

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 or 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.~~ [Vermont Association for Justice.]

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 logged on to the transportation network company's digital~~  
10 ~~network and is available to receive transportation requests and also while a~~  
11 ~~driver is engaged in a prearranged ride:~~

12 ~~(i) primary automobile liability insurance that provides at least~~  
13 ~~\$1,000,000.00 for death, bodily injury, and property damage; and~~

14 ~~(ii) any other State mandated coverage under 23 V.S.A. § 941~~  
15 ~~uninsured and underinsured motorist coverage that provides at least~~

16 ~~\$1,000,000.00 for death, bodily injury, and property damage; and~~

17 ~~(iii) \$10,000.00 in medical payments coverage (Med Pay).~~

18 **[New Subdivision (2) - Vermont Association for Justice]**

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

21 ~~(i) automobile insurance maintained by the driver;~~

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

2                   (iii) any combination of subdivisions (i) and (ii) of this

3 subdivision (2)(B).

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

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

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

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

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

1 enforcement, upon request. Upon such request, a driver shall also disclose  
2 whether he or she was logged on to the network or was on a prearranged ride at  
3 the time of an accident.

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

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

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

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

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

- 1           (B) personal injury protection coverage;
- 2           (C) uninsured and underinsured motorist coverage;
- 3           (D) medical payments coverage;
- 4           (E) comprehensive physical damage coverage; and
- 5           (F) collision physical damage coverage.

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

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

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

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

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

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

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



1     § 751. COMPANY LICENSE

2           (a) A company shall not operate without a license issued by the  
3     Commissioner of Motor Vehicles. Applications for a license shall be filed  
4     with the Commissioner and shall contain such information and shall be on such  
5     forms as the Commissioner may prescribe.

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

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

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

15            (2) requires compliance with applicable vehicle requirements;

16            (3) adopts nondiscrimination and accessibility policies; and

17            (4) establishes record maintenance guidelines.

18    ~~(d) A company or a driver is not a:~~

19            ~~(1) common carrier;~~

20            ~~(2) contract carrier; or~~

21            ~~(3) motor carrier.~~ **[Vermont Association for Justice]**

1     § 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS

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

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

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

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

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

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

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

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

20           (2) The background checks required by this subsection shall be  
21    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. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY**

18 **The Commissioner of Financial Regulation shall review the minimum**  
19 **automobile insurance requirements in each of the states located in the**  
20 **northeastern region of the United States and shall report his or her findings and**

1 recommendations with respect to Vermont’s minimum automobile insurance  
2 requirements to the General Assembly not later than November 1, 2017.

3 Sec. 3. EFFECTIVE DATE

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

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

7 (Committee vote: \_\_\_\_\_)

8 \_\_\_\_\_

9 Senator \_\_\_\_\_

10 FOR THE COMMITTEE