

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2368

Introduced by

Senators Casper, Axness, Oehlke, Sinner

Representatives Beadle, Owens

1 A BILL for an Act to create and enact chapters 26.1-40.1 and 39-34 of the North Dakota Century
2 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.

1 **26.1-40.1-10. Authorized or eligible carrier.**

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

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

7 **39-34-01. Agent.**

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

10 **39-34-02. Fare charged for services.**

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

14 **39-34-03. 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 twenty-one years of age.

14 **39-34-04. 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 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 **39-34-05. Personally identifiable information.**

20 A transportation network company may not disclose any personally identifiable information
21 of a transportation network company passenger except under a legal obligation or for payment
22 processing. For any other disclosure, the transportation network company must obtain the
23 passenger's written consent on a separate form specifically addressing passenger personal
24 information before the company may disclose the passenger's personally identifiable
25 information.

26 **39-34-06. Controlling authority.**

27 Notwithstanding any other provision of law, transportation network companies and
28 transportation network company drivers are governed exclusively by this chapter and any rules
29 adopted by the department consistent with this chapter. A political subdivision may not impose a
30 tax on, or require a license for, a transportation network company or a transportation network

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- 1 company driver or subject a transportation network company to the political subdivision's rate.
- 2 entry, operational, or other requirements.