

Introduced by

Senators Casper, Axness, Oehlke, Sinner

Representatives Beadle, Owens

1 A BILL for an Act to create and enact ~~chapter~~chapters 26.1-40.1 and 39-34 of the North Dakota
2 Century Code, relating to transportation network company services.

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

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

6 **26.1-40.1-01. Definitions.**

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

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

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

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

18 4. "Participating driver" or "driver" means any individual who uses a vehicle in connection
19 with a transportation network company's online-enabled application or platform to
20 connect with passengers.

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

23 6. "Transportation network company" means a person operating in this state which
24 provides prearranged transportation services for compensation using an

1 online-enabled application or platform to connect passengers with drivers using a
2 personal vehicle.

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

6 **26.1-40.1-02. Required disclosures.**

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

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

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

21 **26.1-40.1-03. Coverage required when transportation network company application is**
22 **engaged until completion of ride when the passenger has exited the vehicle.**

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

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

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

- 1 b. Transportation network company insurance maintained by a transportation
2 network company.
- 3 c. Any combination of subdivisions a and b.
- 4 3. Transportation network company insurance coverage provided under this section also
5 provides for uninsured motorist coverage and underinsured motorist coverage in the
6 amount of one million dollars anytime the driver has transportation network company
7 passengers on board.
- 8 4. Transportation network company insurance coverage must provide personal injury
9 protection to drivers, passengers, and pedestrians when required under chapter
10 26.1-41.
- 11 5. The primary insurer, in the case of insurance coverage provided under subdivision a,
12 has the sole duty to defend and indemnify the insured.
- 13 6. Coverage under a transportation network company insurance policy may neither be
14 dependent on a driver's personal automobile insurance policy carrier first denying a
15 claim nor a personal automobile insurance policy carrier being required to first deny a
16 claim.
- 17 7. In every instance in which transportation network company insurance maintained by a
18 participating driver to fulfill the insurance obligations of this section has excluded
19 coverage according to its policy or ceased to exist, the transportation network
20 company shall provide the coverage required by this section beginning with the first
21 dollar of a claim.
- 22 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
23 **in vehicle.**
- 24 1. During the application on stage, the transportation network company insurance must
25 include:
- 26 a. Motor vehicle liability coverage and the coverage is secondary. The coverage
27 must include at least fifty thousand dollars per person and one hundred fifty
28 thousand dollars per incident for death and bodily injury and at least fifty
29 thousand dollars for property damage.
- 30 b. Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1 and the
31 coverage is secondary.

1 c. Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1 and
2 the coverage is secondary.

3 d. Personal injury protection under chapter 26.1-41 and the coverage is secondary.

4 2. The requirements for coverage required by this section may be satisfied by any of the
5 following:

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

7 b. Transportation network company insurance maintained by a transportation
8 network company that provides coverage in the event that a participating driver's
9 insurance policy under subsection a has ceased to exist or has been canceled or
10 in the event the participating driver does not otherwise maintain transportation
11 network company insurance.

12 c. Any combination of subsections a and b.

13 3. A transportation network company may meet its obligations under this section through
14 a policy obtained by a participating driver pursuant to subsection a or c only if the
15 transportation network company verifies that the policy is maintained by the
16 participating driver and is specifically written to cover the participating driver's use of a
17 vehicle in connection with a transportation network company's digital platform.

18 4. If the participating driver's vehicle is insured under a personal automobile insurance
19 policy that does not exclude coverage, then such policy must provide primary
20 coverage and an insurance policy maintained by the transportation network company
21 under subdivision c of subsection 2 must provide excess coverage up to at least the
22 limits required by subsection 1.

23 5. In every instance in which transportation network company insurance maintained by a
24 participating driver to fulfill the insurance obligations of this section has lapsed or
25 ceased to exist, the transportation network company shall provide the coverage
26 required by this section beginning with the first dollar of a claim.

27 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

1 **26.1-40.1-06. Discretionary personal insurance where offered by personal automobile**
2 **insurer.**

3 A personal automobile insurer may offer an automobile liability insurance policy, or an
4 amendment or endorsement to an existing policy that covers a private passenger vehicle or
5 similar type of vehicle with a passenger capacity of more than eight passengers, including the
6 driver, while used in connection with a transportation network company's online-enabled
7 application or platform.

8 **26.1-40.1-07. Duty to cooperate.**

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

15 **26.1-40.1-08. Financial responsibility.**

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

18 **26.1-40.1-09. Proof of insurance.**

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

25 2. Before the transportation network company driver is permitted to accept a request for
26 transportation network company services on the transportation network company's
27 digital network, a transportation network company driver shall provide a certificate of
28 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.

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

~~**39-34-01. Definitions.**~~

~~1. "Transportation network company" means an entity licensed under this chapter and operating in this state that uses a digital network or software application service to connect passengers to transportation network company services provided by transportation network company drivers. A transportation network company is not deemed to own, control, operate, or manage the vehicles used by transportation network company drivers, and is not a taxicab association or a for-hire vehicle owner.~~

~~2. "Transportation network company driver" means an individual who operates a motor vehicle that is:~~

~~(a) Owned, leased, or otherwise authorized for use by the individual;~~

~~(b) Not a taxicab or for-hire vehicle; and~~

~~(c) Used to provide transportation network company services.~~

~~3. "Transportation network company services" means transportation of a passenger between points chosen by the passenger and prearranged with a transportation network company driver through the use of a transportation network company digital network or software application. Transportation network company services begin when a transportation network company driver accepts a request for transportation received through the transportation network company's digital network or software application service, continue while the transportation network company driver transports the passenger in the transportation network company driver's vehicle, and end when the passenger exits the transportation network company driver's vehicle. Transportation network company service is not taxicab, for-hire vehicle, or street hail service.~~

1 ~~— **39-34-02. Not other carriers.**~~

2 ~~— Transportation network companies or transportation network company drivers are not~~
3 ~~common carriers, contract carriers, or motor carriers and do not provide taxicab or for-hire~~
4 ~~vehicle service.~~

5 ~~— **39-34-03. Transportation network company permit required.**~~

6 ~~— 1. A person may not operate a transportation network company in this state without first~~
7 ~~having obtained a permit from the department.~~

8 ~~— 2. The department shall issue a permit to each applicant that meets the requirements for~~
9 ~~a transportation network company in this chapter, and pays an annual permit fee of~~
10 ~~five thousand dollars to the department.~~

11 **39-34-0439-34-01. Agent.**

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

14 **39-34-0539-34-02. Fare charged for services.**

15 ~~A transportation network company may charge a fare for the services provided to~~
16 ~~passengers and, if a fare is charged, the transportation network company shall disclose to~~
17 ~~passengers the fare calculation method on its website or within the software application service.~~

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

21 ~~— **39-34-06. Identification of transportation network company vehicles and drivers.**~~

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

26 ~~— **39-34-07. Electronic receipt.**~~

27 ~~— Within a reasonable period of time following the completion of a trip, a transportation~~
28 ~~network company shall transmit an electronic receipt to the passenger that lists the origin and~~
29 ~~destination of the trip, the total time and distance of the trip, and an itemization of the total fare~~
30 ~~paid, if any.~~

1 ~~39-34-08. Transportation network company and transportation network company~~
2 ~~driver insurance requirements.~~

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

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

10 ~~b. Automobile liability insurance that provides the minimum coverage amounts~~
11 ~~where required by chapter 26.1-41.~~

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

17 ~~2. The following automobile liability insurance requirements apply while a transportation~~
18 ~~network company driver is providing transportation network company services:~~

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

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

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

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

28 ~~e. The coverage requirements of this subsection may be satisfied by any of the~~
29 ~~following:~~

30 ~~(1) Automobile liability insurance maintained by the transportation network~~
31 ~~company driver;~~

1 ~~————— (2) — Automobile liability insurance maintained by the transportation network~~
2 ~~company; or~~

3 ~~————— (3) — Any combination of paragraphs 1 and 2.~~

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

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

11 ~~————— 5. — Insurance required by this section satisfies the financial responsibility requirement for~~
12 ~~a motor vehicle under chapter 39-16.1.~~

13 ~~————— **39-34-09. Transportation network company and insurer disclosure requirements.**~~

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

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

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

26 ~~————— 2. — Insurers that write automobile liability insurance in this state may:~~

27 ~~————— a. — Exclude any and all coverage and the duty to defend afforded under the owner's~~
28 ~~insurance policy for any loss or injury that occurs while an insured vehicle~~
29 ~~provides or is available to provide transportation network company services, if the~~
30 ~~exclusion is expressly set forth in the policy and approved for sale in this state.~~

~~This right to exclude coverage and the duty to indemnify and defend may apply to any coverage included in an automobile liability insurance policy including:~~

~~(1) Liability coverage for bodily injury and property damage;~~

~~(2) Uninsured and underinsured motorist coverage;~~

~~(3) Medical payments coverage;~~

~~(4) Comprehensive physical damage coverage;~~

~~(5) Collision physical damage coverage; and~~

~~(6) Basic no-fault benefits.~~

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

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

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

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

~~1. The transportation network company shall implement a zero tolerance policy on the use of drugs or alcohol while a transportation network company driver is providing transportation network company services or is logged into the transportation network company's digital network but is not providing transportation network company~~

1 ~~services, and shall provide notice of this policy on its website, as well as procedures to~~
2 ~~report a complaint about a driver with whom a passenger was matched and whom the~~
3 ~~passenger reasonably suspects was under the influence of drugs or alcohol during the~~
4 ~~course of the trip.~~

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

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

13 **39-34-1139-34-03. Transportation driver requirements.**

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

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

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

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

25 (2) National sex offender registry database; and

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

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

29 a. Has had more than three moving violations in the prior three-year period, or one
30 major violation in the prior three-year period, including attempting to evade the
31 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, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, theft, acts of violence, or acts 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 ~~nineteen~~twenty-one years of age.

~~39-34-12. Vehicle equipment.~~

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

~~39-34-13. No street hails.~~

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

~~39-34-14. No cash trips.~~

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

~~39-34-15. No discrimination -- Accessibility.~~

~~1. The transportation network company shall adopt a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to passengers and potential passengers and notify transportation network company drivers of the policy.~~

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

14 **39-34-1639-34-04. Records.**

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

19 **39-34-1739-34-05. Personally identifiable information.**

20 ~~A transportation network company may not disclose a passenger's personally identifiable~~
21 ~~information to a third party unless the passenger consents, disclosure is required by a legal~~
22 ~~obligation, or disclosure is required to protect or defend the terms of use of the service or to~~
23 ~~investigate violations of those terms. In addition, a transportation network company may share a~~
24 ~~passenger's name and telephone number with the transportation network company driver~~
25 ~~providing transportation network company services to the passenger in order to facilitate correct~~
26 ~~identification of the passenger by the transportation network company driver, or to facilitate~~
27 ~~communication between the passenger and the transportation network company driver.~~
28 A transportation network company may not disclose any personally identifiable information of a
29 transportation network company passenger except under a legal obligation or for payment
30 processing. For any other disclosure, the transportation network company must obtain the
31 passenger's written consent on a separate form specifically addressing passenger personal

1 information before the company may disclose the passenger's personally identifiable
2 information.

3 **39-34-1839-34-06. Controlling authority.**

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