

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 143 entitled “An act relating to automobile insurance
4 requirements and transportation network companies” respectfully reports that it
5 has considered the same and recommends that the bill be amended by striking
6 out all after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 23 V.S.A. chapter 10 is added to read:

8 CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

9 § 750. DEFINITIONS; INSURANCE REQUIREMENTS

10 (a) Definitions. As used in this chapter:

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

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

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

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

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

19 (3) “Prearranged ride” or “ride” means the transportation provided by a
20 driver to a transportation network company rider, beginning when a driver
21 accepts the rider’s request for a ride through a digital network controlled by a

1 company; continuing while the driver transports the rider; and ending when the
2 last rider departs from the vehicle. The term does not include:

3 (A) shared-expense carpool or vanpool arrangements;

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

5 (C) use of a public or private regional transportation company that
6 operates along a fixed route; or

7 (D) a ride furnished through a broker using a publicly funded
8 network to connect riders to drivers through the Elders and Persons with
9 Disabilities Program, Medicaid Non-Emergency Medical Transportation
10 Program, or other similar governmental transportation program.

11 (4) “Transportation network company” or “company” means a person
12 that uses a digital network to connect riders to drivers who provide prearranged
13 rides.

14 (5) “Transportation network company driver” or “driver” means an
15 individual who:

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

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

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

5 (b) Company’s financial responsibility.

6 (1) Beginning on July 1, 2018, a driver, or company on the driver’s
7 behalf, shall maintain primary automobile insurance that recognizes that the
8 driver is a company driver or otherwise uses a vehicle to transport passengers
9 for compensation and covers the driver while the driver is logged on to the
10 company’s digital network or while the driver is engaged in a prearranged ride.

11 (2)(A) The following automobile insurance requirements shall apply
12 while a participating driver is logged on to the transportation network
13 company’s digital network and is available to receive transportation requests
14 but is not engaged in a prearranged ride:

15 (i) primary automobile liability insurance in the amount of at least
16 \$75,000.00 for death and bodily injury per person, \$150,000.00 for death and
17 bodily injury per incident, and \$30,000.00 for property damage; and

18 (ii) any other State-mandated coverage under section 941 of this
19 title.

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

- 1 (i) automobile insurance maintained by the driver;
2 (ii) automobile insurance maintained by the company; or
3 (iii) any combination of subdivisions (i) and (ii) of this
4 subdivision (2)(B).

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

- 7 (i) primary automobile liability insurance that provides at least
8 \$1,000,000.00 for death, bodily injury, and property damage;
9 (ii) uninsured and underinsured motorist coverage that provides at
10 least \$1,000,000.00 for death, bodily injury, and property damage; and
11 (iii) \$10,000.00 in medical payments coverage (Med Pay).

12 (B) The coverage requirements of this subdivision (3) may be
13 satisfied by any of the following:

- 14 (i) automobile insurance maintained by the driver;
15 (ii) automobile insurance maintained by the company; or
16 (iii) any combination of subdivisions (i) and (ii) of this
17 subdivision (3)(B).

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

1 (5) Coverage under an automobile insurance policy maintained by the
2 company shall not be dependent on a personal automobile insurer first denying
3 a claim nor shall a personal automobile insurance policy be required to first
4 deny a claim.

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

8 (7) Insurance satisfying the requirements of this subsection shall be
9 deemed to satisfy the financial responsibility requirement for a motor vehicle
10 under section 800 of this title.

11 (8) A driver shall carry proof of coverage satisfying this section at all
12 times during use of a vehicle in connection with a company's digital network.
13 In the event of an accident, a driver shall provide this insurance coverage
14 information to the directly interested parties, automobile insurers, and law
15 enforcement, upon request. Upon such request, a driver shall also disclose
16 whether he or she was logged on to the network or was on a prearranged ride at
17 the time of an accident.

18 (9) A person who fails to maintain primary automobile insurance as
19 required in subdivisions (2) and (3) of this subsection (b) shall be assessed a
20 civil penalty of not more than \$500.00, and such violation shall be a traffic
21 violation within the meaning of chapter 24 of this title. A person who fails to

1 carry proof of insurance as required under subdivision (8) of this subsection (b)
2 shall be subject to a civil penalty of not more than \$100.00. Notwithstanding
3 any provision of law to the contrary, a person who operates a vehicle without
4 financial responsibility as required by this subsection (b) is subject to
5 administrative action as set forth in chapter 11 of this title.

6 (c) Disclosures. A transportation network company shall disclose in
7 writing to its drivers the following before they are allowed to accept a request
8 for a prearranged ride on the company’s digital network:

9 (1) the insurance coverage, including the types of coverage and the
10 limits for each coverage, that the company provides while the driver uses a
11 personal vehicle in connection with the company’s network; and

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

16 (d)(1) Automobile insurers. Notwithstanding any other provision of law to
17 the contrary, insurers that write automobile insurance in Vermont may exclude
18 any and all coverage afforded under a policy issued to an owner or operator of
19 a personal vehicle for any loss or injury that occurs while a driver is logged on
20 to a transportation network company’s digital network or while a driver

1 provides a prearranged ride. This right to exclude all coverage may apply to
2 any coverage in an automobile insurance policy, including:

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

4 (B) personal injury protection coverage;

5 (C) uninsured and underinsured motorist coverage;

6 (D) medical payments coverage;

7 (E) comprehensive physical damage coverage; and

8 (F) collision physical damage coverage.

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

14 (3) Nothing in this section shall be construed to require an insurer to use
15 any particular policy language or reference to this section in order to exclude
16 any and all coverage for any loss or injury that occurs while a driver is logged
17 on to a company's digital network or while a driver provides a prearranged
18 ride.

19 (4) Nothing in this subsection is deemed to preclude an insurer from
20 providing primary or excess coverage for the driver's vehicle, if it chooses to
21 do so by contract or endorsement.

1 (5) Insurers that exclude the coverage described under subsection (b) of
2 this section shall have no duty to defend or indemnify any claim expressly
3 excluded thereunder.

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

9 (7) An insurer that defends or indemnifies a claim against a driver that is
10 excluded under the terms of its policy shall have a right of contribution against
11 other insurers that provide automobile insurance to the same driver in
12 satisfaction of the coverage requirements of subsection (b) of this section at the
13 time of loss.

14 (8) In a claims coverage investigation, transportation network
15 companies shall immediately provide, upon request by directly involved
16 parties or any insurer of the transportation network company driver, if
17 applicable, the precise times that a transportation network company driver
18 logged on and off the transportation network company's digital network in the
19 12-hour period immediately preceding and in the 12-hour period immediately
20 following the accident. Insurers providing coverage under subsection (b) of
21 this section shall disclose, upon request by any other insurer involved in the

1 particular claim, the applicable charges, exclusions, and limits provided under
2 any automobile insurance maintained in order to satisfy the requirements of
3 subsection (b) of this section.

4 **§ 751. DRIVER REQUIREMENTS; BACKGROUND CHECKS**

5 (a) A company shall not allow an individual to act as a driver on the
6 company's network without requiring the individual to submit to the company
7 an application that includes:

8 (1) the individual's name, address, and date of birth;

9 (2) a copy of the individual's driver's license;

10 (3) a copy of the registration for the personal vehicle that the individual
11 will use to provide prearranged rides; and

12 (4) proof of financial responsibility for the personal vehicle described in
13 subdivision (3) of this subsection of a type and in the amounts required by the
14 company.

15 (b)(1) A company shall not allow an individual to act as a driver on the
16 company's network unless, with respect to the driver, the company:

17 **(A) contracts with an entity accredited by the National**
18 **Association of Professional Background Screeners to conduct a local,**
19 **State, and national background check of the individual, including the**
20 **multistate-multijurisdiction criminal records locator or other similar**

1 national database, and the U.S. Department of Justice national sex
2 offender public website, and the Vermont Sex Offender Registry; and

3 (B) confirms that the individual is at least 18 years of age and, if the
4 individual is 18 years of age, he or she has at least one year of driving
5 experience or has been issued a commercial driver license.

6 (2) The background checks required by this subsection shall be
7 conducted annually by the company.

8 (3) With respect to a person who is a driver as of the effective date of
9 this act, the requirements of subdivision (1)(A) of this subsection (b) shall be
10 deemed satisfied during the period when a request for a Vermont criminal
11 record is pending with the Vermont Crime Information Center if the
12 background check is completed within 30 days of the effective date of this
13 act or if a background check that satisfies the requirements of subdivision
14 (1)(A) of this subsection (b) was conducted by the company on or after
15 July 1, 2017. This subdivision shall not be construed to exempt drivers
16 from undergoing an annual background check as required under
17 subdivision (2) of this subsection (b).

18 (c) A company shall not allow an individual to act as a driver on the
19 company's network if the company knows or should know that the individual:

20 (1) has been convicted within the last seven years of:

21 (A) a listed crime as defined in 13 V.S.A. § 5301(7);

1 (B) an offense involving sexual exploitation of children in violation
2 of 13 V.S.A. chapter 64 [Note: Is this provision necessary in light of
3 permanent ban in subdivision (3)? Typically, registration continues for 10
4 years after someone finishes their supervision with the Department of
5 Corrections. Lifetime registration is required for: a second or subsequent
6 conviction for a registerable sex offense; a conviction of Sexual Assault or
7 Aggravated Sexual Assault; and individuals that have been designated by
8 the Department of Corrections as sexually violent predators. Therefore, I
9 moved this offense to the “always prohibited” subdivision (3) below]

10 (C) a felony level violation of 18 V.S.A. chapter 84 for selling,
11 dispensing, or trafficking a regulated drug;

12 (D) a violation of section 1201 (operating a vehicle while under the
13 influence of alcohol or drugs) of this title;

14 (E) a felony violation of 13 V.S.A. chapter 47 (frauds) or chapter 57
15 (larceny and embezzlement); or

16 (F) a comparable offense in another jurisdiction;

17 (2) has been convicted within the last three years of:

18 (A) more than three moving violations as defined in subdivision
19 4(44) of this title;

1 (B) grossly negligent operation of a motor vehicle in violation of
2 section 1091 of this title or operating with a suspended or revoked license in
3 violation of section 674 of this title; or

4 (C) a comparable offense in another jurisdiction; or
5 (3) is or has been required to register as a sex offender in any
6 jurisdiction or has ever been convicted of homicide, manslaughter,
7 kidnapping, or an offense involving sexual exploitation of children in violation
8 of 13 V.S.A. chapter 64.

9 (c) A company shall establish and enforce a zero tolerance policy for drug
10 and alcohol use by drivers during any period when a driver is engaged in, or is
11 logged into the company’s network but is not engaged in, a prearranged ride.
12 The policy shall include provisions for investigations of alleged policy
13 violations and the suspension of drivers under investigation.

14 (d) A company shall require that a personal vehicle used to provide
15 prearranged rides complies with all applicable laws and regulations concerning
16 vehicle equipment.

17 **§ 752. RECORDS; INSPECTION**

18 (a) The Commissioner of Motor Vehicles or designee, **not more**
19 **frequently than once per year, may visually inspect a random, material**
20 **sample of driver’s records demonstrating compliance with the**
21 **requirements of this chapter.**

1 **(b) The Commissioner or designee may visually inspect additional**
2 **random samples of drivers' records if there is a reasonable basis to**
3 **suspect that a company is not in compliance with this section chapter.**

4 **(c) If the Commissioner receives notice of a complaint against a**
5 **company or an individual a driver the company shall cooperate in**
6 **investigating the complaint, including producing any necessary records.**

7 **(d) Any records, data, or information disclosed to the Commissioner**
8 **by a company, including the names, addresses, and any other personally**
9 **identifiable information regarding drivers, shall not be subject to**
10 **disclosure under 1 V.S.A. §§ 315-320 are exempt from inspection and**
11 **copying under the Public Records Act and shall not be released.**

12 **§ 753. ENFORCEMENT; ADMINISTRATIVE PENALTIES**

13 (a) The Commissioner of Motor Vehicles may impose an administrative
14 penalty if a company violates a provision of this chapter.

15 (b) A violation may be subject to an administrative penalty of not more
16 than \$500.00. Each violation is a separate and distinct offense and, in the case
17 of a continuing violation, each day's continuance may be deemed a separate
18 and distinct offense.

19 (c) The company shall be given notice and opportunity for a hearing for
20 alleged violations under this section. Service of the notice shall be sufficient if

1 sent by first class mail to the applicable address on file with the Secretary of
2 State. The notice shall include the following:

3 (1) a factual description of the alleged violation;

4 (2) a reference to the particular statute allegedly violated;

5 (3) the amount of the proposed administrative penalty; and

6 (4) a warning that the company will be deemed to have waived its right
7 to a hearing and that the penalty will be imposed if no hearing is requested
8 within 15 days from the date of the notice.

9 (d) A company that receives notice under subsection (c) of this section
10 shall be deemed to have waived the right to a hearing unless, within 15 days
11 from the date of the notice, the company requests a hearing in writing. If the
12 company waives the right to a hearing, the Commissioner shall issue a final
13 order finding the company in default and imposing the penalty.

14 (e) The provisions of sections 105, 106, and 107 of this title shall apply to
15 hearings conducted under this section.

16 (f) The Commissioner may collect an unpaid administrative penalty by
17 filing a civil action in Superior Court or through any other means available to
18 State agencies.

19 (g) The remedies authorized by this section shall be in addition to any other
20 civil or criminal remedies provided by law for violation of this chapter.

21 § 754. PREEMPTION; SAVINGS CLAUSE

1 (a) A municipality shall not adopt an ordinance, resolution, or bylaw
2 regulating transportation network companies that is inconsistent with the
3 requirements of this chapter.

4 (b) Subsection (a) of this section shall not apply to a municipal ordinance,
5 resolution, or bylaw regulating transportation network companies adopted by a
6 municipality with a population of more than 35,000 residents based on the
7 2010 census and in effect on July 1, 2017. This subsection shall be repealed on
8 July 1, 2022.

9 Sec. 2. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

10 (a) The Commissioner of Financial Regulation, in consultation with the
11 Commissioner of Motor Vehicles and the Director of the Office of Professional
12 Regulation, and with input from industry and consumer stakeholders, shall
13 conduct a study of whether and to what extent vehicles for hire, vehicle for hire
14 drivers, and vehicle for hire companies should be regulated by the State.

15 Among other things, the Commissioner shall consider:

16 (1) issues related to public safety, necessity, and convenience;

17 (2) regulatory models adopted in other state and local jurisdictions,
18 including in both urban and rural municipalities in Vermont, applicable to
19 transportation network companies and other vehicle for hire companies;

20 (3) matters related to passenger safety, including driver background
21 checks, periodic vehicle safety inspections, and signage;

1 (4) matters related to insurance coverage, including minimum liability
2 coverage, disclosure requirements, and claims procedures, generally, and with
3 consideration of other, similarly-situated jurisdictions, other commercial
4 automobile policy requirements, and enhanced personal liability coverage for
5 drivers;

6 (5) matters related to fares, including the provision of fare estimates to
7 riders, restrictions on “surge pricing,” and payment methods;

8 (6) matters such as the licensing or permitting of companies and drivers;
9 nondiscrimination street hails; the protection of driver and rider information;
10 taxes or fees and, if applicable, recommended amounts; the employment status
11 of drivers; increased access for people with disabilities;

12 (7) the extent to which all vehicles for hire, vehicle for hire drivers, and
13 vehicle for hire companies should be treated similarly with respect to statewide
14 regulation; and

15 (8) any other matter deemed relevant by the Commissioner and the
16 Director.

17 (b) For purposes of this section, a “vehicle for hire” is a passenger vehicle
18 transporting passengers for compensation of any kind. Vehicles for hire
19 include taxicabs, transportation network company vehicles, limousines, jitneys,
20 car services, contract vehicles, shuttle vans, and other such vehicles
21 transporting passengers for compensation of any kind except:

1 (1) Those which an employer uses to transport employees.

2 (2) Those which are used primarily to transport elderly, special needs
3 and handicapped persons for whom special transportation programs are
4 designed and funded by State, federal, or local authority otherwise exempted
5 pursuant to 23 V.S.A. § 4(15).

6 (3) Buses, trolleys, trains, or similar mass transit vehicles.

7 (4) Courtesy vehicles for which the passenger pays no direct charge,
8 such as hotel or car dealer shuttle vans.

9 (c) On or before December 15, 2018, the Commissioner shall submit a
10 progress report outlining his or her findings and recommendations to the
11 Chairs of the Senate Committees on Transportation, on Judiciary, and on
12 Finance and the House Committees on Transportation, on Judiciary, and on
13 Commerce and Economic Development.

14 (d) On or before January 15, 2019, the Commissioner shall submit a final
15 report of his or her findings and recommendations to the Senate Committees
16 on Transportation, on Judiciary, and on Finance and the House Committees on
17 Transportation, on Judiciary, and on Commerce and Economic Development.

18 Sec. 3. EFFECTIVE DATE

19 This act shall take effect on July 1, 2018.

20 And that after passage the title of the bill be amended to read:

21 An act relating to transportation network companies.

1
2
3
4
5
6
7
8
9

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE