

Introduced by

Senators Casper, Axness, Oehlke, Sinner

Representatives Beadle, Owens

1 A BILL for an Act to create and enact chapter 39-34 of the North Dakota Century Code, relating
2 to transportation network company services.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 39-34 of the North Dakota Century Code is created and enacted as
5 follows:

6 **39-34-01. Definitions.**

- 7 1. "Transportation network company" means an entity licensed under this chapter and
8 operating in this state that uses a digital network or software application service to
9 connect passengers to transportation network company services provided by
10 transportation network company drivers. A transportation network company is not
11 deemed to own, control, operate, or manage the vehicles used by transportation
12 network company drivers, and is not a taxicab association or a for-hire vehicle owner.
- 13 2. "Transportation network company driver" means an individual who operates a motor
14 vehicle that is:
- 15 (a) Owned, leased, or otherwise authorized for use by the individual;
16 (b) Not a taxicab or for-hire vehicle; and
17 (c) Used to provide transportation network company services.
- 18 3. "Transportation network company services" means transportation of a passenger
19 between points chosen by the passenger and prearranged with a transportation
20 network company driver through the use of a transportation network company digital
21 network or software application. Transportation network company services begin when
22 a transportation network company driver accepts a request for transportation received
23 through the transportation network company's digital network or software application
24 service, continue while the transportation network company driver transports the

1 passenger in the transportation network company driver's vehicle, and end when the
2 passenger exits the transportation network company driver's vehicle. Transportation
3 network company service is not taxicab, for-hire vehicle, or street hail service.

4 **39-34-02. Not other carriers.**

5 Transportation network companies or transportation network company drivers are not
6 common carriers, contract carriers, or motor carriers and do not provide taxicab or for-hire
7 vehicle service.

8 **39-34-03. Transportation network company permit required.**

- 9 1. A person may not operate a transportation network company in this state without first
10 having obtained a permit from the department.
11 2. The department shall issue a permit to each applicant that meets the requirements for
12 a transportation network company in this chapter, and pays an annual permit fee of
13 five thousand dollars to the department.

14 **39-34-04. Agent.**

15 The transportation network company must maintain a registered agent for service of
16 process in this state.

17 **39-34-05. Fare charged for services.**

18 A transportation network company may charge a fare for the services provided to
19 passengers and, if a fare is charged, the transportation network company shall disclose to
20 passengers the fare calculation method on its website or within the software application service.
21 The transportation network company shall provide passengers with the applicable rates being
22 charged and the option to receive an estimated fare before the passenger enters the
23 transportation network company driver's vehicle.

24 **39-34-06. Identification of transportation network company vehicles and drivers.**

25 The transportation network company's software application or website shall display a
26 picture of the transportation network company driver and the license plate number of the motor
27 vehicle utilized for providing the transportation network company service before the passenger
28 enters the transportation network company driver's vehicle.

29 **39-34-07. Electronic receipt.**

30 Within a reasonable period of time following the completion of a trip, a transportation
31 network company shall transmit an electronic receipt to the passenger that lists the origin and

1 destination of the trip, the total time and distance of the trip, and an itemization of the total fare
2 paid, if any.

3 **39-34-08. Transportation network company and transportation network company**
4 **driver insurance requirements.**

5 1. The following automobile liability insurance requirements apply during the time that a
6 transportation network company driver is logged into the transportation network
7 company's digital network and available to receive requests for transportation but is
8 not providing transportation network company services:

9 a. Automobile liability insurance that meets at least the minimum coverage amounts
10 required per section 39-16.1-11, subsection 1 of section 26.1-40-15.2, and
11 subsection 1 of section 26.1-40-15.3; and

12 b. Automobile liability insurance that provides the minimum coverage amounts
13 where required by chapter 26.1-41.

14 c. Automobile liability insurance in the amounts required in subdivision a must be
15 maintained by a transportation network company and provide coverage in the
16 event a participating transportation network company driver's own automobile
17 liability policy excludes coverage according to its policy terms or does not provide
18 coverage of at least the limits required in subdivision a.

19 2. The following automobile liability insurance requirements apply while a transportation
20 network company driver is providing transportation network company services:

21 a. Provides primary automobile liability insurance that recognizes the transportation
22 network company driver's provision of transportation network company services;

23 b. Provides automobile liability insurance of at least one million dollars for death,
24 personal injury, and property damage;

25 c. Provides automobile liability insurance that provides the minimum coverage
26 amounts where required by section 26.1-41-01;

27 d. Provides uninsured and underinsured motorist coverage as required by
28 subsection 1 of section 26.1-40-15.2 and subsection 1 of section 26.1-40-15.3;
29 and

30 e. The coverage requirements of this subsection may be satisfied by any of the
31 following:

1 (1) Automobile liability insurance maintained by the transportation network
2 company driver;

3 (2) Automobile liability insurance maintained by the transportation network
4 company; or

5 (3) Any combination of paragraphs 1 and 2.

6 3. If insurance maintained by a transportation network company driver to fulfill the
7 insurance requirements of this section has lapsed, failed to provide the required
8 coverage, denied a claim for the required coverage or otherwise ceased to exist,
9 insurance maintained by a transportation network company shall provide the coverage
10 required by this section beginning with the first dollar of a claim.

11 4. Insurance required by this section may be placed with an insurer authorized to do
12 business in the state or with a surplus lines insurer eligible under section 26.1-11-03.

13 5. Insurance required by this section satisfies the financial responsibility requirement for
14 a motor vehicle under chapter 39-16.1.

15 **39-34-09. Transportation network company and insurer disclosure requirements.**

16 1. The transportation network company shall disclose in writing to transportation network
17 company drivers the following before they are allowed to accept a request for
18 transportation network company services on the transportation network company's
19 digital network:

20 a. The insurance coverage and limits of liability that the transportation network
21 company provides while the transportation network company driver uses a
22 personal vehicle in connection with a transportation network company's digital
23 network; and

24 b. That the transportation network company driver's own insurance policy may not
25 provide coverage while the transportation network company driver uses a vehicle
26 in connection with a transportation network company's digital network depending
27 on the terms.

28 2. Insurers that write automobile liability insurance in this state may:

29 a. Exclude any and all coverage and the duty to defend afforded under the owner's
30 insurance policy for any loss or injury that occurs while an insured vehicle
31 provides or is available to provide transportation network company services, if the

1 exclusion is expressly set forth in the policy and approved for sale in this state.
2 This right to exclude coverage and the duty to indemnify and defend may apply to
3 any coverage included in an automobile liability insurance policy including:
4 (1) Liability coverage for bodily injury and property damage;
5 (2) Uninsured and underinsured motorist coverage;
6 (3) Medical payments coverage;
7 (4) Comprehensive physical damage coverage;
8 (5) Collision physical damage coverage; and
9 (6) Basic no-fault benefits.

10 3. The insurer must notify an insured after receiving a notice of loss within the time
11 required by section 26.1-04-03, that the insurer has no duty to defend or indemnify any
12 person or organization for liability for a loss that is properly excluded under the terms
13 of the applicable primary or excess insurance policy.

14 4. Insurers that write automobile liability insurance in this state must disclose on its
15 application for insurance, in a prominent place, whether or not the insurance policy
16 provides coverage while an insured vehicle provides or is available to provide
17 transportation network company services. If an automobile liability insurance policy
18 contains an exclusion for transportation network company services, the insurer or its
19 agent must disclose in writing the exact language of the exclusion to the applicant
20 during the application process.

21 5. In a claims coverage investigation, transportation network company's and any insurer
22 providing coverage under section 39-34-08 shall cooperate to facilitate the exchange
23 of information, including the precise times that a transportation network company
24 driver logged on and off of the transportation network company's digital network in the
25 twenty-four hour period immediately preceding the accident and disclose to one
26 another a clear description of the coverage, exclusions, and limits provided under any
27 insurance policy each party issued or maintained.

28 **39-34-10. Zero tolerance for drug or alcohol use.**

29 1. The transportation network company shall implement a zero tolerance policy on the
30 use of drugs or alcohol while a transportation network company driver is providing
31 transportation network company services or is logged into the transportation network

1 company's digital network but is not providing transportation network company
2 services, and shall provide notice of this policy on its website, as well as procedures to
3 report a complaint about a driver with whom a passenger was matched and whom the
4 passenger reasonably suspects was under the influence of drugs or alcohol during the
5 course of the trip.

6 2. Upon receipt of a passenger complaint alleging a violation of the zero tolerance policy,
7 the transportation network company shall immediately suspend the transportation
8 network company driver's access to the transportation network company's digital
9 platform, and shall conduct an investigation into the reported incident. The suspension
10 shall last the duration of the investigation.

11 3. The transportation network company shall maintain records relevant to the
12 enforcement of this requirement for a period of at least two years from the date that a
13 passenger complaint is received by the transportation network company.

14 **39-34-11. Transportation driver requirements.**

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

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

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

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

26 (2) National sex offender registry database; and

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

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

- 1 a. Has had more than three moving violations in the prior three-year period, or one
- 2 major violation in the prior three-year period, including attempting to evade the
- 3 police, reckless driving, or driving on a suspended or revoked license;
- 4 b. Has been convicted, within the past seven years, of driving under the influence of
- 5 drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a
- 6 felony, a crime involving property damage, theft, acts of violence, or acts of terror;
- 7 c. Is a match in the national sex offender registry database;
- 8 d. Does not possess a valid driver's license;
- 9 e. Does not possess proof of registration for the motor vehicle used to provide
- 10 transportation network company services;
- 11 f. Does not possess proof of automobile liability insurance for the motor vehicle
- 12 used to provide transportation network company services; or
- 13 g. Is not at least nineteen years of age.

14 **39-34-12. Vehicle equipment.**

15 The transportation network company shall require that any motor vehicle that a
16 transportation network company driver will use to provide transportation network company
17 services meets the vehicle equipment requirements for personal vehicles in chapter 39-21.

18 **39-34-13. No street hails.**

19 A transportation network company driver shall exclusively accept rides booked through a
20 transportation network company's digital network or software application service and may not
21 solicit or accept street hails.

22 **39-34-14. No cash trips.**

23 The transportation network company shall adopt a policy prohibiting solicitation or
24 acceptance of cash payments from passengers and notify transportation network company
25 drivers of the policy. Transportation network company drivers may not solicit or accept cash
26 payments from passengers. Any payment for transportation network company services must be
27 made only electronically using the transportation network company's digital network or software
28 application.

29 **39-34-15. No discrimination - Accessibility.**

- 30 1. The transportation network company shall adopt a policy of nondiscrimination on the
- 31 basis of destination, race, color, national origin, religious belief or affiliation, sex,

- 1 disability, age, sexual orientation, or gender identity with respect to passengers and
2 potential passengers and notify transportation network company drivers of the policy.
3 2. Transportation network company drivers shall comply with all applicable laws
4 regarding nondiscrimination against passengers or potential passengers on the basis
5 of destination, race, color, national origin, religious belief or affiliation, sex, disability,
6 age, sexual orientation, or gender identity.
7 3. Transportation network company drivers shall comply with all applicable laws relating
8 to accommodation of service animals.
9 4. A transportation network company may not impose additional charges for providing
10 services to persons with physical disabilities because of those disabilities.
11 5. A transportation network company shall provide passengers an opportunity to indicate
12 whether they require a wheelchair-accessible vehicle. If a transportation network
13 company cannot arrange wheelchair-accessible transportation network company
14 service in any instance, it shall direct the passenger to an alternate provider of
15 wheelchair-accessible service, if available.

16 **39-34-16. Records.**

17 A transportation network company shall maintain individual trip records for at least one year
18 from the date each trip was provided and transportation network company driver records at
19 least until the one year anniversary of the date on which a transportation network company
20 driver's activation on the transportation network company digital network has ended.

21 **39-34-17. Personally identifiable information.**

22 A transportation network company may not disclose a passenger's personally identifiable
23 information to a third party unless the passenger consents, disclosure is required by a legal
24 obligation, or disclosure is required to protect or defend the terms of use of the service or to
25 investigate violations of those terms. In addition, a transportation network company may share a
26 passenger's name and telephone number with the transportation network company driver
27 providing transportation network company services to the passenger in order to facilitate correct
28 identification of the passenger by the transportation network company driver, or to facilitate
29 communication between the passenger and the transportation network company driver.

1 **39-34-18. Controlling authority.**

2 Notwithstanding any other provision of law, transportation network companies and
3 transportation network company drivers are governed exclusively by this chapter and any rules
4 adopted by the department consistent with this chapter. A municipality or other local entity may
5 not impose a tax on, or require a license for, a transportation network company or a
6 transportation network company driver or subject a transportation network company to the
7 municipality's or other local entity's rate, entry, operational, or other requirements.