No. 126605

IN THE
SUPREME COURT OF ILLINOIS

JANE DOE, Plaintiff-Appellant, v. LYFT, INC., Defendant-Appellee, and ANGELO McCOY and STERLING INFOSYSTEMS, INC. d/b/a STERLING TALENT SOLUTIONS, Defendants, and KWAME RAOUL, ATTORNEY GENERAL OF THE STATE OF ILLINOIS, Intervenor-Appellee.	)	On Appeal from the Illinois Appellate Court, First Judicial District, No. 1-19-1328 There Heard on Appeal from the Circuit Court of Cook County, Illinois, County Department, Law Division, No. 17 L 11355 The Honorable PATRICIA O'BRIEN SHEAHAN, Judge Presiding.

BRIEF OF INTERVENOR-APPELLEE KWAME RAOUL, ATTORNEY GENERAL OF THE STATE OF ILLINOIS

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NATURE OF THE ACTION

This appeal concerns the meaning and constitutionality of section 25(e) of the Transportation Network Providers Act ("Act"), 625 ILCS 57/1 *et seq.* (2018), which states that transportation network companies ("TNCs," also called ridesharing companies) are not common carriers, 625 ILCS 57/25(e) (2018).

In a complaint for damages filed in the circuit court, Doe alleged that Defendant Angelo McCoy sexually assaulted her while working as a driver for Defendant-Appellee Lyft, Inc., a TNC. She alleged that Lyft is directly liable for negligence and fraud, and vicariously liable for McCoy's intentional torts. She also alleged that Defendant Sterling Infosystems, Inc., contracted with Lyft to perform driver background checks but failed to adequately perform those checks.

Lyft moved to dismiss Doe's vicarious liability claims, asserting that it was not responsible for McCoy's acts outside the scope of their agency or employment relationship. The circuit court granted the motion and certified the following questions for interlocutory review pursuant to Illinois Supreme Court Rule 308: whether section 25(e) precludes TNCs from being held to a higher duty such that they could be vicariously liable for a sexual assault by an agent or employee; and, if so, whether section 25(e) is constitutional.[1] The appellate court answered yes to both questions, affirming the circuit court.

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[1] The questions are set out in full on pages 13–14 of this brief.

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This Court allowed Doe's petition for leave to appeal, and then allowed the Attorney General's motion for leave to intervene to defend the constitutionality of section 25(e).

The issues presented are on the pleadings.

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ISSUES PRESENTED FOR REVIEW

1. Whether section 25(e) of the Act precludes TNCs from otherwise being subject to the highest duty of care under the common law, like a common carrier's elevated duty to its passengers.

2. Whether section 25(e) should be upheld as a valid exercise of the General Assembly's legislative powers because:

    a. It does not violate the constitutional prohibition on special legislation; and

    b. Doe's contention that the Act was enacted in violation of the three readings rule is barred by the enrolled bill doctrine.

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STATEMENT OF FACTS

The Act

The Act, enacted in 2015, creates a regulatory framework for ridesharing companies. *See* 625 ILCS 57/1 *et seq.* (2018).[2] It defines a TNC as an entity "that uses a digital network or software application service to connect passengers" to transportation services provided by the TNC's drivers. 625 ILCS 57/5 (2018). The Act also states that a TNC "is not a taxicab association or a for-hire vehicle owner," and "TNC service is not a taxicab, for-hire vehicle, or street hail service." *Id.* Moreover, section 25(e) of the Act expressly provides that TNCs are not common carriers as follows:

> TNCs or TNC drivers are not common carriers, contract carriers or motor carriers, as defined by applicable State law, nor do they provide taxicab or for-hire vehicle service.

625 ILCS 57/25(e) (2018).

The Act imposes various requirements on TNCs, including minimum insurance coverage amounts, 625 ILCS 57/10 (2018); driver background checks, 625 ILCS 57/15 (2018); "a policy of non-discrimination on the basis of destination, race, color," and other enumerated categories, 625 ILCS 57/20 (2018); "a zero tolerance policy on the use of drugs or alcohol" by TNC drivers,

[2] Although the Act was repealed on June 1, 2020, 625 ILCS 57/34 (2015), on reenactment, the legislation stated that it should be deemed to be in continuous effect since June 1, 2015, 625 ILCS 57/33 (eff. April 2, 2021).

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625 ILCS 57/25(a) (2018); and disclosure of fare and driver information, 625 ILCS 57/30 (2018).

The Legislature's Efforts to Enact Ridesharing Legislation in 2014

The Act was the culmination of a process that started a year earlier with House Bill 4075. *See* SR85–110.[3] H.B. 4075 was similar to the Act: it required insurance, SR90–92, SR103, SR105; driver background checks, SR103; and disclosure of fares, SR106. And it imposed additional requirements, such as requiring certain drivers who provide rideshare services more than 18 hours per week to obtain a chauffeur license (like a taxicab driver). SR102–03; *see also* LA74; Chi. Mun. Code, §§ 9-112-010, 9-112-020. H.B. 4075 did not address TNCs' status as common carriers. *See* SR85–110. (H.B. 4075 also had a trailer bill, H.B. 5331, that modified the 18-hour-per-week threshold, among other things. SR128–40; LA177–79.)

The House Business Occupational Licenses Committee held at least two hearings regarding H.B. 4075. LA63–79 (March 6, 2014 hearing), LA106–10 (April 9, 2014 hearing). At the first hearing, H.B. 4075's sponsor, Representative Michael Zalewski, explained that ridesharing companies were

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[3] The record on appeal consists of the supporting record to Doe's Rule 308 application, cited as "SR___"; the appellate court record; the appendix to Doe's petition for leave to appeal; the supplementary appendix to Lyft's answer to Doe's petition for leave to appeal, cited as "LA___"; and the appendices to the briefs filed in this Court. The briefs filed in this Court by Doe; amici Chicago Alliance Against Sexual Exploitation, the Transportation Alliance, and the National Limousine Association; and Lyft are cited as "Doe Br. ___," "CAASE Br. ___," and "Lyft Br. ___," respectively.

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an emerging industry, and it was unclear whether they were subject to any regulation at all. LA64, LA70, LA76. The bill's goal was to "create a new set of regulations designed to properly regulate these companies, while at the same time allowing their growth to expand and allowing the consumer to make use of them, because obviously they're popular, and we want to see them grow in Illinois and be successful." LA64. Representative Zalewski outlined the bill's provisions, including requiring chauffeur licenses for some rideshare drivers: "[W]e're requiring a different kind of driver's license because these people are going to be carrying passengers, and it's important for the state to know, if you're put in a position of being a common carrier, you need to have a different standard of proof than just a regular driver." LA73; *see also* LA64. Representative Elgie Sims, Jr., asked whether ridesharing companies were common carriers. LA75–76. Representative Zalewski answered, "They both are passenger vehicles for hire." LA76. A Lyft representative stated its view that they are not common carriers. *Id.*

Another Lyft representative explained its view that ridesharing companies should not be regulated as strictly as taxicabs:

> [T]raditionally, taxis are allowed to do street hails. . . . [T]here's a certain amount of anonymity in the interaction. [Y]ou need a lot of regulatory restrictions in order to ensure safety.
>
> This [ridesharing] is a whole new playing field . . . . Because you have an online application, we know exactly who is picking up whom at all times . . . . We're able to do background checks . . . . [I]n eliminating that anonymity, we are able to create higher

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> safeguards. It necessitates a new set of regulations in order to allow it to thrive.
>
> This type of business only works if a lot of people do it . . . . These types of regulations in [H.B. 4075] are made for professional drivers who do this . . . all the time . . . . If we were to impose these types of requirements on regular individuals, you wouldn't see people opting in.

LA71. Lyft and Uber Technologies, Inc. (also a ridesharing company) opposed H.B. 4075. LA65–66, LA107–09. The Illinois Trade Transportation Association (taxicab medallion owners), Illinois Trial Lawyers' Association, Illinois Insurance Association, and Property Casualty Insurers Association of America supported the bill. LA66–67, LA107–08, LA110; *see also* SR115–16; *cf.* LA67. At the conclusion of the April 2014 hearing, the Committee voted 9–2 to approve H.B. 4075. LA110.

The next day, the Illinois House gave H.B. 4075 its third reading, debated the measure, and voted on it. SR112–25. Representative Zalewski stated, "We are simply looking to install commonsense regulations." SR112. He said that he had negotiated extensively with rideshare companies, but they remained opposed to the bill. SR112, SR120–21; *see also* LA107–09. Several representatives expressed concern that the bill would stifle a new industry with excessive regulation. SR114–15, SR118, SR121–22. Representative Ron Sandack stated:

> This is a new technology, a new industry, a new venture that's actually providing efficacy, good results, and we in Illinois have a tendency to squelch entrepreneurship and innovation. We have an unmistakable history of trying to overregulate when

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> something new is on the market that offers consumers value.

SR114. Representative Tom Morrison opposed the bill because "[w]e want to encourage technology in benefiting consumers." SR118. Representative Monique Davis also opposed the bill, stating that "this new industry emerged" because people "couldn't count on cabs or tax service . . . . I'm a person from the city. I can't get a cab at 107th Street, you know." SR121.

Other representatives spoke in favor of the bill as a consumer protection measure. Representative Jim Durkin supported the bill: "[C]ommon carriers . . . such as cabbies . . . have been traditionally held to a higher standard of care . . . . I think the person who's going to be behind that wheel needs to be insured . . . [and] they need to be subject to the same type of background checks that cabs do right now . . . whether it's a cab or if it's somebody with Uber." SR123. The House passed H.B. 4075 by a vote of 80 to 26. SR125.[4]

Debate in the Senate likewise included supporters praising H.B. 4075 for protecting consumers, *e.g.*, LA156–61, LA175, and opponents voicing concern about excessive regulation, *e.g.*, LA162–63. For example, Senator Matt Murphy considered some of the requirements to be unnecessary and excessively costly, and the safety concerns "overstated": "[W]hen you check on

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[4] The roll call is not in the record but is in State of Ill. House Journal, 98th Gen. Assembly, 119th Legislative Day (April 10, 2014), p. 74, https://www.ilga.gov/house/journals/98/2014/HJ098119R.pdf. The Court may take judicial notice of this publicly available information on a government website. *See People v. Johnson*, 2021 IL 125738, ¶ 54.

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UberX, you get a picture of the driver; you have their name; and when your ride gets dropped off, you get an email confirming that. . . . [Y]ou don't get that level of coverage from any cabbie." LA162–63. Senate Minority Leader Christine Radogno said: "[W]e're dealing with a delicate balance here between regulation and allowing this entrepreneurial enterprise to flourish." LA164. The Senate passed H.B. 4075 with a vote of 46 to 8 (and 2 voting present). LA175.[5]

In August 2014, Governor Quinn vetoed H.B. 4075. SR142–43. In his veto message, the Governor stated that "it would be premature — and perhaps counterproductive — to enact a rigid statewide regulatory model at this time," in part because of "how new the technology is." SR142. He continued: "To rush into a whole new statewide regulatory network before the need for one is clear would not only stifle innovation, it would be a disservice to consumers." SR143. After the Governor's veto, Representative Zalewski continued to negotiate with Uber about legislative terms. LA221.

Also in 2014, the General Assembly took up Senate Bill 2774, which originally addressed the regulation of tax return preparers. SR145–47, SR161. Between January and May 2014, that bill was read three times in the Senate, passed by the Senate, and read twice in the House. SR163–64. Then in December 2014, Representative Zalewski submitted the Act's text to the

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[5] The roll call is not in the record but is in State of Ill. Senate Journal, 98th Gen. Assembly, 122nd Legislative Day (May 15, 2014), p. 49, https://www.ilga.gov/senate/journals/98/2014/SJ098122R.pdf.

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Business Occupational Licensing Committee as an amendment to S.B. 2774, replacing S.B. 2774's prior text. SR164, LA214. Representatives on the Committee considered the bill to be a continuation of the attempt to enact H.B. 4075. LA217–18. Representative Zalewski said, "What I do think . . . is that we need to get something on the books. I mean, look how long it took. . . . I filed the bill in February, and we're here December 3rd." LA222. Some representatives expressed concerns that the new bill protected the public less than H.B. 4075 did. LA217–18, LA223–24. Addressing concerns about the new bill's reduced insurance requirements, Representative Zalewski asked, "[W]hy is doing nothing better than taking what some would consider to be half a loaf?" LA222. After debate, and on the last day of the legislative session, the Committee voted in favor of the amendment. LA223–24.

The same day, the House amended S.B. 2774 with the Act's text, and read and debated the bill. SR149–59, SR162, SR164–65, SR189–207. Representative Zalewski continued as the sponsor. SR161, SR189. He stated: "Senate Bill 2774 represents our attempts to impose a commercial ridesharing Act on Illinois. . . . It's a lighter version of what we passed in the spring . . . . We're doing this because we agreed to do it in the 98th General Assembly. And it's important to protect our constituent's [*sic*] safety and get something on the books as soon as possible." SR189–90. He added, "My feeling is that if we have agreement we should pass a Bill and not risk having this regulatory vacuum in the State of Illinois." SR198; *see also* LA216, LA222–23.

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Representative Zalewski described the bill as the product of negotiations with Uber. SR189. He said he received a text message during the debate indicating that Lyft was "okay" with the bill, later adding, "I'm told Sidecar [another ridesharing company] and Lyft are neutral on the Bill." SR198, SR206. And he stated that bankers and insurance companies had concerns about the bill or opposed it. SR191–92, SR206; *see also* LA215. Throughout the debate, representatives referred to the new bill as part of an ongoing effort to enact ridesharing legislation. SR190–91, SR193, SR195, SR197, SR206.

Representative David Harris spoke in opposition to the bill: "House Bill 4075 did a better job of protecting consumers than this Bill does. It introduced sensible and reasonable regulations that, I think, this Bill is weak on." SR197. He also noted his disagreement with a *Chicago Tribune* editorial that had criticized H.B. 4075 for not sufficiently "promot[ing] innovation," and had praised Governor Quinn's veto. SR196–97. Speaking in support of S.B. 2774, Representative Lou Lang stated: "I certainly preferred the original Bill, but this is a place of compromise." SR206. The debate also included discussion regarding insurance coverage and driver background checks, among other issues. SR199–206.

The House voted 105–7 to pass S.B. 2774. SR165, SR206–07; LA246. The Senate then voted 52–2 to concur in the House's amendment of S.B. 2774, and sent the bill to Governor Quinn, who signed it in January 2015. SR165, SR209–11; LA248.

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Doe's Complaint

In 2018, Doe filed a complaint in the circuit court against McCoy, Lyft, and Sterling, alleging that McCoy sexually assaulted her while he was working as a driver for Lyft and she was his passenger. SR1–2. She alleged that Lyft was directly liable for negligence, negligent hiring, negligent supervision, negligent retention, and fraud; and vicariously liable for assault and battery and false imprisonment. SR17–21.[6] She alleged that McCoy was liable for assault and battery and false imprisonment. SR26–27. And she alleged that Sterling, as Lyft's background check contractor, was liable for negligence for failing to conduct an adequate background check of McCoy. SR27–28.

Lyft's Motion for Partial Dismissal

Lyft moved to dismiss Doe's vicarious liability claims. SR30. It argued that a principal or employer is not vicariously liable for an agent or employee's conduct, including sexual assault, that is outside the scope of the agency or employment. SR31–35. And in further briefing, Lyft argued that section 25(e) prohibits it from being held, like common carriers, to a higher standard of liability for agents' or employees' conduct; that Illinois precedent does not

[6] Doe also alleged the same claims against Defendant Lyft Illinois, Inc. SR21–25. The circuit court granted Lyft's motion to dismiss these claims on the ground that Lyft Illinois is an assumed corporate name used by Lyft, Inc., and not a separate entity. SR269–70; SR274; *see also* SR35–36. The separate claims against Lyft Illinois, Inc., and their dismissal, are not material to the issues in this appeal.

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support holding it to that higher standard; and that section 25(e) is constitutional. SR55–59, SR244–63.

In opposition to the motion, Doe argued that Lyft is a common carrier and therefore liable for McCoy's conduct, and that her reliance on Lyft for her safety made Lyft vicariously liable for McCoy's conduct even if it is not a common carrier. SR43–49, SR81–82. She further argued that section 25(e) is unconstitutional as special legislation and because the General Assembly enacted it without reading it three times. SR64–81. Doe argued that the Act's "legislative history demonstrates" that, in its initial conception as H.B. 4075, it "was originally meant to protect passenger safety, but it was changed at the last moment to protect ridesharing companies." SR66.

The Circuit Court's Partial Dismissal

The circuit court granted Lyft's partial motion to dismiss, and certified two questions for review under Rule 308. SR273–80. The court stated that there was no dispute that Lyft is a TNC, and therefore section 25(e) established that Lyft is not a common carrier. SR275. And the court determined there were rational bases for the General Assembly to classify TNCs differently from common carriers such as taxicabs, including to "promote and enable the growth of TNCs" in Illinois. SR279.

The court went on to certify two questions under Rule 308:

> 1. Does Section 25(e) of the [Act] . . . preclude TNCs, such as Lyft, from otherwise being subject to the highest duty of care under the common law, like that of a common carrier's elevated duty to its passengers?

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> 2. If TNCs are precluded from being subject to a common carrier's elevated duty of care to passengers, is the [Act], including Section 25(e), a constitutional exercise of the legislature's power?

SR280.

The Appellate Court's Opinion

The appellate court granted Doe's Rule 308 application for leave to appeal. In its subsequent opinion, the court held that section 25(e) declared TNCs not to be common carriers, Illinois decisions imposing a higher duty on school buses did not extend to ridesharing companies, and the court could not extend such liability in the face of a contrary statutory declaration. *Doe v. Lyft, Inc.*, 2020 IL App (1st) 191328, ¶¶ 22, 26, 27.

The court further held that section 25(e) was not unconstitutional special legislation. *Id.*, ¶¶ 32–50. Specifically, it concluded that "the General Assembly could rationally find that the different business model and technology employed by the ridesharing industry in delivering its services warrants the differing regulatory treatment." *Id.*, ¶ 37. The court noted TNCs' "extensive reliance on large networks of non-professional, part-time drivers" and "the unique safety features enabled by TNCs' software technology and method of service" as real and substantial differences that "justify exempting them, but not traditional taxicabs, from common carrier status." *Id.*, ¶ 41. The court determined that the Act's various provisions, including section 25(e), "balanced the competing aims of ensuring the safety of TNC passengers and creating a regulatory environment that would allow the

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then-nascent ridesharing industry to flourish in Illinois, bringing added competition and innovation to the transportation services market." *Id.*, ¶ 43. In particular, "the General Assembly could reasonably conclude that exempting TNCs from common carrier liability would facilitate their growth," but holding them "to the common carrier standard of vicarious liability . . . would unduly burden an emerging industry that relies to a large extent on nonprofessional and part-time drivers to increase the supply of on-demand transportation services available to the public," and that their "safety features . . . lessen the need to impose on TNCs the same degree of vicarious liability applicable to common carriers such as taxicabs." *Id.*, ¶ 45.

The court also held that the enrolled bill doctrine foreclosed Doe's challenge to section 25(e) based on the three readings rule. *Id.*, ¶¶ 51–55. The court noted that the doctrine flows from the Illinois Constitution, and creates a conclusive presumption that a bill certified by the Speaker of the House of Representatives and the President of the Senate, as occurred here, has met all procedural requirements for passage. *Id.* at ¶ 54.

Justice Gordon dissented in part. He agreed with the majority's answer to the first certified question. *Id.*, ¶ 60. But in his view, exempting TNCs from common carrier status violated the special legislation clause. *Id.*, ¶¶ 64–72.

Doe filed a petition for leave to appeal, which this Court allowed. The Attorney General filed a motion to intervene, which this Court also allowed.

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ARGUMENT

I. Section 25(e) bars vicarious liability claims against TNCs for sexual assaults by their drivers.

This Court should uphold the appellate court's determination that section 25(e) precludes TNCs from being held to a higher, common carrier-like duty of care. *See Doe v. Lyft*, 2020 IL App (1st) 191328, ¶¶ 17–31.

In the interests of judicial economy and avoiding repetitive briefing, the Attorney General adopts Lyft's argument regarding this issue (the first certified question).[7]

II. Section 25(e) is valid under the Illinois Constitution.

This Court also should uphold the appellate court's determination that section 25(e) of the Code is valid under the Illinois Constitution's special legislation clause and three readings rule. *See* Ill. Const. art. IV, §§ 8(d), 13. The appellate court rightly held that section 25(e) has a rational basis and should not be overturned on procedural or technical grounds. *See Doe v. Lyft*, 2020 IL App (1st) 191328, ¶¶ 32–55.

A certified question under Rule 308 is reviewed *de novo*, *Wilson v. Edward Hosp.*, 2012 IL 112898, ¶ 8, as is the constitutionality of a statute, *Piccioli v. Bd. of Trs. of Teachers' Ret. Sys.*, 2019 IL 122905, ¶ 17. "Statutes carry a strong presumption of constitutionality." *Id.* This Court has a "duty

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[7] That said, the Attorney General takes no position in this appeal regarding whether rideshare companies would qualify as common carriers in the absence of section 25(e). *See* Lyft Br. 20 n.14.

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to uphold the constitutionality of a statute if reasonably possible." *Id.* Doe bears the burden of establishing any constitutional infirmity in section 25(e). *See id.*

A. Section 25(e) is not unconstitutional special legislation.

Section 25(e) is valid under the special legislation clause because it has a rational basis. Decades of precedent establish that the rational basis test governs special legislation challenges. Section 25(e) satisfies that test because it is rationally related to the legitimate purpose of creating a new regulatory framework for ridesharing companies that both protects the public and encourages the growth of the then-new ridesharing industry.

1. Doe's special legislation challenge is decided under the rational basis test; a stricter standard would be contrary to precedent and the separation of powers.

The Illinois Constitution provides: "The General Assembly shall pass no special or local law when a general law is or can be made applicable." Ill. Const. art. IV, § 13. "The clause prevents the legislature from making classifications that arbitrarily discriminate in favor of a select group." *Piccioli*, 2019 IL 122905, ¶ 18; *see also Moline Sch. Dist. No. 40 Bd. of Educ. v. Quinn*, 2016 IL 119704, ¶ 18 (special legislation clause guards against "arbitrary legislative classifications that discriminate in favor of a select group without a sound, reasonable basis").

Where fundamental rights are not involved, this Court reviews special legislation challenges with a "limited and generally deferential" approach.

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Burger v. Lutheran Gen. Hosp., 198 Ill. 2d 21, 60 (2001). The Court's review "is limited to determining whether the challenged legislation is constitutional, and not whether it is wise." *Best v. Taylor Mach. Works*, 179 Ill. 2d 367, 390 (1997). A law being "ill-conceived does not create a constitutional problem for the courts to fix." *Piccioli*, 2019 IL 122905, ¶ 20. "[W]hether a statute is wise and whether it is the best means to achieve the desired result are matters for the legislature, not the courts." *Moline Sch. Dist. No. 40*, 2016 IL 119704, ¶ 28.

Instead of reviewing the legislature's policy judgments, the Court makes a twofold inquiry when considering a special legislation challenge. *Big Sky Excavating, Inc. v. Ill. Bell Tel. Co.*, 217 Ill. 2d 221, 235 (2005). First, the Court considers whether the law favors "a select group." *Id.* Second, if it does, the Court then assesses whether the statutory classification is arbitrary. *Id.* If no fundamental right is at stake, then the law comports with the special legislation clause as long as it is supported by a rational basis. *Id.* at 237–38.

In this appeal, it is undisputed that section 25(e) treats TNCs differently from those transportation enterprises that are common carriers. And Doe does not contend that a fundamental right is at stake. *See* Doe Br. 37. So, the only question for the purposes of Doe's special legislation challenge is whether section 25(e) has a rational basis. The rational basis test, similar to the analysis in an equal protection challenge, "asks whether the statutory classification is rationally related to a legitimate state interest." *Moline Sch.*

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Dist. No. 40, 2016 IL 119704, ¶ 24. When applying the rational basis test, the General Assembly's enactment of a statute is "not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data." *Big Sky Excavating*, 217 Ill. 2d at 240; *see also Piccioli*, 2019 IL 122905, ¶ 20 (courts need "not engage in courtroom fact finding" (cleaned up)). "Under the rational basis test, *the court may hypothesize reasons for the legislation, even if the reasoning advanced did not motivate the legislative action*." *Piccioli*, 2019 IL 122905, ¶ 20 (original italics). Consequently, "any set of facts" that a party can reasonably conceive is sufficient to justify the classification. *Big Sky Excavating*, 217 Ill. 2d at 238. In other words, if "a rational reason for the classification in the statute is conceivable, it is not special legislation." *Piccioli*, 2019 IL 122905, ¶ 23. This method of review is rooted in the separation of powers. "[W]e never require a legislature to articulate its reasons for enacting a statute" because that would undermine the legislative branch's "rightful independence and its ability to function." *FCC v. Beach Commc'ns*, 508 U.S. 307, 315 (1993).

In addition, when applying the rational basis test, "a statutory classification requires '[n]either perfection nor mathematical nicety.'" *Piccioli*, 2019 IL 122905, ¶ 23 (quoting *Maddux v. Blagojevich*, 233 Ill. 2d 508, 547 (2009)). "[A] statute is not fatally infirm merely because it may be somewhat underinclusive or overinclusive." *People v. Rodriguez*, 2019 IL App (1st) 151938-B, ¶ 32 (cleaned up). And it need not solve every conceivable problem

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when it seeks to address a subset of problems. *Chi. Nat'l League Ball Club, Inc. v. Thompson*, 108 Ill. 2d 357, 367 (1985). Rather, the General Assembly may solve problems one step at a time. *People v. Anderson*, 148 Ill. 2d 15, 31 (1992); *Crusius ex rel. Taxpayers of State of Ill. v. Ill. Gaming Bd.* (*Crusius I*), 348 Ill. App. 3d 44, 59 (1st Dist. 2004).

Doe asks this Court to discard the rational basis test in favor of a new rule: If a statute is to survive a special legislation challenge, it must be justified by a legislative purpose that is "evidenced by the text of the statute and its legislative history." Doe Br. 41. But this Court has long affirmed the rational basis test for special legislation. *See, e.g., Piccioli*, 2019 IL 122905, ¶ 20 (majority opinion), ¶ 55 ("We have noted repeatedly that the second step of the special legislation analysis tracks the analysis for equal protection challenges.") (Theis, J., dissenting); *Schuman v. Chi. Transit Auth.*, 407 Ill. 313, 318 (1950) ("Unless the legislative action is clearly unreasonable and there is no legitimate reason for the law which would not require with equal force its extension to others whom it leaves untouched, the courts do not interfere with the legislative judgment."); *Dawson Soap Co. v. City of Chicago*, 234 Ill. 314, 318 (1908) (rejecting special legislation challenge because classification had a "rational basis"). Notwithstanding this longstanding precedent, Doe asks why our Constitution has separate special legislation and equal protection provisions, if both are enforced by the same standard. Doe Br. 40–41. But this Court has explained that the two provisions exist in our

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current Constitution because of the historical interpretation of, and commentary on, the 1870 Constitution — not out of any intention to make the special legislation clause more strict than the equal protection clause. *Anderson v. Wagner*, 79 Ill. 2d 295, 313–16 (1979).

And as noted, courts may hypothesize a classification's purposes, *Piccioli*, 2019 IL 122905, ¶ 20, and will uphold a statutory classification "[i]f any set of facts can be reasonably conceived" to justify it, *Big Sky Excavating*, 217 Ill. 2d at 238. This is not, as Doe suggests, a recent development. *See* Doe Br. 38–39. For instance, in *Schuman*, 407 Ill. at 318–21; *Condon v. City of Chicago*, 249 Ill. 596, 600–01 (1911); and *Dawson Soap*, 234 Ill. at 315–20, this Court rejected special legislation challenges without mentioning any statutory text or legislative history expressing the purpose of the statutes at issue, and instead simply described the circumstances that could conceivably justify the statutes.

Doe also cites a number of cases that endorse rational basis review, refuting her argument instead of supporting it. *See* Doe Br. 39–40 (citing *Allen v. Woodfield Chevrolet, Inc.*, 208 Ill. 2d 12, 23 (2003) ("If this court can reasonably conceive of circumstances that justify distinguishing the class that the statute benefits from the class outside its scope, the classification will be deemed constitutional."); *Unzicker v. Kraft Food Ingredients Corp.*, 203 Ill. 2d 64, 86 (2002) (same); *In re Estate of Jolliff*, 199 Ill. 2d 510, 520 (2002) (same); *Best v. Taylor Mach. Works*, 179 Ill. 2d 367, 393 (1997) (classification valid if it

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"is rationally related to a legitimate State interest"); *Bridgewater v. Hotz*, 51 Ill. 2d 103, 111 (1972) (classification valid "[i]f there is a reasonable basis for differentiating between the class to which the law is applicable and the class to which it is not")). Likewise undermining her argument, Doe relies on cases that hypothesize statutes' purposes, instead of referencing specific statutory text or legislative history regarding those purposes. *See* Doe Br. at 39–40 (citing *Bridgewater*, 51 Ill. 2d at 112; *Grasse v. Dealer's Transp. Co.*, 412 Ill. 179, 190, 195 (1952)). To be sure, Doe also cites cases that drew statutes' purposes from legislative history, but she is mistaken when she asserts that those cases departed from the rational basis test. *See* Doe Br. 39–40 (citing *Allen*, 208 Ill. 2d at 25–28; *Unzicker*, 203 Ill. 2d at 86; *Jolliff*, 199 Ill. 2d at 519). Rather, as noted, those cases confirm that a statute is constitutional if it is rationally related to any conceivable legitimate purpose. *Allen*, 208 Ill. 2d at 23; *Unzicker*, 203 Ill. 2d at 86; *Jolliff*, 199 Ill. 2d at 520. Legislative history can support a statute's conceivable purpose, but resort to legislative history is not always necessary. *See*, *e.g.*, *Unzicker*, 203 Ill. 2d at 86 (identifying "conceivable rational basis" for classification from statement in legislative debates where "[t]he reason for the classification [was] not apparent from the face of the statute"). In other words, whether the purpose of a given statute is found in its text or legislative history (*e.g.*, *id.* at 86–88) or hypothesized from conceivable circumstances (*e.g.*, *Piccioli*, 2019 IL 122905, ¶¶ 22–23), this Court has for decades applied the same rational basis test.

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Leaving precedent aside, Doe's approach would yield paradoxical and absurd results. Statutes that have identical effects on identically defined classes could be upheld as constitutionally valid, or struck down as unconstitutional arbitrary favoritism, depending on whether legislators expressed the right words regarding their purpose in the statutory text or during the legislative process. Indeed, any statutory classification at all could be struck down if not accompanied by a sufficient statement of purpose. Such an approach would be inconsistent with the judiciary's limited and deferential approach to special legislation challenges, and would violate the separation of powers. *See Burger*, 198 Ill. 2d at 60; *Beach Commc'ns*, 508 U.S. at 315 ("we never require a legislature to articulate its reasons for enacting a statute").

In short, Doe's special legislation challenge is subject to the rational basis test. As discussed next, section 25(e) satisfies that test because it is rationally related to the General Assembly's goals of creating a new regulatory framework for ridesharing companies and allowing that industry to grow — whether evaluated based on the legislative history or any conceivable reasons.

2. The legislative purposes were to create a new regulatory framework for the ridesharing industry, protect the public, and allow the industry to grow.

The circuit and appellate courts here correctly determined that section 25(e) has a rational basis. *See* SR279; *Doe v. Lyft*, 2020 IL App (1st) 191328, ¶ 37. This Court should affirm that conclusion as long as any "rational reason for the classification in the statute is conceivable." *Piccioli*, 2019 IL 122905,

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¶ 23; *see also Big Sky Excavating*, 217 Ill. 2d at 238 (any reasonably conceivable set of facts is sufficient to justify statutory classification).

As discussed, courts may look to a statute's text and drafting history to discern the reason or reasons for a statutory classification, or even hypothesize those reasons from the surrounding circumstances. Here, the fact that the Act's provisions, including section 25(e), define TNCs separately from other transportation services, impose safety and insurance standards on them, and limit their regulatory burden, as well as the fact that ridesharing companies were previously unregulated, show that the General Assembly's purposes were to create a new regulatory framework for the ridesharing industry, to protect the public, and to allow the then-new industry to grow without excessive regulation. *See* 625 ILCS 57/5–30 (2018); *Moline Sch. Dist. No. 40*, 2016 IL 119704, ¶ 27 (encouraging business growth is "unquestionably" a legitimate state interest).

And even if such hypothesizing were forbidden, the Act's legislative history confirms these same purposes. *See* SR112, SR189–90, SR198; LA64 ("we want to see them grow in Illinois"), LA70, LA76, LA164, LA216, LA222–23. After Governor Quinn vetoed H.B. 4075, the General Assembly's first attempt to enact ridesharing legislation, because it would "stifle innovation," SR143, the legislature took up a "lighter version," SR189, which became the Act.

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Doe asserts that the Act's "only stated purpose" was passenger safety. Doe Br. 54; *see also id.* at 43–44. But "[l]egislation often has multiple purposes whose furtherance involves balancing and compromise by the legislature. For a provision in a law to pass the rational basis test, it does not have to promote all of the law's disparate and potentially conflicting objectives." *Crusius v. Ill. Gaming Bd.* (*Crusius II*), 216 Ill. 2d 315, 329 (2005).

This describes the Act exactly. The legislative process was a "delicate balance . . . between regulation and allowing this entrepreneurial enterprise to flourish." LA164. Ultimately, the Act came from "a place of compromise." SR206. Instead of "doing nothing" and leaving ridesharing companies unregulated, the General Assembly accepted "what some would consider to be half a loaf." LA222. Industry groups and interested parties weighed in on both sides throughout the process. SR115–16, SR189, SR191–92, SR198, SR206; LA65–67, LA107–10, LA215. Notably, one legislator who supported H.B. 4075 found the reduced level of regulation in the Act insufficient, and voted against it. SR196–97; LA246; House Journal (April 10, 2014), *supra*, p. 74. Several other legislators who opposed H.B. 4075 because of concern about overregulation voted in favor of the Act. SR114–15, SR121; LA162–63, LA246, LA248; House Journal (April 10, 2014), *supra*, p. 74; Senate Journal (May 15, 2014), *supra*, p. 49. And Governor Quinn, who vetoed H.B. 4075 so as not to "stifle innovation," signed the Act. SR143, SR165.

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Not only can this "balancing and compromise by the legislature," *Crusius II*, 216 Ill. 2d at 329, be discerned from the Act itself, it also is apparent from the full history of the General Assembly's effort to enact a ridesharing law, including H.B. 4075 and Governor Quinn's veto of that bill. "For the purpose of passing upon the construction, validity, or constitutionality of a statute the court . . . may take judicial notice of and consider the history of the legislation and the surrounding facts and circumstances in connection therewith." *Scofield v. Bd. of Ed. of Cmty. Consol. Sch. Dist. No. 181*, 411 Ill. 11, 16 (1952) (cleaned up). The legislators themselves recognized that this was an ongoing effort. SR190–91, SR193, SR195, SR197, SR206; LA217–18, LA222 ("I filed the bill in February, and we're here December 3rd."). It would be absurd to pretend that the history of H.B. 4075 is not part of "the surrounding facts and circumstances" connected to the Act's passage. *Scofield*, 411 Ill. at 16; *see also Steller v. Miles*, 17 Ill. App. 2d 435, 440, 443 (1958) ("the history of legislation on the particular subject involved" is relevant to legislative intent; considering vetoed bill and veto message from two years before statute at issue).

In the circuit court, Doe correctly described the effort to pass H.B. 4075 as part of the Act's history. *See* SR66–67. Her contrary argument in this Court is unsupported by legal authority and fails to recognize the legislative record documenting the year-long effort to enact legislation regulating ridesharing companies. *See* Doe Br. 45–46. But even if her new argument

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were correct, legislators' remarks about S.B. 2774 alone establish that it was intended as a compromise to create a new regulatory framework that would protect the public while promoting innovation and not overregulating. *See* SR189–90, SR196–98, SR206; LA216, LA222–23.

3. Section 25(e) is rationally related to the legitimate legislative purposes, so it is not unconstitutional special legislation.

In section 25(e), the General Assembly decided that TNCs should not be subject to the regulatory frameworks of other types of transportation companies. This is rationally related to creating a new regulatory framework for ridesharing companies, and encouraging their growth by imposing a level of regulation that the General Assembly considered appropriate and not excessive. *See Big Sky Excavating*, 217 Ill. 2d at 238–39 (upholding legislature's classification of disputed services as "competitive" rather than "noncompetitive" based on legislative determination that "'the economic burdens of regulation should be reduced to the extent possible consistent with the furtherance of market competition and protection of the public interest'").

Doe argues that the General Assembly had no rational basis for making TNCs not common carriers while taxicabs are. Doe Br. 46–55. But this analysis must start with the full picture: TNCs already were not regulated like taxicabs, and the General Assembly acted out of concern that TNCs were unregulated in Illinois. SR112, SR189–90, SR198; LA64, LA70, LA76, LA216, LA222–23; *see also Ill. Transp. Trade Ass'n v. City of Chi.*, 839 F.3d 594, 596

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(7th Cir. 2016) (until 2014 rideshare companies were not regulated at all in Illinois). Section 25(e) declared TNCs not to be common carriers as part of a new regulatory framework that also imposed new requirements on TNCs, including insurance and background checks. *See* 625 ILCS 57/10, 15 (2018); *Fireside Chrysler-Plymouth, Mazda, Inc. v. Edgar*, 102 Ill. 2d 1, 6 (1984) (rejecting special legislation challenge based on "legislative purpose to regulate certain aspects of the business of selling automobiles in a manner different from other retail enterprises"). This is how the legislature "balanc[ed] and compromise[d]" between the Act's "multiple purposes." *Crusius II*, 216 Ill. 2d at 329. Section 25(e) is not unconstitutional just because it does not promote all of the Act's "disparate and potentially conflicting objectives," *id.*, or may be underinclusive or overinclusive, *see Rodriguez*, 2019 IL App (1st) 151938-B, ¶ 32, or does not solve every problem, *see Chi. Nat'l League Ball Club*, 108 Ill. 2d at 367. Dissenting Justice Gordon concluded that part-time drivers need more safety regulation, not less. *Doe v. Lyft*, 2020 IL App (1st) 191328, ¶ 69. But that would have impeded the General Assembly's legitimate goal of promoting the growth of this new industry. Whether the General Assembly wisely balanced conflicting purposes is up to it, not the courts. *See Moline Sch. Dist. No. 40*, 2016 IL 119704, ¶ 28.

Besides, there are reasonably conceivable substantial differences between TNCs and taxicabs that justify treating them differently. As the appellate court concluded, "the General Assembly could rationally find that

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the different business model and technology employed by the ridesharing industry in delivering its services warrants the differing regulatory treatment." *Doe v. Lyft*, 2020 IL App (1st) 191328, ¶ 37. For example, Representative Davis explained that ridesharing companies serve passengers in areas that taxicabs did not. SR121. And Senator Murphy described how ridesharing companies presented additional safety measures: "[W]hen you check on UberX, you get a picture of the driver; you have their name; and when you ride gets dropped off, you get an email confirming that." LA 162–63; *see also* LA71 (legislative committee testimony by Lyft representative regarding ridesharing safety measures and need for reduced regulation so that enough part-time, non-professional drivers would opt in to ridesharing business model). TNCs' safety features, and their ability to achieve wider service by using part-time drivers, are reasonably conceivable bases for the General Assembly to declare them not common carriers. Doe disagrees with the legislators' safety assessments, *see* Doe Br. 51–54, but the General Assembly may frame legislation based on "rational speculation," *Big Sky Excavating*, 217 Ill. 2d at 240. Moreover, for these same reasons, the Seventh Circuit upheld different regulatory treatment for TNCs and taxicabs in a Chicago ordinance. *Ill. Transp. Trade Ass'n*, 839 F.3d at 598; *see also Newark Cab Ass'n v. City of Newark*, 901 F.3d 146, 157 (3d Cir. 2018) ("It is rational for the City to determine that customers require greater protections before accepting a ride from a taxi that they hail on the street than before accepting a

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ride from a TNC where they are given the relevant information in advance."); *Progressive Credit Union v. City of N.Y.*, 889 F.3d 40, 50–51 (2d Cir. 2018) (different circumstances, including different safety risks, provided rational basis for regulating taxicabs and rideshares differently).

Doe urges this Court to disregard *Illinois Transportation Trade Association* because that case did not involve common carrier status. Doe Br. 49–52. But TNCs' different safety features and business model relate to the Act's legitimate goals of public safety and allowing a new industry to grow, and section 25(e) promotes the latter goal. Section 25(e) is not unconstitutional simply because it limits some transportation providers' liability but not others. *See Jasper v. Chi. Nat'l League Ball Club, Inc.*, 309 Ill. App. 3d 124, 128 (1999) (General Assembly could limit baseball teams' liability for stray balls while not changing liability of golf courses and other sports venues).

Moreover, not all passenger transportation services in Illinois are common carriers. In *Browne v. SCR Medical Transportation Services, Inc.*, 356 Ill. App. 3d 642, 647 (1st Dist. 2005), for example, a paratransit service for persons with disabilities did not owe a heightened duty of care to a passenger who was sexually assaulted by a driver. Considering that the common law does not allow vulnerable passengers to sue all types of transportation services for their agents' criminal acts, it would be strange to prohibit the General Assembly from determining that the public interest is served by classifying a particular type of transportation service as not a common carrier.

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Doe relies on cases that do not apply here because they involved arbitrary classifications that did not rationally relate to legitimate purposes. *See* Doe Br. 46, 55. In *Allen*, the statutory amendments at issue did not "address[ ] the problem of attorney abuse perceived by the legislature," were based on a classification (vehicle dealers) that was "indistinguishable from other retailers," and could not "reasonably be deemed part of the legislative scheme for regulating the business of selling automobiles." 208 Ill. 2d at 24, 27–31. In *Best*, the court affirmed that the legislature may "enact changes to the common law" if they are "rationally related to a legitimate government interest," but the damages limitation at issue was "disconnected from the stated legislative purposes of providing rationality and consistency to jury verdicts." 179 Ill. 2d at 402, 408. In *Wright v. Central Du Page Hospital Association*, 63 Ill. 2d 313, 330 (1976), limiting damages in only one type of tort action was arbitrary. In *Grace v. Howlett*, 51 Ill. 2d 478, 487 (1972), recovery by victims of car accidents for personal injuries was arbitrarily conditioned on whether the negligent driver was using his or her vehicle for commercial or private purposes, and thus was unrelated to the identified problems with the system of compensating car accident victims. In *Grasse*, the workers compensation provisions at issue bore no "reasonable relation to the statutory objective of affording employees scheduled payments in proportion to disability and loss of use sustained in industrial accidents," and "operate[d] to defeat the . . . second objective of affording a remedy to employers who have

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paid compensation to their employees injured by third party tort-feasors." 412 Ill. at 197–98.

In fact, none of these cases involved, as here, a new statutory scheme for a previously unregulated industry, imposing some regulatory burdens while reducing others.

Doe also argues that section 25(e) should be deemed invalid based on its effect on TNC passengers. Doe Br. 55. But the rational basis test focuses on the differences between the regulated entities (TNCs) and other similarly situated entities (taxicabs, according to Doe's argument) — not differences among other parties (*e.g.*, passengers). *See Big Sky Excavating*, 217 Ill. 2d at 237 ("Plaintiffs' arguments focus instead on the harm consumers would suffer under the new law. Consumers, however, are not similarly situated to the telecommunications carriers from which they purchase services. Accordingly, their harm is not relevant to the question of the law's discriminatory effect."). And, in any event, classifications that affect similar plaintiffs differently are valid as long as they have a rational basis. *See, e.g., Bilyk v. Chi. Transit Auth.*, 125 Ill. 2d 230, 237–38 (1988); *Jasper*, 309 Ill. App. 3d at 127–128.

Ultimately, then, Doe's argument rests on the proposition that businesses must be vicariously liable for sexual assaults by their employees. *See* Doe Br. 42 (section 25(e) cannot survive rational basis review because "the State can have no valid reason for adopting a law that incentivizes businesses to put their profits ahead of the physical safety of their patrons — especially in

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cases of sexual violence"). This is incorrect. There is no constitutional requirement that businesses be held liable for sexual assaults committed by their employees. Rather, the common law addresses the circumstances in which an employer may or may not be held liable for employees' sexual assaults. And, even if Lyft would be vicariously liable as a common carrier absent section 25(e), the General Assembly may alter the common law when rationally related to a legitimate government purpose. *Grasse* affirmed that "no person has any vested right in any rule of law entitling him to insist that it shall remain unchanged for his benefit," and "no constitutional right is necessarily violated by changing or abolishing a remedy available at common law, for such change may be predicated upon a valid exercise of the police power in order to promote the public comfort, health, safety and welfare." 412 Ill. at 190.

B. The enrolled bill doctrine bars Doe's claim that the General Assembly did not properly enact section 25(e).

Doe also contends that section 25(e) is invalid on the ground that its passage violated the three readings rule, a procedural requirement in the Illinois Constitution. *See* Ill. Const. art. IV, § 8(d) ("A bill shall be read by title on three different days in each house."); Doe Br. 57–60. The appellate court correctly rejected this contention. *See Doe v. Lyft*, 2020 IL App (1st) 191328, ¶¶ 51–55.

Illinois follows the enrolled bill doctrine. *Friends of the Parks v. Chi. Park Dist.*, 203 Ill. 2d 312, 328 (2003). The Illinois Constitution requires the

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Speaker of the House and the President of the Senate to "sign each bill that passes both houses to certify that the procedural requirements for passage have been met." Ill. Const. art. IV, § 8(d). This provision gives rise to the enrolled bill doctrine, under which the Speaker and President's certifications "constitute conclusive proof that all constitutionally required procedures have been followed in the enactment of the bill." *People v. Dunigan*, 165 Ill. 2d 235, 254 (1995). The doctrine bars the judiciary from invalidating a statute on procedural or technical grounds. *Id.* at 253–54; *Geja's Cafe v. Metro. Pier & Exposition Auth.*, 153 Ill. 2d 239, 259 (1992) (enrolled bill doctrine's purpose is "to avoid judicial nullification of statutes on purely procedural grounds").

Doe does not dispute that the General Assembly's leadership certified the Act in compliance with Article 4, section 8(d) of the Illinois Constitution. Rather, she claims only that the procedural three readings requirement was not met, and thus the bill does not meet the Constitution's technical requirements. Doe Br. 8, 58. As noted, the enrolled bill doctrine bars this claim. *See Dunigan*, 165 Ill. 2d at 254.

So, Doe urges this Court to abandon the enrolled bill doctrine. Doe Br. 59–60. But the doctrine is embedded in the purpose and text of the Constitution itself. The Constitutional Convention's Committee on the Legislature "'proposed that Illinois adopt the "enrolled bill" rule.'" *Dunigan*,

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165 Ill. 2d at 253 (quoting 6 Record of Proceedings, Sixth Illinois Constitutional Convention 1386).[8] The Committee spelled out:

> "The 'enrolled bill' rule would not permit a challenge to a bill on procedural or technical grounds regarding the manner of passage if the bill showed on its face that it was properly passed. Signatures by the presiding officers would, of course, constitute proof that proper procedures were followed."

Id. (quoting 6 Proceedings 1386–87). This was a deliberate departure from the journal entry rule under the 1870 Constitution. *Id.* As the Committee explained, the journal entry rule allowed "'a statute duely [*sic*] passed by the General Assembly and signed by the Governor [to] be attacked in the courts, not necessarily on its merits, but on some procedural error or technicality found in the legislative process. The "journal entry" rule, as a result, leads to complex litigation over procedures and technicalities.'" *Id.* (quoting 6 Proceedings 1386); *see also Giebelhausen v. Daley*, 407 Ill. 25, 46–48 (1950) (applying three readings rule under 1870 Constitution to invalidate statute). (Doe and the CAASE amici cite *Giebelhausen* in support of their arguments that section 25(e) is unconstitutional, but fail to mention that it was decided under a doctrine that our present Constitution deliberately discarded. *See* Doe Br. 57–58; CAASE Br. 33–34.) To accomplish this change, the Committee added the language now found in the Constitution: "The method

[8] The relevant Constitutional Convention proceedings are available at https://babel.hathitrust.org/cgi/pt?id=uiug.30112071753062&view=1up&seq=1400.

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recommended for adopting the 'enrolled bill' rule is to add the following phrase to the third paragraph of section 8 c: 'to certify that the procedural requirements for passage have been met.'" 6 Proceedings 1387; *see also* Ill. Const. art. IV, § 8(d).

As a result, the enrolled bill doctrine exemplifies and upholds the separation of powers principles in the Illinois Constitution. *See Friends of the Parks*, 203 Ill. 2d at 329. And the doctrine is consistent with broader principles regarding nonjusticiable "political questions," that is, "issues that would require a court to adjudicate in a manner violative of the separation of powers doctrine." *Kluk v. Lang*, 125 Ill. 2d 306, 321–22 (1988). Illinois courts have adopted the United States Supreme Court's reasoning in *Baker v. Carr*, 369 U.S. 186 (1962). *Cent. Austin Neighborhood Ass'n v. City of Chi.*, 2013 IL App (1st) 123041, ¶ 18 (citing *Kluk*, 125 Ill. 2d at 322). *Baker* explained that political questions may arise in various circumstances, and first among them is "a textually demonstrable constitutional commitment of the issue to a coordinate political department." 369 U.S. at 217. That is precisely what article IV, section 8(d) of the Constitution was intended to accomplish.

Other States' examples do not support Illinois abandoning the enrolled bill doctrine, as the CAASE amici contend. *See* CAASE Br. 43–45. They do not cite a single case addressing a constitutional provision that — like Illinois' — intentionally adopts the enrolled bill doctrine. *See* CAASE Br. 43–45 (citing *People ex rel. Manville v. Leddy*, 123 P. 824, 825 (Colo. 1912); *D&W Auto*

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Supply v. Dep't of Revenue, 602 S.W.2d 420, 424–25 (Ky. 1980); *Ridgely v. City of Baltimore*, 87 A. 909, 916 (Md. 1913); *State v. Adams*, 19 S.W.2d 671, 673 (Mo. 1929); *State ex rel. Loseke v. Fricke*, 254 N.W. 409, 411 (Neb. 1934); *Baines v. N.H. Senate President*, 876 A.2d 768, 772 (N.H. 2005); *State ex rel. Sorlie v. Steen*, 212 N.W. 843 (N.D. 1927); *Consumer Party of Pa. v. Commonwealth*, 507 A.2d 323, 333 (Pa. 1986); *Barnsdall Ref. Corp. v. Welsh*, 269 N.W. 853, 859 (S.D. 1936); *Ass'n of Tex. Prof'l Educators v. Kirby*, 788 S.W.2d 827, 829 (Tex. 1990)).[9] The CAASE amici do not explain or even mention this difference between our Constitution and those of the States that they cite. *See* CAASE Br. 43–45.

Nor do the CAASE amici mention the numerous States that follow the enrolled bill doctrine. *See, e.g., Hernandez v. Frohmiller*, 204 P.2d 854, 865 (Ariz. 1949); *Ingersoll v. Rollins Broad. of Del., Inc.*, 269 A.2d 217, 219 (Del. 1970); *Collins v. State*, 750 A.2d 1257, 1262 (Me. 2000) (Calkins, J., concurring) (citing *Weeks v. Smith*, 18 A. 325, 327 (Me. 1889)); *Lander Cnty. v. State*, 2021 Nev. Dist. LEXIS 41, *58–59 (Nev. Dist. Ct., 1st Jud. Dist. Jan. 27, 2021) (citing *State ex rel. Sutherland v. Nye*, 42 P. 866, 867 (Nev. 1895)); *Med. Soc'y of S.C. v. Med. Univ. of S.C.*, 513 S.E.2d 352, 356–57 (S.C. 1999); *Wash. State*

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[9] *State v. Adams*, 19 S.W.2d 671, was decided under Missouri's 1875 constitution. Missouri's present (1945) constitution makes even clearer that, unlike Illinois, it had no intention to adopt the enrolled bill doctrine. *See Brown v. Morris*, 290 S.W.2d 160, 168 (Mo. 1956) (provision that bill be signed by legislative officers before it becomes law is directory only); Mo. Const. art. III, §§ 26, 30, 31.

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Grange v. Locke, 105 P.3d 9, 22–23 (Wash. 2005). Likewise, the United States follows the enrolled bill doctrine, barring claims that a federal statute was not actually passed by the United States Congress. *United States v. Munoz-Flores*, 495 U.S. 385, 409–10 (1990) (Scalia, J., concurring in judgment) ("Mutual regard between the coordinate branches, and the interest of certainty, both demand that official representations regarding . . . matters of internal process be accepted at face value"); *Marshall Field & Co. v. Clark*, 143 U.S. 649, 672 (1892).

Even if the Court were inclined to revisit the enrolled bill doctrine, this is not the right case in which to do so. The General Assembly's passage of the Act did not undermine the three readings rule's purpose, which is to inform legislators of the contents of proposed legislation. *See Giebelhausen*, 407 Ill. at 48. The rule does not require any additional reading when an amendment is "germane to the general subject of the bill as originally introduced." *Id.* at 46–47. The legislative history shows that the proposed regulation of ridesharing companies was thoroughly aired in the General Assembly throughout 2014. Committee discussion of H.B. 4075 even included the issues now in dispute: the heightened obligations of common carriers, and whether ridesharing companies were in that category. *See* SR123; LA73, LA75–76. Thus, if the Act had been introduced as an amendment to H.B. 4075, it would have been germane to the original bill's general subject, and no additional reading would have been required. And although the Act's passage may not have technically

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complied with the rule, that was because of Governor Quinn's veto of the General Assembly's initially approved legislation and the desire to have ridesharing regulation in force by the end of the legislative session — not out of disregard for the rule's purpose. *See* SR189–91, SR193, SR195, SR197, SR206; LA216–18, LA222–23.

The Attorney General is mindful of the Court's concern about the three readings rule. *See Friends of the Parks*, 203 Ill. 2d at 329. But this concern should be considered in light of the full circumstances of the Act's passage, as well as the Constitution's commitment of the issue to a coequal, independent branch of government. *See* Ill. Const. art. IV, § 8(d); *Dunigan*, 165 Ill. 2d at 253. Justice Harlan's views on the importance of this arrangement remain relevant today:

> The respect due to coequal and independent departments requires the judicial department to act upon that assurance, and to accept, as having passed Congress, all bills authenticated in the manner stated; leaving the courts to determine, when the question properly arises, whether the act so authenticated, is in conformity with the Constitution.

Marshall Field, 143 U.S. at 672.

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CONCLUSION

For these reasons, Intervenor-Appellee Kwame Raoul, Attorney General of the State of Illinois, requests that this Court affirm the opinion of the appellate court.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 314(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 9,614 words.

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CERTIFICATE OF FILING AND SERVICE

I certify that on October 15, 2021, I electronically filed the foregoing **Brief of Intervenor-Appellee Kwame Raoul, Attorney General of the State of Illinois** with the Clerk of the Court for the Illinois Supreme Court by using the Odyssey eFileIL system. I further certify that the other participants in this appeal, named below, are registered service contacts on the Odyssey eFileIL system, and thus will be served via the Odyssey eFileIL system.

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Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

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