

February 20, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2368

Page 1, line 1, replace "chapter" with "chapters 26.1-40.1 and"

Page 1, after line 3, insert:

**"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 any individual who uses a vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.
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. "Transportation network company" means a person operating in this state which provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.
7. "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.
2. 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:
  - a. Transportation network company insurance maintained by a participating driver.
  - b. Transportation network company insurance maintained by a transportation network company.
  - c. Any combination of subdivisions a and b.
3. Transportation network company insurance coverage provided under this section also provides for uninsured motorist coverage and underinsured motorist coverage in the amount of one million dollars anytime the driver has transportation network company passengers on board.
4. Transportation network company insurance coverage must provide personal injury protection to drivers, passengers, and pedestrians when required under chapter 26.1-41.
5. The primary insurer, in the case of insurance coverage provided under subdivision a, has the sole duty to defend and indemnify the insured.
6. 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.

7. In every instance in which 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 and the coverage is secondary. The coverage must include at least fifty thousand dollars per person and one hundred fifty thousand dollars per incident for death and bodily injury and at least fifty thousand dollars for property damage.
  - b. Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1 and the coverage is secondary.
  - c. Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1 and the coverage is secondary.
  - d. Personal injury protection under chapter 26.1-41 and the coverage is secondary.
2. The requirements for coverage required by this section may be satisfied by any of the following:
  - a. Transportation network company insurance maintained by a participating driver.
  - b. Transportation network company insurance maintained by a transportation network company that provides coverage in the event that a participating driver's insurance policy under subsection a has ceased to exist or has been canceled or in the event the participating driver does not otherwise maintain transportation network company insurance.
  - c. Any combination of subsections a and b.
3. A transportation network company may meet its obligations under this section through a policy obtained by a participating driver pursuant to subsection a or c only if the transportation network company verifies that the policy is maintained by the participating driver and is specifically written to cover the participating driver's use of a vehicle in connection with a transportation network company's digital platform.
4. If the participating driver's vehicle is insured under a personal automobile insurance policy that does not exclude coverage, then such policy must provide primary coverage and an insurance policy maintained by the transportation network company under subdivision c of subsection 2 must provide excess coverage up to at least the limits required by subsection 1.
5. In every instance in which transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this

section has lapsed 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. 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.

**26.1-40.1-06. 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 fewer than nine passengers, including the driver, while used in connection with a transportation network company's online-enabled application or platform.

**26.1-40.1-07. 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.

**26.1-40.1-08. 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.

**26.1-40.1-09. Proof of insurance.**

1. 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.
2. Before the transportation network company driver is permitted to accept a request for transportation network company services on the transportation network company's digital network, a transportation network company driver shall provide a certificate of insurance to any affiliated transportation network company.

**26.1-40.1-10. 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."

Page 1, remove lines 6 through 24

Page 2, remove lines 1 through 13

Page 2, line 14, replace "**39-34-04**" with "**39-34-01**"

Page 2, line 15, after "agent" insert "with the secretary of state"

Page 2, line 17, replace "**39-34-05**" with "**39-34-02**"

Page 2, line 18, remove lines 18 through 20

Page 2, remove lines 24 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 13

Page 6, line 14, replace "**39-34-11**" with "**39-34-03**"

Page 7, line 13, replace "nineteen" with "twenty-one"

Page 7, remove lines 14 through 31

Page 8, remove lines 1 through 15

Page 8, line 16, replace "**39-34-16**" with "**39-34-04**"

Page 8, line 19, replace "one" with "six"

Page 8, line 21, replace "**39-34-17**" with "**39-34-05**"

Page 8, replace lines 22 through 29 with "A transportation network company may not disclose any personally identifiable information of a transportation network company passenger except under a legal obligation or for payment processing. For any other disclosure, the transportation network company must obtain the passenger's written consent on a separate form specifically addressing passenger personal information before the company may disclose the passenger's personally identifiable information."

Page 9, line 1, replace "**39-34-18**" with "**39-34-06**"

Page 9, line 4, replace "municipality or other local entity" with "political subdivision"

Page 9, line 7, replace "municipality's or other local entity's" with "political subdivision's"

Renumber accordingly