

Acts (2016)**Chapter 187****AN ACT REGULATING TRANSPORTATION NETWORK COMPANIES**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Subsection (a) of section 172 of chapter 6 of the General Laws, as amended by section 3 of chapter 10 of the acts of 2015, is hereby further amended by adding the following clause:-

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

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

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

(b) To fund the division's activities, the division shall assess a surcharge on each transportation network company, as defined in section 1 of chapter 159A½. Each transportation network company shall annually report by March 31 its intrastate operating revenues for the previous calendar year to the division. The surcharge shall be apportioned according to each transportation network company's intrastate operating revenues as determined and certified annually by the division in order to reimburse the commonwealth for funds expended for the division's activities. If a transportation network company fails to report its intrastate operating revenues to the division by March 31, the division may estimate a transportation network company's intrastate operating revenues to assess the surcharge.

Each transportation network company shall pay the surcharge not later than 30 days from the date of the notice of the surcharge amount from the division. Failure to pay the surcharge within 30 days may, at the discretion of the division, constitute cause to suspend or revoke a transportation network company permit pursuant to chapter 159A½.

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

SECTION 3. Section 7A of chapter 90, as appearing in the 2014 Official Edition, is hereby amended by inserting after the sixth paragraph the following paragraph:-

The registrar shall establish rules and regulations, in consultation with the division established in section 23 of chapter 25, providing for an inspection of transportation network vehicles operated under a certificate issued pursuant to chapter 159A½. Such inspections shall be in addition to the emissions testing requirements and the periodic staggered inspection as required by this section; provided however, that the transportation network vehicle inspection shall be available at the same time as the emissions testing and the periodic staggered inspection. At a minimum, and subject to other requirements that the registrar may establish, such inspections shall ensure that the safety mechanisms of the vehicle are fully functioning and shall include a review of the vehicle's braking system and suspension.

SECTION 4. The General Laws are hereby amended by inserting after chapter 159A the following chapter:-

CHAPTER 159A½.**TRANSPORTATION NETWORK COMPANIES.**

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

"Background check clearance certificate", verification issued by the

division to a transportation network company and driver applicant, electronically or otherwise, that a driver applicant successfully completed the background check required under section 3 and is suitable to provide transportation network services.

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

“Department”, the department of public utilities.

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

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

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

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

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

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

“Transportation network driver certificate” or “driver certificate”, an authorization to provide transportation network services issued by the transportation network company to a transportation network driver.

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

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

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

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

(b) In consultation with the registry of motor vehicles, the division shall provide for the establishment of removable decals to be issued by transportation network companies, in a form and manner prescribed by the division, to transportation network drivers to designate a vehicle as a transportation network vehicle for law enforcement and public safety purposes. The decal shall be applied to both the front and back panels of a vehicle at all times while the vehicle is providing transportation network services. A transportation network driver who provides transportation network services using the digital network of more than 1 transportation network company shall display the respective decals for each transportation network company while the vehicle is providing transportation network services. A transportation network driver who ceases to be certified to provide transportation network services for any reason shall return the decal within 14 days of that cessation to the respective transportation network company in the manner and form prescribed by the division.

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

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

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

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

network vehicle inspection pursuant to section 7A of chapter 90. A transportation network driver shall obtain a transportation network vehicle inspection at the driver's next annual emissions testing or within 12 months of obtaining a transportation network driver certificate, whichever comes first.

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

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

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

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

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

(l) A transportation network company shall notify the division upon receipt of information that a driver utilizing its network has violated a law or rule or regulation related to the provision of transportation network services or that the driver is not suitable to provide transportation network services.

(m) If, after the division issued a background check clearance certificate, the division is notified by a transportation network company, law enforcement or government entity that a driver is unsuitable and the division verifies the unsuitability, the division shall immediately revoke or suspend the background check clearance certificate and shall notify the driver and each transportation network company who issued the driver a driver certificate that the background check clearance certificate has been revoked or suspended. The division shall issue rules and regulations to establish a process for a driver to appeal a revocation or suspension. The rules or regulations shall include an opportunity for a hearing.

A driver aggrieved by a final order or decision of the division pursuant to this subsection or subsection (d) of section 3 may institute proceedings for judicial review in the superior court within 30 days after receipt of such order or decision. Any proceedings in the superior court shall, insofar as applicable, be governed by section 14 of chapter 30A, and may be instituted in the superior court for the county: (i) where the parties or any of them reside or have their principal place of business within the commonwealth; (ii) where the division has its principal place of business; or (iii) of Suffolk. The commencement of such proceedings shall not, unless specifically ordered by the court, operate as a stay of the division's order or decision.

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

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

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

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

(ii) that the applicant has an oversight process in place to ensure that each driver using the applicant's digital network has, pursuant to section 4, successfully completed a background check, maintains a valid background check clearance certificate, is a suitable driver and has a transportation network driver certificate;

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

(iv) that transportation network companies and drivers do not use excessive minimum or base rates;

(v) that the applicant has an oversight process in place to ensure that tolls incurred by a driver providing transportation network services through its digital network are paid at the commercial rate including the utilization of the electronic toll transponder issued pursuant to subsection (j) of section 2 and the data cross-reference pursuant to subsection (k) of said section 2;

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

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

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

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

(x) that the applicant has an oversight process in place to ensure that transportation network drivers with vehicles registered outside of the commonwealth meet the requirements of this chapter.

(d) After obtaining the information required under clause (ii) of subsection (c) of section 4, the division shall determine whether the driver applicant has committed an offense that would disqualify the driver applicant from providing transportation network services, according to the division's rules, orders and regulations. The division shall determine if the driver applicant is suitable and, if determined to be suitable, shall provide the transportation network company and the driver applicant with a background check clearance certificate. The division shall conduct a background check pursuant to clause (ii) of subsection (c) of section 4 not less than annually. If the division finds that a driver is not suitable under the annual background check, the division shall notify the driver and each relevant transportation network company that the background check clearance certificate is revoked or suspended.

(e) The division shall calculate and the secretary of administration and finance shall determine, pursuant to section 3B of chapter 7, the cost associated with the division's review of an application for a transportation network company permit, for renewal of the permit and to issue background check clearance certificates. The division may charge the transportation network company a reasonable fee to cover the costs.

Section 4. (a) A driver who seeks to utilize the digital network of a transportation network company to provide pre-arranged rides shall apply to a transportation network company for a transportation network driver certificate. A person shall not provide transportation network services in the commonwealth without a valid background check clearance certificate and a transportation network driver certificate. The transportation network driver certificate shall be in a form prescribed by the division which shall include the name, picture of the driver and the license plate number of the vehicle in use and shall post a certificate for each transportation network company that has certified the driver in a location in the vehicle that is visible to the rider while transportation network services are being provided. A transportation network company shall not issue a transportation network driver certificate to a driver applicant unless the transportation network company has verified that the driver has received a background check clearance certificate from the division.

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

- (i) is at least 21 years of age;
- (ii) has access to a vehicle that has been registered in the commonwealth and inspected pursuant to section 7A of chapter 90 and regulations promulgated under said section 7A of said section 90 at a facility licensed by the registry of motor vehicles; or has access to a vehicle that has been registered in another state, and the vehicle complies with the inspection requirement of the state where the vehicle is registered;
- (iii) complies with insurance requirements established in this chapter or in section 228 of chapter 175;
- (iv) provides notice to all insurers of the vehicle that the applicant intends to use the vehicle to provide transportation network services;
- (v) is determined to be suitable to perform transportation network services pursuant to subsections (c) and (d);
- (vi) does not appear on the National Sex Offender Registry;
- (vii) has not had a conviction in the past 7 years for: (1) a sex offense or violent crime as defined in section 133E of chapter 127; (2) a crime under section 24 of chapter 90 or been assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court; (3) leaving the scene of property damage or personal injury caused by a motor vehicle; (4) felony robbery; or (5) felony fraud; and
- (viii) has a driving record that does not include more than 4 traffic violations or any major traffic violation, as defined by the division of insurance, in the preceding 3 year period.

(c) Prior to providing transportation network services, a driver applicant shall be subject to a 2-part background check process to determine if the driver applicant is suitable. The transportation network company shall: (i) conduct a background check and disqualify applicants on the basis of a suitability standard to be determined in regulations promulgated by the division; and (ii) submit identifying information regarding an applicant to the division, which shall refer that information to the department of criminal justice information services, which shall obtain all available criminal offender record information, as defined in section 167 of chapter 6, and pursuant to section 172 of said chapter 6 and sex offender registry information.

(d) Not less than 2 times per year, the transportation network company shall conduct a background check pursuant to clause (i) of subsection (c) and shall immediately remove a driver from its digital network if the driver is found not suitable pursuant to the suitability standards to be determined in regulations promulgated by the division.

(e) The transportation network company shall immediately suspend a transportation network driver's certificate, and notify the division of the suspension, upon learning of and verifying a driver's arrest for a crime or a driver's citation for a driving infraction that would render the driver unsuitable to provide transportation network services. A transportation network company shall report such suspension, in a form and manner prescribed by the division, to the division, which shall ensure all transportation network companies that certified that driver take appropriate action. Any such suspension may be limited to the period of time necessary to determine whether continued provision of transportation network services by the driver is consistent with the public interest.

(f) In accordance with this section, the division shall quarterly audit the driver certification and criminal background check processes of a transportation network company. Non-compliance with this section shall

constitute cause for the division to suspend or revoke a transportation network company permit pursuant to section 6.

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

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

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

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

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

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

The division shall issue rules and regulations to establish a process for administrative appeal of any penalty, suspension or revocation imposed in accordance with this section.

(b) Any party aggrieved by a final order or decision of the division pursuant to this section may institute proceedings for judicial review in the superior court within 30 days after receipt of such order or decision. Any proceedings in the superior court shall, insofar as applicable, be governed by the provisions of section 14 of chapter 30A, and may be instituted in the superior court for the county (i) where the parties or any of them reside or have their principal place of business within the commonwealth; (ii) where the division has its principal place of business; or (iii) of Suffolk. The commencement of such proceedings shall not, unless specifically ordered by the court, operate as a stay of the division's order or decision.

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

(b) A driver providing transportation network services who knowingly or willfully allows another individual to use that driver's certificate or identity to provide transportation network services or a driver who is using a transportation network driver certificate belonging to another individual or is misrepresenting a driver's identity to riders or potential riders by means of a digital network shall be punished by a fine of not more than \$500 for a first offense, by a fine of not more than \$750 for a second offense and by a fine of not more than \$1,000 or by imprisonment in the house of correction for not more than 6 months for a third or subsequent offense.

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

(d) A driver who fails to produce proof of a transportation network driver certificate and a background check clearance certificate upon request by law enforcement shall be punished by a fine of not more than \$100 for a first offense, by a fine of not more than \$500 for a second offense and not more than \$1,000 for a third or subsequent offense.

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

(b) A transportation network company shall provide to the division a detailed monthly accounting of driver and passenger complaints received under clause (viii) of subsection (c) of section 3 and the actions the company has taken, if any, to resolve said complaints.

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

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

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

(e) Any record furnished to the division or other state agency by a transportation network company pursuant to this chapter including, but not limited to, the roster of permitted transportation network drivers, shall not be considered a public record as defined in clause Twenty-sixth of section 7 of chapter 4 or chapter 66. An application for a transportation network company permit submitted pursuant to this chapter shall be a public record as defined in said clause Twenty-sixth of said section 7 of said chapter 4 or said chapter 66; provided, however, that such an application may be withheld from disclosure, in whole or in part, for reasons set forth in said clause Twenty-sixth of said section 7 of said chapter 4 or said chapter 66.

Section 9. Nothing in this chapter shall require a transportation network company to issue a driver certificate to a driver applicant who meets the requirements of this chapter or prevent the transportation network company from suspending, revoking or otherwise terminating a driver from its digital network.

Section 10. Except where expressly set forth in this chapter, no municipality or other local or state entity, except the Massachusetts Port Authority, may: (i) impose a tax on or require any additional license for a transportation network company, a transportation network driver or a vehicle used by a transportation network driver where the tax or licenses relate to facilitating or providing pre-arranged rides; (ii) require any additional license for a transportation network company or transportation network driver; or (iii) subject a transportation network company to the municipality's or other local or state entity's rates or other requirements, including but not limited to entry or operational requirements; provided, however, that a municipality or other local or state entity may regulate traffic flow and traffic patterns to ensure public safety and convenience.

Section 11. The division shall promulgate regulations necessary for the implementation, administration and enforcement of this chapter.

SECTION 5. Section 168 of chapter 175, as appearing in the 2014 Official Edition, is hereby amended by inserting after the word "liability", in lines 23 and 24, the following words: - , with the exception of motor vehicle policies for transportation network vehicles.

SECTION 6. Said chapter 175 is hereby further amended by adding the following section:-

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

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

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

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

(e) In every instance where insurance maintained by a transportation

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

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

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

(h) Insurers that write automobile insurance may exclude any and all coverage afforded under the policy issued to an owner or operator of a vehicle for any loss or injury that occurs while a driver is providing transportation network services or while a driver provides a pre-arranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to: (i) liability coverage for bodily injury and property damage; (ii) personal injury protection coverage as defined in section 34A of chapter 90; (iii) uninsured and underinsured motorist coverage; (iv) medical payments coverage; (v) comprehensive physical damage coverage; and (vi) collision physical damage coverage.

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

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

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

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

arranged ride.

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

SECTION 7. There shall be a ride for hire task force established to review the current laws, regulations and local ordinances governing licensed hackneys, taxis, livery and transportation network companies in the commonwealth and to make recommendations concerning public safety, consumer protection and the economic fairness and equity of the regulatory structure governing the ride for hire industry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiii) an examination of transportation networks' policies on fees

charged to riders for cancelled rides and occasions when the rider is late to meet a transportation network driver at the pre-arranged pick-up location;

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

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

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

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

SECTION 8. (a) There shall be a Transportation Infrastructure Enhancement Trust Fund. The director of the division within the department of public utilities established in section 23 of chapter 25 of the General Laws shall be the trustee of the fund and shall expend money in the fund to address the impact of transportation network services, as defined in section 1 of chapter 159A½ of the General Laws. There shall be credited to the fund: (i) any per-ride assessment collected pursuant to subsection (b); and (ii) any interest earned on money in the fund. Amounts credited to the fund shall be expended by the director pursuant to subsection (c) without further appropriation. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(b) Annually, not later than February 1, each transportation network company shall submit to the director of the division established in section 23 of chapter 25 the number of rides from the previous calendar year that originated within each city or town and a per-ride assessment of \$0.20. A transportation network company shall not charge a transportation network rider or a transportation network driver, as defined in section 1 of chapter 159A½, for the cost of the per-ride assessment. Not later than June 30, the director shall post on the division's website the aggregate number of rides from the previous calendar year originating within each city or town.

(c) The division shall: (i) proportionately distribute ½ of the amount received from the fund to a city or town based on the number of rides from the previous calendar year that originated within that city or town to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program established in section 1 of chapter 90I of the General laws and other programs that support alternative modes of transportation; (ii) distribute ¼ of the amount collected to the Massachusetts Development Finance Agency established in section 2 of chapter 23G of the General Laws to provide financial assistance to small businesses operating in the taxicab, livery or hackney industries to encourage the adoption of new technologies and advanced service, safety and operational capabilities and support workforce development; and (iii) distribute ¼ of the amount collected to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.

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

SECTION 9. Section 8 is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The division shall: (i) proportionately distribute ½ of the amount collected to a city or town based on the number of rides from the previous calendar year that originated within that city or town to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town including, but not limited to, the complete streets program

established in section 1 of chapter 90I of the General Laws and other programs that support alternative modes of transportation; and (ii) distribute ½ of the amount collected to the Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General Laws.

SECTION 10. Section 8 is hereby repealed.

SECTION 11. The Massachusetts Port Authority, established in section 2 of chapter 465 of the acts of 1956, may not permit a transportation network vehicle that is not registered as a livery vehicle to accept a prearranged ride through a digital network at the General Edward Lawrence Logan International Airport terminal until such time as the authority promulgates rules for the operation of transportation network vehicles, consistent with federal regulations, to ensure the safety of passengers and effective operation of transportation services to and from the airport.

SECTION 12. The Massachusetts Convention Center Authority may establish rules for the operation of transportation network company vehicles and taxicabs at the Boston convention and exhibition center, including, but not limited to, regulating traffic flow, including pickup locations, and traffic patterns to ensure public safety and convenience.

SECTION 13. Notwithstanding chapter 159A½ of the General Laws, all transportation network drivers and transportation network companies operating in the commonwealth prior to the promulgation of regulations issued by the division created in section 23 of chapter 25 of the General Laws may continue to provide transportation network services, but shall apply for all permits and certificates required under chapter 159A½ of the General Laws not less than 120 days after the effective date of the division's regulations.

SECTION 14. Not later than August 1, 2017, the department of public utilities and the registry of motor vehicles shall submit a report to the clerks of the senate and house of representatives examining the feasibility of: (i) conducting statewide criminal offender record information checks for each operator of a ride for hire vehicle; and (ii) establishing a statewide roster of all livery and taxicab drivers, along with a convenient means for municipalities to notify the division of any livery or taxicab drivers registered within their municipality, including reciprocal reporting between municipalities and the department regarding any driving infractions, criminal convictions, suspension or ban of all livery drivers and taxicab drivers on the statewide roster.

SECTION 15. The division of the department of public utilities established in section 23 of chapter 25 of the General Laws shall promulgate regulations to implement chapter 159A½ of the General Laws not later than 12 months after the effective date of this act.

SECTION 16. The registrar of motor vehicles shall establish rules and regulations for the transportation network vehicle inspection required under the seventh paragraph of section 7A of chapter 90 of the General Laws not more than 180 days after the effective date of this act.

SECTION 17. Section 9 shall take effect on January 1, 2022.

SECTION 18. Section 10 shall take effect on January 1, 2027.

Approved, August 5, 2016