

House Substitute for SENATE BILL No. 117

By Committee on Insurance

3-24

1 AN ACT regulating traffic; relating to transportation network companies,
2 transportation network company services, regulation.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. This act shall be known and may be cited as the Kansas
6 transportation network company services act.

7 Sec. 2. Except as otherwise provided, as used in the Kansas
8 transportation network company services act:

9 (a) "Act" means the Kansas transportation network company services
10 act.

11 (b) "Digital network" means any online-enabled application,
12 software, website or system offered or utilized by a transportation network
13 company that enables the prearrangement of rides with transportation
14 network company drivers.

15 (c) "Personal vehicle" means a vehicle that is used by a transportation
16 network company driver in connection with providing a prearranged ride
17 and is:

18 (1) Owned, leased or otherwise authorized for use by the
19 transportation network company driver; and

20 (2) not a taxicab, limousine or for-hire vehicle.

21 (d) "Prearranged ride" means the provision of transportation by a
22 driver to a rider, beginning when a driver accepts a ride requested by a
23 rider through a digital network controlled by a transportation network
24 company, continuing while the driver transports a requesting rider, and
25 ending when the last requesting rider departs from the personal vehicle. A
26 "prearranged ride" does not include transportation provided using a taxi,
27 limousine or other for-hire vehicle.

28 (e) "Transportation network company" or "TNC" means a
29 corporation, partnership, sole proprietorship or other entity that is licensed
30 pursuant to this act and operating in Kansas that uses a digital network to
31 connect transportation network company riders to transportation network
32 company drivers who provide prearranged rides. A transportation network
33 company shall not be deemed to control, direct or manage the personal
34 vehicles or transportation network company drivers that connect to its
35 digital network, except where agreed to by written contract.

36 (f) "Transportation network company driver" or "driver" means an

1 individual who:

2 (1) Receives connections to potential passengers and related services
3 from a transportation network company in exchange for payment of a fee
4 to the transportation network company; and

5 (2) uses a personal vehicle to provide services for riders matched
6 through a digital network controlled by a transportation network company
7 and receives, in exchange for providing the passenger a ride, compensation
8 that exceeds the individual's cost to provide the ride.

9 (g) "Transportation network company rider" or "rider" means an
10 individual or persons who use a transportation network company's digital
11 network to connect with a transportation network driver who provides
12 prearranged rides to the rider in the driver's personal vehicle between
13 points chosen by the rider.

14 Sec. 3. Transportation network companies or drivers shall not be
15 considered motor carriers, private motor carriers or public motor carriers
16 of passengers as those terms are defined in K.S.A. 66-1,108, and
17 amendments thereto, nor determined to provide taxicab or for-hire vehicle
18 service so long as such TNC or driver meets the requirements of this act.
19 In addition, a driver shall not be required to register the personal vehicle
20 such driver uses for prearranged rides as a commercial or for-hire vehicle.

21 Sec. 4. (a) A person shall not operate a TNC in Kansas without first
22 having obtained a permit from the state corporation commission.

23 (b) The state corporation commission shall issue a permit to each
24 applicant that meets the requirements for a TNC set forth in this act, and
25 pays an annual permit fee of \$5,000 to the commission.

26 Sec. 5. The TNC must maintain an agent for service of process in the
27 state of Kansas.

28 Sec. 6. A TNC may charge a fare for the services provided to riders,
29 provided that, if a fare is charged, the TNC shall disclose to riders the fare
30 calculation method on its digital network. The TNC shall also provide
31 riders with the applicable rates being charged and the option to receive an
32 estimated fare before the rider enters the driver's personal vehicle.

33 Sec. 7. The TNC's digital network shall display a picture of the driver,
34 and the license plate number of the personal vehicle utilized for providing
35 the prearranged ride before the rider enters the driver's vehicle.

36 Sec. 8. Within a reasonable period of time following the completion
37 of a trip, a TNC shall transmit an electronic receipt to the rider that lists:

- 38 (a) The origin and destination of the trip;
39 (b) the total time and distance of the trip; and
40 (c) an itemization of the total fare paid, if any.

41 Sec. 9. On July 1, 2015, and thereafter, a transportation network
42 company driver or transportation network company on the driver's behalf
43 shall maintain primary automobile insurance that:

1 (a) Recognizes that the driver is a transportation network company
2 driver and covers the driver while the driver is logged on to the
3 transportation network company's digital network, while the driver is
4 engaged in a prearranged ride or while the driver otherwise uses a vehicle
5 to transport passengers for compensation.

6 (b) (1) The following automobile insurance requirements shall apply
7 while a participating transportation network company driver is logged on
8 to the transportation network company's digital network and is available to
9 receive transportation requests but is not engaged in a prearranged ride:

10 (A) Primary automobile liability insurance in the amount of at least
11 \$50,000 for death and bodily injury per person, \$100,000 for death and
12 bodily injury per incident, and \$25,000 for property damage; and

13 (B) primary automobile liability insurance that meets the minimum
14 coverage requirements where required by K.S.A. 40-284 and 40-3107(f),
15 and amendments thereto.

16 (2) The coverage requirements of this subsection (b) may be satisfied
17 by any of the following:

18 (A) Automobile insurance maintained by the transportation network
19 company driver;

20 (B) automobile insurance maintained by the transportation network
21 company; or

22 (C) any combination of subparagraphs (A) and (B).

23 (c) (1) The following automobile insurance requirements shall apply
24 while a transportation network company driver is engaged in a prearranged
25 ride:

26 (A) Primary automobile liability insurance that provides at least
27 \$1,000,000 for death, bodily injury and property damage;

28 (B) primary automobile liability insurance that meets the minimum
29 coverage requirements where required by K.S.A. 40-284 and 40-3107(f),
30 and amendments thereto.

31 (2) The coverage requirements of this subsection (c) may be satisfied
32 by any of the following:

33 (A) Automobile insurance maintained by the transportation network
34 company driver;

35 (B) automobile insurance maintained by the transportation network
36 company; or

37 (C) any combination of subparagraphs (A) and (B).

38 (d) If insurance maintained by the driver in subsection (b) or (c) has
39 lapsed or does not provide the required coverage, insurance maintained by
40 a transportation network company shall provide the coverage required by
41 this section beginning with the first dollar of a claim and shall have the
42 duty to defend such claim.

43 (e) Coverage under an automobile insurance policy maintained by the

1 transportation network company shall not be dependent on a personal
2 automobile insurer first denying a claim nor shall a personal automobile
3 insurance policy be required to first deny a claim.

4 (f) Insurance required by this section may be placed with an insurer
5 licensed under K.S.A. 40-208 or 40-209, and amendments thereto, or with
6 a surplus lines insurer eligible under K.S.A. 40-246b, and amendments
7 thereto.

8 (g) Insurance satisfying the requirements of this section shall be
9 deemed to satisfy the financial responsibility requirement for a personal
10 vehicle under the Kansas automobile injury reparations act, K.S.A. 40-
11 3101 et seq., and amendments thereto.

12 (h) A transportation network company driver shall carry proof of
13 coverage satisfying subsections (b) and (c) with such driver at all times
14 during such driver's use of a vehicle in connection with a transportation
15 network company's digital network. In the event of an accident, a
16 transportation network company driver shall provide this insurance
17 coverage information to the directly interested parties, automobile insurers
18 and investigating police officers, upon request pursuant to K.S.A. 8-173,
19 and amendments thereto. Upon such request, a transportation network
20 company driver shall also disclose to directly interested parties,
21 automobile insurers and investigating police officers, whether such driver
22 was logged on to the transportation network company's digital network or
23 on a prearranged ride at the time of an accident.

24 Sec. 10. The transportation network company shall disclose in writing
25 to transportation network company drivers the following before they are
26 allowed to accept a request for a prearranged ride on the transportation
27 network company's digital network:

28 (a) The insurance coverage, including the types of coverage and the
29 limits for each coverage, that the transportation network company provides
30 while the transportation network company driver uses a personal vehicle in
31 connection with a transportation network company's digital network; and

32 (b) the transportation network company driver's own automobile
33 insurance policy might not provide any coverage while the driver is logged
34 on to the transportation network company's digital network and is
35 available to receive transportation requests or is engaged in a prearranged
36 ride, depending on its terms.

37 Sec. 11. (a) Insurers that write automobile insurance in Kansas may
38 exclude any and all coverage afforded under the owner's insurance policy
39 for any loss or injury that occurs while a driver is logged on to a
40 transportation network company's digital network or while a driver
41 provides a prearranged ride. This right to exclude all coverage may apply
42 to any coverage included in an automobile insurance policy, including, but
43 not limited to:

- 1 (1) Liability coverage for bodily injury and property damage;
- 2 (2) personal injury protection coverage as defined in K.S.A. 40-
- 3 3107(f), and amendments thereto;
- 4 (3) uninsured and underinsured motorist coverage;
- 5 (4) medical payments coverage;
- 6 (5) comprehensive physical damage coverage; and
- 7 (6) collision physical damage coverage.

8 Such exclusions shall apply notwithstanding any requirement under the
9 Kansas automobile injury reparations act, K.S.A. 40-3101 et seq., and
10 amendments thereto. Nothing in this section implies or requires that a
11 personal automobile insurance policy provide coverage while the driver is
12 logged on to the transportation network company's digital network, while
13 the driver is engaged in a prearranged ride or while the driver otherwise
14 uses a vehicle to transport passengers for compensation.

15 (b) Nothing in this section shall be deemed to preclude an insurer
16 from providing coverage for the transportation network company driver's
17 vehicle, if such insurer chooses to do so by contract or endorsement.

18 (c) Automobile insurers that exclude coverage as permitted in
19 subsection (a) shall have no duty to defend or indemnify any claim
20 expressly excluded thereunder. Nothing in this act shall be deemed to
21 invalidate or limit an exclusion contained in a policy.

22 (d) An automobile insurer that defends or indemnifies a claim against
23 a driver that is excluded under the terms of its policy as permitted in
24 subsection (a) shall have a right of contribution against other insurers that
25 provide automobile insurance to the same driver in satisfaction of the
26 coverage requirements of section 9, and amendments thereto, at the time of
27 loss.

28 (e) In a claims coverage investigation, transportation network
29 companies and any insurer potentially providing coverage under section 9,
30 and amendments thereto, shall cooperate to facilitate the exchange of
31 relevant information with directly involved parties and any insurer of the
32 transportation network company driver if applicable, including the precise
33 times that a transportation network company driver logged on and off of
34 the transportation network company's digital network in the 12-hour period
35 immediately preceding and in the 12-hour period immediately following
36 the accident and disclose to one another a clear description of the
37 coverage, exclusions and limits provided under any automobile insurance
38 maintained under section 9, and amendments thereto.

39 Sec. 12. (a) The TNC shall implement a zero tolerance policy on the
40 use of drugs or alcohol while a driver is providing a prearranged ride or is
41 logged into the TNC's digital network but is not providing a prearranged
42 ride, and shall provide notice of this policy on its website, as well as
43 procedures to report a complaint about a driver with whom a rider was

1 matched and whom the rider reasonably suspects was under the influence
2 of drugs or alcohol during the course of the trip.

3 (b) Upon receipt of such rider complaint alleging a violation of the
4 zero tolerance policy, the TNC shall immediately suspend such driver's
5 access to the TNC's digital network and shall conduct an investigation into
6 the reported incident. The suspension shall last the duration of the
7 investigation.

8 (c) The TNC shall maintain records relevant to the enforcement of
9 this requirement for a period of at least two years from the date that a rider
10 complaint is received by the TNC.

11 Sec. 13. (a) Prior to permitting an individual to act as a driver on its
12 digital network, the TNC shall:

13 (1) Require the individual to submit an application to the TNC, which
14 includes information regarding the applicant's address, age, driver's
15 license, driving history, motor vehicle registration, automobile liability
16 insurance and other information required by the TNC;

17 (2) conduct, or have a third party conduct, a local and national
18 criminal background check for each applicant that shall include:

19 (A) Multi-state/multi-jurisdiction criminal records locator or other
20 similar commercial nationwide database with validation (primary source
21 search); and

22 (B) national sex offender registry database; and

23 (3) obtain and review a driving history research report for such
24 individual.

25 (b) The TNC shall not permit an individual to act as a driver on its
26 digital network who:

27 (1) Has had more than three moving violations in the prior three-year
28 period, or one major violation in the prior three-year period, including, but
29 not limited to, attempting to evade the police, reckless driving, or driving
30 on a suspended or revoked license;

31 (2) has been convicted, within the past seven years, of driving under
32 the influence of drugs or alcohol, fraud, sexual offenses, use of a motor
33 vehicle to commit a felony, a crime involving property damage, or theft,
34 acts of violence, or acts of terror;

35 (3) is a match in the national sex offender registry database;

36 (4) does not possess a valid driver's license;

37 (5) does not possess proof of registration for the motor vehicle or
38 motor vehicles used to provide a prearranged ride;

39 (6) does not possess proof of automobile liability insurance for the
40 personal vehicle or personal vehicles used to provide a prearranged ride; or

41 (7) is not at least 19 years of age.

42 Sec. 14. The TNC shall require that any personal vehicle that a driver
43 will use to provide a prearranged ride meets the equipment requirements

1 applicable to private personal vehicles under article 17 of chapter 8 of the
2 Kansas Statutes Annotated, and amendments thereto.

3 Sec. 15. A driver shall only provide prearranged rides and shall not
4 solicit or accept street hails.

5 Sec. 16. The TNC shall adopt a policy prohibiting solicitation or
6 acceptance of cash payments from riders and notify drivers of such policy.
7 Drivers shall not solicit or accept cash payments from riders. Any payment
8 for prearranged rides shall be made only electronically using the TNC's
9 digital network.

10 Sec. 17. (a) The TNC shall adopt a policy of non-discrimination with
11 respect to riders and potential riders and notify drivers of such policy.

12 (b) Drivers shall comply with all applicable laws regarding non-
13 discrimination against riders or potential riders.

14 (c) Drivers shall comply with all applicable laws relating to
15 accommodation of service animals.

16 (d) A TNC shall not impose additional charges for providing services
17 to persons with physical disabilities because of those disabilities.

18 (e) A TNC shall provide riders an opportunity to indicate whether
19 they require a wheelchair-accessible vehicle. If a TNC cannot arrange
20 wheelchair-accessible TNC service in any instance, it shall direct the rider
21 to an alternate provider of wheelchair-accessible service, if available.

22 Sec. 18. A TNC shall maintain:

23 (a) Individual trip records for at least one year from the date each trip
24 was provided; and

25 (b) driver records at least until the one-year anniversary of the date on
26 which a TNC driver's activation on the digital network has ended.

27 Sec. 19. A TNC shall not disclose a rider's personally identifiable
28 information to a third party unless: (a) The rider consents or disclosure is
29 required by a legal obligation; or (b) disclosure is required to protect or
30 defend the terms of use of the service or to investigate violations of those
31 terms. In addition to the foregoing, a TNC shall be permitted to share a
32 rider's name or telephone number with the driver providing prearranged
33 rides to such rider in order to facilitate correct identification of the rider by
34 the driver, or to facilitate communication between the rider and the driver.

35 Sec. 20. Notwithstanding any other provision of law, TNCs and TNC
36 drivers are governed exclusively by this act and any rules promulgated by
37 the commission consistent with this act. No municipality or other local
38 entity may impose a tax on, or require a license for, a TNC, a TNC driver,
39 or a personal vehicle used by a driver where such tax or licenses relate to
40 providing prearranged rides, or subject a TNC to the municipality's or
41 other local entity's rate, entry, operational or other requirements.

42 Sec. 21. (a) A TNC shall disclose to its TNC drivers in the
43 prospective TNC drivers' written terms of service the following before the

1 drivers are allowed to accept a request for TNC services on the TNC's
2 digital network or software application:

3 "If the vehicle that you plan to use to provide transportation network
4 company services has a lien against it, using the vehicle for transportation
5 network company services may violate the terms of your contract with the
6 lienholder."

7 (b) If a TNC's insurer makes a payment for a claim covered under
8 comprehensive coverage or collision coverage, the TNC shall cause its
9 insurer to issue the payment directly to the business repairing the vehicle
10 or jointly to the owner of the vehicle and the primary lienholder on the
11 covered vehicle. The commission shall not assess any fines as a result of a
12 violation of this subsection.

13 Sec. 22. The state corporation commission shall have the power to
14 adopt all rules and regulations specifically necessary to enforce the
15 provisions of this act.

16 Sec. 23. This act shall take effect and be in force from and after its
17 publication in the statute book.