

1 TO THE HONORABLE SENATE:

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

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

9 CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

10 § 750. DEFINITIONS; INSURANCE REQUIREMENTS

11 (a) As used in this chapter:

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

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

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

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

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

20 (3) “Prearranged ride” or “ride” means the provision of transportation

21 by a driver to a transportation network rider, beginning when a driver accepts

1 the rider’s request for a ride through a digital network controlled by a
2 company; continuing while the driver transports the rider; and ending when the
3 last requesting rider departs from the vehicle. The term does not include:

4 (A) shared expense carpool or vanpool arrangements;

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

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

8 (D) a ride furnished through a broker who connects riders to drivers
9 through the Elders and Persons with Disabilities Program, Medicaid Non-
10 Emergency Medical Transportation Program, or other similar governmental
11 transportation program.

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

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

19 (A) receives connections to potential riders and related services from
20 a transportation network company in exchange for payment of a fee to the
21 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’s financial responsibility.

9 (1) Beginning on or before July 1, 2017, a driver, or company on the
10 driver’s behalf, shall maintain primary automobile insurance that recognizes
11 that the driver is a company driver or otherwise uses a vehicle to transport
12 passengers for compensation and covers the driver while the driver is logged
13 on to the company’s digital network or while the driver is engaged in a
14 prearranged ride.

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

19 (i) primary automobile liability insurance in the amount of at least
20 \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and
21 bodily injury per incident, and \$25,000.00 for property damage; and

1 (ii) any other State-mandated coverage under 23 V.S.A. § 941.

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

4 (i) automobile insurance maintained by the driver;

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

6 (iii) any combination of subdivisions (i) and (ii) of this
7 subdivision (2)(B).

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

10 (i) primary automobile liability insurance that provides at least
11 \$1,000,000.00 for death, bodily injury, and property damage; and

12 (ii) any other State-mandated coverage under 23 V.S.A. § 941.

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

15 (i) automobile insurance maintained by the driver;

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

17 (iii) any combination of subdivisions (i) and (ii) of this
18 subdivision (3)(B).

19 (4) If insurance maintained by a driver under subdivision (2) or (3) of
20 this subsection has lapsed or does not provide the required coverage, insurance

1 maintained by a company shall provide such coverage beginning with the first
2 dollar of a claim and shall have the duty to defend such claim.

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

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

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

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

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

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

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

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

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

19 (B) personal injury protection coverage;

20 (C) uninsured and underinsured motorist coverage;

21 (D) medical payments coverage;

1 (E) comprehensive physical damage coverage; and

2 (F) collision physical damage coverage.

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

8 (3) Nothing in this section shall be construed to require an insurer to use
9 any particular policy language or reference to this section in order to exclude
10 any and all coverage for any loss or injury that occurs while a driver is logged
11 on to a company’s digital network or while a driver provides a prearranged
12 ride.

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

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

19 (6) Nothing in this section is deemed to invalidate or limit an exclusion
20 contained in a policy, including any policy in use or approved for use in
21 Vermont prior to the enactment of this section, that excludes coverage for

1 vehicles used to carry persons or property for a charge or available for hire by
2 the public.

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

8 (8) In a claims coverage investigation, transportation network
9 companies shall immediately provide upon request by directly involved parties
10 or any insurer of the transportation network company driver, if applicable, the
11 precise times that a transportation network company driver logged on and off
12 the transportation network company's digital network in the 12-hour period
13 immediately preceding and in the 12-hour period immediately following the
14 accident. Insurers providing coverage under subsection (b) of this section shall
15 disclose, upon request by any other insurer involved in the particular claim, the
16 applicable charges, exclusions, and limits provided under any automobile
17 insurance maintained in order to satisfy the requirements of subsection (b) of
18 this section.

19 § 751. COMPANY LICENSE

20 (a) A company shall not operate without a license issued by the
21 Commissioner of Motor Vehicles. Applications for a license shall be filed

1 with the Commissioner and shall contain such information and shall be on such
2 forms as the Commissioner may prescribe.

3 (b) Each application shall be accompanied by an application fee of
4 \$250.00, which shall not be refunded. If an application is approved by the
5 Commissioner, upon payment of an additional fee of \$250.00, the applicant
6 shall be granted a license, which shall be valid for one year after the date of
7 issuance. The renewal fee is \$500.00.

8 (c) The Commissioner shall not issue a license to a company unless he or
9 she finds that the company:

10 (1) has a zero-tolerance policy for drug and alcohol use, as described in
11 subsection 752(c) of this chapter;

12 (2) requires compliance with applicable vehicle requirements;

13 (3) adopts nondiscrimination and accessibility policies; and

14 (4) establishes record maintenance guidelines.

15 (d) A company or a driver is not a:

16 (1) common carrier;

17 (2) contract carrier; or

18 (3) motor carrier. [Strike the entire subsection?]

19 § 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS

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

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

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

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

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

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

13 (A) obtains a Vermont criminal record from the Vermont Crime
14 Information Center; and

15 (B) conducts or contracts a third party accredited by the National
16 Association of Professional Background Screeners to conduct a national
17 criminal record check, a motor vehicle check, and a search of the Vermont Sex
18 Offender Registry and the National Sex Offender Public Registry.

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

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

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

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

5 (B) an offense involving sexual exploitation of children in violation
6 of chapter 64 of Title 13;

7 (C) a violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c)(selling,
8 dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3)(selling or dispensing
9 LSD); 4233(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking heroin);
10 4234(b)(2) or (b)(3)(selling or dispensing depressants, stimulants, and
11 narcotics); 4234a(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking
12 methamphetamine); 4235(c)(2) or (c)(3)(selling or dispensing hallucinogenic
13 drugs); or 4235a(b)(2) or (b)(3)(selling or dispensing Ecstasy);

14 (D) a violation of 23 V.S.A. § 1201 (operating a vehicle while under
15 the influence of alcohol or drugs);

16 (E) a felony violation of chapter 47 (frauds) or chapter 57 (larceny
17 and embezzlement) of Title 13; or

18 (F) a comparable offense in another jurisdiction;

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

20 (A) more than three moving violations as defined in 23 V.S.A.
21 § 4(44);

1 (B) grossly negligent operation of a motor vehicle in violation of 23
2 V.S.A. § 1071 or operating with a suspended or revoked license in violation of
3 23 V.S.A. § 674; 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.

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

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

15 § 753. RECORDS; INSPECTION

16 The Commissioner of Motor Vehicles, or designee, at all reasonable times,
17 has the right to inspect driver and company records demonstrating compliance
18 with the requirements of this chapter, including the results of background
19 checks, proof that vehicles meet the standards of this chapter, and proof of
20 adequate insurance.

21 § 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

1 (a) The Commissioner may impose an administrative penalty, suspend or
2 revoke a company's license, or both, if a company violates the provisions of
3 this chapter.

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

8 (c) The company shall be given notice and opportunity for a hearing for
9 alleged violations under this section. Service of the notice shall be sufficient if
10 sent by first class mail to the address stated on the company's license. The
11 notice shall include the following:

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

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

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

15 (4) a warning that the company will be deemed to have waived its right
16 to a hearing, that the penalty will be imposed if no hearing is requested within
17 15 days from date of notice, and that failure to pay a penalty may result in
18 suspension of its license.

19 (d) A company who receives notice under subsection (c) of this section
20 shall be deemed to have waived the right to a hearing unless, within 15 days
21 from the date of the notice, the company requests a hearing in writing. If the

1 company waives the right to a hearing, the Commissioner shall issue a final
2 order finding the company in default and imposing the penalty.

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

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

8 (g) If a penalty is not paid within 60 days after it is imposed, the
9 Commissioner may suspend any license issued under this chapter.

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

12 § 755. SAVINGS CLAUSE

13 This chapter shall not affect an ordinance, resolution, or bylaw concerning
14 the regulation of transportation network companies, provided the ordinance,
15 resolution or bylaw is consistent with or more stringent than the requirements
16 of this chapter.

17 Sec. 2. EFFECTIVE DATE

18 This act shall take effect on July 1, 2017.

19 and that after passage the title of the bill be amended to read: “An act relating
20 to transportation network companies”

21 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE