

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

1 rider’s request for a ride through a digital network controlled by a company;
2 continuing while the driver transports the rider; and ending when the last
3 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 using a publicly-funded
9 network to connect riders to drivers through the Elders and Persons with
10 Disabilities Program, Medicaid Non-Emergency Medical Transportation
11 Program, or other similar governmental 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 July 1, 2017, a driver, or company on the driver’s
10 behalf, shall maintain primary automobile insurance that recognizes that the
11 driver is a company driver or otherwise uses a vehicle to transport passengers
12 for compensation and covers the driver while the driver is logged on to the
13 company’s digital network or while the driver is engaged in a prearranged ride.

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

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

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

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

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

4 ~~(ii) automobile insurance maintained by the company; or~~

5 ~~(iii) any combination of subdivisions (i) and (ii) of this~~
6 ~~subdivision (2)(B);~~

7 ~~(3)(A) The following automobile insurance requirements shall apply~~
8 ~~while a driver is logged on to the transportation network company’s digital~~
9 ~~network and is available to receive transportation requests and also while a~~
10 ~~driver is engaged in a prearranged ride:~~

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

13 ~~(ii) any other State mandated coverage under 23 V.S.A. § 941~~
14 ~~uninsured and underinsured motorist coverage that provides at least~~
15 ~~\$1,000,000.00 for death, bodily injury, and property damage; and~~

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

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 (2)(B).

3 (3) If insurance maintained by a driver under subdivision (2) 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 (4) 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 (5) 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 (6) Insurance satisfying the requirements of this subsection shall be
15 deemed to satisfy the financial responsibility requirement for a motor vehicle
16 under section 800 of this title.

17 (7) 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 (c) 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, depending on its
10 terms, might not provide any coverage while the driver is logged on to the
11 company’s network and available to receive transportation requests or engaged
12 in a prearranged ride.

13 (d)(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 section shall be construed to require an insurer to use
11 any particular policy language or reference to this section in order to exclude
12 any and all coverage for any loss or injury that occurs while a driver is logged
13 on to a company’s digital network or while a driver provides a prearranged
14 ride.

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

18 (5) Insurers that exclude the coverage described under subsection (b) of
19 this section shall have no duty to defend or indemnify any claim expressly
20 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
13 parties or any insurer of the transportation network company driver, if
14 applicable, the precise times that a transportation network company driver
15 logged on and off the transportation network company's digital network in the
16 12-hour period immediately preceding and in the 12-hour period immediately
17 following the accident. Insurers providing coverage under subsection (b) of
18 this section shall disclose, upon request by any other insurer involved in the
19 particular claim, the applicable charges, exclusions, and limits provided under
20 any automobile insurance maintained in order to satisfy the requirements of
21 subsection (b) of 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.~~

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) contracts with an entity accredited by the National Association of
17 Professional Background Screeners to conduct a national criminal record
18 check, a motor vehicle check, and a search of the Vermont Sex Offender
19 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 13 V.S.A. chapter 64;

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 section 1201 (operating a vehicle while under the
15 influence of alcohol or drugs) of this title;

16 (E) a felony violation of 13 V.S.A. chapter 47 (frauds) or chapter 57
17 (larceny and embezzlement); 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 subdivision
21 4(44) of this title;

1 (B) grossly negligent operation of a motor vehicle in violation of
2 section 1071 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.

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.

1 § 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

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

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

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

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

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

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

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

20 (d) A company who receives notice under subsection (c) of this section
21 shall be deemed to have waived the right to a hearing unless, within 15 days

1 from the date of the notice, the company requests a hearing in writing. If the
2 company waives the right to a hearing, the Commissioner shall issue a final
3 order finding the company in default and imposing the penalty.

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

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

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

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

13 **§ 755. PREEMPTION; SAVINGS CLAUSE**

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

17 (b) Subsection (a) of this section shall not apply to a municipal ordinance,
18 resolution, or bylaw regulating transportation network companies in effect on
19 July 1, 2017. This subsection shall be repealed on July 1, 2022.

1 Sec. 2. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY

2 The Commissioner of Financial Regulation shall review the minimum
3 automobile insurance requirements in each of the states located in the
4 northeastern region of the United States and shall report his or her findings and
5 recommendations with respect to Vermont’s minimum automobile insurance
6 requirements to the General Assembly on or before November 1, 2017.

7 Sec. 3. EFFECTIVE DATE

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

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

11

12

13 (Committee vote: _____)

14

15

Senator _____

16

FOR THE COMMITTEE