

SENATE BILL No. 101

AN ACT concerning the Kansas transportation network company services act; relating to certain definitions; relating to transportation network company requirements; relating to transportation network company drivers; relating to liens on personal vehicles; amending sections 2, 12 and 19 of 2015 House Substitute for Senate Bill No. 117 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Consistent with the limitations of K.S.A. 50-704, and amendments thereto, the TNC shall not permit an individual to act as a driver on its digital network who:

(1) Has been convicted of:

(A) Any person felony as described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(B) any sex offense as described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2014 Supp. 21-6419 through 21-6422, and amendments thereto;

(C) identity theft, as described in K.S.A. 21-4018, prior to its repeal, or K.S.A. 2014 Supp. 21-6107, and amendments thereto;

(D) any attempt, conspiracy or solicitation of any crime described in this paragraph; or

(E) a crime under the law of another jurisdiction which is substantially the same as the crimes described in this paragraph;

(2) is registered on the national sex offender registry, the Kansas offender registry or any similar registry of any other jurisdiction;

(3) has had a combined total of more than three moving violations in Kansas or any other jurisdiction within the past three years;

(4) has had a traffic violation in Kansas or any other jurisdiction within the past three years of attempting to evade the police, reckless driving or driving on a suspended license;

(5) has been convicted, adjudicated or placed on diversion, within the past seven years, of:

(A) Driving under the influence of drugs or alcohol in Kansas or any other jurisdiction;

(B) any crime involving controlled substances, as described in K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) theft, as described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto;

(D) any crime involving fraud, dishonesty or deceit, as described by the Kansas criminal code;

(E) any attempt, conspiracy or solicitation of any crime described in this subsection; or

(F) a violation of the law or ordinance of another jurisdiction, including any municipality, which is substantially the same as the crimes described in this subsection;

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

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

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

(9) is not at least 19 years of age.

(b) The provisions of this section shall be a part of and supplemental to the Kansas transportation network company services act.

Sec. 2. Section 2 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 2. Except as otherwise provided, as used in the Kansas transportation network company services act:

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

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

(c) "Personal vehicle" means a vehicle that is used by a transportation

network company driver in connection with providing a prearranged ride and is:

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

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

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

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

(f) “Transportation network company driver” or “driver” means an individual who:

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

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

(g) “Transportation network company rider” or “rider” means an individual or persons who use a transportation network company’s digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver’s personal vehicle between points chosen by the rider.

(h) “Vehicle owner” means the owner of a personal vehicle.

Sec. 3. Section 12 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 12. ~~(a)~~ Prior to permitting an individual to act as a driver on its digital network, the TNC shall:

~~(1)(a)~~ Require the individual to submit an application to the TNC, which includes information regarding the applicant’s address, age, driver’s license, driving history, motor vehicle registration, automobile liability insurance and other information required by the TNC; *and*

~~(2)~~ ~~obtain a local and national criminal background check on the individual, conducted by the Kansas bureau of investigation;~~

~~(A)~~ ~~fingerprints submitted pursuant to this section shall be released by the attorney general to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation; and~~

~~(B)~~ ~~each individual shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the individual and whether the individual has been convicted of any crime that would disqualify the individual from being a transportation network driver under this act;~~

~~(3)(b)~~ obtain and review a driving history research report for such individual; *and*

~~(4)~~ ~~require the individual, if such individual’s personal vehicle is subject to a lien, to provide proof of comprehensive and collision insurance coverage for such personal vehicle that covers the period when the individual is logged on to a TNC’s digital network but not engaged in a prearranged ride and when the individual is engaged in a prearranged ride to the lien holder of such personal vehicle and to the TNC.~~

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

~~(1)~~ ~~Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, includ-~~

~~ing, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license;~~

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

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

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

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

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

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

Sec. 4. Section 19 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 19. (a) A TNC shall disclose prominently, with a separate acknowledgment of acceptance, to its TNC drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital network or software application:

"If the vehicle that you plan to use to provide transportation network company services has a lien against it, using the vehicle for transportation network company services may violate the terms of your contract with the lienholder. *If you are required by agreement with the lienholder to maintain comprehensive and collision insurance on the vehicle, using the vehicle for TNC services without such insurance coverage may violate your legal obligation to the lienholder under Kansas law.*"

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

(c) *If the vehicle used by a transportation network driver is subject to a lien and the lienholder requires comprehensive and collision insurance in its agreement, the transportation network driver shall ensure that comprehensive and collision insurance that covers the periods when the transportation network driver is logged on to a TNC's digital network but not engaged in a prearranged ride and when the transportation network driver is engaged in a prearranged ride is in effect.*

(d) *This section shall take effect on and after January 1, 2016.*

Sec. 5. Sections 2, 12 and 19 of 2015 House Substitute for Senate Bill No. 117 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.