and Lyft, maintaining vital late-night mobility during the COVID-19 pandemic.

These pilots demonstrate that, in low-density or off-peak markets, TNCs can complement fixed-route systems to enhance flexibility, accessibility, and cost efficiency.

B. Promoting Multi-Modal Public-Private Partnerships (P3s)

The taxicab exception underpins the P3 ecosystem by reducing barriers for private capital and technology providers to partner with public agencies. When multiple taxi and TNC firms compete for voucher-based trips, they invest in booking platforms, data-sharing infrastructure, and customer-service enhancements. At the same time, agencies avoid the costs of fleet ownership and software development. This arrangement leverages private sector efficiencies, enabling agencies to focus on designing, overseeing, and allocating equitable transit services. The result is a scalable,

diversified fleet that adapts to demand and is a cost-effective alternative to traditional fixed-route networks.

C. Challenges

Despite its benefits, deploying MaaS under the taxicab exception exposes agencies to legal and operational risks.

Drug & Alcohol Testing Compliance: One of the primary concerns is related to drug and alcohol testing compliance. Transit agencies may inadvertently trigger Part 655 requirements if contract terms or booking apps resemble direct service provision. This could potentially lead to penalties for noncompliance or retroactive enforcement actions.

Data Disclosure & Privacy: Partnerships with TNCs involve sensitive operational and rider data. Under state Freedom of Information laws (e.g., FOIL), agencies must determine whether third-party records qualify as "agency records," raising concerns about privacy and competitive-harm.

Addressing these challenges will be critical to scaling MaaS while preserving the innovation, equity, and flexibility that the taxicab exception enables.

VII. Recommended Changes to the FTA's FAQs

Several recommended changes to the FTA's FAQs could improve the passenger experience:

1. **Eliminate the requirement for passengers to select their taxicab or TNC provider for each individual trip.** Instead, allow passengers to pre-select a preferred provider from a list of available services during account setup or via app interface. This will make it more convenient for riders, allowing them to streamline the ride-booking process while ensuring access to multiple transportation options when needed.
2. **Reconsider the requirement that passengers must contact their chosen taxicab or TNC provider directly.** The transit agency should be able to contact the taxicab company or TNC to arrange rides on the passenger's behalf. This would streamline the process and reduce the burden on passengers who lack access to mobile devices, are unfamiliar with app systems, or have difficulty communicating.
3. **Include language in the following reauthorization process to memorialize this interpretive guidance into law.** This would ensure that stakeholders have a clear understanding of the taxicab exception's implications and applications.

VIII. Conclusion

The FTA's proposed revision to the taxicab exception marks a significant policy shift with far-reaching implications for public transportation. While the agency's commitment to rider safety is commendable, this proposal risks undermining effective and inclusive mobility services, particularly those that serve paratransit riders, low-income communities, and individuals with disabilities.

Over the past three decades, the taxicab exception has enabled transit agencies to expand service coverage through cost-effective, flexible partnerships with taxi companies and, more recently, TNCs. These programs have evolved within a framework that balances safety with innovation. The proposed policy would upend this balance, imposing new administrative burdens and compliance obligations without evidence of a corresponding benefit to safety.

State and local TNC laws already provide meaningful protections, including zero-tolerance policies for drugs and alcohol and background checks. These frameworks have proven effective in maintaining public safety while preserving operational flexibility. Moreover, the FTA's claim that past guidance was issued in error lacks both substantive justification and procedural fairness, especially given the widespread reliance on that guidance by transit agencies across the country.

Rather than narrowing the exception, the FTA should work with stakeholders to modernize and codify the existing policy to reflect the realities of today's transportation environment. A collaborative, evidence-based approach will ensure that federal oversight enhances progress toward accessible, efficient, and equitable public transportation.