Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1144
(Representative Keiser)
(Senator Klein)

AN ACT to create and enact chapters 26.1-40.1 and 39-34 of the North Dakota Century Code, relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-40.1 of the North Dakota Century Code is created and enacted as follows:

26.1-40.1-01. Definitions.

As used in this chapter and chapter 39-34, unless the context otherwise requires:

1. "Application off stage" of operation means the time period when the driver is operating the vehicle for personal noncommercial reasons and not engaged in any manner or operation for the transportation network company.

2. "Application on stage" means the time period the driver is logged onto the online-enabled application of a transportation network company and available for hire but not engaged and there is no passenger on board.

3. "Engaged stage" means the time period from the moment a participating driver accepts a ride request on the transportation network company online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the ride is complete, whichever is later.

4. "Participating driver" or "driver" means an individual who:

   a. Receives connections to potential passengers and related services from a transportation network company in exchange for payment or a fee to the transportation network company; and

   b. Uses a personal vehicle to offer or provide prearranged transportation services to a passenger upon connection through an online-enabled application or platform controlled by a transportation network company in return for compensation or payment of a fee.

5. "Passengers on-board stage" means the time period when there are passengers in the vehicle pursuant to the driver's participation in a transportation network company.

6. "Personal injury protection" means basic no-fault benefits as defined under subsection 2 of section 26.1-41-01.

7. "Transportation network company" means a person operating in this state which uses an online-enabled application or platform to connect a passenger with an independent participating driver who provides prearranged transportation services using a personal vehicle. A transportation network company may not be deemed to control, direct, or manage the personal vehicles or participating drivers that connect to the transportation network company online-enabled application or platform, unless agreed to by written contract.

8. "Transportation network company insurance" means an insurance policy that covers a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

26.1-40.1-02. Required disclosures.

1. A transportation network company shall disclose in writing or electronic form to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform and shall advise a participating driver that the driver's personal automobile insurance policy may not provide coverage under the agreement.

2. A transportation network company shall disclose in writing or electronic form to participating drivers, as part of its agreement with those drivers, of when the driver's personal automobile insurance policy may not provide collision or comprehensive coverage, under the agreement.

3. A transportation network company shall provide notice in writing or electronically to the driver instructing the driver to notify the driver's personal automobile insurer of the driver's participation in the transportation network.

26.1-40.1-03. Coverage required when transportation network company application is engaged until completion of ride when the passenger has exited the vehicle.

1. A transportation network company and any participating driver shall maintain transportation network company insurance that provides for the following requirements that apply to transportation network company insurance during the engaged stage and during the passenger on-board stage.

   a. Transportation network company liability insurance is primary and in the amount of one million dollars for death, bodily injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:

      (1) Transportation network company insurance maintained by a participating driver.

      (2) Transportation network company insurance maintained by a transportation network company.

      (3) Any combination of paragraphs 1 and 2.

   b. Transportation network company insurance coverage provided under this section for uninsured motorist coverage must meet the requirements under section 26.1-40-15.2, which is primary coverage.

   c. Transportation network company insurance coverage provided under this section for underinsured motorist coverage must meet the requirements under section 26.1-40-15.3, which is primary coverage.

   d. Transportation network company insurance coverage must provide primary personal injury protection to drivers, passengers, and pedestrians under chapter 26.1-41.

   e. The primary insurer, in the case of insurance coverage provided under subdivision a, has the sole duty to defend and indemnify the insured.

   f. Coverage under a transportation network company insurance policy may neither be dependent on a driver's personal automobile insurance policy carrier first denying a claim nor a personal automobile insurance policy carrier being required to first deny a claim.

g. If transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

26.1-40.1-04. Insurance coverage during the application on stage with no passengers in vehicle.

1. During the application on stage, the transportation network company insurance must include:

   a. Motor vehicle liability coverage that is primary coverage. The coverage must include at least fifty thousand dollars per person and one hundred thousand dollars per incident for death and bodily injury and at least twenty-five thousand dollars for property damage.

   b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary coverage.

   c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary coverage.

   d. Personal injury protection under chapter 26.1-41 which is primary coverage.

2. The requirements for coverage under this section may be satisfied by:

   a. Transportation network company insurance maintained by a participating driver;

   b. Transportation network company insurance maintained by a transportation network company; or

   c. Any combination of subdivisions a and b.

3. The following apply to insurance requirements under this section:

   a. The primary insurer, in the case of insurance coverage provided under subdivision a of subsection 1, has the sole duty to defend and indemnify the insured.

   b. Coverage under a transportation network company insurance policy may neither be dependent on a driver's personal automobile insurance policy carrier first denying a claim nor a personal automobile insurance policy carrier being required to first deny a claim.

   c. If transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

26.1-40.1-05. Automobile insurers.

Insurers that write personal automobile insurance may allow no-fault insurance coverage to be conditional on transportation network company no-fault insurance coverage under sections 26.1-40.1-03 and 26.1-40.1-04.

26.1-40.1-06. Liability of transportation network company beyond required limits.

This chapter does not limit the liability of a transportation network company arising out of an automobile accident involving a participating driver in any action for damages against a transportation network company for an amount above the required insurance coverage.

26.1-40.1-07. Discretionary personal insurance where offered by personal automobile insurer.

A personal automobile insurer may offer an automobile liability insurance policy, or an amendment or endorsement to an existing policy that covers a private passenger vehicle or similar type of vehicle

with a passenger capacity of less than eight persons, including the driver, while used in connection with a transportation network company's online-enabled application or platform.

26.1-40.1-08. Duty to cooperate.

In a claims coverage investigation involving a participating driver, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred involving a participating driver and the precise times that the participating driver logged on and off the transportation network company's online-enabled application or platform.

26.1-40.1-09. Financial responsibility.

Transportation network company insurance that meets the requirements of this chapter is deemed to satisfy the financial responsibility requirements of chapter 39-16.

26.1-40.1-10. Proof of insurance.

A participating driver of a transportation network company shall carry proof of transportation network company insurance coverage at all times during the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver shall provide this insurance coverage information to any other party involved in the accident and to a police officer, upon request.

26.1-40.1-11. Authorized or eligible carrier.

Transportation network company insurance required by this chapter may be placed with an insurer authorized to do business in the state or with a surplus lines insurer eligible under section 26.1-44-03.

SECTION 2. Chapter 39-34 of the North Dakota Century Code is created and enacted as follows:

39-34-01. Agent.

The transportation network company must maintain a registered agent with the secretary of state for service of process in this state.

39-34-02. Fare charged for services.

The transportation network company shall provide passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the transportation network company driver's vehicle.

39-34-03. Transportation driver requirements.

1. Before permitting an individual to act as a transportation network company driver on its digital platform, the transportation network company shall:

   a. Require the individual to submit an application to the transportation network company, which includes information regarding the individual's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the transportation network company;

   b. Conduct, or have a third party conduct, a local and national criminal background check for each applicant that must include:

      (1) Multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation; and

      (2) National sex offender registry database; and

c. Obtain and review a driving history research report for the individual.

2. The transportation network company may not permit an individual to act as a transportation network company driver on its digital platform who:

a. Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including attempting to evade the police, reckless driving, or driving on a suspended or revoked license;

b. Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a felony, a crime involving property damage, theft, an act of violence, or an act of terror;

c. Is a match in the national sex offender registry database;

d. Does not possess a valid driver's license;

e. Does not possess proof of registration for the motor vehicle used to provide transportation network company services;

f. Does not possess proof of automobile liability insurance for the motor vehicle used to provide transportation network company services; or

g. Is not at least twenty-one years of age.

39-34-04. Personally identifiable information.

A transportation network company may not disclose any personally identifiable information of a transportation network company passenger, except pursuant to the publicly disclosed terms of the transportation network company's privacy policy. For any other disclosure not governed by the privacy policy, the transportation network company must obtain the passenger's consent before the company may disclose the passenger's personally identifiable information.

39-34-05. Transportation network company reporting requirements - Legislative management report - Penalty.

1. A transportation network company shall report the following information to the department of transportation on June fifteenth and December fifteenth of each year for the previous six calendar months:

a. A list of political subdivisions in which the transportation network company operates;

b. The number of accidents that were reported to the transportation network company during the passenger on-board stage; and

c. The number and types of traffic violations and any other violations that were reported to the transportation network company during the passenger on-board stage.

2. The department of transportation shall report the information collected from transportation network companies during each biennium to the legislative management.

3. The department of transportation may impose a civil penalty of up to five hundred dollars for the failure of a transportation network company to report as required under this section. A transportation network company with two or more violations of this section may be prohibited by the department of transportation from operating within the state for one hundred eighty days from the date of the department's notification to the transportation network company.

4. All civil penalties collected under this section must be deposited in the state highway fund.

39-34-06. Controlling authority.

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter and chapter 26.1-40.1 and any rules adopted consistent with this chapter and by the insurance commissioner under section 1 of this Act. A political subdivision may not impose a tax on, or require a license for, a transportation network company or a transportation network company driver or subject a transportation network company to the political subdivision's rate, entry, operational, or other requirements. A political subdivision may prohibit a transportation network company from operating without a state permit within the jurisdiction of the political subdivision.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1144 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 70 Nays 22 Absent 2

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at 10:36 A.M. on April 20, 2015.

Approved at 10:12 A.M. on April 22, 2015.

Governor

Filed in this office this 22nd day of April, 2015,

at 2:42 o'clock P.M.

Secretary of State