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H.788

Introduced by Representative Keenan of St. Albans City

Referred to Committee on

Date:

Subject: Insurance; automobile; transportation network companies; permits

Statement of purpose of bill as introduced: This bill proposes to regulate transportation network companies and transportation network company drivers and to allow automobile insurers to include certain exclusions in their policies.

An act relating to transportation network companies

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 8 V.S.A. chapter 113, subchapter 5 is added to read:

Subchapter 5. Transportation Network Companies

§ 4256a. TRANSPORTATION NETWORK COMPANIES

(a) Definitions. As used in this subchapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

1 (B) owned, leased, or otherwise authorized for use by the driver; and

2 (C) not a taxicab, limousine, or other for-hire vehicle.

3 (3) “Prearranged ride” or “ride” means the provision of transportation
4 by a driver to a transportation network rider, beginning when a driver accepts
5 the rider’s request for a ride through a digital network controlled by a
6 company; continuing while the driver transports the rider; and ending when the
7 last requesting rider departs from the vehicle. The term does not include:

8 (A) shared expense carpool or vanpool arrangements;

9 (B) use of a taxicab, limousine, or other for-hire vehicle; or

10 (C) a regional transportation.

11 (4) “Transportation network company” or “company” means a person
12 licensed under this chapter that uses a digital network to connect riders to
13 drivers who provide prearranged rides. A company shall not be deemed to
14 control, direct, or manage the personal vehicles or drivers that connect to its
15 digital network, except where agreed to by written contract.

16 (5) “Transportation network company driver” or “driver” means an
17 individual who:

18 (A) receives connections to potential riders and related services from
19 a transportation network company in exchange for payment of a fee to the
20 company; and

1 (B) uses a personal vehicle to offer or provide a prearranged ride to
2 riders upon connection through a digital network controlled by a transportation
3 network company in exchange for compensation or payment of a fee.

4 (6) “Transportation network company rider” or “rider” means an
5 individual who uses a company’s digital network to connect with a driver who
6 provides rides in his or her personal vehicle between points chosen by the
7 rider.

8 (b) Company permit. A company shall not operate without a permit issued
9 by the Department of Motor Vehicles, pursuant to the requirements of this
10 subsection. A permit shall be valid for one year. The Department shall issue a
11 permit to a company that satisfies the following requirements:

12 (1) Establishes and agrees to enforce a zero-tolerance policy for drug
13 and alcohol use by drivers during a period when a driver is engaged in, or is
14 logged into the company’s digital network but is not engaged in, a prearranged
15 ride. The policy shall include provisions for investigations of alleged policy
16 violations; and suspensions of drivers under investigation.

17 (2) Requires that a personal vehicle used to provide rides shall comply
18 with all applicable laws and regulations concerning vehicle equipment.

19 (3) Adopts nondiscrimination and accessibility policies.

20 (4) Establishes record maintenance guidelines.

1 (c) Driver requirements. A transportation network company driver is not a
2 common carrier, a contract carrier, or a motor carrier. Before a company
3 allows an individual to act as a driver on its digital network, the company shall:

4 (1) Require the individual to submit to the company an application that
5 includes:

6 (A) the individual's name, address, and age;

7 (B) the individual's driver's license;

8 (C) the registration for the personal vehicle the individual intends to
9 use to provide prearranged rides;

10 (D) proof of financial responsibility for the personal vehicle the
11 individual intends to use to provide prearranged rides of a type and in the
12 amounts required by the company; and

13 (E) any other information required by the company.

14 (2) Conduct or contract with a third party to conduct:

15 (A) a local and national criminal background check;

16 (B) a search of the State and national sex offender registries; and

17 (C) a review of the individual's driving record.

18 (3) Confirms that the individual:

19 (A) in the preceding three years, has not received judgments for more
20 than three moving traffic violations or for at least one violation involving
21 reckless driving;

1 (B) in the preceding seven years, has not been convicted of a felony
2 or of a misdemeanor involving resisting law enforcement, dishonesty, injury to
3 person, operating while intoxicated, operating a vehicle in a manner that
4 endangers a person, operating a vehicle with a suspended or revoked license,
5 or damage to the property of another person;

6 (C) is not on the State or national sex offender registry;

7 (D) has provided all the information required under subdivision (2) of
8 this subsection.

9 (d) Company's financial responsibility.

10 (1) Beginning on or before July 1, 2016, a driver, or company on the
11 driver's behalf, shall maintain primary automobile insurance that recognizes
12 that the driver is a company driver or otherwise uses a vehicle to transport
13 passengers for compensation and covers the driver while the driver is logged
14 on to the company's digital network or while the driver is engaged in a
15 prearranged ride.

16 (2)(A) The following automobile insurance requirements shall apply
17 while a participating driver is logged on to the transportation network
18 company's digital network and is available to receive transportation requests
19 but is not engaged in a prearranged ride:

20 (i) primary automobile liability insurance in the amount of at least
21 \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and

1 bodily injury per incident, and \$25,000.00 for property damage; and any other
2 State mandated coverage under 23 V.S.A. chapter 11; and

3 (ii) any other State-mandated coverage under 23 V.S.A.
4 chapter 11.

5 (B) The coverage requirements of this subdivision (2) may be
6 satisfied by any of the following:

7 (i) automobile insurance maintained by the driver;

8 (ii) automobile insurance maintained by the company; or

9 (iii) any combination of subdivisions (i) and (ii) of this
10 subdivision (2)(B).

11 (3)(A) The following automobile insurance requirements shall apply
12 while a driver is engaged in a prearranged ride:

13 (i) primary automobile liability insurance that provides at least
14 \$1,000,000 for death, bodily injury, and property damage; and

15 (ii) any other State-mandated coverage under 23 V.S.A.
16 chapter 11.

17 (B) The coverage requirements of this subdivision may be satisfied
18 by any of the following:

19 (i) automobile insurance maintained by the driver;

20 (ii) automobile insurance maintained by the company; or

1 (iii) any combination of subdivisions (i) and (ii) of this
2 subdivision (3)(B).

3 (4) If insurance maintained by a driver in subdivision (2) or (3) of this
4 subsection has lapsed or does not provide the required coverage, insurance
5 maintained by a company shall provide such coverage beginning with the first
6 dollar of a claim and shall have the duty to defend such claim.

7 (5) Coverage under an automobile insurance policy maintained by the
8 company shall not be dependent on a personal automobile insurer first denying
9 a claim nor shall a personal automobile insurance policy be required to first
10 deny a claim.

11 (6) Insurance required by this subsection may be placed with an insurer
12 licensed under chapter 101 (insurance companies generally) or 138 (surplus
13 lines insurance) of this title.

14 (7) Insurance satisfying the requirements of this subsection shall be
15 deemed to satisfy the financial responsibility requirement for a motor vehicle
16 under 23 V.S.A. § 800.

17 (8) A driver shall carry proof of coverage satisfying this section at all
18 times during use of a vehicle in connection with a company's digital network.
19 In the event of an accident, a driver shall provide this insurance coverage
20 information to the directly interested parties, automobile insurers, and law
21 enforcement, upon request. Upon such request, a driver shall also disclose

1 whether he or she was logged on to the network or was on a prearranged ride at
2 the time of an accident.

3 (e) Disclosures. A transportation network company shall disclose in
4 writing to its drivers the following before they are allowed to accept a request
5 for a prearranged ride on the company's digital network:

6 (1) the insurance coverage, including the types of coverage and the
7 limits for each coverage, that the company provides while the driver uses a
8 personal vehicle in connection with the company's network; and

9 (2) that the driver's own automobile insurance policy might not provide
10 any coverage while the driver is logged on to the company's network and
11 available to receive transportation requests or engaged in a prearranged ride,
12 depending on its terms.

13 (f)(1) Automobile insurers. Notwithstanding any other provision of law to
14 the contrary, insurers that write automobile insurance in Vermont may exclude
15 any and all coverage afforded under a policy issued to an owner or operator of
16 a personal vehicle for any loss or injury that occurs while a driver is logged on
17 to a transportation network company's digital network or while a driver
18 provides a prearranged ride. This right to exclude all coverage may apply to
19 any coverage in an automobile insurance policy including:

20 (A) liability coverage for bodily injury and property damage;

21 (B) personal injury protection coverage;

1 (C) uninsured and underinsured motorist coverage;

2 (D) medical payments coverage;

3 (E) comprehensive physical damage coverage; and

4 (F) collision physical damage coverage.

5 (2) Nothing in this subsection implies or requires that a personal
6 automobile insurance policy provide coverage while the driver is logged on to
7 a company's digital network, while the driver is engaged in a prearranged ride
8 or while the driver otherwise uses a vehicle to transport passengers for
9 compensation.

10 (3) Nothing in this subsection is deemed to preclude an insurer from
11 providing coverage for the driver's vehicle, if it chooses to do so by contract or
12 endorsement.

13 (4) Insurers that exclude the coverage described under subsection (d) of
14 this section shall have no duty to defend or indemnify any claim expressly
15 excluded thereunder.

16 (5) Nothing in this section is deemed to invalidate or limit an exclusion
17 contained in a policy, including any policy in use or approved for use in
18 Vermont prior to the enactment of this section, that excludes coverage for
19 vehicles used to carry persons or property for a charge or available for hire by
20 the public.

1 (6) An insurer that defends or indemnifies a claim against a driver that is
2 excluded under the terms of its policy, shall have a right of contribution against
3 other insurers that provide automobile insurance to the same driver in
4 satisfaction of the coverage requirements of subsection (d) of this section at the
5 time of loss.

6 (7) In a claims coverage investigation, transportation network
7 companies and any insurer potentially providing coverage under subsection (d)
8 of this section shall cooperate to facilitate the exchange of relevant information
9 with directly involved parties and any insurer of driver, if applicable, including
10 the precise times that a driver logged on and off of the company's digital
11 network in the 12-hour period immediately preceding and immediately
12 following the accident and shall disclose to one another a clear description of
13 the coverage, exclusions, and limits provided under any automobile insurance
14 maintained under subsection (d) of this section, as applicable.

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on passage.