

1 H.385

2 Introduced by Representative Botzow of Pownal

3 Referred to Committee on

4 Date:

5 Subject: Insurance; transportation network companies

6 Statement of purpose of bill as introduced: This bill proposes to enact specific
7 requirements for liability insurance coverage of a transportation network
8 company and its participating drivers.

9 An act relating to liability insurance and transportation network companies

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

11 Sec. 1. 23 V.S.A. chapter 11, subchapter 2A is added to read:

12 Subchapter 2A. Transportation Network Companies

13 § 851. SCOPE

14 Notwithstanding any other provision of this chapter to the contrary, this
15 subchapter applies to transportation network companies.

16 § 852. DEFINITIONS

17 As used in this subchapter:

18 (1) “Participating driver” or “driver” means any natural person who
19 uses a motor vehicle in connection with a transportation network company’s
20 online-enabled application or platform to connect with passengers.

1 (2) “Transportation network company” or “company” means any entity
2 operating in Vermont that provides prearranged transportation services for
3 compensation using an online-enabled application or platform to connect
4 passengers with drivers who use a personal motor vehicle.

5 (3) “Transportation network company insurance” means a liability
6 insurance policy that specifically covers liabilities arising from a driver’s
7 use of a vehicle in connection with a transportation network company’s
8 online-enabled application or platform.

9 § 853. FINDINGS; INTENT

10 (a) The General Assembly finds that the Commissioner of Financial
11 Regulation has initiated regulation of transportation network companies as a
12 new category of charter-party carriers and continues to develop appropriate
13 rules for this new service.

14 (b) Given the rapidly evolving nature of this transportation service, it is the
15 intent of the General Assembly to continue ongoing oversight of the
16 Commissioner’s regulation of these services in order to enact legislation
17 adjusting the Commissioner’s authority and impose specific requirements or
18 prohibitions, as necessary.

19 (c) It is the intent of the General Assembly that the Commissioner of
20 Financial Regulation expedite the review of any application for approval of a
21 transportation network company insurance product.

1 (d) The General Assembly does not intend, and nothing in this subchapter
2 shall be construed, to prohibit the Commissioner from exercising his or her
3 rulemaking authority in a manner consistent with this subchapter, or to prohibit
4 enforcement activities related to transportation network companies.

5 § 854. COMPANY DISCLOSURES

6 A transportation network company shall disclose in writing to a
7 participating driver, as part of its agreement with the driver:

8 (1) the insurance coverage and limits of liability that the company
9 provides while the driver uses a vehicle in connection with the company's
10 online-enabled application or platform, and shall advise the driver in writing
11 that the driver's personal automobile insurance policy does not provide
12 coverage when the driver uses a vehicle in connection with a company's
13 online-enabled application or platform; and

14 (2) that the driver's personal automobile insurance policy does not
15 provide collision or comprehensive coverage for damage to the vehicle used by
16 the driver from the moment the driver logs onto the company's online-enabled
17 application or platform until he or she logs off the application or platform.

18 § 855. COMPANY INSURANCE

19 (a) A company and driver shall maintain transportation network company
20 insurance as provided in this section.

1 (b) Company insurance shall:

2 (1) Apply from the moment a driver accepts a ride request on the
3 company's online-enabled application or platform until the driver completes
4 the transaction or until the ride is complete, whichever is later.

5 (2) Be primary and in the amount of \$1,000,000.00 for death, personal
6 injury, and property damage, which may be satisfied by:

7 (A) company insurance maintained by a driver;

8 (B) company insurance maintained by a company; or

9 (C) any combination of subdivisions (A) and (B) of this subdivision.

10 (3) Provide for uninsured motorist coverage and underinsured motorist
11 coverage in the amount of \$1,000,000.00 from the moment a passenger enters
12 the vehicle of a driver until he or she exits the vehicle. The policy also may
13 provide such coverage during any other time period.

14 (4) Provide for collision physical damage coverage and comprehensive
15 physical damage coverage if the participating driver carries those coverages on
16 his or her personal automobile insurance policy unless the insurer is providing
17 transportation network company insurance to the driver.

18 (c) In the case of insurance provided under this section, the insurer shall
19 have the duty to defend and indemnify the insured.

20 (d) A company may meet its obligations under this section through a policy
21 obtained by a driver under subdivision (b)(2)(A) or (b)(2)(C) of this section

1 only if the company verifies that the policy is maintained by the driver and is
2 specifically written to cover the driver's use of a vehicle in connection with a
3 company's online-enabled application or platform.

4 (e) The following requirements apply to company insurance from the
5 moment a driver logs on to the company's online-enabled application or
6 platform until the driver accepts a request to transport a passenger, and from
7 the moment the driver completes the transaction on the online-enabled
8 application or platform or the ride is complete, whichever is later, until the
9 driver either accepts another ride request on the application or platform or logs
10 off the application or platform:

11 (1) The insurance shall be primary and in the amount of at least
12 \$50,000.00 for death and personal injury per person, \$100,000.00 for death and
13 personal injury per incident, and \$30,000.00 for property damage.

14 (2) Uninsured motorist coverage, underinsured motorist coverage,
15 collision physical damage coverage, and comprehensive physical damage
16 coverage if the participating driver carries those coverages on his or her
17 personal automobile policy unless that insurer is providing transportation
18 network company insurance to the driver.

19 (3) Subdivisions (1) and (2) of this subsection shall be satisfied by:

20 (A) company insurance maintained by a driver;

1 (B) company insurance maintained by the company that provides
2 coverage in the event a driver's policy under subdivision (1)(A) of this
3 subsection (e) has ceased to exist or has been canceled, or the driver does not
4 otherwise maintain insurance pursuant to this subsection; or

5 (C) any combination of subdivisions (1)(A) and (1)(B) of this
6 subsection (e).

7 (4) A company shall maintain insurance coverage that provides excess
8 coverage insuring the company and the driver in the amount of at least
9 \$200,000.00 per occurrence to cover any liability arising from a driver using a
10 vehicle in connection with the company's online-enabled application or
11 platform within the time periods specified in this subsection, which liability
12 exceeds the required coverage limits in subdivision (1) of this subsection.

13 (5) The insurer providing insurance coverage under this subsection is
14 the only insurer having the duty to defend any liability claim arising from an
15 accident occurring within the time periods specified in this subsection.

16 (6) A company may meet its obligations under this subsection through a
17 policy obtained by a driver under subdivision (1)(A) or (1)(C) of this
18 subsection only if the company verifies that the policy is maintained by the
19 driver and is specifically written to cover the driver's use of a vehicle in
20 connection with a company's online-enabled application or platform.

1 (f) Coverage under a company insurance policy is not dependent on a
2 personal automobile insurance policy first denying a claim nor is a personal
3 automobile insurance policy required to first deny a claim.

4 (g) In each instance where company insurance maintained by a driver to
5 fulfill the obligations of this section has lapsed or ceased to exist, the company
6 shall provide the coverage required by this section beginning with the first
7 dollar of a claim.

8 (h) This section shall not limit the liability of a company arising out of an
9 automobile accident involving a driver in any action for damages against a
10 company for an amount above the required insurance coverage.

11 § 856. PERSONAL AUTOMOBILE INSURANCE

12 (a) Nothing in this section shall be construed to require a private passenger
13 automobile insurance policy to provide primary or excess coverage during the
14 period of time from the moment a participating driver in a transportation
15 network company logs on to the transportation network company's
16 online-enabled application or platform until the driver logs off the
17 online-enabled application or platform or the passenger exits the vehicle,
18 whichever is later.

19 (b) During the period of time from the moment a participating driver in a
20 transportation network company logs on to the transportation network
21 company's online-enabled application or platform until the driver logs off the

1 online-enabled application or platform or the passenger exits the vehicle,

2 whichever is later, all of the following shall apply:

3 (1) The participating driver's or the vehicle owner's personal
4 automobile insurance policy shall not provide any coverage to the participating
5 driver, vehicle owner, or any third party, unless the policy expressly provides
6 for that coverage during the period of time to which this subdivision is
7 applicable, with or without a separate charge, or the policy contains an
8 amendment or endorsement to provide that coverage, for which a separately
9 stated premium is charged.

10 (2) The participating driver's or the vehicle owner's personal
11 automobile insurance policy shall not have the duty to defend or indemnify for
12 the driver's activities in connection with the transportation network company,
13 unless the policy expressly provides otherwise for the period of time to which
14 this subdivision is applicable, with or without a separate charge, or the policy
15 contains an amendment or endorsement to provide that coverage, for which a
16 separately stated premium is charged.

17 (c) Notwithstanding any other law, a personal automobile insurer may, at
18 its discretion, offer an automobile liability insurance policy, or an amendment
19 or endorsement to an existing policy, that covers a private passenger vehicle,
20 station wagon type vehicle, sport utility vehicle, or similar type of vehicle with
21 a passenger capacity of eight persons or less, including the driver, while used

1 in connection with a transportation network company's online-enabled
2 application or platform only if the policy expressly provides for the coverage
3 during the time period specified in subsection (b) of this section, with or
4 without a separate charge, or the policy contains an amendment or an
5 endorsement to provide that coverage, for which a separately stated premium
6 may be charged.

7 § 857. INVESTIGATION; COOPERATION

8 In a claims coverage investigation, a transportation network company or its
9 insurer shall cooperate with insurers involved in the investigation to facilitate
10 the exchange of information, including the provision of dates and times at
11 which an accident occurred that involved a participating driver and the precise
12 times that the participating driver logged on and off the transportation network
13 company's online-enabled application or platform.

14 § 858. REPORT

15 The Commissioner of Financial Regulations shall conduct a study of
16 transportation network company insurance to assess whether coverage
17 requirements are appropriate to the risk of company services in order to
18 promote data-driven decisions on insurance requirements. The Commissioner
19 shall report his or her findings and recommendations to the General Assembly
20 not later than December 15, 2017.

1 § 859. PASSENGER CONFIDENTIALITY

2 A transportation network company shall not disclose to a third party any
3 personally identifiable information of a company passenger unless one of the
4 following applies:

5 (1) the customer knowingly consents;

6 (2) pursuant to a legal obligation; or

7 (3) the disclosure is to the Commissioner of Financial Regulation in
8 order to investigate a complaint filed with the Department against a company
9 or a driver and the Department treats the information as confidential and
10 exempt from public inspection and copying under the Public Records Act.

11 § 860. FINANCIAL RESPONSIBILITY REQUIREMENTS

12 Transportation network company insurance that meets the requirements of
13 section 855 of this subchapter satisfies the financial responsibility requirements
14 of this title.

15 § 861. PROOF OF INSURANCE

16 A participating driver of a transportation network company shall carry proof
17 of company insurance coverage with him or her at all times during his or her
18 use of a vehicle in connection with a company's online-enabled application or
19 platform. In the event of an accident, the driver shall provide this insurance
20 coverage information to any other party involved in the accident and to a
21 police officer, upon request.

1 § 862. SCOPE

2 Notwithstanding any other law to the contrary, or any law affecting whether
3 one or more policies of insurance that may apply with respect to an occurrence
4 are primary or excess, the subchapter determines the obligations under
5 insurance policies issued to transportation network companies and, if
6 applicable, to drivers using a vehicle in connection with the company's
7 online-enabled application or platform.

8 Sec. 2. EFFECTIVE DATE; APPLICATION

9 This act shall take effect on passage and shall apply to all insurance policies
10 issued or renewed on or after July 1, 2015.