

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) Definitions. 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.

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

17 (A) receives connections to potential riders and related services from
18 a transportation network company in exchange for payment of a fee to the
19 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 \$100,000.00 for death and bodily injury per person, \$300,000.00 for death and
20 bodily injury per incident, and \$25,000.00 for property damage; and

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

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

5 (i) automobile insurance maintained by the driver;

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

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

9 (3)(A) The following automobile insurance requirements shall apply
10 while a 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;

13 (ii) uninsured and underinsured motorist coverage that provides at
14 least \$1,000,000.00 for death, bodily injury, and property damage; and

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

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

18 (i) automobile insurance maintained by the driver;

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

20 (iii) any combination of subdivisions (i) and (ii) of this
21 subdivision (3)(B).

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

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

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

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

15 (8) A driver shall carry proof of coverage satisfying this section at all
16 times during use of a vehicle in connection with a company’s digital network.
17 In the event of an accident, a driver shall provide this insurance coverage
18 information to the directly interested parties, automobile insurers, and law
19 enforcement, upon request. Upon such request, a driver shall also disclose
20 whether he or she was logged on to the network or was on a prearranged ride at
21 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 engaged
10 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
10 parties or any insurer of the transportation network company driver, if
11 applicable, the precise times that a transportation network company driver
12 logged on and off the transportation network company's digital network in the
13 12-hour period immediately preceding and in the 12-hour period immediately
14 following the accident. Insurers providing coverage under subsection (b) of
15 this section shall disclose, upon request by any other insurer involved in the
16 particular claim, the applicable charges, exclusions, and limits provided under
17 any automobile insurance maintained in order to satisfy the requirements of
18 subsection (b) of 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 § 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS

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

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

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

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

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

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

8 (A) obtains a Vermont criminal record from the Vermont Crime
9 Information Center; and

10 (B) contracts with an entity accredited by the National Association of
11 Professional Background Screeners to conduct a national criminal record
12 check, a motor vehicle check, and a search of the Vermont Sex Offender
13 Registry and the National Sex Offender Public Registry.

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

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

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

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

20 (B) an offense involving sexual exploitation of children in violation
21 of 13 V.S.A. chapter 64;

1 (C) a violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c)(selling,
2 dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3)(selling or dispensing
3 LSD); 4233(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking heroin);
4 4234(b)(2) or (b)(3)(selling or dispensing depressants, stimulants, and
5 narcotics); 4234a(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking
6 methamphetamine); 4235(c)(2) or (c)(3)(selling or dispensing hallucinogenic
7 drugs); or 4235a(b)(2) or (b)(3)(selling or dispensing Ecstasy);

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

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

12 (F) a comparable offense in another jurisdiction;

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

14 (A) more than three moving violations as defined in subdivision
15 4(44) of this title;

16 (B) grossly negligent operation of a motor vehicle in violation of
17 section 1071 of this title or operating with a suspended or revoked license in
18 violation of section 674 of this title; or

19 (C) a comparable offense in another jurisdiction; or

20 (3) is or has been required to register as a sex offender in any
21 jurisdiction.

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

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

9 § 753. RECORDS; INSPECTION

10 The Commissioner of Motor Vehicles or designee, at all reasonable times,
11 has the right to inspect driver and company records demonstrating compliance
12 with the requirements of this chapter, including the results of background
13 checks, proof that vehicles meet the standards of this chapter, and proof of
14 adequate insurance.

15 § 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

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

19 (b) A violation may be subject to an administrative penalty of not more
20 than \$500.00. Each violation is a separate and distinct offense and, in the case

1 of a continuing violation, each day's continuance may be deemed a separate
2 and distinct offense.

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

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

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

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

10 (4) a warning that the company will be deemed to have waived its right
11 to a hearing, that the penalty will be imposed if no hearing is requested within
12 15 days from the date of the notice, and that failure to pay a penalty may result
13 in suspension of its license.

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

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

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

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

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

8 § 755. PREEMPTION; SAVINGS CLAUSE

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

12 (b) Subsection (a) of this section shall not apply to a municipal ordinance,
13 resolution, or bylaw regulating transportation network companies adopted by a
14 municipality with a population of more than 35,000 residents based on the
15 2010 census and in effect on July 1, 2017. This subsection shall be repealed on
16 July 1, 2022.

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 on or before 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

8

9 (Committee vote: _____)

10

11

Senator _____

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FOR THE COMMITTEE