

# HALIFAX

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**Item No. 15.3.1 (i)**  
**Halifax Regional Council**  
**January 14, 2020**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed by   
Jacques Dubé, Chief Administrative Officer

**DATE:** December 17, 2019

**SUBJECT:** **Vehicle for Hire Licensing Program - Vulnerable Sector Checks and Restrictions on Provision of Other Services**

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## SUPPLEMENTARY REPORT

### ORIGIN

On December 12, 2019, the following motion of Transportation Standing Committee was put and passed regarding item 12.1.2:

THAT the Transportation Standing Committee: ... 3. Request a supplementary staff report to Regional Council regarding concerns raised in correspondence with relation to the expense and usefulness of vulnerable sector checks; potential restriction of brokers and Transportation Network Companies from providing other services, such as leasing and purchase financing as a condition of broker licenses.

### LEGISLATIVE AUTHORITY

- *Motor Vehicle Act*, R.S.N.S., 1989, c. 293, subsections 305(1), and 306(1)
- *Halifax Regional Municipality Charter*, 2008, c. 39, clauses 188(2)(e) & (f)
- By-law T-1000, *Respecting the Regulation of Taxis, Accessible Taxis and Limousines*
- Administrative Order 39, *Respecting Taxi and Limousine Regulation*
- By-law A-100, *Respecting the Appeal Committee*

### RECOMMENDATION

It is recommended that Halifax Regional Council direct the Chief Administrative Officer to prepare amendments to By-law T-1000 and Administrative Order 39, to regulate Transportation Networking Companies and introduce a new licensing requirement for brokers as set out in the Discussion section of this report, for Council's consideration.

## **BACKGROUND**

Further to their consideration of a staff report dated November 22, 2019<sup>1</sup>, the Transportation Standing Committee (TSC) on December 12, 2019 requested that the Chief Administrative Officer request a supplementary staff report to Regional Council on the Vehicle for Hire Licensing Program, regarding concerns raised in correspondence in relation to the expense and usefulness of Vulnerable Sector Checks (VSC) for vehicle for hire drivers; potential restriction of taxi brokers and Transportation Network Companies from providing other services, such as leasing and purchase financing as a condition of broker licenses.

TNCs operating in other jurisdictions have offered leasing or financing of vehicles either directly through subsidiaries or in partnerships with car dealerships. While providing easy access to vehicles for drivers, such leases increase the cost of vehicle ownership and have had unintended consequences that include drivers not making enough per week to cover the cost of the lease.

## **DISCUSSION**

### *Criminal Record and Vulnerable Sector Checks*

With the municipality considering the provision of ride-hailing services, the TSC voiced a potential concern about the need to ensure that vehicle for hire drivers are competent, capable of completing the roles required of the service and will not pose a potential danger to users of the ride-hailing service. To ensure that drivers will not pose a potential danger to users, it was proposed that they be subjected to Criminal Record and Vulnerable Sector Checks.

Criminal record checks are completed through Halifax Regional Police or RCMP. This check simply verifies whether you have a criminal record. The cost of applying for a criminal record check is \$50.00.

A VSC is an additional check required for situations where a person is in a position of trust or authority over children, the elderly, the disabled, or another vulnerable group. A VSC involves a name-based search of the National Repository of Criminal Convictions, a search of locally held convictions at Halifax Regional Police and a query of the pardoned sex-offender database. In some cases, the applicant may be required to submit fingerprints if there is a match based on either the applicant's name or a combination of gender and date of birth to a pardoned sex offender record. Applicants with a potential match will be contacted by Halifax Regional Police and have their fingerprints taken electronically. If finger prints are not required, the process to obtain a VSC with a criminal record check is no slower than only obtaining a criminal record check. If the applicant is required to complete finger prints, it may take additional processing time. There is no cost associated with a VSC as it is processed at the same time as a criminal record check.

Correspondence was received from Uber Technologies Inc., stating concerns regarding the proposed requirement for all Transportation Network Company drivers to have a VSC completed. The concerns raised were: it is more intrusive; costlier; the database of past offenders has not been updated since 2012; and, it is slower to have a VSC completed rather than obtaining a criminal record check alone. Staff contacted the Canadian Criminal Real Time Identification Services (CCRTIS) branch of the Royal Canadian Mounted Police, the organization responsible for the database and have confirmed the database continues to be updated when individuals are issued Record Suspensions (Pardons).

If a VSC is not required, there is a risk to the public as taxi and TNC drivers have unsupervised access and be in the care and control of the person in their vehicle.

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<sup>1</sup> <https://www.halifax.ca/sites/default/files/documents/city-hall/standing-committees/TNCs%20-%20Vehicle%20for%20Hire%20Licensing%20Program%20-%20Nov%2028.pdf>

For the reasons stated above, staff recommend that all independent operators/drivers be subjected to Criminal Record and Vulnerable Sector Checks as part of licensing requirements.

*Restricting Brokers and TNCs from Providing Other Services*

Transportation Standing Committee asked staff to consider potentially restricting brokers and TNCs from providing other services, such as leasing and purchase financing as a condition of licencing.

HRM's ability to regulate brokers and TNCs is found in both the *Motor Vehicle Act (MVA)* and the *HRM Charter*. Under the *MVA*, HRM can regulate brokers and TNCs and by by-law prescribe requirements such as, setting out the licensing requirements of persons who drive, requiring insurance, and requiring completion of prescribed instruction for taxi drivers. Under the *HRM Charter*, the Municipality may regulate businesses and business activities, provide for a system of licences and provide terms and conditions to be imposed on a licence. Conditions imposed to get a licence may be made through by-law. However, any by-law developed, and therefore any conditions imposed, by the Municipality must not be inconsistent with a provincial or federal law.

For staff to consider whether restricting brokers and TNCs is appropriate, it must be clear what services are being referred to. If it is unclear what the Municipality intends to restrict or prohibit, the by-law may be struck down for being vague. Restricting or prohibiting brokers and TNCs from providing leasing and purchase financing is outside HRM's authority. Regulation of businesses that provide these services is at the provincial and federal levels, and a by-law established to regulate this activity may be struck down.

For the reasons stated above, staff recommend refraining from regulating leasing and purchase financing by brokers and TNCs.

**FINANCIAL IMPLICATIONS**

Additional staff resources are expected to be required to analyze the submitted data from the TNC companies and brokers. With the introduction of licensing fees to TNCs and brokers, there will also be a new source of revenue.

The financial implications will be better understood as the amendments to By-law T-1000 and Administrative Order 39 are developed. If additional resources are required as a result of the amendments, staff will provide an update at the time the amendments are tabled at Regional Council.

Based on the number of potential TNC drivers, additional criminal record checks will need to be completed. There is a cost to provide the criminal records checks but will be partially offset by the fees collected by Halifax Regional Police.

**RISK CONSIDERATION**

If a vulnerable sector check is not required, there is a risk to the public as TNC drivers may regularly have passengers that are vulnerable persons. The driver would have unsupervised access and be in the care and control of the person in their vehicle.

**COMMUNITY ENGAGEMENT**

For the purposes of this supplementary review, community engagement was not required. Related to this report, the external stakeholders engaged include Uber and RCMP(CCRTIS).

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental impacts relative to this report.

**ALTERNATIVES**

Regional Council may choose to:

1. Not require TNC drivers to provide a vulnerable sector check as part of their application. Staff does not recommend this alternative due to the risk to public safety.
2. Council direct Staff to develop by-law changes to prohibit brokers and TNCs from providing other services, such as leasing and purchase financing as a condition of licencing. This is not recommended due to reasons outlined in the discussion section of the report.

**ATTACHMENTS**

N/A

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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