

1 H.725

2 Introduced by Representative Hill of Wolcott

3 Referred to Committee on

4 Date:

5 Subject: Insurance; transportation; transportation network companies

6 Statement of purpose of bill as introduced: This bill proposes to regulate
7 transportation network companies in Vermont.

8 An act relating to the regulation of transportation network companies

9 It is hereby enacted by the General Assembly of the State of Vermont:

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

11 CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

12 § 750. DEFINITIONS; INSURANCE REQUIREMENTS

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

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

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

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

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

4 (B) use of a public or private regional transportation company that
5 operates along a fixed route.

6 (3) “Transportation network company” (TNC) or “company” means a
7 corporation, partnership, sole proprietorship, or other entity that uses a digital
8 network to connect riders to drivers who provide prearranged rides.

9 (4) “Transportation network company driver” or “driver” means an
10 individual who:

11 (A) receives connections to potential riders and related services from
12 a TNC in exchange for payment of a fee to the company; and

13 (B) uses a vehicle to offer or provide a prearranged ride to riders
14 upon connection through a digital network controlled by a TNC in exchange
15 for compensation or payment of a fee.

16 (5) “Transportation network company rider” or “rider” means an
17 individual who uses a company’s digital network to connect with a driver who
18 provides rides in his or her vehicle between points chosen by the rider.

19 (6) “Transportation network company vehicle” or “vehicle” means a
20 vehicle that is:

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

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

2 (C) not operating as a taxicab, limousine, or other for-hire vehicle.

3 (b) Company's financial responsibility.

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

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

13 (i) primary automobile liability insurance in the amount of at least
14 \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and
15 bodily injury per incident, and \$25,000.00 for property damage; and

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

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

20 (i) automobile insurance maintained by the driver;

21 (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)(A) The following automobile insurance requirements shall apply
4 while a driver is engaged in a prearranged ride:

5 (i) primary automobile liability insurance that provides at least
6 \$1,000,000.00 for death, bodily injury, and property damage; and

7 (ii) any other State-mandated coverage under section 941 of this
8 title; and

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

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

12 (i) automobile insurance maintained by the driver;

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

14 (iii) any combination of subdivisions (i) and (ii) of this
15 subdivision (3)(B).

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

20 (5) Coverage under an automobile insurance policy maintained by the
21 company shall not be dependent on a personal automobile insurer first denying

1 a claim nor shall a personal automobile insurance policy be required to first
2 deny a claim.

3 (6) Insurance required by this subsection may be placed with an insurer
4 licensed under 8 V.S.A. chapter 101 (insurance companies generally) or 138
5 (surplus lines insurance).

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

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

16 (9) A driver who fails to maintain primary automobile insurance as
17 required in subdivisions (2) and (3) of this subsection shall be assessed a civil
18 penalty of not more than \$500.00, and such violation shall be a traffic violation
19 within the meaning of chapter 24 of this title. A driver who fails to carry proof
20 of insurance as required under subdivision (8) of this subsection shall be
21 subject to a penalty of not more than \$100.00. Notwithstanding any provision

1 of law to the contrary, a person who operates a vehicle without financial
2 responsibility as required by this subsection is subject to administrative action
3 as set forth in chapter 11 of this title.

4 (c) Disclosures. A TNC shall disclose in writing to its drivers the
5 following before they are allowed to accept a request for a prearranged ride on
6 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 TNC 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 engaged
13 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 TNC vehicle for any loss or injury that occurs while a driver is logged on to a
18 TNC's digital network or while a driver provides a prearranged ride. This
19 right to exclude all coverage may apply to any coverage in an automobile
20 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
15 prearranged 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, TNCs shall immediately provide,
12 upon request by directly involved parties or any insurer of the TNC driver, if
13 applicable, the precise times that a TNC driver logged on and off the TNC's
14 digital network in the 12-hour period immediately preceding and in the 12-
15 hour period immediately following the accident. Insurers providing coverage
16 under subsection (b) of this section shall disclose, upon request by any other
17 insurer involved in the particular claim, the applicable charges, exclusions, and
18 limits provided under any automobile insurance maintained in order to satisfy
19 the requirements of subsection (b) of this section.

1 § 751. TRANSPORTATION NETWORK COMPANY REQUIREMENTS

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) A company or a driver is not a:

12 (1) common carrier;

13 (2) contract carrier; or

14 (3) motor carrier.

15 (d) A company shall establish and enforce a zero-tolerance policy for drug
16 and alcohol use by drivers during any period when a driver is engaged in, or is
17 logged into the company's network but is not engaged in, a prearranged ride.
18 The policy shall include provisions for investigations of alleged policy
19 violations and the suspension of drivers under investigation.

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 TNC vehicle that the individual will
8 use to provide prearranged rides; and

9 (4) proof of financial responsibility for the TNC 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) confirms that the individual is at least 19 years of age, maintains
15 a valid driver's license, and possesses proof of registration and automobile
16 liability insurance for the vehicle to be used to provide prearranged rides;

17 (B) conducts, or causes to be conducted, a local, State, and national
18 background check of the individual, including the multistate-multijurisdiction
19 criminal records locator or other similar commercial national database, and the
20 U.S. Department of Justice national sex offender public website; and

21 (C) obtains and reviews a driving history report for the individual.

1 (2) The background checks required by this subsection shall be
2 conducted annually.

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

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

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

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

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

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

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

20 (F) a comparable offense in another jurisdiction;

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

1 (A) more than three moving violations as defined in subdivision
2 4(44) of this title;

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

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

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

9 § 753. RECORDS; INSPECTION

10 (a) The Commissioner of Motor Vehicles or designee, not more frequently
11 than once per year, may visually inspect a random sample of 25 drivers'
12 records demonstrating compliance with the requirements of this chapter.

13 (b) Any records, data, or information disclosed to the Commissioner of
14 Motor Vehicles by a TNC, including the names, addresses, and any other
15 personally identifiable information of TNC drivers, shall not be subject to
16 disclosure under 1 V.S.A. §§ 315-320.

17 § 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

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

1 (b) The company shall be given notice and opportunity for a hearing for
2 alleged violations under this section. Service of the notice shall be sufficient if
3 sent by first class mail to the applicable address on file with the Secretary of
4 State. The notice shall include the following:

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

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

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

8 (4) a warning that the company shall be deemed to have waived its right
9 to a hearing and that the penalty shall be imposed if no hearing is requested
10 within 15 business days after the date of the notice.

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

16 (d) The provisions of sections 105, 106, and 107 of this title shall apply to
17 hearings conducted under this section.

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

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

3 § 755. PREEMPTION; SAVINGS CLAUSE

4 (a) It is the intent of the General Assembly to provide for uniformity of
5 laws governing companies, drivers, and vehicles throughout the State.
6 Companies, drivers, and vehicles are governed exclusively by State law,
7 including in any locality or other jurisdiction that enacted a law or created rules
8 governing companies, except as provided in subsection (b) of this section,
9 drivers, or vehicles before the date of enactment of this chapter.

10 (b) Except as otherwise provided in this chapter, TNCs are governed
11 exclusively by this chapter.

12 (c) A county, municipality, special district, airport authority, port authority,
13 or other local governmental entity or subdivision shall not:

14 (1) impose a tax on, or require a license for, a company, a driver, or a
15 vehicle if such tax or license relates to providing prearranged rides;

16 (2) subject a company, a driver, or a vehicle to any rate, entry,
17 operation, or other requirement of the county, municipality, special district,
18 airport authority, or other local governmental entity or subdivision; or

19 (3) require a company or a driver to obtain a business license or any
20 other type of similar authorization to operate within the local governmental
21 entity's jurisdiction.

1 (d) This section does not prohibit an airport from charging reasonable
2 pickup fees consistent with any pickup fees charged to taxicab companies at
3 that airport for their use of the airport's facilities or prohibit the airport from
4 designating locations for staging, pickup, and other similar operations at the
5 airport.

6 (e) Subsection (a) of this section shall not apply to a municipal ordinance,
7 resolution, or bylaw regulating TNCs adopted by a municipality with a
8 population of more than 35,000 residents based on the 2010 census and in
9 effect on July 1, 2017. This subsection shall be repealed on April 1, 2019.

10 Sec. 2. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY

11 The Commissioner of Financial Regulation shall review the minimum
12 automobile insurance requirements in each of the states located in the
13 northeastern region of the United States and shall report his or her findings and
14 recommendations with respect to Vermont's minimum automobile insurance
15 requirements to the General Assembly on or before November 1, 2018.

16 Sec. 3. EFFECTIVE DATE

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