

SENATE No. 2398

Senate, June 29, 2016– Text of the Senate amendment to the House Bill relative to the ride for hire industry (House, No. 4064) (being the text of Senate, No. 2371, printed as amended)

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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1 SECTION 1. Subsection (a) of section 172 of chapter 6 of the General Laws, as amended
2 by section 3 of chapter 10 of the acts of 2015, is hereby further amended by inserting after clause
3 (32) the following clause:-

4 (33) The department of public utilities and its departments or divisions may obtain from
5 the department all available criminal offender record information, as defined in section 167, to
6 determine the suitability of an applicant to obtain a transportation network driver certificate
7 pursuant to chapter 159A½. Information obtained pursuant to this section shall not be
8 disseminated for any purpose other than to further public protection and safety.

9 SECTION 2. Chapter 25 of the General Laws is hereby amended by adding the following
10 section:-

11 Section 23. (a) There shall be established within the department a division that shall be
12 under the general supervision and control of the commission and shall be under the control of a
13 director. The division shall promulgate rules and regulations and shall perform such functions as
14 necessary for the administration, implementation and enforcement of chapter 159A½.

15 (b) To fund the division's activities, the division shall assess a surcharge on each
16 transportation network company, as defined in section 1 of chapter 159A^{1/2}. Each transportation
17 network company shall annually report by March 31, its intrastate operating revenues for the
18 previous calendar year to the division. The surcharge shall be apportioned according to each
19 transportation network company's intrastate operating revenues as determined and certified
20 annually by the division, to reimburse the commonwealth for funds expended for the division's
21 activities. If a transportation network company fails to report its intrastate operating revenues to
22 the division by March 31, the division may estimate a transportation network company's
23 intrastate operating revenues to assess the surcharge.

24 Each transportation network company shall pay the surcharge not later than 30 days from
25 the date of the notice of the surcharge amount from the division. Failure to pay the surcharge
26 within 30 days may, at the discretion of the division, constitute cause to suspend or revoke a
27 transportation network company permit pursuant to chapter 159A^{1/2}.

28 Funds that are not expended in a fiscal year for the operation of the division shall be
29 credited against the surcharge to be made the following fiscal year and the surcharge amount in
30 the following fiscal year shall be reduced by the unexpended amount.

31 SECTION 3. The General Laws are hereby amended by inserting after chapter 159A the
32 following chapter:-

33 CHAPTER 159A^{1/2}.

34 TRANSPORTATION NETWORK COMPANIES.

35 Section 1. As used in this chapter, the following words shall have the following meanings
36 unless the context clearly requires otherwise:

37 “Cruising”, the driving of a vehicle on the streets, alleys or public places of motorized
38 travel in search of or soliciting hails from a person in the street.

39 “Department”, the department of public utilities.

40 “Digital network”, any online-enabled application, software, website or system offered or
41 utilized by a transportation network company that enables pre-arranged rides with transportation
42 network drivers.

43 “Division”, the division established in section 23 of chapter 25.

44 “Pre-arranged ride”, a period of time that begins when a transportation network driver
45 accepts a requested ride through a digital network, continues while the driver transports the
46 transportation network company rider and ends when the rider safely departs from the vehicle.

47 “Transportation network company”, a corporation, partnership, sole proprietorship or
48 other entity that uses a digital network to connect riders to drivers to pre-arrange and provide
49 transportation.

50 “Transportation network company permit” or “permit”, a document that may be issued by
51 the division to a qualifying transportation network company pursuant to this chapter.

52 “Transportation network driver” or “driver”, a driver certified by a transportation network
53 company.

54 “Transportation network rider” or “rider”, a passenger in a pre-arranged ride provided by
55 a transportation network driver, provided that the passenger personally arranged the ride or an
56 arrangement was made on the rider’s behalf.

57 “Transportation network services” or “services”, the offering or providing of pre-
58 arranged rides for compensation or on a promotional basis to riders or prospective riders through
59 the transportation network company’s digital network, covering the period beginning when a
60 transportation network driver is logged onto the transportation network company’s digital
61 network and is available to receive a pre-arranged ride or while in the course of providing a pre-
62 arranged ride.

63 “Transportation network vehicle” or “vehicle”, a vehicle that is used by a transportation
64 network driver to provide transportation network services.

65 Section 2. (a) The division shall have jurisdiction over transportation network
66 companies to ensure the safety and convenience of the public, as expressly set forth in this
67 chapter.

68 (b) In consultation with the registry of motor vehicles, the division shall provide for the
69 establishment of removable decals to be issued by transportation network companies, in a form
70 and manner prescribed by the division, to transportation network drivers to designate a vehicle as
71 a transportation network vehicle for law enforcement and public safety purposes. The decal shall
72 be applied to both the front and back panels of a vehicle at all times while the vehicle is
73 providing transportation network services. A transportation network driver who provides
74 transportation network services using the digital network of more than 1 transportation network
75 company shall display the respective decals for each transportation network company while the

76 vehicle is providing transportation network services. A transportation network driver who ceases
77 to be certified to provide transportation network services for any reason shall return the decal
78 within 14 days of that cessation to the respective transportation network company in the manner
79 and form prescribed by the division.

80 (c) In consultation with the commissioner of insurance, the division shall implement the
81 insurance policy requirements established in section 228 of chapter 175.

82 (d) A transportation network company shall provide clear and conspicuous transportation
83 fare estimates to riders at all times, including during surge pricing, high volume and high
84 demand times. Fare estimates shall include a clear rate estimate or the amount of the price
85 increase resulting from surge pricing or increased demand.

86 (e) A transportation network company and driver shall not raise base fares during a
87 federal or a governor-declared state of emergency.

88 (f) In consultation with state police, local law enforcement and the registry of motor
89 vehicles, the division shall ensure the safety and annual inspection of transportation network
90 vehicles.

91 (g) The division shall ensure the accommodation of riders with special needs. A
92 transportation network company shall not impose additional charges or increase fares when
93 providing services to persons with disabilities and all transportation network drivers shall comply
94 with applicable laws, rules and regulations relating to the accommodation of service animals.

95 (h) A transportation network company shall not be subject to the department's rate or
96 common carrier requirements under chapters 159, 159A or 159B.

97 (i) A transportation network company shall provide a driver's name, picture and the
98 license plate number of the vehicle in use to a rider on any digital network used to facilitate a
99 pre-arranged ride.

100 (j) In consultation with the division, the Massachusetts Department of Transportation's
101 highway division shall provide for the issuance of electronic toll transponders set at the
102 commercial vehicle rate to be issued by transportation network companies to transportation
103 network drivers. The electronic toll transponders shall be used each time a transportation
104 network driver provides transportation network services on a toll road, bridge or tunnel;
105 provided, however, that the issuance of an electronic toll transponder pursuant to this subsection
106 shall not prohibit a transportation network driver from establishing or maintaining an electronic
107 toll transponder account for personal use.

108 (k) In consultation with the division, transportation network companies shall provide their
109 respective ride data to the Massachusetts Department of Transportation and the department shall
110 cross-reference that data with its toll data to ensure that tolls incurred by a driver providing
111 transportation network services through a digital network are paid at the commercial rate through
112 the pay by plate system and through the electronic transponder system.

113 Section 3. (a) All transportation network companies and transportation network drivers
114 shall provide services in the form of a pre-arranged ride using a digital network. A driver
115 providing transportation network services shall not solicit, accept, arrange or provide
116 transportation in another manner, including through street hails, cruising or street solicitations
117 unless otherwise authorized by law.

118 (b) A transportation network company shall apply for a permit to be issued and annually
119 renewed by the division. No transportation network company shall operate without a permit
120 issued to it by the division.

121 (c) No application for a permit may be granted or renewed unless the division determines
122 that the rendering of transportation network services by the applicant is consistent with the public
123 interest. At a minimum, each applicant for a permit shall verify the following:

124 (i) that the applicant has an oversight process in place to ensure that the applicant
125 and every transportation network driver using the transportation network company's digital
126 network possesses adequate insurance coverage, as required by this chapter and section 228 of
127 chapter 175, and otherwise complies with all laws, rules and regulations concerning
128 transportation network vehicles and drivers;

129 (ii) that the applicant has an oversight process in place to ensure that each driver
130 using the applicant's digital network: (1) has, before joining the network and annually thereafter,
131 submitted to and successfully completed a background check conducted by the applicant that
132 includes a review of local and national criminal records, sex offender records and driving records
133 associated with each driver; (2) is a suitable driver as defined in section 4; and (3) is certified
134 pursuant to section 4;

135 (iii) that the digital network used by the applicant to pre-arrange rides employs a
136 clear and conspicuous explanation of the total cost and pricing structure applicable to each pre-
137 arranged ride before the ride begins;

138 (iv) that the applicant has an oversight process in place to ensure that tolls
139 incurred by a driver providing transportation network services through its digital network are

140 paid at the commercial rate including the utilization of the electronic toll transponder issued
141 pursuant to subsection (j) of section 2 and the data cross-reference pursuant to subsection (k) of
142 said section 2;

143 (v) that the applicant has an oversight process in place to ensure that the applicant
144 and drivers using the applicant's digital network accommodate riders with special needs,
145 including riders requiring wheelchair accessible vehicles, in all areas served by transportation
146 network companies, comply with all applicable laws regarding nondiscrimination against riders
147 or potential riders and ensure the accommodation of riders with special needs including, but not
148 limited to, all applicable laws, rules and regulations relating to the accommodation of service
149 animals;

150 (vi) that the applicant has a process in place to ensure that it shall: (1) maintain
151 and update a roster of each transportation network driver certified by the applicant to provide
152 pre-arranged rides using the transportation network company's digital network; (2) provide those
153 rosters, upon request and with appropriate legal process, to the division, and upon request to the
154 registry of motor vehicles and to state and local law enforcement; (3) maintain and update those
155 rosters as required by the division; (4) comply with all requests for information from the division
156 regarding the roster, including verification of completion of a background check as required
157 pursuant to clause (ii);

158 (vii) that the applicant has established a toll-free customer service hotline that
159 shall be capable of responding to consumer, driver and rider questions and complaints; provided
160 further, that the hotline number shall be conspicuously posted along with the hours of operation
161 on the applicant's website and within the applicant's digital network application;

162 (viii) that the applicant has established procedures governing the safe pickup,
163 transfer, and delivery of individuals who use mobility devices, including but not limited to
164 wheelchairs, crutches, canes, walkers, and scooters; and

165 (ix) that the applicant shall establish a mechanism within the digital network
166 application to enable consumers with visual impairments or other disabilities to alert the driver as
167 to the existence of such impairment or disability to better facilitate pickups when the consumer
168 may have difficulty seeing the vehicle.

169 (d) The division shall calculate and the secretary of administration and finance shall
170 determine, pursuant to section 3B of chapter 7, the cost associated with the division's review of
171 an application for a transportation network company permit and for renewal of the permit. The
172 division may charge the applicant a reasonable fee to cover the costs.

173 Section 4. (a) A driver who seeks to utilize the digital network of a transportation
174 network company to provide pre-arranged rides shall apply to a transportation network company
175 for a transportation network driver certificate. A person shall not provide transportation network
176 services without a valid transportation network driver certificate in a form prescribed by the
177 division which shall include the name, picture of the driver and the license plate number of the
178 vehicle in use and shall post a certificate for each transportation network company that has
179 certified the driver in a location in the vehicle that is visible to the rider while transportation
180 network services are being provided.

181 (b) At a minimum, and subject to such other requirements as the division may establish
182 by regulation, a transportation network company shall only issue a transportation network driver
183 certificate to driver who:

184 (i) is at least 21 years of age;

185 (ii) has access to a vehicle that has been registered in the commonwealth and
186 inspected pursuant to section 7A of chapter 90 and regulations promulgated under said section
187 7A of said section 90 at a facility licensed by the registry of motor vehicles; or has access to a
188 vehicle that has been registered in another state, and the vehicle complies with the inspection
189 requirement of the state where the vehicle is registered;

190 (iii) complies with insurance requirements established in this chapter or in section
191 228 of chapter 175;

192 (iv) provides notice to all insurers of the vehicle that the applicant intends to use
193 the vehicle to provide transportation network services;

194 (v) is determined to be suitable to perform transportation network services on the
195 basis of a 2-part background check process in which the transportation network company shall:
196 (1) conduct a background check pursuant to clause (ii) of subsection (c) of section 3 and
197 disqualify applicants on the basis of a suitability standard to be determined in regulations
198 promulgated by the department; and (2) submit identifying information regarding an applicant to
199 the department, which shall refer that information to the department of criminal justice
200 information services, which shall obtain all available criminal offender record information as
201 defined in section 167 of chapter 6 and pursuant to section 172 of chapter 6 and sex offender
202 registry information; provided, however, that following a review of the pertinent records, the
203 department or the department of criminal justice information services shall determine whether
204 the applicant has committed an offense that would disqualify the applicant from providing
205 transportation network services, according to the department's rules, orders and regulations;

206 provided further, that in light of that determination and following the department's review of all
207 motor vehicle records pertaining to the applicant, the department shall determine within 5
208 business days of receiving an applicant's identifying information whether the applicant is
209 suitable to provide transportation network services according to regulations promulgated by the
210 department and shall so notify the transportation network company;

211 (vi) does not appear on the National Sex Offender Registry;

212 (vii) has not had a conviction in the past 7 years for: (1) a sex offense or violent
213 crime as defined in section 133E of chapter 127; (2) a crime under section 24 of chapter 90 or
214 been assigned to an alcohol or controlled substance education, treatment or rehabilitation
215 program by a court; (3) leaving the scene of property damage or personal injury caused by a
216 motor vehicle; (4) felony robbery; or (5) felony fraud; and

217 (viii) has a driving record which does not include more than 5 traffic violations or
218 any major traffic violation, as defined by the division of insurance, in the preceding 3 year
219 period.

220 (c) The division shall approve the form of a transportation network driver certificate;
221 provided, however, that each certificate shall contain the name, address, picture of the driver and
222 the license plate number of each vehicle used by the driver to provide transportation network
223 services.

224 (d) The transportation network company shall immediately suspend a transportation
225 network driver's certificate, and notify the division of the suspension, upon learning of and
226 verifying a driver's arrest for a crime that would render a driver unsuitable to provide
227 transportation network services or upon learning of and verifying a driver's citation for a driving

228 infraction that would render the driver unsuitable to provide transportation network services.
229 Any such suspension shall only be for a period of time necessary to determine whether continued
230 provision of transportation network services by the driver is consistent with the public interest. A
231 transportation network company shall report such suspension once verified, in a form and
232 manner prescribed by the division to all transportation network companies that certified that
233 driver.

234 (e) In accordance with this section, the division shall quarterly audit the driver
235 certification and criminal background check processes of a transportation network company.
236 Non-compliance with this section shall constitute cause for the division to suspend or revoke a
237 transportation network company permit pursuant to section 6.

238 Section 5. (a) Each transportation network company shall carry adequate insurance, as
239 required by this chapter and section 228 of chapter 175, for each vehicle being used to provide
240 transportation network services through a transportation network company's digital network.

241 (b) A transportation network driver shall carry adequate insurance for each vehicle being
242 used to provide transportation network services in association with a transportation network
243 driver's certificate and shall carry proof of adequate insurance, as required by section 228 of
244 chapter 175, at all times while providing transportation network services. In the event of an
245 incident giving rise to personal injury or property damage, a transportation network driver shall
246 provide insurance coverage information to directly interested parties, automobile insurers and
247 law enforcement. Upon request, a transportation network driver shall disclose to directly
248 interested parties, automobile drivers, automobile insurers and law enforcement whether the
249 driver was providing transportation network services at the time of the incident.

250 (c) Automobile liability insurance providers offering coverage to a transportation network
251 company or transportation network driver to comply with subsection (a) or (b) shall recognize
252 that a driver is a transportation network driver who uses a vehicle to transport riders for
253 compensation and cover the driver while the driver is logged on to the transportation network
254 company's digital network or while the driver is engaged in a pre-arranged ride.

255 (d) A transportation network company shall disclose, in writing, to a prospective
256 transportation network driver, before certifying the driver to provide transportation network
257 services through the transportation network company's digital network: (i) the insurance
258 coverage, including the types of coverage and the limits for each coverage, that the transportation
259 network company provides while the transportation network driver provides transportation
260 network services; and (ii) a statement that the transportation network driver's own automobile
261 insurance policy may not provide coverage while the driver is providing transportation network
262 services, depending on the terms of the policy.

263 (e) In a claims coverage investigation, a transportation network company, a transportation
264 network driver and an insurer responding to a claim involving transportation network services
265 shall disclose to each other a clear description of the coverage, exclusions and limits provided
266 under an automobile insurance policy maintained under this section and shall cooperate to
267 facilitate the exchange of relevant information with directly involved parties including, but not
268 limited to, the precise times that a transportation network driver logged on and off of the
269 transportation network company's digital network in the 12-hour period immediately preceding
270 and in the 12-hour period immediately following the accident.

271 Section 6. (a) If the division determines, after notice and a hearing, that a transportation
272 network company is in violation of this chapter or any rule or regulation promulgated under this
273 chapter, the division shall issue a monetary penalty, suspend or revoke a transportation network
274 company permit or take other action that the division deems necessary. In determining the
275 amount of the monetary penalty, the division shall consider, without limitation, the size of the
276 transportation network company based on a transportation network company's intrastate
277 operating revenues for the previous calendar year, the gravity of the violation including
278 noncompliance with the payment of commercial rate tolls as required in clause (iv) of subsection
279 (c) of section 3, the amount of good faith from the transportation network company in attempting
280 to achieve compliance or to remedy non-compliance and previous violations by the
281 transportation network company cited by the division.

282 (b) The transportation network company may, after notice,, suspend or revoke a
283 transportation network driver's certificate upon receipt of information that the driver has violated
284 a law or rule or regulation related to the provision of transportation network services or that the
285 driver is not suitable to provide transportation network services; provided, however, that a driver
286 who receives 2 or more citations issued in accordance with subsections (a) or (c) of section 7 in a
287 12-month period shall, after notice and a hearing, be suspended from operating as a
288 transportation network driver for a period of not less than 1 year; provided further, that a driver
289 who is punished by a fine or by imprisonment in accordance with subsection (b) of said section 7
290 shall, after notice and a hearing, be suspended from operating as a transportation network driver
291 for a period of not less than 6 months.

292 (c) The division shall promulgate rules and regulations to establish a process for
293 administrative appeal of a penalty, suspension or revocation imposed in accordance with this
294 section.

295 (d) A party aggrieved by a final order or decision of the division pursuant to this section
296 may institute proceedings for judicial review in the superior court within 30 days after receipt of
297 that order or decision. Proceedings in the superior court shall be governed by section 14 of
298 chapter 30A, where applicable, and may be instituted in Suffolk superior court or the superior
299 court for the county where any of the parties reside or have their principal place of business
300 within the commonwealth. The commencement of the proceedings shall not, unless specifically
301 ordered by the court, operate as a stay of the division's order or decision.

302 Section 7. (a) A driver providing transportation network services who is not in
303 compliance with subsection (b) of section 2 or sections 4 or 5 shall be deemed to have committed
304 a civil motor vehicle infraction, as defined in section 1 of chapter 90C. State or local law
305 enforcement officials may issue a citation for any such violation in the manner provided for in
306 said chapter 90C. If the driver is cited under this subsection, every transportation network
307 company that certified the driver shall be subject to a fine of \$500.

308 (b) A driver providing transportation network services who knowingly or willfully allows
309 another individual to use that driver's certificate or identity to provide transportation network
310 services or a driver who is using a transportation network driver certificate belonging to another
311 individual or is misrepresenting a driver's identity to riders or potential riders by means of a
312 digital network shall be punished by a fine of not more than \$500 for a first offense, by a fine of
313 not more than \$750 for a second offense and by a fine of not more than \$1,000 or by

314 imprisonment in the house of correction for not more than 6 months for a third or subsequent
315 offense.

316 (c) A driver who violates section 3 or any other person who, by soliciting, accepting,
317 arranging or providing transportation network services in any other manner, including through
318 street hails, cruising or street solicitations, shall be deemed to have committed a civil motor
319 vehicle infraction, as defined in section 1 of chapter 90C. State or local law enforcement officials
320 may issue a citation for any such violation in the manner provided for in said chapter 90C to the
321 transportation network driver and may assess a fine of \$500.

322 Section 8. (a) The division shall require a transportation network company to maintain
323 certain records, in addition to the records required by clause (vi) of subsection (c) of section 3
324 including, but not limited to, records pertaining to incidents reported to the transportation
325 network company relative to a driver or rider, records pertaining to accessibility and records
326 pertaining to pricing; provided, however, that the division shall issue guidelines on the content
327 and maintenance of incident reports. A transportation network company shall retain the incident
328 reports for not less than 7 years. Each transportation network company or applicant for a
329 transportation network company permit shall furnish all information and documents related to
330 the condition, management and operation of the company upon the division's request; provided,
331 however, that any such request shall be reasonably related to the requirements set forth in this
332 chapter and the rules and regulations promulgated under this chapter. The failure to maintain or
333 furnish information to the division within a timeline to be determined by the division may, at the
334 discretion of the division, constitute cause to not issue, suspend or revoke a transportation
335 network company permit pursuant to section 6.

336 (b) In response to a specific complaint alleging criminal conduct against any
337 transportation network company driver or passenger, a transportation network company shall,
338 upon request and after being served with appropriate legal process, provide information to a
339 requesting law enforcement agency necessary to investigate the complaint, as determined by the
340 law enforcement agency.

341 Transportation network companies shall, after being served with appropriate legal
342 process, provide information related to an alleged criminal incident including, but not limited to,
343 trip specific details regarding origin and destination, length of trip, GPS coordinates of route,
344 driver identification and, if applicable, information reported to the transportation network
345 company regarding the alleged criminal activity by a driver or passenger, to the appropriate law
346 enforcement agency upon receipt of a specific complaint alleging criminal conduct against any
347 transportation network company driver or passenger.

348 (c) Any record furnished to the division shall exclude information identifying drivers or
349 riders, unless the division explains, in writing, to the transportation network company why the
350 information is necessary for the enforcement processes established in this chapter.

351 (d) Any record furnished to the division or other state agency by a transportation network
352 company pursuant to this chapter including, but not limited to, the roster of permitted
353 transportation network drivers, shall not be considered a public record as defined in clause
354 Twenty-sixth of section 7 of chapter 4 or chapter 66. An application for a transportation network
355 company permit submitted pursuant to this chapter shall be a public record as defined in said
356 clause Twenty-sixth of said section 7 of said chapter 4 or said chapter 66; provided, however,

357 that such an application may be withheld from disclosure, in whole or in part, for reasons set
358 forth in said clause Twenty-sixth of said section 7 of said chapter 4 or said chapter 66.

359 Section 9. The division shall promulgate regulations necessary for the implementation,
360 administration and enforcement of this chapter.

361 Section 10. Notwithstanding any general or special law to the contrary, transportation
362 network companies and transportation network company drivers shall be governed exclusively
363 by this chapter and any rules or regulations promulgated by the division under this chapter.
364 Except where expressly set forth in this chapter, no municipality or other local or state entity,
365 except the Massachusetts Port Authority, may: (i) impose a tax on or require any additional
366 license for a transportation network company, a transportation network driver or a vehicle used
367 by a transportation network driver where the tax or licenses relate to facilitating or providing pre-
368 arranged rides; (ii) require any additional license for a transportation network company or
369 transportation network driver; or (iii) subject a transportation network company to the
370 municipality's or other local or state entity's rates or other requirements, including but not
371 limited to entry or operational requirements; provided, however, that a municipality or other
372 local or state entity may regulate traffic flow and traffic patterns to ensure public safety and
373 convenience.

374 SECTION 4. Section 168 of chapter 175, as appearing in the 2014 Official Edition, is
375 hereby amended by inserting after the word "liability", in lines 23 and 24, the following words:- ,
376 with the exception of motor vehicle policies for transportation network vehicles,.

377 SECTION 5. Said chapter 175 is hereby further amended by adding the following
378 section:-

379 Section 228. (a) As used in this section, the words “digital network”, “division”, “pre-
380 arranged ride” and “transportation network company” shall have the same definitions as set forth
381 in section 1 of chapter 159A½ unless the context clearly requires otherwise.

382 (b) The insurance requirements in this section shall constitute adequate insurance for
383 transportation network drivers and shall satisfy the financial responsibility requirement for a
384 motor vehicle established by section 34A of chapter 90 and section 113L; provided, however,
385 that the insurance requirements in this section shall only satisfy the financial responsibility
386 requirements for a motor vehicle established by said section 34A of said chapter 90 and said
387 section 113L with respect to the provision of transportation network services in a vehicle
388 operated by a transportation network driver. A transportation network driver shall also comply
389 with said section 34A of said chapter 90 and said section 113L and maintain insurance coverage
390 for the vehicle during those periods of time when the vehicle is being operated, but is not
391 providing transportation network services.

392 (c) A transportation network driver who is logged onto the transportation network
393 company’s digital network and is available to receive transportation requests, but is not engaged
394 in a pre-arranged ride shall have automobile liability insurance that provides per occurrence, per
395 vehicle coverage amounting to at least \$50,000 of coverage per individual for bodily injury,
396 \$100,000 of total coverage for bodily injury, \$30,000 of coverage for property damage,
397 uninsured motorist coverage, to the extent required by said section 113L, and personal injury
398 protection, to the extent required by section 34A of chapter 90. The insurance may be held by the
399 transportation network driver, the transportation network company or a combination thereof.

400 (d) When a transportation network driver is engaged in a pre-arranged ride, the driver
401 shall have automobile liability insurance that provides at least \$1,000,000 in per occurrence, per
402 vehicle coverage for death, bodily injury and property damage, uninsured motorist coverage, to
403 the extent required by section 113L, and personal injury protection, to the extent required by
404 section 34A of chapter 90. The insurance may be held by the transportation network driver, the
405 transportation network company, or a combination thereof.

406 (e) In every instance where insurance maintained by a transportation network driver to
407 fulfill the insurance requirements in subsections (c) and (d) has lapsed, failed to provide the
408 required coverage, denied a claim for the required coverage or otherwise ceased to exist,
409 insurance maintained by a transportation network company shall provide the coverage required
410 by said subsections (c) and (d), beginning with the first dollar of a claim, and shall have the duty
411 to investigate and defend that claim.

412 (f) Coverage under an automobile insurance policy maintained by the transportation
413 network company shall not be dependent on a personal automobile insurer first denying a claim
414 nor shall a personal automobile insurer be required to first deny a claim.

415 (g) Insurance required by this section shall be placed with an insurer authorized to do
416 business in the commonwealth or, if such coverage is not available, from any admitted carrier,
417 then with a surplus lines insurer eligible under section 168.

418 (h) Insurers that write automobile insurance may exclude any and all coverage afforded
419 under the policy issued to an owner or operator of a vehicle for any loss or injury that occurs
420 while a driver is providing transportation network services or while a driver provides a pre-
421 arranged ride. This right to exclude all coverage may apply to any coverage included in an

422 automobile insurance policy including, but not limited to: (i) liability coverage for bodily injury
423 and property damage; (ii) personal injury protection coverage as defined in section 34A of
424 chapter 90; (iii) uninsured and underinsured motorist coverage; (iv) medical payments coverage;
425 (v) comprehensive physical damage coverage; and (vi) collision physical damage coverage.

426 Such exclusions shall apply notwithstanding any requirement of said section 34A of said
427 chapter 90 and section 113L. Nothing in this section implies or requires that a personal
428 automobile insurance policy provide coverage while the transportation network driver is logged
429 on to the transportation network company's digital network, while the transportation network
430 driver is engaged in a pre-arranged ride or while the transportation network driver otherwise uses
431 a vehicle to transport riders for compensation.

432 Nothing shall preclude an insurer from providing coverage for the transportation network
433 driver's vehicle if the insurer so chooses to do so by contract or endorsement.

434 Automobile insurers that exclude the coverage described in this section shall not have a
435 duty to defend or indemnify any claim expressly excluded by a policy. Nothing in this section
436 shall invalidate or limit an exclusion contained in a policy, including any policy in use or
437 approved for use in the commonwealth before the enactment of this section that excludes
438 coverage for vehicles used to carry persons or property for a charge or available for hire by the
439 public. An automobile insurer that defends or indemnifies a claim against a transportation
440 network driver that is excluded under the terms of its policy shall have a right of contribution
441 against other insurers that provide automobile insurance to the same transportation network
442 driver in satisfaction of the coverage requirements of this section at the time of loss.

443 (i) The commissioner of insurance, in consultation with the division established in
444 section 23 of chapter 25, shall issue an annual report concerning the coverage minimums
445 required for transportation network vehicles during the period of time where the transportation
446 network driver is logged onto the digital network but is not engaged in a pre-arranged ride. The
447 report shall include, at a minimum: (i) an examination, based on actuarial data, of whether the
448 existing coverage requirements provide adequate protection for riders, transportation network
449 drivers and the general public; (ii) whether it is presently feasible for a transportation network
450 company to obtain an insurance policy providing coverage of \$1,000,000 per occurrence, per
451 vehicle during the relevant time period; (iii) if such a policy is available, whether the coverage
452 minimums should be raised so that all transportation network vehicles carry \$1,000,000 of
453 coverage per occurrence, per vehicle, at all times while operating as a transportation network
454 company; (iv) whether a strategy can be developed to raise the coverage requirements during this
455 period through the use of admitted motor vehicle insurance carriers, the surplus lines market and
456 technological innovations in the insurance industry such as the use of telematics to improve risk
457 assessment; and (v) any recommended action by the division of insurance, the division
458 established in said section 23 of said chapter 25, the legislature or other government entity that
459 would encourage the insurance market to provide policies with higher insurance limits while
460 transportation network companies are not engaged in a pre-arranged ride.

461 The commissioner of insurance shall file an annual report detailing any recommendations
462 together with actuarial analysis with the clerks of the senate and house of representatives, the
463 chairs of the house and senate committees on ways and means and the chairs of the joint
464 committee on financial services not later than February 15.

465 SECTION 6. There shall be a ride for hire task force established to review the current
466 laws, regulations and local ordinances governing licensed hackneys, taxis, livery and
467 transportation network companies in the commonwealth and to make recommendations
468 concerning public safety, consumer protection and the economic fairness and equity of the
469 regulatory structure governing the ride for hire industry.

470 The task force shall be comprised of the following members or their designees: the
471 director of the division that oversees transportation network companies established in section 23
472 of chapter 25; the commissioner of insurance; the secretary of transportation; the secretary of
473 public safety and security; 2 members of the house of representatives, 1 of whom shall be
474 appointed by the minority leader; 2 members of the senate, 1 of whom shall be appointed by the
475 minority leader; and 6 persons to be appointed by the governor, 1 of whom shall be a
476 representative of the Disability Law Center, Inc., 1 of whom shall be a representative of the
477 Massachusetts Municipal Association, Inc., 1 of whom shall be a representative of the
478 Massachusetts Chiefs of Police Association Incorporated, 1 of whom shall be a representative of
479 the transportation network companies, 1 of whom shall be a representative of the hackney and
480 taxi industry and 1 of whom shall be a member of the livery industry.

481 As part of the task force's review, the task force shall consider:

482 (i) the feasibility of establishing a Massachusetts Accessible Transportation Fund credited
483 with annual surcharges from ride for hire companies that do not, as determined by the task force,
484 provide sufficient wheelchair-accessible service;

485 (ii) potential methods for allowing ride for hire vehicles to engage in “surge pricing”
486 based on supply and demand that conform to the practice of “surge pricing” that is currently
487 utilized by transportation network companies;

488 (iii) expanding the oversight of ride for hire companies’ compliance during insurance
489 claims investigations arising from traffic accidents, including an examination of whether there is
490 a need for greater involvement of the division of insurance or attorney general’s office in order to
491 ensure that ride for hire companies are not unnecessarily furtive in providing information during
492 discovery;

493 (iv) whether the practice of depositing funds with the state treasurer’s office in lieu of
494 procuring a motor vehicle liability policy or bond, as permitted by section 34D of chapter 90 of
495 the General Laws, should be abolished for ride for hire vehicles or abolished for vehicles
496 altogether;

497 (v) whether there should be a limit on the number of transportation network company
498 digital networks that a transportation network driver may be connected to at a time to protect
499 rider and public safety;

500 (vi) the potential impact of autonomous cars in the ride for hire industry, including the
501 possible effect that autonomous cars may have on vehicle safety and fairness to existing drivers;

502 (vii) the environmental impacts that the provision of transportation network services may
503 have and the feasibility of incentivizing the use of zero emission vehicles in the ride for hire
504 industry;

505 (viii) an examination of the automobile financing programs offered by transportation
506 network companies to transportation network drivers in order to determine whether the programs
507 are predatory in nature;

508 (ix) the feasibility of transportation network companies providing within their user
509 interface an emergency safety alert feature, which may include the following: an option to
510 connect a call to the police; the sending of alerts about trip and driver to local authorities; contact
511 information for the company's incident response team; and the sending of automated messages
512 to preselected emergency contacts that details the trip and allows for real time global positioning
513 system monitoring;

514 (x) the establishment of municipal licensing commissions to regulate development and
515 oversight of the local ride for hire industry;

516 (xi) any other matters which the task force finds may improve public safety, consumer
517 protection and economic fairness in the ride for hire industry;

518 (xii) the sufficiency of current motor vehicle liability policy minimums for licensed
519 hackneys, taxis and livery;

520 (xiii) an examination of transportation networks' policies on fees charged to riders for
521 cancelled rides and occasions when the rider is late to meet a transportation network driver at the
522 pre-arranged pick-up location;

523 (xiv) easing regional restrictions on taxi service by allowing taxi medallion owners to
524 pick-up non-hail customers via smart phone application outside of the borders of the licensing
525 municipality;

526 (xv) allowing medallion owners to set meter rates lower than rates established by the
527 licensing municipality as long as the rates are clearly disclosed in advance to the customer; and

528 (xvi) examine and make recommendations on ways in which the division established
529 under section 23 of chapter 25 can make statistical reports relative to the number and type of
530 incidents reported to transportation network companies relating to drivers and riders.

531 The ride for hire task force shall file a report, which shall include its findings along with
532 recommendations and accompanying proposed legislation, not later July 1, 2017 with the clerks
533 of the senate and house of representatives, who shall forward the report to the house and senate
534 chairs of the joint committee on financial services, the house and senate chairs of the joint
535 committee on transportation and the house and senate chairs of the joint committee on public
536 safety and homeland security.

537 SECTION 7. (a) There shall be a Municipal Transportation Infrastructure Trust Fund.
538 The director of the division within the department of public utilities established in section 23 of
539 chapter 25 shall be the trustee of the fund and shall expend money in the fund to address the
540 impact of transportation network services, as defined in section 1 of chapter 159A½ of the
541 General Laws, operating within the municipality. There shall be credited to the fund: (i) any per-
542 ride assessment collected pursuant to subsection (b); and (ii) any interest earned on money in the
543 fund. Amounts credited to the fund shall be expended by the director without further
544 appropriation to cities and towns based on the number of rides that originate in the city or town.
545 Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

546 (b) Annually, not later than February 1, each transportation network company shall
547 submit to the director of the division established in section 23 of chapter 25 the number of rides

548 from the previous calendar year that originated within each city or town and a per-ride
549 assessment of not more than \$0.10, as determined by the director. A transportation network
550 company shall not charge a transportation network rider or a transportation network driver, as
551 defined in section 1 of chapter 159A½, for the cost of the municipal transportation infrastructure
552 assessment. Not later than June 30, the director shall post on the division’s website the aggregate
553 number of rides from the previous calendar year originating within each city or town and shall
554 proportionately distribute money in the fund to a city or town based on the number of rides from
555 the previous calendar year that originated within that city or town.

556 (c) A city or town shall expend the amounts received from the fund to address the impact
557 of transportation network services on: (i) municipal roads, bridges and other transportation
558 infrastructure; (ii) taxicab, livery or hackney operations; or (iii) any other public purpose
559 substantially related to the operation of transportation network services in the city or town
560 including, but not limited to, the complete streets program established in section 1 of chapter 90/
561 of the General laws and other programs that support alternative modes of transportation.

562 (d) Annually, a city or town receiving money from the Municipal Transportation
563 Infrastructure Trust Fund shall submit a report to the director of the division not later than
564 December 31 detailing the projects and the amount used or planned to be used for transportation-
565 related projects as described in subsection (c). The director shall compile the reports and post the
566 projects and amounts of money used on the website of the division.

567 SECTION 8. The division of the department of public utilities established in section 23
568 of chapter 25 of the General Laws shall promulgate regulations to implement chapter 159A½ of
569 the General Laws not later than 9 months after the effective date of this act.

570 SECTION 9. Section 7 is hereby repealed.

571 SECTION 10. Section 9 shall take effect on January 1, 2021.