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

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

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

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) "Transportation network company" or "TNC" shall mean an entity licensed pursuant to the provisions of this act and operating in Kansas that uses a digital network or software application service to connect passengers to TNC services provided by TNC drivers. A TNC is not deemed to own, control, operate or manage the vehicles used by TNC drivers, and is not a taxicab association or a for-hire vehicle owner.

(c) "Transportation network company (TNC) driver" shall mean an individual who operates a motor vehicle that is:

(1) Owned, leased or otherwise authorized for use by the individual;
(2) not a taxicab or for-hire vehicle; and
(3) used to provide transportation network company services.

(d) "Transportation network company (TNC) services" shall mean transportation of a passenger between points chosen by the passenger and prearranged with a TNC driver through the use of a TNC digital network or software application. TNC services shall begin when a TNC driver accepts a request for transportation received through the TNC's digital network or software application service, continue while the TNC driver transports the passenger in the TNC driver's vehicle, and end when the passenger exits the TNC driver's vehicle. TNC service is not a taxicab, for-hire vehicle or street hail service.

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

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

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

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

Sec. 6. A TNC may charge a fare for the services provided to passengers, provided that, if a fare is charged, the TNC shall disclose to passengers the fare calculation method on its website or within the software application service. The TNC shall also provide passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC driver's vehicle.

Sec. 7. The TNC's software application or website shall display a picture of the TNC driver, and the license plate number of the motor vehicle utilized for providing the TNC service before the passenger enters the TNC driver's vehicle.

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

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

Sec. 9. (a) On and after July 1, 2015, TNCs and TNC drivers shall comply with the automobile liability insurance requirements of this section.

(b) The following automobile liability insurance requirements shall apply during the time that a TNC driver is logged into the TNC's digital network and is available to receive requests for transportation but is not providing TNC services:

(1) Automobile liability insurance that meets at least the minimum coverage requirements pursuant to K.S.A. 40-3107(e) and K.S.A. 40-284, and amendments thereto; and
(2) automobile liability insurance that meets the minimum coverage requirements where required by K.S.A. 40-3107(f), and amendments thereto.

Automobile liability insurance in the amounts required in paragraph (1) shall be maintained by a TNC and provide coverage in the event a participating TNC driver's own automobile liability policy excludes coverage according to its policy terms or does not provide coverage of at least the limits required in paragraph (1).

(c) The following automobile liability insurance requirements shall
apply while a TNC driver is providing TNC services:

(1) Provides primary automobile liability insurance that recognizes
the TNC driver's provision of TNC services;
(2) provides automobile liability insurance of at least $1,000,000 for
death, personal injury and property damage;
(3) provides automobile liability insurance that meets the minimum
coverage requirements where required by K.S.A. 40-3107(f), and
amendments thereto; and
(4) provides uninsured and underinsured motorist coverage that meets
the minimum coverage requirements where required by K.S.A. 40-284,
and amendments thereto.

The coverage requirements of this subsection may be satisfied by any
of the following:

(A) Automobile liability insurance maintained by the TNC driver;
(B) automobile liability insurance maintained by the TNC; or
(C) any combination of (A) and (B).

(d) In every instance where insurance maintained by a TNC driver to
fulfill the insurance requirements of this section has lapsed, failed to
provide the required coverage, denied a claim for the required coverage or
otherwise ceased to exist, insurance maintained by a TNC shall provide
the coverage required by this section beginning with the first dollar of a
claim.

(e) Notwithstanding any other provision of law, insurance required by
this section may be placed with an insurer authorized to do business in the
state or with a surplus lines insurer eligible under K.S.A. 40-246b, and
amendments thereto.

(f) Insurance required by this section shall be deemed to satisfy the
financial responsibility requirement for a motor vehicle under the Kansas
automobile injury reparations act, K.S.A. 40-3101, et seq., and
amendments thereto.

Sec. 10. (a) The TNC shall disclose in writing to TNC drivers the
following before they are allowed to accept a request for TNC services on
the TNC's digital network:

(1) The insurance coverage and limits of liability that the TNC
provides while the TNC driver uses a personal vehicle in connection with
a TNC's digital network; and
(2) that the TNC driver's own insurance policy may not provide
coverage while the TNC driver uses a vehicle in connection with a TNC's
digital network, depending on its terms.

(b) Insurers that write automobile liability insurance in Kansas may:

(1) Exclude any and all coverage and the duty to defend afforded
under the owner's insurance policy for any loss or injury that occurs while
an insured vehicle provides or is available to provide TNC services,
provided such exclusion is expressly set forth in the policy and approved for sale in Kansas. This right to exclude coverage and the duty to indemnify and defend may apply to any coverage included in an automobile liability insurance policy, including, but not limited to:

(A) Liability coverage for bodily injury and property damage;
(B) uninsured and underinsured motorist coverage;
(C) medical payments coverage;
(D) comprehensive physical damage coverage;
(E) collision physical damage coverage; and
(F) personal injury protection coverage.

The insurer must notify an insured after receiving a notice of loss within the time required by K.S.A. 40-2404(9), and amendments thereto, that the insurer has no duty to defend or indemnify any person or organization for liability for a loss that is properly excluded pursuant to the terms of the applicable primary or excess insurance policy.

(c) An insurer that writes automobile liability insurance in Kansas must disclose on its application for insurance, in a prominent place, whether or not the insurance policy provides coverage while an insured vehicle provides or is available to provide TNC services. If an automobile liability insurance policy contains an exclusion for TNC services, the insurer or its agent must disclose in writing the exact language of such exclusion to the applicant during the application process.

(d) In a claims coverage investigation, TNCs and any insurer providing coverage under section 9, and amendments thereto, shall cooperate to facilitate the exchange of information, including the precise times that a TNC driver logged on and off of the TNC's digital network in the 24-hour period immediately preceding the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any insurance policy each party issued or maintained.

Sec. 11. (a) The TNC shall implement a zero tolerance policy on the use of drugs or alcohol while a TNC driver is providing TNC services or is logged into the TNC's digital network but is not providing TNC services, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

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

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

Sec. 12. (a) Prior to permitting an individual to act as a TNC driver on
its digital platform, the TNC shall:
(1) 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;
(2) conduct, or have a third party conduct, a local and national
criminal background check for each applicant that shall include:
(A) Multi-state/multi-jurisdiction criminal records locator or other
similar commercial nationwide database with validation (primary source
search); and
(B) national sex offender registry database; and
(3) obtain and review a driving history research report for such
individual.
(b) The TNC shall not permit an individual to act as a TNC driver on
its digital platform 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, including, 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 TNC services;
(6) does not possess proof of automobile liability insurance for the
motor vehicle or motor vehicles used to provide TNC services; or
(7) is not at least 19 years of age.

Sec. 13. The TNC shall require that any motor vehicle that a TNC
driver will use to provide TNC services meets the equipment requirements
applicable to private motor vehicles under article 17 of chapter 8 of the
Kansas Statutes Annotated, and amendments thereto.

Sec. 14. A TNC driver shall only provide TNC services and shall not
solicit or accept street hails.

Sec. 15. The TNC shall adopt a policy prohibiting solicitation or
acceptance of cash payments from passengers and notify TNC drivers of
such policy. TNC drivers shall not solicit or accept cash payments from
passengers. Any payment for TNC services shall be made only
electronically using the TNC's digital network or software application.
Sec. 16. (a) The TNC shall adopt a policy of non-discrimination with respect to passengers and potential passengers and notify TNC drivers of such policy.
(b) TNC drivers shall comply with all applicable laws regarding non-discrimination against passengers or potential passengers.
(c) TNC drivers shall comply with all applicable laws relating to accommodation of service animals.
(d) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.
(e) A TNC shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

Sec. 17. A TNC shall maintain:
(a) Individual trip records for at least one year from the date each trip was provided; and
(b) TNC driver records at least until the one-year anniversary of the date on which a TNC driver's activation on the TNC digital network has ended.

Sec. 18. A TNC shall not disclose a passenger's personally identifiable information to a third party unless: (a) The passenger consents or disclosure is required by a legal obligation; or (b) disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms. In addition to the foregoing, a TNC shall be permitted to share a passenger's name or telephone number with the TNC driver providing TNC services to such passenger in order to facilitate correct identification of the passenger by the TNC driver, or to facilitate communication between the passenger and the TNC driver.

Sec. 19. Notwithstanding any other provision of law, TNCs and TNC drivers are governed exclusively by this act and any rules promulgated by the commission consistent with this act. No municipality or other local entity may impose a tax on, or require a license for, a TNC, a TNC driver, or a vehicle used by a TNC driver where such tax or licenses relate to providing TNC services, or subject a TNC to the municipality or other local entity's rate, entry, operational or other requirements.

Sec. 20. The state corporation commission shall have the power to adopt all rules and regulations specifically necessary to enforce the provisions of this act.

Sec. 21. This act shall take effect and be in force from and after its publication in the statute book.