

FISCAL NOTE
Requested by Legislative Council
01/08/2015

Amendment to: HB 1144

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Relates to insurance requirements of motor vehicles participating in transportation network company networks, priority of coverage, & minimum limits. The Insurance Comm. shall expedite review of related products so the products become available for purchase before the effective date of the bill.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill has no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

This bill has no fiscal impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

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- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Name: Jeff Ubben

Agency: Insurance Department

Telephone: 328-4984

Date Prepared: 01/09/2015

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2015 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1144

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1144
1/26/2015
Job Number 22514

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Insurance coverage of motor vehicles participation in transportation network company networks, priority of coverage and minimum limits and to provide for application.

Minutes:

Attachments #1 & 2

Vice Chairman Sukut: Opens the hearing on HB 1144.

Chairman Keiser~District 47: Introduces the bill. It's the Uber bill. It addresses the insurance coverage of motor vehicles participating in transportation network company networks. It addresses the priority of coverage and minimum limits and to provide for an application.

These transportation network systems are fantastic. It is new technology that works well in major cities. Fargo changed their city ordinance to address concerns on the insurance side. This is not the California bill. It's been modified dramatically from California's model. It is a system where they have individuals with private automobiles join their system. They receive an app on their iphone. Customers can have an app to request service from this company. They have the software to connect people who join.

This raises a lot of questions relative to insurance. They would qualify as private contractors. So they don't need to buy worker's compensation. So if there is a claim I assume it would go on to their personal medical coverage. Personal medical is not underwritten for commercial. We may have to start addressing the coverage for independent contractors.

The next step of coverage is personal auto. If my employee is driving my van for a delivery and gets in an accident, worker's compensation covers everything. In a Uber car or a transportation service car, if they get into an accident most personal auto insurance policies have an exclusion for commercial use. So who is covering the liability, etc.?

Reads from bill HB 1144.

Our goal is a bill that protects the citizens of our state. Yet we want to encourage technological development like this.

(22:06)

Representative Kasper: This bill has a lot of phrases of "trust me". How do you prove that these things are in effect?

Chairman Keiser: It is no different than any other coverage. How do you know when you ride in my car that I have coverage? By putting this into statute, it will give us legal recourse if that coverage is not provided as required by law.

Representative Kasper: Has there been any thought to ask the insurance companies to allow you to buy a rider on your personal automobile policy to cover you when you are an Uber passenger?

Chairman Keiser: That has not come up. As far as I know, insurance companies are supportive to this. The problem is knowing the risk you are exposed to. You do have commercial coverage in a taxi.

Representative Kasper: Have you thought about putting in a penalty for a violation.

Chairman Keiser: I did think about it but decided not to put it in here. I don't think Uber drivers are criminals. The penalty is they will be sued in the courts.

Representative Ruby: When the app is on and they are waiting to be dispatched and they are doing a personal task, this is requiring the network's insurance to be primary even when they are not carrying a passenger. Do you think that is the right way to go?

Chairman Keiser: I absolutely do. If I made the decision to get the app and turn it on, I'm now a private contractor. If I have a personal errand to do, I should turn off the app.

Representative Ruby: The levels of insurance are consistent with a commercial type of insurance requirement. This is still their personal car.

Chairman Keiser: They are commercial as an independent contractor. If I am operating as a business I should have the same coverage as anyone else who is operating commercially.

Representative Laning: Any time a Uber car is used in a commercial mode, the primary insurance carrier is the TNC (Transportation Network Company). Anytime he is on personal use it reverts back to his own personal liability insurance.

Chairman Keiser: That's correct.

(30:36)

Pat Ward~Represents the Property Casualty Insurance Association of American and the Association of North Dakota Insurers: (Attachment #1).

(38:38)

Chairman Keiser: On page 3, line 3, this bill does accommodate if USAA decides to write a rider.

Pat Ward: Yes it does. The insurance industry is interested in getting involved in this. The bill is written to provide that if the driver does get his own coverage there can be a combination. The section on the top of page 6 relates to discretionary personal insurance. Most companies still have to look at this and figure out how to underwrite.

Representative Ruby: What if somebody had a company vehicle and they are already covered in a commercial capacity. Would they need additional coverage?

Pat Ward: You have to look at every situation. This is for the typical situation where the driver is using their personal vehicle.

Representative Ruby: I own a company and have a commercial vehicle. I could decide if I want to sign up. Would I need to look at my policy?

Pat Ward: I would. Sit down with the agent and make sure there is coverage.

Chairman Keiser: Representative Ruby has an important point. I drive a commercial vehicle and I become a contractor using this system, I don't think my boss wants to cover me. I believe that coverage would stop.

Pat Ward: That wouldn't be a permissive use. There is also an exemption for permissive use in most policies.

Opposition:

(44:15)

Sagar Shah, General Manager with Uber Technologies: (Attachment #2)

<https://www.youtube.com/watch?v=G8VjcZeuvmoo>

Video from UTube about how to use Uber.

(49:41) Continues with Attachment 2

(57:42)

Representative Kasper: You indicated you have a million dollar policy, but you didn't detail what the million dollars covers?

Sagar Shah: The million dollars is a commercial liability coverage that covers claims the same as any limo or commercial insurance policy.

Representative Kasper: Does it cover the passenger, medical expenses, etc.

Sagar Shah: It's a liability policy that would cover anything that the driver is liable for. If it is the fault of another driver, who does not have coverage, that policy would also be in effect at that time.

Representative Kasper: You demonstrated how the app works. I am not a techie guru but I'm a privacy guru. It appears you have the potential to gather a lot of private information about your passengers. Are you using this information about your passengers to market for data mining? Once the passenger logs on, do you have the ability to track that passenger's phone?

Sagar Shah: Uber does collect data and use it solely for company purposes and protect the information.

Representative Kasper: Are you stating that you are not giving that information to other companies or marketing?

Sagar Shah: We do not sell the data that we collect.

Representative Lefor: Once we get in the car, is there any scenario that we are not 100% protected from any liability?

Sagar Shah: That's correct; you are protected the same way as in a taxi or limo.

Representative Lefor: Are you aware of any circumstances where a consumer used Uber and suffered due to a lack of liability insurance.

Sagar Shah: I'm not aware of any situation.

Representative Lefor: Is there any scenario where liability insurance does not protect the driver or the consumer?

Sagar Shah: There is always liability insurance that can be provided.

Representative Lefor: You said "could be provided."

Sagar Shah: Is there an app on stage in which the primary insurance would pay first for a claim? Then they would pay for that claim. If the primary declines, then Uber would pay as a contingent policy.

Representative Hanson: What states have adopted this law?

Sagar Shah: There have been over 20 jurisdictions either at the state or city level. The states are Colorado, California, Illinois and numerous cities have adopted ordinances.

Representative Beadle: The initial primary concern seems to be the app-on stage (no passenger). The concern is that our draft legislation here has it as your insurance liability issue as primary as opposed to it being secondary. That is the initial concern you have. Correct?

Sagar Shah: That is definitely our concern. A primary concern of ours is this bill seems to rewrite existing contractual agreements between drivers and their insurance companies.

Chairman Keiser: There is language in here that gives you the option to get out of primary. Both sections have language that if the personal auto has the coverage, you are not primary. Do you disagree with that?

Sagar Shah: It is our interpretation of the bill that it would require the insurance companies to adopt additional TNC (Transportation Network Company) insurance or specified language into their contracts. However many current insurance policies don't exclude that activity. Because we have a contingent policy in place, we suggest leaving it to the insurance policies to decide whether or not they are going to pay a claim. If they don't, our contingent policy will pay the claim. The clauses toward the end of the bill would insist that the agreement is no longer valid because it has to be specified TNC language in the contract.

Chairman Keiser: Where does it say that?

Sagar Shah: Page 5, #1a.

Chairman Keiser: Doesn't that mean that if current policy says you have it, then it's ok?

Sagar Shah: We want to work with you. This is the way we interpret the language.

Representative Amerman: These are not covered under worker's compensation. Is there talk that points to the insurance implications?

Sagar Shah: Yes, each driver signed a contract to be an independent contractor. Our insurance policy is widely available.

(1:13:37)

Chairman Keiser: There were articles about fees charged by some of your operators that were into the \$160 to go 5 miles on New Year's fee?

Sagar Shah: It's supply and demand and we do raise fees to encourage more drivers when needed.

Chairman Keiser: Closed the hearing

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1144
2/4/2015
Job # 23241

- Subcommittee
 Conference Committee

Reed

Explanation or reason for introduction of bill/resolution:

Bill Description: A BILL for an Act to create and enact chapter 26.1-40.1 of the North Dakota Century Code, relating to insurance coverage of motor vehicles participating in transportation network company networks, priority of coverage, and minimum limits; and to provide for application.

Minutes:

Attachment # 1, Attachment # 2 & 2A

Chairman Keiser: opened the discussion. Are there any concerns with the definitions section?

Curtis Scott Senior Insurance Council: (Attachment # 1). We do have an objection to the definition of transportation network company insurance and that we believe it introduces confusion into the long held standards as to what automobile liability insurance is. This will be more apparent later. Multi-peril insurance such as automobile liability insurance essentially covers all bodily injury and property damage arising from the use of a vehicle. This bill is almost trying to re-characterize it as a single peril coverage which would be covering one type of specific risk. I think this could increase the litigation actions and things of that nature.

Representative Beadle: Is it the word "specifically" the word you have issue with?

Curtis Scott: Yes. We have drafted an amendment to that issue.

Chairman Keiser: Taking out the word "enable".

Curtis Scott: Yes, it is more consistent with what we have seen in other statutes.

Pat Ward the Association of ND Insurers: (Attachment 2 & 2A). Attachment 2 is the marked up bill and 2A is only the amendment. I have worked with the DLI on the bill since we had the hearing. We came up with a different definition of transportation that would accompany insurance.

Chairman Keiser: Do you have a markup?

Pat Ward: I handed it out. We are removing lines 5-7 on page 2. The definition is very similar, but we have removed the word liability and are now offering a definition in the insurance that specifically covers a driver's use of the vehicle in connection with transportation network companies.

Chairman Keiser: That is the only issue you have with the definitions?

Pat Ward: Yes, I think that is the only issue we have there.

Jeff Uben~North Dakota Insurance Department: We are in support of the amendment proposed by Mr. Ward. We did work on drafting that amendment with him. On the first line change in the amendment, the word "article" should be changed to "chapter."

Chairman Keiser: Curtis, would you like to comment on their proposed amendment. I don't care if we modify the word "liability". "Specifically" is foreign to the concept of multi-peril.

Chairman Keiser: You are an attorney, correct?

Curtis Scott: Correct, I am an insurance attorney.

Chairman Keiser: What does their amendment do for all the other potential things that could be related?

Curtis Scott: As we go through the sections, it becomes more apparent. Some of the coverage's they have referenced, like comprehensive and collision. We are opposed to including. We can come back to this.

Required Disclosures: Section 2

Curtis Scott: I have no objection to lines 10-15. Ok with "may" but we also need to change line 18 to say "may" as well.

Ward: I'm fine with that. On line 15, we would strike the word "will" and replace it with "may" so our committee "may not provide coverage". Clean up Line 17 to be clearer. And replace "will" with "may" on line 18.

Chairman Keiser: Are you ok with section three, Curtis?

Curtis Scott: I have a different proposal for section 3. I propose instead that they "should consult" with their agent if they have any questions regarding the coverage provided by their policy. It's fair representation of good advice.

Representative Kasper: How can we legislate to provide that they contact their insurance provide.

Curtis Scott: That is a fair point Rep Kasper, this amendment is made to disclose the honesty and to contact their insurance provider.

Representative Kasper: I don't think that is appropriate.

Chairman Keiser: Forbes had an article where they interviewed the UBER drivers. They said they lied to the insurance company. So we have UBER drivers who are admitting insurance fraud. So shouldn't we from a policy standpoint, require they talk to someone?

Curtis Scott: There are other entities that carry people in their cars. The insurers need to ask more questions and do a better job counseling.

Representative Beadle: The concern putting into statute would there being any umbrage, if we amended it to say "shall".

Curtis Scott: I can't enforce what is going on in two private contracts. But we can advise them regarding the issue.

Representative Kasper: How can we require the citizens of North Dakota to do the same thing you're saying you can't step in the contract between? You can't be put in that position.

Curtis Scott: You can require on the initial contract to include "are you using it in this way or not". Ask them again at renewal.

Representative Kasper: Now you are requiring all people to change their method of operation in our state and change all their forms... That's a big deal.

Curtis Scott: What I'm trying to say is this is fully within the insurers own power to self-correct.

Representative Lefor: Why don't you have your UBER drivers to have commercial insurance as part of being an UBER driver?

Curtis Scott: Compare a taxis driver versus an UBER driver. The UBER driver is using it only a few times a week.

Representative Ruby: I see the word "if" is important. My suggestion would be to amend it out.

Chairman Keiser: That's a business issue. I would ask for their driver's license, and check with the DOT to see if they have any significant criminal history.

Representative Beadle: There problem is the onerous insurance agent that they need to contact directly.

Chairman Keiser: that's where I would ask my driver and get confirmation of coverage. If you get in a wreck and it's your fault you are going to give them your agent's information.

Representative Ruby: I agree.

Curtis Scott: What Representative Beadle said was right.

Pat Ward: This is something we feel strongly about. To have to notify 10,000 people only to have under a hundred that are going to drive for UBER seems a bit extreme.

Representative Beadle: the onerous being on your back, do you feel, do they want the notification from UBER or would they want it to come from their participating members?

Pat Ward: If UBER is in the process of hiring drivers, the burden should be on them.

Representative Beadle: My question is should they be the ones to call the insurance agent?

Pat Ward: Yes, they should. Because they believe these individuals are independent contractors and not employees.

Representative Kasper: To provide that information, would take a simple phone call to the insurance agent. They would then email or fax you the information which would then be sent to UBER. It is not a difficult process.

Pat Ward: That's absolutely right. We are consistently providing proof.

Curtis: This deviates from the other states and is more restrictive. A lot of drivers will sign up and then not even take a trip.

Representative Beadle: In the amendments passed out, does the notice need to be in writing?

Curtis: We want to deliver electronically. This is not a paper generation.

Dale Haake~North Dakota : There is a difference between delivering for a company versus an UBER driver. There is a lot of exclusions, why should be require them to notify, when there are so few? UBER should require a proof of insurance.

Representative Beadle: The objection isn't that the people shouldn't know. The concern is that they don't want to be the third party. Does the agent get notified individually, or does the company they are working with get notified?

Haake: We can get the notification from either side.

Chairman Keiser: So it doesn't matter which side you get it from as long as you get notified?

Haake: Yes, and as long as we know where it's going.

Representative Louser: Is this the same process for like a real estate clue report?

Haake: I am not quite following you in regards to the similarity of a clue report. But my understanding is that as long as the requesting individual has the authority and a valid reason to be requesting it, we'll provide it.

Chairman Keiser: Line 23, page 2.

Curtis: We have no objection to the inclusion of when the passenger has exited the vehicle.

Chairman Keiser: Do you take issue with the part about the exact definition of transportation.

Curtis: We do take issue with the definition of transportation network company insurance. I believe the changes here between "liability" and "shall be" are semantics and don't really change the definition.

Chairman Keiser: Line 26 is referring to this section.

Curtis: Correct, but we do take issue with the section itself.

Chairman Keiser: Do you oppose Page 3, line 9?

Curtis: We oppose it in its current form. You don't see the word primary insurance used.

Chairman Keiser: It's not used in the PNC world, but it is used in the health world?

Curtis: Correct.

Chairman Keiser: Is that in part due the fact that the medical industry doesn't double insure people?

Curtis: North Dakota policies with home concept do exist.

Dale Haake~North Dakota Mutual Insurance: Paragraph 3 of 26.1-40.1-02, proof would be secured because of the many sources, and would not leave the insurance carrier, without knowledge of who was securing it and what was actually being done. Therefore, this would not be a viable method and I would like to withdraw that suggestion.

Pat Ward: If we are looking at all of 26.1-40.1-03 on page 2. This is something that Mr. Shaw testifies to. We don't disagree. We are just requesting that they match the coverage that the driver had on the original vehicle.

Chairman Keiser: What if I don't have coverage.

Ward: We expect to cover to match, so you are still taking that risk when you are driving for them.

Chairman Keiser: Isn't that double coverage?

Ward: No, the other one is primary.

Chairman Keiser: That's what you were trying to do with your amendment?

Ward: Yes, primary language has to clarify subsection d the "sole". The duty to defend is important to us. The duty to defend is who is going to be responsible to defend it and pay for it.

PRINCIPLE

Curtis: No other state has covered comprehensive & collision it is not a public safety issue. What is being introduced is more restrictive than even California, it has more protection than required in the law of anywhere else. This is something that is rapidly being introduced into the market. People will have options sooner than later. I recommend is that the committee should set a floor that guarantees a level protection and allow people to make decisions of what is right for them.

Chairman Keiser: Collision is up to the owner of the car and we should be setting a floor on what elements?

Curtis: On page three, we should be providing coverage as required for a PIP statute.

Chairman Keiser: You don't like the "sole" duty to defend then?

Curtis: I don't think this is a major issue. Practically speaking, if a driver were to purchase coverage on their own at some point, most personal insurers do not write a million dollars of coverage. They often stop at \$250,000 or \$300,000 CSL. We support the right exclusion, and it works just fine.

Jeff Ubben~Department: Regarding the word "sole", if you are the primary person, you have the sole duty to defend.

Chairman Keiser: Let's go to page 3, you are taking out what part?

Ward: Explains to grammatical errors to correct, during & liability. Page 3 and page 4, we discussed that with the insurance department and agreed that it would be difficult. We were planning to put \$250,000 in there. This is where he is working, and has the app on, but doesn't have any passengers, waiting for the next call.

Representative Lefor: Why do we have to differentiate between on stage with no passengers and on stage with passengers?

Ward: We wouldn't have to if you insured a million across the board.

Chairman Keiser: Are you taking out lines 1-4, on page 4.

Curtis: I agree with Pat Ward's on the excess coverage of \$200,000 during that period. Colorado looked at specific limits that would be applicable, roughly 2 times. And this would be a rational starting point.

Ward: On the limits I provided, I added option 1 and option 2. In my perspective, the industry is ok with what Curtis said.

Chairman Keiser: Curtis, put in words for page 3.

Curtis: In the amount per incident, 250,000. There have only been 3 states that have logged in on this.

Chairman Keiser: Pat, how about your group?

Ward: We are fine. The insurance would be the ones who would want more coverage.

Curtis: We are opposed to subparagraph 4, and we are ok with subsection 3.

Jeff Ubben: We are in agreement with subsection 3 with option 1.

Chairman Keiser: Page 4, are you ok with the markup?

Ubben: We are in support with Pat Ward's amendment.

Chairman Keiser: What's the Department's position on that?

Curtis: Page 4, agreement minus subsection 4. The \$200,000 excess, found that we should set levels of insurance on a factual amount and not arbitrary amounts.

Chairman Keiser: Have you seen the Colorado study.

Ubben: No we have not.

Curtis: It's posted on their web site.

Chairman Keiser: What is the question on the UIM and PIP?

Ubben: Page 4, line 1 in the amendment refers back to sections of century code the limits are already in there.

Curtis: You can't underwrite something that moves, what we suggest that we match; we run a true moral hazard risk. We make it so large that you are going to send it into negative conduct.

Chairman Keiser: How would you know how much insurance I have versus Rep Sukut.

Curtis: You are absolutely right, you have introduced the challenging aspect of ascertaining what the coverage is.

Ward: Our position, it's their responsibility to require the driver's to have appropriate coverage. We want to avoid gaps in this provision.

Curtis: The special interest groups are lobbying false claims about an insurance gap to protect their turf, there is no insurance gap.

Haake: I would like to clarify the difference between UM and UIM requirements. It is North Dakota statute that if there are higher limits, then the insurance has to provide UM and UIM coverage that match the liability limits.

Rep Keiser: Could someone give us a general background in the UIM, UM, and PIP.

Curtis: UM-Uninsured Motorist and UIM- Under Insured Motorist.

Chairman Keiser: What you are saying is that whatever our minimum limits are in the state, that is what they should require of these drivers.

Curtis: That is correct. This is when the app is on and there are no passengers.

Chairman Keiser: When there are passengers in the vehicle, do you still support the minimum?

Curtis: That is correct. I would like to meet with them.

Chairman Keiser: Would you consider adding different and higher limits?

Curtis: Yes it could be considered, but we need to set some limits. If there are high limits of PIP, or high limits of comprehension, then North Dakota wouldn't be a feasible market. California's statute if enacted would make North Dakota's market unfeasible.

Ward: The gap thing, what I'm talking about minimum, the driver brings higher limits into that situation. Now they are only covering part of it, and the rest is going to the other insurer.

Haake: I was mistaken, you can't buy higher than your liability limits, but you can purchase limits that are lower. I would like to make one other point, there is an issue regarding primary versus non-primary, when it comes to UM & UIM and PIP, ND doesn't allow it to be excluded from an auto policy. TMC becomes primary and this is very important. You have an issue that may provide for no fault coverage. There is going to be a difference with the UM & UIM states as a carrier, we can't exclude that. It's never been an issue in North Dakota and now it created a different scenario which will make it a problem for us.

Curtis: I would add to the end of this amendment, they could expedite based on a free market principle.

Chairman Keiser: If we allow the exclusion, then how is the passenger protected?

Curtis: At this time, we are going to provide coverage that would match the state minimum PIP. To have the state minimum, subsection 7, the transportation company shall provide the coverage required. So, either the product will be bought by someone in the free market, or we get the hook for it.

PAGE 5

Curtis: Subsection 1-5, we are in agreement.

Chairman Keiser: What about subsection 1-6?

Curtis: I take offense to subsections B and C. I also take offense to consumers getting less than they purchased. People bought a promise for the coverage. I believe they should get the coverage they bought and to get around North Dakota 9-9-17, during this period, the app on, no passenger, they do not have exclusion. Allstate has a provision that will not require them to provide insurance while the vehicle is for hire to the public. This is seeking to change a very long standing consumer protection standard.

Representative Ruby: Rather than relieving them of duty could your company be additionally insured?

Curtis: I'm not following you.

Representative Ruby: If they are not excluded, then they are on the hook for it. But if another policy was additionally insured, then both companies join in on that cost of litigation?

Curtis: We would have a policy that is primary and it would be covered in the front and back end.

Pat Ward: We disagree, these only references the time the driver is working for them. We want it clear up front while he is working for them.

Representative Ruby: The app on stage is what I am still struggling with.

Ward: The app on state, where the car is out there, can encourage distracted driving, this is a business activity, and it should be primary.

Representative Ruby: They may be on when they are running errands, I think they would be doing stuff on their own time.

Ward: We feel UBER needs to train their drivers. They have the technology to do that, we don't.

Ubben: We are in line with Mr. Ward for section A and B. If the provisions are removed, the consumers will be confused who is primary. This is a consumer protection position that we are taking.

Chairman Keiser: The purpose of insurance is to take risk; it appears to be less risky without a passenger in there. Does the risk change slightly?

Ubben: I don't concur, if they are looking with their UBER app, it's risky.

Representative Beadle: Is there delineation that is on, but it wouldn't be increasing the risk?

Ubben: I believe you have to look at your phone to see if it's running. They are more apt to look at their phone.

Representative Beadle: How do we insure?

Ubben: If they know their UBER app is on, they are more apt to look to see if there is anyone can be picked up.

Curtis: We hear a lot, but there is no statistic on this. We have developed the app to be less distracting. It's not like a taxi driver.

Representative Louser: When you said tap the phone, does the driver then initiate the text back to the driver?

Sagar Shah Associate General Manager for UBER: If they stay put, the driver's app and pushed the button to accept the rider.

Representative Louser: How would that square with texting laws?

Sagar Shah: The driver does not send a text. It might happen when they arrive and are waiting.

PAGE 6, Subsection 07

Chairman Keiser: is everyone in support of this?

Curtis: We are all in favor for the private sector. Let's leave the market open. Ask the commissioner, to advance the swift approval of the products.

Ward: We're fine with that.

Chairman Keiser: I think is the private sector is doing this. Insurance fraud happens when UBER drivers lie about coverage.

Curtis: It's not a premium endorsement, they could not be charged. Pure usage based. USAA charges \$6. We need it open so that innovation can occur.

26-1-40-08 9, 10, 11

Curtis: We want to offer a subsection 12, surplus lines. To pay claims, it would be critical to make the mark. It's on the last page of my attachment submitted.

Ward: We don't oppose that.

Ubben: We are in agreement.

Curtis: On section 2, I'm a little bit surprised, that they are asking to remove that section that would encourage free-market competition.

Ward: That was the request of the insurance Department.

Chrystal Bartuska: We have a requirement that the filings have to be approved within 60 days. I don't want something written into statute for expediting files.

Chairman Keiser: Could you clarify what the file & use does?

Chrystal Bartuska: This would be a form filing and covers the different provisions. Whatever is sold in the state has to be approved by us. Rates & PNC prior approval, Use and file, but at the end of the day we look at all the rates and files. A statute that requires us to take 4 days would be difficult; I only have one actuary and one forum review analyst on the PNC side. We get it done and we don't need it written into statute.

Chairman Keiser: We will have a comprehensive markup of the bill on Tuesday and will take action on Wednesday.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1144
2/11/2015
23663

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Insurance coverage of motor vehicles participation in transportation network company networks, priority of coverage and minimum limits and to provide for application.

Minutes:

Attachments 1, 2, 2A, 3 & 4

Chairman Keiser: Opens the work session on HB 1144. Treats this hearing like a subcommittee work session.

Chairman Keiser: (Attachment 1). (3:03) Explains the differences of the bill that was dropped very late on the Senate side.

Attachment 1~Section 2-39-34-01 Definitions: Goes over the key distinctions in definitions.

~No. 1-They are trying to define that they have no responsibility for the operators in the field.

~No. 2-Subsection B, they are trying to clarify "not a taxi cab or for-hire vehicle".

~No. 3-They are eliminating stage on which is the app on stage.

Section 39-34-02 Not other carriers:

~They are continuing for TNC drivers are not common carriers.

Section 39-34-03 Transportation network company permit required:

~No. 1-The department there is the department of transportation.

~No. 2-That would be \$5,000 to the department for annual fees.

Sections 39-34-05 thru 39-34-07:

~They are OK.

Section 39-34-08 Zero tolerance for drug or alcohol use:

~No. 1-We may want to look at clarifying it. What recourse are they going to take?

~No. 2-The suspension may want to be clarified.

Sections 34-34-09 thru 39-34-15

~They are OK.

Section 39-34-16: Controlling authority:

~This is taking local authority away.

Chairman Keiser: This puts in perspective the differences between the two bills. When we are done with our bill, we will incorporate whatever parts of this into the bill.

Brian Johnson: (Attachment 2-3). Explains the handouts.

Sagar Shah~UBER: (Attachment 4).

For reference in testimony, (2) is the colored (christmas tree),(3) is combination of Insurance Department, Pat Ward & UBER and (4) will be UBER's.

Section 261-40.1-01~Definitions:

Section 1:

~**No. 1**-Application offstage.
Everyone is ok.

~**No. 2**-Application onstate.
Everyone is ok.

~**No. 3**-Engaged stage.
Everyone is ok.

~**No. 4**-Participating driver or driver.
Everyone is ok.

~**No. 5**-Passengers on-board stage.
Everyone is ok.

~**No. 6**-Transportation network company. **(17:41)**

-Here is where we have a difference.

- **Attachment (4)** page 2 is what UBER wants.

-**Ward:** I don't have a problem with that. We have to be careful about which amendment.

-Discussion about a "person" definition.

-**Chairman Keiser:** Is everyone ok with "prearranged transportation services"

-Everyone is ok.

-**Chairman Keiser:** We will have our people check on that to be consistent throughout code.

~No. 7-Transportation network company insurance:

-Shah: We are asking to strike number 7 with the comments made by Mr Ward and replacing what is shown on (3) page (2), line 11 in yellow. Key change is removing "specifically".

-Ward: I object to that change. UBER inserted the "liability" which we took out and the point of "specifically" is we are defining a kind of insurance.

-Ins Depart: We agree with Pat Ward.

Chairman Keiser: We will come back to this section. You are suggesting that liability is the only coverage that is required for the driver. The other side is suggesting that is the Insurance Department and the industry says that they want it to cover more than strict liability.

Section 26.1-40.1-02, (2) page 2-Required disclosures: (28:25)

~No. 1-UBER wants to strike out "in writing".

-Ward: The concern is how is this going to be recorded?

-Chairman Keiser: In number 1 & 2 we could say "in writing or verified electronically".

-Shah: That should work. **(3) page (2), line 17, comment A5 sidebar**, UBER want to replace "in writing of when" with "that". Line 20, replacing "the" with "a" and line 22, add "term".

-Chairman Keiser: That should stay "a"

~No. 2-Shah: I'm ok with that. The end on line 22 "term". This is clarification.

-Ward: Since we have the work "may" its unnecessary verbiage.

-Shah: We agree.

~No. 3-Shah: **(4), page (2), line 26**-We would like to strike 3 and replace this language.

-Ward: This is one of our major points of disagreements. It's incumbent for them to notify. The bill should stay the way it is.

-Insurance Department: We are in agreement with Mr Ward's comment. We prefer the original language and oppose UBER's. This applies not only to UBER but all PNC entities.

Representative Ruby: Moves to support the language prepared by the industry and the Insurance Department to leave it the way it is and not accept the language from UBER.

Ward: I don't think you need a motion to leave it the way it is, it's not an amendment.

Representative Becker: **(3)** Moves to adopt the amendment proposed by UBER to replace subsection 3, page 2, where there is yellow.

Representative Beadle: Second. (Motion 1)

Roll call was taken with 5 yes, 6 no, 4 absent, motion failed.

Section 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. (3) page 2 & 3, starting on line 27. (1:08:12)

~No. 1:

-Shah: (4) On line 30, looking to replace "and unless otherwise specified," with "that provides for".

-Subsection a, (4) page (3), line 1 Shah: Strike "is primary and".

-Ward: I'm not really in favor of this? This is a term of art for who is going to step up first for the lawsuit. We need to leave it in.

-Insurance Department: We feel this should be left in to protect consumers.

-Insurance lawyer says "primary" needs to be in code.

Representative Ruby: Moves to remove "primary".

Chairman Keiser: We have a motion to remove primary, do we have a second? Seeing none, we will move on. (1:31:00)

-Subsection b, (4), page 3, starting on line 10 Shah: Wishes to strike b and replace with this language - removes "primary" and uses the limits established in current code".

-Ward: We don't agree with that and the network company policy should provide adequate coverage.

-Insurance Department: We are in agreement with Mr Ward's comments.

-Ward: If you are going to go in that direction, you should match.

Representative Becker: Moves that subsection b be amended according to Mr. Shah's language.

Representative Beadle: Second. (Motion 2)

Roll call taken, motion carried with 6 yes, 4 no, 5 absent.

-Subsection c, (4), page 3, starting on line 15 (1:54:48)

-Shah: UBER wishes to keep the old language here, but replace "as provided" with "where required".

-Mr Ward and Insurance Department are ok with this.

-Shah: (1) & (2) UBER is opposed to this amended change and wishes to strike entirely. Also, replace "as provided" with "where required".

Representative Ruby: (2:08:56) Moves to remove 17-23 which is 1 & 2 or c & d

Representative Becker: Second. (Motion 3)

Roll call taken, motion carried with 6 yes, 5 no, 4 absent.

-Subsection d, (4), page 3, starting on line 24 (2:14:44)

-UBER: Wishes to delete this section. It adds confusion.

-Ward: This gets back to the shell game. This is to clarify the primary insurance. That is something that can be decided right here, right now.

-Insurance Department: We second Mr Ward's comments and I don't see where the confusion is from this language. I think it does clarify.

-Ward: The primary needs to defend, solely.

-Subsection e, 4, page (4), lines 28-31 (2:19:37)

-UBER: Wishes to delete this section.

-Ward: We are ok with this.

-Insurance Department: We are also ok with this removal.

Representative Beadle: Moves to remove subsection e.

Representative Laning: Second. (Motion 4)

Voice vote, motion carried.

Section 26.1-40.1-04 Insurance coverage during the application on stage with no passengers in vehicle. (2:24:50)

-Subsection 1-a:

-UBER: There is where there is the most disagreement. This is the period where the app is on and no trip, no trip engaged, or no passengers in the vehicle.

-UBER: (4), line 5, we wish to remove "shall be primary and".

-UBER: (4), line 8, UBER is against \$250K. Willing to go as high as 50/100/25 per Colorado study.

-Ward: There are 2 things we need to respond to. The first issue the "shall be primary" on the first line, any time the driver is looking for them, their coverage should be primary. The second, the limits, I did concede on that point.

-Insurance Department: If the "shall be primary" is removed, then it's going to create some confusion for consumers who is primary.

(2:38:36) Representative Ruby: Moves to use UBER's numbers of 50/100/25 and take out the "primary".

Representative Kasper: Second. (Motion 5)

Roll call taken, with 5 yes, 6 no, 4 absent, motion failed.

Representative Beadle: Moves sub a, to leave in "shall be primary" and use 50/100/25.

Representative Boschee: Second. (Motion 6)

Roll call was taken, motion passed with 11 yes, 0 no, 4 absent.

-Subsection 1-b, 1,2 & 3 Attachment (4) page (4), starting on line 10. (2:44:19)

-Shah: This is to tie the UI & UIM limits to whatever the state statute requires rather than the individual policy limits.

-Shah: UBER wishes to keep (1)-(3) as they were and retain the NDCC limits as in current statute. Opposed the amended (1)-(3) below. In (3), replace "under" with "where required" and strike (4) entirely.

-Ward: We agree, they should match.

-Insurance Department: We are neutral.

Representative Boschee: Moves to accept recommendation of UBER to make it consistent with the other section.

Representative Beadle: Second.

Voice vote, motion carried. (Motion 7)

-Subsection 2-b (2:48:29)

-UBER: Wishes to add this language through "or" and delete the word "has".

-Ward: This gets back to the "primary" where the vote failed. To be consistent it's important to leave it the way it is.

-Insurance Department: We support Mr Ward's comment.

Representative Beadle: Moves to strike the subsection 3 lines 10-13 on attachment (2) and then renumber the subsequence sections.

Representative Lefor: Second.

Voice vote, motion carried. (Motion 8)

-Subsection 4, 5 & 6, page 5 on attachment (4). (2:54:26)

-UBER: Wishes to delete duty to defend as well as policy verification.

-Ward: Number 4, duty to defend is a big part of that primary responsibility. We want to make clear that the company that is primary has the duty to defend and that would be the Transportation Network Insurance if it's in place.

Representative Beadle: Moves, on line 24 & 25 on page 3 in attachment (2) and transports that to subsection 4, the old 4.

Representative Lefor: Second. **(Motion 9)**

Voice vote, motion carried.

-Ward: We agree with UBER with verification and that can be taken out because it's redundant.

Representative Beadle: Moves to take out the old 5, lines 20-24 in the attachment (4).

Representative Laning: Second. (Motion 10)

Voice vote, motion carried.

-Subsection 6, page 5 attachment (4). (2:58:17)

-Ward: This is the issue. This suggest the personal auto insurer first has to review a claim and look to see if they has an exclusion and then make a decision denying the claim. We believe this is necessary to be consistent throughout with specifically, primary and TNC insurance being first. We are trying to avoid a lot of litigation with our insurers.

Representative Becker: Moves to strike subsection 6 which is now 5.

Representative Beadle: Second. (Motion 11)

Roll call, motion failed due to a tie with 6 yes, 6 no, 3 absent.

~Subsection 7, line 30. (3:04:28)

-UBER: Wishes to strike "lapsed" and replace with "excluded coverage according to its policy". This clarifies the language.

-Ward: We wouldn't oppose that amendment.

Representative Boschee: Moves to accept UBER's amendment.

Representative Beadle: Second. (Motion 12)

Voice vote, motion carried.

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

(3:07:00)

26.1-40.1-06-Limitations on driver's personal automobile policy during passenger on-board state, engaged state and application on stage.

-UBER: This section poses significant problems for us. UBER wishes a & b stricken from the section.

-Chairman Keiser: If I understand the argument, companies have the right to have an exclusion and if they have an exclusion, they can be excused it. If they don't have an exclusion, this would create, by statute, an exclusion.

-Shah: That's correct.

-Ward: I'm thinking that we may not need this whole section.

Representative Beadle: Moves to remove all of subsection 6.

Representative Boschee: Second. **(Motion 13)**

Voice vote, motion carried.

26.1-40.1-07- (4) Page 6 & 7. Discretionary personal insurance where offered by personal automobile insurer. (3:11:22)

-Shah: Wishes, page 6, to strike this highlighted part "Notwithstanding any other law". There is no other law. We also wish to take out on page 7, starting with "only if the policy...", to take this out. It goes back to the words "specifically & expressly provides" which suggests that these are not adhesion contracts.

Chairman Keiser: I'm going to divide these into 2 motions.

Representative Boschee: Moves to strike "Notwithstanding any other law".

Representative Lefor: Second. **(Motion 14).**

Voice vote, motion carried.

Chairman Keiser: Let's go to the second part.

-Ward: This gets back to the fundamental issue. We would object to making any change in section. This is a specific type of insurance and that needs to specifically provide the coverage.

-Insurance Department: I don't have anything else to add. We've had the discussion for the merits about leaving or not leaving it in.

-Shah: We kept primary in from the TNC. I think it's redundant to say the TNC has to provide.

(3:20:33)

Ward: Only thing we have left is to add surplus lines insurance. We have no problem with that. We think it should be available.

Shah: We ask that that type of insurer be included in the bill.

Representative Lefor: Moves to accept UBER's request to accept surplus lines insurance.

Representative Beadle: Second. **(Motion 15)**

Voice vote, motion carried.

Representative Boschee: Moves to remove attachment 4, page 8, lines 31-33.

Vice Chairman Sukut: Second **(Motion 16)**

Voice vote, motion carried.

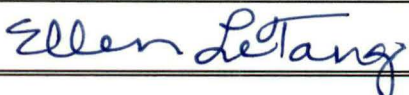
Chairman Keiser: Closes the work session on HB 1144 and come back this afternoon.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1144
2/11/2015
PM Work Session
23686

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Insurance coverage of motor vehicles participation in transportation network company networks, priority of coverage and minimum limits and to provide for application.

Minutes:

Attachments 1-4

Chairman Keiser: Reopens the working session on HB 1144. Is there any additional amendments? Please look at the markup colored bill version 15.0434.2001. We will not act on this is because I want you to look this over. (Attachment 1).

Shah: No, but we tabled some but no additional amendments.

Ward: The written or electronic is not in the mark up and has no action taken on it.

Shah: I would like verified written or electronic form.

Chairman Keiser: Does Mr. Ward or the Insurance Department have any problem with that?

They are ok with it.

Representative Beadle: Moves to adopt amendment page 2, 12 & 18, add "in writing or electronic form".

Vice Chairman Sukut: Second. (Amendment 1)

Voice vote, motion carried.

Chairman Keiser: On version .2001 of the new bill, page 2, number 7. We took out just liability in the other sections, we need to compare and decide which one we prefer.

Ward: Specifically is very important.

Shah: Adding specifically adds confusion as it's nowhere included in auto liability contracts. That's why we seek for it to be removed.

Chairman Keiser: Later in the bill, we did make it possible that the TNC insurance means a policy that specifically covers the driver's use of the vehicle whether it's provided by the TNC or the driver. Seem this conforms to that concept. Page 2, line 8, do we need specifically in there? Either the insurance policy covers the driver's use of the vehicle and connection with the TNC or it doesn't.

Shah: If we would strike the word specifically, I would be in agreement.

Haake: Specifically is very important.

Ubben: I don't think specifically adds much. It may aid for lawyers making the arguments. I would say it's fairly limited.

Representative Becker: Moves to amend by striking out the words "specifically" page 8.

Representative Beadle: Second. (Motion 2)

Voice vote, motion carried.

Shah: Page 7, line 2, this may be redundant. Strike part of line 2 and all of 3-5.

Chairman Keiser: Mr Ward and the Insurance Department, what is your comment?

Ward: We would like it to stay in there.

Representative Becker: Moves the amendment to delete line 2 starting with only through line 5.

Representative Beadle: Second. (Motion 3)

Roll call was taken with 7 yes, 4 no, 4 absent, motion passes.

Ward: (Attachment 2) This would be an add on to the bill. We want to make clear in the law that we can exclude the coverages while the driver is doing this activity. It would go into 26.1-40-12. This would be a new section 12 on page 7 before you get to the surplus lines part. We don't have medical payments in North Dakota, so number 3 on the attachment would come out.

Shah: What I basically understand correctly is giving the option to insurance companies to exclude coverage for any reason for TNC services. Since collision and comprehensive is not part of the amendments we have created so far, I would suggest striking that to reduce confusion.

Chairman Keiser: You recommend on attachment 2, taking 4 & 5 out.

Ward: Our position is that we ought to have the right to exclude that activity in our exclusions.

Representative Ruby: If you look on page 2, subsection 2, lines 18-21 of attachment 1, it mentions it there. I don't know if it's repetitive.

Ward: That is a relationship between the transportation company and the driver. This addresses the insurance company's ability in its contract with the driver to go back and they can go back and amend their policies.

Shah: The insurers have the ability to exclude coverage. I don't know if there is a need for legislation to require or allow them to do that. If they want to change their policy, they are welcome to change their policy.

Chairman Keiser: Why can't you do this now?

Haake: There are 4 coverages mandated by state law to be included in every auto policy. The ability to exclude or restrict those coverages is very limited by statute. All we are doing is clarifying that.

Representative Ruby: The reason for the whole bill is because the riders wouldn't be covered because the auto policy specifically state, that if it becomes a business transaction for the ride, the coverage is not there. This is why we needed the bill. I don't see the need for it.

Haake: You are correct when it comes to liability coverages. It is not so clear for UM, UIM and PIP.

Chairman Keiser: We will ask the insurance department.

Chrystal Bertuska: North Dakota law doesn't allow you to waive number 6, specifically your no-fault coverage (PIP) coverage .

Chairman Keiser: This would be a carve out.

Bertuska: I understand that the TNC would be the ones who would maintain the PIP coverage but you are going to have two laws on the books that potentially conflict each other.

Chairman Keiser: We don't gain by putting 1-5 in here because we can already do that. Question is, do we want it for basic no-fault benefit?

Bertuska: The Insurance Department would say no. That would open the door for more challenges.

Ward: We would be excluding for purposes of when the vehicle is involved in TNC activities and that going to be provided by the TNC insurance.

28:30

Chairman Keiser: (Attachment 3) We will go to page 2 at the top.

Representative Beadle: The DOT was unsure they wanted that permitting but the Highway Patrol said that they had it in the purview.

Mike Erhardt: We do have a permit process but its specifically to commercial vehicles.

Chairman Keiser: This permitting would be for the TNC company?

Erhardt: That is the outside the scope of what we do.

Representative Beadle: Would it make sense for the company applying for themselves to put it with the Secretary of State or the Insurance Department who deals with permitting already?

Bertuska: We don't permit or license companies.

Representative Ruby: I don't know why we would want to permit them anyway.

Chairman Keiser: What about the registered agent, do we need them?

Representative Beadle: I think the reason for an agent is contact information for the general public if you run into an issue.

Chairman Keiser: We could have them register with the Secretary of State as a company.

Representative Ruby: Move that page 2 of attachment 3, to add in 39-34-04, at the end of the sentence, "with the Secretary of State".

Vice Chairman Sukut: Second. (Motion 4)

Voice vote, motion carried.

Representative Ruby: Do we need language to tell them that they may charge for services?

Representative Beadle: What that section is getting to is to make sure that you don't run into a situation where we don't restrict them to fall under cab requirements.

Representative Kasper: The last sentence is the important part on 39-34-05.

Representative Ruby: They already do that. People want to know what the cost is before they get in. I don't feel comfortable putting it in there.

Chairman Keiser: UBER would like it in there. I think we need to protect the rest of the industry, the PNC.

Shah: That's exactly right, it's a protection piece for the industry. We want to hold a high bar for others coming into the industry and we want to have transparency.

Representative Beadle: Will this help with surge pricing?

Shah: This would be amendable up front, surge pricing that we communicate to the rider and this would fall under that qualification that we need to provide the applicable rates being charges and the option to receive those.

Representative Beadle: I think there is an argument to be made to make sure that municipalities don't restrict their pricing model to the point where they can't do the surge pricing. Eliminate the first sentence and have the second sentence so that there is some level state understanding about the fluctuation of pricing as long as it's disclosed.

Representative Ruby: I do like that.

Chairman Keiser: The rest of page 2, .05-.08 are policies within the company that if they are a good company they do it but if they are a bad company they do it and get into trouble. It does limit the accessibility for the small company in the TNC market that doesn't have a sophisticated app but still could be an operator in the TNC market. These are fence building items that are very good for the big guy.

Representative Beadle: I agree with you, we do define TNC's so we do set that threshold of communication.

Representative Beadle: Move the amendment of deleting the first sentence on attachment 3.

Representative Becker: Second. (Second).

Voice vote, motion carried.

Representative Beadle: Some language to provide a receipt?

48:50

Representative Beadle: Move to adopt the language for 39-34-07, electronic receipt attachment 3.

Representative Kasper: Second. (Motion 6)

Voice vote, motion carries with 2 no votes.

Chairman Keiser: Discussion on 39-34-08.

Representative Kasper: Should it be longer if found guilty?

Representative Ruby: Isn't that a company policy?

Chairman Keiser: It's a liability for them.

Representative Beadle: I would move all of 3934-09.

Representative Lefor: Second. (Motion 7)

Representative Hanson: I would like to further amend to change the age 19 to 18.

Chairman Keiser: Further discussion?

Roll call was taken with 9 yes, 4 no, 2 absent, motion carries.

1:00:00

Representative Ruby: Moves to accept 39-34-14, 39-34-15, 39-34-16.

Ward: 39-34-14, on records, it's only the one year and the statute of limitations in North Dakota is six years. On 39-34-16, controlling authority, we need to be clear that this includes chapter 26.1, now you are emerging the insurance.

Representative Kasper: 39-34-15, confidentiality, I'm concerned with line 3, unless the customer knowingly consents, needs to be taken out.

Representative Ruby: This is an opt in.

Representative Kasper: I want it a no opt.

Chairman Keiser: The way to do that is to put the first sentence with a period after passenger. The problem is the courts have to have access to the records.

Shah: In terms of if and when we would disclose the identity of a customer, generally for marketing purposes on the web site for facts. Striking that disclosure, we could run into an issue there from an operation perspective.

Representative Kasper: That my objective to stop cross marketing without the customer knowing. How are you going to get their consent that they know what they are consenting to?

Shah: I don't have an answer in terms of what that document would like. It would be consent in written form or something of that manner. We can work though that to find appropriate language that would protect the customer but at the same time allow them to share a positive UBER experience if they wish to.

Representative Louser: Could you put it in where you are consenting when you rate the experience?

Shah: We do not share that information and have no intention to do that.

Representative Beadle: Would there be a way we can limit the personal identifiable information that they would be able to share if we make it limited it to first name, last initial?

Representative Becker: It's opted in and knowingly consents, if we were not to allow that, in essence, prohibiting a person of their own free will entering into an agreement upon which they will allow information to be given. I don't understand why we would want to prohibit that?

Chairman Keiser: Representative Ruby's motion died due to a lack of a second.

Chairman Keiser: Is 39-34-14 alright?

1:15:35

Representative Lefor: Moves to 39-34-14 and with the change to "maintain the record for 6 years".

Representative Hanson: Second. (Motion 8)

Voice vote, motion carried.

Chairman Keiser: Next motion, controlling authority.

Representative Beadle: Move to adopt 39-34-16 and where it says line 2, by this chapter, replace that by chapters 39-34 and by chapters 26.1-40.1.

Representative Kasper: Second. (Motion 9)

Voice vote, motion carried.

1:17:41

Ubben: It does say that the disclosure can be to the Insurance Commissioner or investigating a complaint filed with the commissioner against the TNC or participating driver. I would point out that the insurance department doesn't have regulatory authority over UBER like we do over insurance companies. We are requesting UBER provide us with documents and there is nothing in the law that says that they have to comply with that.

Representative Lefor: Moves to amend 39-34-15 and say the following, a TNC may not disclose to a third party any personally identifiable information of a TNC passenger.

Chairman Keiser: Under a legal obligation, does that mean that they wouldn't have to provide to the courts if the courts requested it?

Ubben: We could add, under a legal obligation.

Representative Kasper: Second. (Motion 10)

Voice vote, motion carried.

1:20:13

Ubben: (Attachment 4) The Insurance Department's amendments. We feel these are important amendments and when we are talking about regulatory oversight of the TNC's, the state would not have information about how many TNC driver there are out there in our state and who these drivers are. Currently there is no link between the driver & TNC that the state would have access to. This would be helpful to law enforcement involving a TNC driver; they would have the information before arriving to the scene. It would alert insurance companies if officer was able to put that information in their report.

39-01.1-01 Definitions: It's already in but need to get it renumbered.

Representative Beadle: Could we amend it to so the definitions reference the definition in the other chapter?

Ubben: That's a great idea and I can talk to legislative council on how to do that.

Chairman Keiser: This is new, 39-01.1-02 and we don't have that, correct?

Ubben: Correct.

Chairman Keiser: This would be an additional requirement to report to the insurance company the names of all drivers to the department of transportation but we want to correct that and have them report to the department?

Ubben: We want to add this requirement to report the names of the drivers to the department of transportation so the state has some way to monitor who is driving these vehicles. We don't know the drivers but we know who the TNC's are because they have to register with the Secretary of State.

Representative Hanson: Do you know of any states that report the TNC drivers to their transportation department in statue?

Ubben: I don't know the answer to that.

Representative Beadle: Would there a way to make it so the departments that have these records would not let the information get outside of the agency?

Shah: We are against this amendment. Similarly we were against to providing the list of drivers to the insurance companies. The industry is not regulation us based on what was

discussed earlier. If they don't want to regulate us, why give the names of the drivers? We want to work quickly and directly with law enforcement to be the most effective.

Representative Beadle: Moves the language cross reference 39-01.1 with the current section in which is 26.

Representative Laning: Second. (Motion 11)

Voice vote, motion carried.


Chairman Keiser: Closes the hearing on HB 1144.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1144
2/16/2015 AM
23926

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Insurance coverage of motor vehicles participation in transportation network company networks, priority of coverage and minimum limits and to provide for application.

Minutes:

Attachments 1-4

Chairman Keiser: Opens the work session on HB 1144. (Attachments 1-2) There will be amendments and a new markup due to some technical cleanups. (Attachments 3-4).

Representative Boschee: Moves the adoption of .02005, attachment 2.

Representative Laning: Second.

Voice vote, motion carried.

Chairman Keiser: Explains the technical amendments not stated quite correctly. We missed it but on 02005, the language on page 6 of the markup copy, attachment 1, lines 17 through 20 should have been struck.

Brian Johnson: Walks through attachment 3 the markup version .06000

Page 2, line 29, after the word requirements, inserting "that apply".

Page 2, line 20, after the word policy, the word "will" is being struck, inserting "may".

Page 2, line 2, the word "personal" is being struck, inserting "bodily".

Page 4, line 9, after the word protection, inserting as "required".

Page 5, line 6, adding of section 26.1-40.1-03.

Page 6 & 7, struck the language from 26.1-40.1-03 to make it consistent where we changed the confidentiality.

Page 6, line 17-20, starting with "only" will be struck.

Page 7, line 3, disclosure.

Representative Kasper: I'm not interested for the citizens of North Dakota to be subject to their personal information being shared with any one unless they provide a written agreement in advance that they can share.

Representative Lefor: I agree with Representative Kasper. What if we take out "to a third party" out, will that accomplishes what we are looking to do here?

Representative Ruby: Information is needed to be shared and we can't put it too tight. I'm not sure we would be ok to take that language out.

Representative Becker: Are there any other business that would have the same level or restriction?

Representative Kasper: There are, financial information can't be shared.

Representative Becker: We are removing the ability for the customer to consent, even if they want to give their information out.

Representative Kasper: You right and the wording is not the intent I had on Friday.

Chairman Keiser: We have to find a way for the company to operate reasonable and yet protect the consumer. We could perhaps have, TNC may not disclose any personally identifiable information of a TNC, except legal obligation or for a written opt in provision.

Representative Kasper: Some kind of stipulation that it can't be hidden in a paragraph.

Chairman Keiser: Give them some flexibility, an opt-in for the customer who wants it.

Representative Kasper: I have no objection to that.

Representative Beadle: We need to adjust the language on page 9.

Chairman Keiser: You're correct.

Representative Kasper: You can add "except for the purposes of obtaining the fare".

Representative Laning: I think that legal obligation would cover them because you owe them money.

Chairman Keiser: Mr Shah, would you comment on this?

Sager Shah: I agree with the language and it was too restrict before. Anything for ordinary business practices, we don't want to be too restraining there. We want to share that information to credit card processers or banks as necessary.

Chairman Keiser: Representative Beadle was right; we have the same exact language on page 9 because that was a different section of the code.

Representative M Nelson: Opt in process is going to be?

Chairman Keiser: With the banking and financial, it take a direct action in writing for opt-in from you. People of North Dakota want the opt-in by 70%.

Representative M Nelson: Moves to adopt the amendments .02006.

Representative Laning: Second.

Voice vote, motion carried.

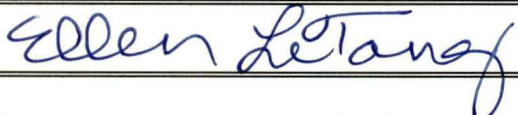
Chairman Keiser: Closes the hearing on HB 1144 and we will meet this afternoon.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1144
2/16/2015
23927

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Insurance coverage of motor vehicles participation in transportation network company networks, priority of coverage and minimum limits and to provide for application.

Minutes:

Attachment 1, 2, 3

Chairman Keiser: Opens the afternoon work session on HB 1144.

Chairman Keiser: (Attachment 1). Confidentiality of passenger personal information and there are three areas that are under exemption. Key components:

- ~May not disclose any personally identifiable information.
- ~There are three areas under exemptions, legal obligation, for payment processing and for all other disclosures.
- ~Must obtain the passenger's written consent.

Representative Ruby: Would this be placed in both areas.

Chairman Keiser: Yes.

Representative Kasper: Moves to adopt amendment for confidentiality for both sections.

Representative Laning: Second.

Voice vote, motion carried.

Representative Beadle: (Attachment 2). I want to reopen the discussion for 26.1-40.1-02, the notification from UBER to the driver's insurance provider, since we acted on this portion of it prior to settling the debate about whose primary during each stage of the operation. Now, UBER is primary thought out all stages of the app being on. UBER says, we are covering it anyway, why do we still have to have the burden on us for notifying the insurance companies. I provided a draft where the PNC shall provide notice in writing to the driver instructing them to notify the automobile insurer. I mentioned this to Pat and he still has reservations about it because it's a substantial change to what has been discussed prior. I wanted to bring this piece back up.

Chairman Keiser: I don't believe that's correct, the TNC provider is primary but we have in two places, said the TNC coverage can be provided by your personal auto or UBER. It is not true that UBER is primary and that's the reason this notification is critical to the insurer of the driver.

Representative Beadle: Moves to adopt the amendment he presented, attachment 2.

Representative Boschee: Second.

Chairman Keiser: Further discussion?

Representative Kasper: Do you have a concern that this amendment does not meet the obligation of notification?

Chairman Keiser: I personally do because we already have articles and reports that when drivers are asked to check the box on the insurance form if they are providing TNC services, drivers are intentionally not checking the box and telling the insurers.

Representative Laning: Wasn't there a comment made that if the driver's insurance did not cover it and that UBER will cover it.

Chairman Keiser: That's correct, there are two options. Either UBER stands behind it or the driver can purchase a writer. Now you have the problem of honesty.

Representative Ruby: If they don't mark that, doesn't that constitute insurance fraud.

Chairman Keiser: Yes, but it doesn't help the claim, provide coverage for the claim and we will have our insurance department prosecuting a bunch of individuals for insurance fraud.

Representative Kasper: If we put Representative Beadle's amendment in and the driver did not notify the insurance company, are they not covered?

Chairman Keiser: I would say the way we have written this, if they have purchased TNC insurance for less than the coverage, the driver would become primary. The limits that we have said in this bill, would no longer apply. There would be a conflict.

Representative Kasper: I thought that once the driver is engaged, UBER has the policy coverage even if the driver has policy coverage.

Chairman Keiser: I do not believe that's correct.

Representative Kasper: If there is no rider providing UBER coverage, UBER's policy has to cover even if the driver did not notify?

Chairman Keiser: Up to the limits of the TNC policy on the driver's car. The question here is what if there is fraud?

Representative Kasper: If the driver is guilty of fraud, UBER could go after them; the public is protected because UBER's policy covers it.

Chairman Keiser: Again, I don't think that's true.

Representative Beadle: If the TNC driver does purchase a writer, that would in effect, notify them that they are engaged in a TNC.

Chairman Keiser: Absolutely but it may not be the limits we have here.

Representative Kasper: If you engage a UBER driver and it's the driver's responsibility to notify the insurance company, but he doesn't do it, if he had an accident, does your policy covers it?

Shah: That's correct.

Representative Kasper: They have to notify the company, but if doesn't say they have to buy insurance coverage, if they notify the company and they say fine but we don't have a writer for you to buy from us anyway, your policy is going to cover. Is that correct?

Shah: That's correct. There are two coverages for the driver and one is to buy TNC coverage themselves through a personal carrier or the other is UBER will always cover even if they didn't inform the insurance.

Ubben: One thing I'm concern about, this bill isn't only going to apply to UBER but it's going to have to apply to any transportation companies. What about the other different TNC's? With this amendment it seems to be adding confusion and gray areas of the law that was not there before.

Representative Amerman: Could it happen with the new amendment, couldn't they argue that they fulfilled their obligation because they give notice in writing to the drivers that they wouldn't have to cover the claim?

Ubben: That a logical argument that they could make.

Representative Kasper: Doesn't matter, if they don't follow number 3 in the bill, there's nothing you can do about it anyway unless you catch them. It's an immaterial argument.

Ubben: There are some questions about how we are going to enforce this, I would agree with you on that part. My hope is that folks that come into the state would do it according to what the law says.

Representative Kasper: We can legislate that they follow the law but they don't bother to look for what the law says.

Ubben: You are correct.

Representative Ruby: Page 2, line 25, they are to follow this portion of the law. It gets to the point, if they are going to violate the law, they will do it in other areas of the law. (attachment 3)

Representative Beadle: All it is, is adjusting the notification section under the disclosures. On page 2, 26.1-40.1-03, when the application is engaged until completion and next section and in 26.1-40.1-04 also says that TNC insurance shall become primary. Who tells who, that they are involved in the TNC is that someone is providing coverage and the limits are covered in statute, the minimum. All the disclosure says someone has to tell someone.

Chairman Keiser: Further discussion, we will take the roll.

Roll call was taken on Representative Beadle amendment on HB 1144 with 8 yes, 6 no, 1 absent, motion carries.

Representative Ruby: I have a problem with one main issue and that's the app on stage. On the bottom of page 3, my motion would be to remove all of 26.1-40.1-04 and the "app on" or I will not support the bill.

Representative Becker: Second.

Chairman Keiser: Further discussion?

Representative Lefor: I'll resist the motion.

Representative Devlin: I agree with Representative Ruby. I'll support the motion.

Representative Beadle: Should the amendment were not to pass, we could eliminate the word "primary" throughout that section, we just don't put the burden on the TNC.

Chairman Keiser: We would have to pick up other sections because it applies throughout the bill.

Chairman Keiser: Legislation on this bill has passed in several states. It is currently before several state and the app on is in every state for legislation.

Representative Amerman: If you have the app on, you hit somebody, who is responsible?

Chairman Keiser: If you remove this section, the driver insurance is responsible.

Representative Amerman: It seems to me that some lawyers will create a mess with the app on.

Chairman Keiser: Not if we don't have it in there.

Representative Ruby: That's exactly the reason. When it's activated the TNC's insurance should be primary but when they are just driving along, I don't see how they should be primary in that situation.

Representative Kasper: App is on and nobody calls me, who is responsible if there was an accident.

Representative Louser: App on is a step higher. I will be supporting this.

Chairman Keiser: If we take out just the "app on" stage, we will have to rework the bill to make sure we have all the sections in place.

Roll call was taken to remove "app on" section with 10 yes, 4 no, 1 absent, motion carries.

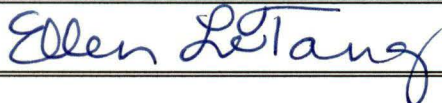
Chairman Keiser: We will have a redraft for tomorrow at 9:00 to take up the bill, closes the hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1144
2/17/2015
24100

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Insurance coverage of motor vehicles participation in transportation network company networks, priority of coverage and minimum limits and to provide for application.

Minutes:

Attachment 1 & 2

Chairman Keiser: Opens the work session on HB 1144.

Chairman Keiser: (Attachment 1 & 2) .01007 Brian and I worked on the new markup .01007 however, we did not get incorporated in the markup the amendments proposed and passed by Representative Beadle and they are easy if you want to write them in. It takes out the coverage of the app on requirements.

Chairman Keiser: As we discussed yesterday, we take out the coverage associated with the app on requirements and the amendments incorporated by Representative Beadle. Any questions on the amendments? We have HB 1144 amended before us, what are your wishes.

Representative Hanson: Moves a Do Pass as Amended.

Representative Ruby: Second.

Roll call was taken on HB 1144 for a Do Pass as Amended with 7 yes, 7 no, 1 absent, motion fails due to the fact it is a tie.

Representative Kasper: With the limits in the bill right now for an uninsured motorist having an accident with an UBER driver, I would like anyone to discuss what the small limits would impact the motorist.

Ward: The only coverage that remains in the bill is when the driver is engaged and there is a passenger in the vehicle. On line 25 on the bottom of page 2, if you look at subsection 1, that provides a million dollars of liability coverage for the TNC driver. If there was an accident and is the fault to the driver, that coverage would be in place. If we drop down to subsection b, we originally also had a million dollars uninsured coverage in the bill, the

uninsured motorist coverage any time drivers transportation network passenger is on board in the amount required by section, that's the minimum required by law. Where there is a 25,000 limit, there is no place for those people in that car to seek a recovery because there is not enough insurance there. That a very likely scenario.

Representative Kasper: What is the solution to the problem?

Ward: Is to reinstate the million dollars in subsection b so at the time there is an uninsured or under insured motorist, the passengers in that vehicle have adequate coverage.

Representative Kasper: Would that be from the UBER?

Ward: Yes.

Representative Kasper: In other states, does UBER have the liability that we just amended out in section b, line 10.

Ward: In California they have a million coverage both in a & b.

Representative Lefor: I would like the North Dakota Insurance Department to give their advice.

Ubben: We concur with Mr Ward. We would be supportive in putting the million dollars back in for parts a & b. It's a consumer protection issue.

Representative Kasper: Moves to reinstate the language that was overstruck on page 3, lines 10-13, version .02007.

Representative Devlin: Second.

Representative Laning: Does the motion also deletes the green language?

Chairman Keiser: The motion would be then to remove the green language.

Representative Kasper: I would amend that motion.

Chairman Keiser: Is that acceptable to the second?

Representative Devlin: Yes.

Chairman Keiser: You have the motion before you, is there further discussion?

Voice vote, motion carried.

Chairman Keiser: What are the wishes of the committee?

Representative Lefor: Moves for a Do Pass as Amended.

House Industry, Business & Labor Committee
HB 1144
February 17, 2015
Page 3

Representative Ruby: Second.

Roll call for a Do Pass as Amended on HB 1144 with 10 yes, 4 no, 1 absent and Representative Lefor is the carrier.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 1, replace "chapter" with "chapters"

Page 1, line 1, after "26.1-40.1" insert "and 39-34"

Page 1, line 3, after "networks" insert "and services"

Page 1, line 3, remove "; and to provide for application"

Page 2, line 5, remove "a liability insurance policy that"

Page 2, replace lines 6 through 8 with:

"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."

Page 2, line 10, after "writing" insert "or electronic form"

Page 2, line 14, replace "in writing of when" with "that"

Page 2, line 15, replace "will" with "may"

Page 2, line 16, after "writing" insert "or electronic form"

Page 2, line 24, after "ride" insert "**when the passenger has exited the vehicle**"

Page 2, line 26, replace "and unless otherwise specified," with "that provides for"

Page 2, line 29, after "company" insert "liability"

Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"

Page 3, replace lines 9 through 11 with:

"Uninsured motorist coverage and underinsured motorist coverage, anytime the driver has transportation network passengers on board, in the amount required by sections 26.1-40-15.2 and 26.1-40-15.3."

Page 3, line 13, replace "as provided" with "when required"

Page 3, line 16, after the first "the" insert "sole"

Page 3, remove lines 17 through 22

Page 3, line 28, replace "twenty-five" with "fifty"

Page 3, line 28, replace "personal" with "bodily"

Page 3, line 28, replace "fifty" with "one hundred"

Page 3, line 29, replace "personal" with "bodily"

Page 4, line 2, after the underscored semicolon insert "and"

Page 4, line 3, remove "; and"

Page 4, remove line 4

Page 4, line 5, remove "coverage"

Page 4, line 15, remove "A transportation network company shall maintain insurance coverage that provides"

Page 4, replace lines 16 through 29 with:

"The primary insurer, in the case of the insurance coverage provided under subdivision a, has the sole duty to defend and indemnify the insured during the time period specified in this section."

Page 4, line 30, replace "6." with "4."

Page 5, line 3, replace "7." with "5."

Page 5, line 4, replace "lapsed" with "excluded coverage according to its policy"

Page 5, remove lines 11 through 30

Page 6, line 1, replace "26.1-40.1-07" with "26.1-40.1-06"

Page 6, line 3, replace "Notwithstanding any other law, a" with "A".

Page 6, line 11, replace "26.1-40.1-08" with "26.1-40.1-07"

Page 6, line 18, replace "26.1-40.1-09" with "26.1-40.1-08"

Page 6, replace lines 19 through 24 with:

"A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation."

Page 6, line 25, replace "26.1-40.1-10" with "26.1-40.1-09"

Page 6, line 28, replace "26.1-40.1-11" with "26.1-40.1-10"

Page 7, after line 2, insert:

"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 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, 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 eighteen years of age.

39-34-04. Records.

A transportation network company shall maintain individual trip records for at least one year from the date each trip was provided and transportation network company driver records at least until the six-year anniversary of the date on which a

transportation network company driver's activation on the transportation network company digital network has ended.

39-34-05. Confidentiality of passenger personal information.

A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation.

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 by the department of transportation consistent with this chapter and insurance commissioner in 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 municipality's or other local entity's rate, entry, operational, or other requirements."

Page 7, remove lines 3 through 5

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

- Page 1, line 1, replace "chapter" with "chapters"
- Page 1, line 1, after "26.1-40.1" insert "and 39-34"
- Page 1, line 3, after "networks" insert "and services"
- Page 1, line 3, remove "; and to provide for application"
- Page 1, line 8, after "chapter" insert "and chapter 39-34"
- Page 2, line 5; remove "a liability insurance policy that"
- Page 2, replace lines 6 through 8 with "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."
- Page 2, line 10, after "writing" insert "or electronic form"
- Page 2, line 14, replace "in writing of when" with "that"
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- Page 2, line 30, replace "personal" with "bodily"
- Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"
- Page 3, replace lines 9 through 11 with "Uninsured motorist coverage and underinsured motorist coverage, anytime the driver has transportation network passengers on board, in the amount required by sections 26.1-40-15.2 and 26.1-40-15.3."
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- Page 3, remove lines 17 through 22
- Page 3, line 28, replace "twenty-five" with "fifty"
- Page 3, line 28, replace "personal" with "bodily"
- Page 3, line 28, replace "fifty" with "one hundred"
- Page 3, line 29, replace "personal" with "bodily"
- Page 4, line 2, after the underscored semicolon insert "and"

Page 4, line 3, after "protection" insert "when required"

Page 4, line 3, remove "; and"

Page 4, remove line 4

Page 4, line 5, remove "coverage"

Page 4, line 15, remove "A transportation network company shall maintain insurance coverage that provides"

Page 4, replace lines 16 through 29 with "The primary insurer, in the case of the insurance coverage provided under subdivision a of subsection 1 of section 26.1-40.1-03, has the sole duty to defend and indemnify the insured during the time period specified in this section."

Page 4, line 30, replace "6." with "4."

Page 5, line 1, replace "be" with "being"

Page 5, line 3, replace "7." with "5."

Page 5, line 4, replace "lapsed" with "excluded coverage according to its policy"

Page 5, remove lines 11 through 30

Page 6, line 1, replace "26.1-40.1-07" with "26.1-40.1-06"

Page 6, line 3, replace "Notwithstanding any other law, a" with "A"

Page 6, line 7, remove "only if the policy expressly provides for the coverage"

Page 6, remove lines 8 and 9

Page 6, line 10, remove "separately stated premium may be charged"

Page 6, line 11, replace "26.1-40.1-08" with "26.1-40.1-07"

Page 6, line 18, replace "26.1-40.1-09" with "26.1-40.1-08"

Page 6, replace lines 19 through 24 with "A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation."

Page 6, line 25, replace "26.1-40.1-10" with "26.1-40.1-09"

Page 6, line 28, replace "26.1-40.1-11" with "26.1-40.1-10"

Page 7, after line 2, insert:

"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 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, 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 eighteen years of age.

39-34-04. Records.

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

39-34-05. Confidentiality of passenger personal information.

A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation.

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 by the department of transportation consistent with this chapter and insurance commissioner in 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 municipality's or other local entity's rate, entry, operational, or other requirements."

Page 7, remove lines 3 through 5

Renumber accordingly

HB 1144 - Proposed Amendment

Page 2 line 22 (of Green Lined copy):

After "notice" insert: "in writing or electronically to driver instructing the driver to notify their personal automobile insurer"

Page 2 line 22: replace "a" with "the".

Page 2 line 23-24: remove "directly to the driver's personal automobile insurer unless that insurer is providing transportation network company insurance to the driver"

Current text:

3. A transportation network company shall provide notice of a driver's participation in the transportation network directly to the driver's personal automobile insurer unless that insurer is providing transportation network company insurance to the driver.

New Text:

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

February 17, 2015

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

- Page 1, line 1, replace "chapter" with "chapters"
- Page 1, line 1, after "26.1-40.1" insert "and 39-34"
- Page 1, line 3, after "networks" insert "and services"
- Page 1, line 3, remove "; and to provide for application"
- Page 1, line 8, after "chapter" insert "and chapter 39-34"
- Page 2, line 5, remove "a liability insurance policy that"
- Page 2, replace lines 6 through 8 with "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."
- Page 2, line 10, after "writing" insert "or electronic form"
- Page 2, line 14, replace "in writing of when" with "that"
- Page 2, line 15, replace "will" with "may"
- Page 2, line 16, after "writing" insert "or electronic form"
- Page 2, line 18, replace "will" with "may"
- Page 2, line 20, after "notice" insert "in writing or electronically to driver instructing the driver to notify the driver's personal automobile insurer"
- Page 2, line 20, replace "a" with "the"
- Page 2, line 21, remove "directly to the driver's personal automobile insurer unless that"
- Page 2, line 22, remove "insurer is providing transportation network company insurance to the driver"
- Page 2, line 24, after "ride" insert "**when the passenger has exited the vehicle**"
- Page 2, line 26, replace "and unless otherwise specified." with "that provides for"
- Page 2, line 27, after "requirements" insert "that"
- Page 2, line 29, after "company" insert "liability"
- Page 2, line 30, replace "personal" with "bodily"
- Page 3, line 13, replace "as provided" with "when required"
- Page 3, line 16, after the first "the" insert "sole"
- Page 3, replace lines 17 through 22 with:
 - "e. Coverage under a transportation network company insurance policy may neither be dependent on a driver's personal automobile

2/1

insurance policy carrier first denying a claim nor a personal automobile insurance policy carrier being required to first deny a claim.

- f. In every instance where 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."

Page 3, remove lines 23 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 6

Page 5, line 7, replace "26.1-40.1-05" with "26.1-40.1-04"

Page 5, remove lines 11 through 30

Page 6, line 1, replace "26.1-40.1-07" with "26.1-40.1-05"

Page 6, line 3, replace "Notwithstanding any other law, a" with "A"

Page 6, line 7, remove "only if the policy expressly provides for the coverage"

Page 6, remove lines 8 and 9

Page 6, line 10, remove "separately stated premium may be charged"

Page 6, line 11, replace "26.1-40.1-08" with "26.1-40.1-06"

Page 6, line 18, replace "26.1-40.1-09" with "26.1-40.1-07"

Page 6, replace lines 19 through 24 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 6, line 25, replace "26.1-40.1-10" with "26.1-40.1-08"

Page 6, line 28, replace "26.1-40.1-11" with "26.1-40.1-09"

Page 7, after line 2, insert:

"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. 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 eighteen years of age.

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39-34-04. Records.

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

39-34-05. Confidentiality of passenger personal information.

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.

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 by the department of transportation 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."

Page 7, remove lines 3 through 5

Renumber accordingly

Date: Feb 11, 2015

Roll Call Vote: 1 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Becker Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	Ab	
Representative Beadle	X		Representative Ruby		X
Representative Becker	X		Representative Amerman		X
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	Ab		Representative M Nelson	Ab	
Representative Laning	X				

Total (Yes) 5 No 6

Absent 4

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Adopt UBER's language
Motion failed

Date: Feb 11, 2015

Roll Call Vote: 2 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Becker Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut	X		Representative Louser	Ab	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	Ab		Representative Boschee		X
Representative Frantsovog	Ab		Representative Hanson	X	
Representative Kasper	Ab		Representative M Nelson	Ab	
Representative Laning	X				

Total (Yes) 6 No 4

Absent 5

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
UBE R's language - taking out the requirement that the TNC be primary and to provide coverage in the amount of 1 million dollars for UI & UIM accidents.

Date: Feb 11, 2015

Roll Call Vote: 3 AM

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144**

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Ruby Seconded By Rep Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	Ab	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	Ab		Representative Boschee	X	
Representative Frantsovog	Ab		Representative Hanson	X	
Representative Kasper		X	Representative M Nelson	Ab	
Representative Laning	X				

Total (Yes) 6 No 5

Absent 4

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Removed c + d or 1+2 in the green
Putting back the old c
changing as required
Motion carried

Date: Feb 11, 2015

Roll Call Vote: 4 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Remove subsection e
voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 5 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Ruby Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	Ab	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	Ab		Representative Boschee	X	
Representative Frantsovog	Ab		Representative Hanson	X	
Representative Kasper		X	Representative M Nelson	Ab	
Representative Laning		X			

Total (Yes) 5 No 6

Absent 4

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

- Motion for UBER's numbers 50/100/25
- Take out "primary"
Motion fails

Date: Feb 11, 2015

Roll Call Vote: 86

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144**

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	Ab	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	Ab		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	Ab	
Representative Laning	X				

Total (Yes) 11 No 0

Absent 4

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Subsection a - leave in "shall be primary"
Use UBER's = 50/100/25
Motion carried

Date: Feb, 2015

Roll Call Vote: 9 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Boschee Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Accepts Recommendation of UBER to make it consistent with the other section voice vote - motion carried

Date: Feb 11, 2015

Roll Call Vote: 8 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Removings lines 10-13 on attachment 2

voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 9:11 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Moves line 24 + 25 on page 3 of attachment 2 and transports that to subsection 4, the old 4. voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 10 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

take out Old 5 on lines 20-24
voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 11 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Becker Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	Ab		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper		X	Representative M Nelson	Ab	
Representative Laning		X			

Total (Yes) 6 No 6

Absent 3

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Strike subsection 6 which is now 5
Motion failed due to a tie

Date: Feb 11, 2015

Roll Call Vote: 12 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Boschee Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Carried for UBER's amendment
voice vote - motion carried

Date: Feb 11, 2015

Roll Call Vote: 13

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote, motion carried
Remove all of subsection of 6

Date: Feb 11, 2015

Roll Call Vote: 14 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Boschee Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Remove 26.1-40.1-07
"Notwithstanding any other law"
voice vote, Motion carried

Date: Feb 11, 2015

Roll Call Vote: 15 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Lefor Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

accept surplus lines insurance
voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 10 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Boschee Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Remove (4) section 2 Application
voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 1 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
attch: 1, pg 2, lines 12 + 18
add in writing or electronic form
Voice Vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 2 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Becker Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
p 2, line 8, strike "specifically"
voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 3 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Becker Seconded By Rep Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	Ab	
Representative Kasper	Ab		Representative M Nelson	Ab	
Representative Laning	X				

Total (Yes) 7 No 4

Absent 4

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
p 7, strike, line 2 starting with only through line 5 motion carried

Date: Feb 11, 2015

Roll Call Vote: 4 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Ruby Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

39-34-04 = "add Secretary of State"
at the end of the sentence.
voice vote, motion carried

Date: Feb 11, 2015

Roll Call Vote: 5 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

deleting 1st line on page 2, 39.34-05
voice vote, motion carries

Date: Feb 11, 2015

Roll Call Vote: 6 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

39-34-07 = Add language for electronic receipt.
from attachment
Motion carries

Date: Feb 11, 2015

Roll Call Vote: 7 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider Further amend

Motion Made By Rep Beadle Seconded By Rep Lefor

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser		X
Representative Beadle	X		Representative Ruby		X
Representative Becker		X	Representative Amerman	X	
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	Ab	
Representative Laning	X				

Total (Yes) 9 No 4

Absent 2

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Moves all of 39-34-09 and further amend to change 19 to 18 Motion carries

Date: Feb 11, 2015

Roll Call Vote: 8 pm

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Lefor Seconded By Rep Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
adopt 39-34-14 and change one year to 6 years for record keeping voice vote, Motion carried

Date: Feb 11, 2015

Roll Call Vote: 9

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Adopt 39-34-16 & where it says on line 2, by this chapter, replace w/chapters 39-34 & 26.1-40.1
voice vote motion carried

Date: Feb 10, 2015

Roll Call Vote: 10 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Lefor Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Moves to say - TNC may not disclose to a 3rd party any personal information of a TNC passenger except at the request of the courts
voice vote, motion carried.

Date: Feb 11, 2015

Roll Call Vote: 11 PM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
the language to cross reference 39-01.1 with the current section in which is 26.
voice vote, motion carried

Date: Feb 16, 2015

Roll Call Vote: 1 am

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.0434.02005

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider

Motion Made By Rep Boschee Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) 13 No 1

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote, motion carried

Date: Feb 16, 2015

Roll Call Vote: 2am

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: 15.0434.02006

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider

Motion Made By Rep Nelson Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote, motion carried

Date: Feb 16, 2015 pm

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation

As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Kasper Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Adopt the confidentiality amendment.
Voice vote, motion carried

Date: Feb 16, 2015

Roll Call Vote: 2 pm

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: Rep Beadle's amendment

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation

Other Actions: As Amended Rerefer to Appropriations
 Reconsider further amend

Motion Made By Rep Beadle Seconded By Rep Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson		X
Representative Laning	X				

Total (Yes) 8 No 6

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

adopt Rep Beadle's amendment
Roll call was take, motion carried
Regarding notification from Uber:
the driver's insurance driver

Date: Feb 16, 2015

Roll Call Vote: 3 pm

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Ruby Seconded By Rep Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 10 No 4

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Remove "app on" section - 26.1-40.1-04
Roll call vote, motion carried

Date: Feb 17, 2015

Roll Call Vote: 1 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Hanson Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper		X	Representative M Nelson	X	
Representative Laning		X			

Total (Yes) 7 No 7

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
motion fails, due to a tie

Date: Feb 17, 2015

Roll Call Vote: 2 AM

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Kasper Seconded By Rep Devlin

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote, motion carried - motion to reinstate lines 10-13 on page 3 + delete the green language.

Date: Feb 17, 2015

Roll Call Vote: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1144

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Lefor Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor	X	
Vice Chairman Sukut		X	Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman		X
Representative Devlin		X	Representative Boschee	X	
Representative Frantsvog	<u>Ab</u>		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 10 No 4

Absent 1

Floor Assignment Rep Lefor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1144: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1144 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "chapter" with "chapters"

Page 1, line 1, after "26.1-40.1" insert "and 39-34"

Page 1, line 3, after "networks" insert "and services"

Page 1, line 3, remove "; and to provide for application"

Page 1, line 8, after "chapter" insert "and chapter 39-34"

Page 2, line 5, remove "a liability insurance policy that"

Page 2, replace lines 6 through 8 with "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."

Page 2, line 10, after "writing" insert "or electronic form"

Page 2, line 14, replace "in writing of when" with "that"

Page 2, line 15, replace "will" with "may"

Page 2, line 16, after "writing" insert "or electronic form"

Page 2, line 18, replace "will" with "may"

Page 2, line 20, after "notice" insert "in writing or electronically to driver instructing the driver to notify the driver's personal automobile insurer"

Page 2, line 20, replace "a" with "the"

Page 2, line 21, remove "directly to the driver's personal automobile insurer unless that"

Page 2, line 22, remove "insurer is providing transportation network company insurance to the driver"

Page 2, line 24, after "ride" insert "when the passenger has exited the vehicle"

Page 2, line 26, replace "and unless otherwise specified." with "that provides for"

Page 2, line 27, after "requirements" insert "that"

Page 2, line 29, after "company" insert "liability"

Page 2, line 30, replace "personal" with "bodily"

Page 3, line 13, replace "as provided" with "when required"

Page 3, line 16, after the first "the" insert "sole"

Page 3, replace lines 17 through 22 with:

"e. 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.

- f. In every instance where 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."

Page 3, remove lines 23 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 6

Page 5, line 7, replace "**26.1-40.1-05**" with "**26.1-40.1-04**"

Page 5, remove lines 11 through 30

Page 6, line 1, replace "**26.1-40.1-07**" with "**26.1-40.1-05**"

Page 6, line 3, replace "Notwithstanding any other law, a" with "A"

Page 6, line 7, remove "only if the policy expressly provides for the coverage"

Page 6, remove lines 8 and 9

Page 6, line 10, remove "separately stated premium may be charged"

Page 6, line 11, replace "**26.1-40.1-08**" with "**26.1-40.1-06**"

Page 6, line 18, replace "**26.1-40.1-09**" with "**26.1-40.1-07**"

Page 6, replace lines 19 through 24 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 6, line 25, replace "**26.1-40.1-10**" with "**26.1-40.1-08**"

Page 6, line 28, replace "**26.1-40.1-11**" with "**26.1-40.1-09**"

Page 7, after line 2, insert:

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. 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 eighteen years of age.

39-34-04. Records.

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

39-34-05. Confidentiality of passenger personal information.

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.

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 by the department of transportation 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."

Page 7, remove lines 3 through 5

Renumber accordingly

2015 SENATE TRANSPORTATION

SB 1144

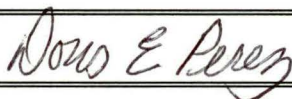
2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1144
3/13/2015
Recording job number 24800

Subcommittee Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits.

Minutes:

Attachments: 3

Chairman Oehlke opened the hearing on HB 1144, all committee members were present.

Pat Ward, Association of ND Insurers, opposes bill as currently written, has amendments, language previously removed needs to be put back.

Sagar Shah, General Manager, Uber Technologies, submitter proposed amendment, attachment # 1

Transportation network companies provide a great opportunity for part time jobbers to earn extra money, and have made an impact on drunken driving reduction. He walked the committee through the amendments:

Page 6 lines 20-26 we ask to strike this section or amend it to the language provided in the handout I just gave. This section is far too restrictive, because it requires specific written consent on a disclosure by disclosure basis which we don't obtain currently and no industry I can think of does. Most states and the federal government don't have industry specific privacy rules except maybe health care and finance. Our information is not more sensitive than Google's, apple's, or amazon's. There shouldn't be TNC specific privacy laws here. If the committee wishes to keep a privacy clause in we ask you use the language provided here which would tie disclosure restrictions to the company's publicly available privacy policy which we provide in the app, on the website, etc... (5:16 fwd.)

The definition of "participating driver", line 19, the goal is to make clear what the driver and the transportation network company actually does, the current definition is a little vague. We want to make clear TNC provides the software that enables the ride and the driver provides the transportation. (7:01 fwd.)

We are agreeable to most of the insurance language. There is one key difference between this bill and SB 2368 regarding period 1, this bill does not contain any period 1 language, because the House IBL committee members were so convinced that period 1 should not be

primary to the TNC that they stripped it out altogether. It creates ambiguity; we support pulling that language back in the way it was voted out of this committee saying that the personal insurance policy is primary and the TNC's secondary during period 1, the app on stage, and the driver not engaged to a customer in any way. (7:54 fwd.)

Senator Axness: do other states require that on period 1 TNCs be the primary coverage or not?

Sagar Shah: yes, but only 4 states have passed TNC legislation, CO has period 1 as primary, IL secondary, a number of city ordinances also have it as secondary. We ask for a few technical changes, if this language is added back in, 1st coverage limits be brought to 50-125- 25; 2nd cleanup language to clarify TNC is secondary and personal insurance is primary by removing paragraph saying TNC would have to verify personal insurance policy specifically writes that it covers this activity. That would conflict with the last two sections saying that as long as personal insurance doesn't exclude activity it includes it. That is the way insurance is written, as an exclusion contract, so we are taking that section out. With these changes Uber can truly support this bill. (12:35 fwd.)

Chairman Oehlke: SB had something about you needing proof of insurance in certificate form from the individual, is that somewhere in here? You provide certificates of insurance thru your organization to various entities.

Sagar Shah: I don't believe that language is in the House bill, it was on SB 2368, and we are not opposed to that. We call the app on no trip: period 1; periods 2(you have accepted the trip and are on your way to pick up the passenger) and 3(you actually have a customer in the car) the insurance is the same for both. On the way back it is period 1 again.

Chairman Oehlke: the certificates your insurance company provides put a lot of specific information, why are you averse to doing it that way?

Sagar Shah: the way the policies are written, they will pay for period 1 activity, currently if it is not excluded it is included, if you write it that way specifically that would change the way the contract was written.

Chairman Oehlke: wording in the certificate of insurance is the insurance company clarifying some information and that is all we were asking from the insurance agent who represents an Uber driver in ND. There is a specific exclusion in a ND policy if you carry someone for hire we don't provide coverage, unless endorsed to provide the extra coverage.

They debated "specifically exclude" (fine with us) vs "specifically include" (we see as different from status quo) (17:59 fwd.)

Chairman Oehlke: committee you see where the problem can arise here, this is two people having a little disagreement on a little bit of wording, extrapolate that to when an occurrence happens, there is money on the line and two insurance companies with the same disagreement, someone will have to pay, if the insurance company can find a way not to pay they will argue about that, may take a long time to settle. That is our reason for

having primary coverage for the individual. You are splitting coverage with another insurance company.

Sagar Shah so far there has been no legal disputes regarding period 1.

Senator Rust: we have 4 periods? Period 4 would be the return trip no customer on board, is it the same as app on? What happens if personal policy says they don't cover TNCs? What do you tell you drivers about insurance requirements? Would a college kid understand this? Do you always require certificate of insurance from your drivers? To me proof of insurance could be yes they have insurance from us; certificate of insurance would list the exceptions. Card and certificate are not the same. (25:51 fwd.)

Sagar Shah: that would be back to period 1, no customer no trip engaged. That is why Uber's policy is secondary during that time, if personal policy doesn't exist or excludes coverage Uber will step in and pay up to the limits. We explain the policy the way we have done it today and tell drivers to contact their insurance companies. In many jurisdictions we have age limits. Even if they don't necessarily fully understand, they will always be covered during these periods. We require proof of insurance, an insurance card providing the carrier, type of policy and name of person in the policy. I think certificate on insurance is typically a commercial thing and these are personal insurance policies we are requiring proof of insurance for. (32:46 fwd.)

Chairman Oehlke: there is an endorsement on you policy limiting coverage to all rides originating in the state of ND; we have major border cities, what is the reason? You have Uber in MN?

Sagar Shah if you are a driver in ND you can only pick up in ND. In the twin cities, you have to sign on separately, our background checks focus on states you live in. If you have insurance that meets the MN minimum requirements you are welcome to drive in MN.

Senator Sinner: does Uber verify coverage for carrying passenger with the driver's insurance company? What about carpooling? (36:04)

Sagar Shah: we don't, personal line is existing personal contract. Carpooling would be in periods 2 and 3, essentially 3. A lot of people say you have a passenger in your car and there is some sort of monetary exchange, period 1 no passenger no monetary exchange (38:37 fwd.)

Pat Ward: Property Casualty Insurance Association of America, Association of ND Insurers, written testimony #2 opposing this bill as currently drafted. Insurance adequacy is important, private passenger automobile insurance expressly excludes coverage for "carrying passengers for hire" or "business pursuits" aka "livery". Personal auto lines do not provide coverage for TNC activity unless there would be a policy which expressly or specifically provides that coverage. The bill needs more clarity as to whose coverage is primary in the various situations. We should look at Colorado's legislation and insurance policies for these operations. (39:56 - 44:27) Submitted proposed amendments, attachment #3, walked the committee through the amendments. There is disagreement with Mr. Shah regarding the app on stage. There will be specific TNC policies eventually; in

the meantime we have to clarify who are primary, collision coverage, and certificate of insurance issues. Right now the only policy available is commercial auto policy which is expensive. Contingent collision coverage during the engaged and app-on phases should be considered and you need to add back the certificate of insurance. (54:34) They should have the primary policy and the duty to defend. They are still working after they dropped the passenger off, they are doing livery when logged in and able to take rides.

Chairman Oehlke Uber provides collision coverage for stages 2 and 3 provided the driver or vehicle has collision coverage

Senator Rust (57:14) app on personal auto policy is primary, Uber secondary you are asking for uber as primary and personal auto policy as secondary (was told that is correct) Person could be doing personal business while on app on stage, shouldn't his personal insurance be primary, how do you differentiate at that stage?

Pat Ward: it will come down during the claim investigation to the honesty of the driver; Uber has the technology while app on- logged in to know where you are

Senator Campbell: we keep going back and forth on the same issues; only 4 states have passed legislation. I am afraid with the amendments; this will become unaffordable for the Uber driver. They end up driving without insurance. There are so many "if's" we are trying to forecast. No matter what we do there will be a lawsuit challenging this. What if we do nothing and let this thing sit out for the biennium and legislated after the fact. (1:02:17 - 1:03:46)

Pat Ward: I get the sense Uber wants this bill. I don't think cost is going to be prohibitive for the drivers, but that is the reason to make Uber primary for at least a 2yr period. Uber's drivers are incurring costs (car, tires, gas, etc...) from which it benefits. This 2 yr. primary insurance is relatively insignificant to a multibillion dollar worldwide company; they are getting all the benefits and none of the risks. There will be legislation in all states. (1:07:02)

Jeff Ubben, General Counsel, ND Insurance Dept., we have the same concerns as Mr. Ward's, we mostly support his amendments. I would point out that the page 2 line 5 amendment concerning the word "specifically" is very important. Excluding that word could result in a lot of litigation to determine what the policy coverage is. Amendment 1.a, we would support moving minimum limits to 50-100-50. We disagree with Mr. Ward's amendments, page 2 number 3; we prefer adding the certificate of insurance requirement, and remove number 3. We favor adding the collision coverage back into this bill, since this will apply to all the TNCs in the state. Minimum age limit to be an Uber driver in the senate bill was set at 21 and HB 1144 sets it at 18yrs. (1:10:27) Insurance Dept.'s main concern is that there be coverage, the way the senate bill is written we believe there is going to be coverage if it made personal auto carrier primary and the TNC secondary, TNC would have to cover from dollar one if personal auto policy excluded coverage. This is a more roundabout way to get coverage. (1:07:20 -1:12:34)

Vice Chairman Casper: can you explain the difference between being primary and secondary? (1:13:07)

Jeff Ubben: Having the TNC as secondary, like SB 2368 does, requires the primary auto insurer to say there is exclusion, they were driving for a TNC or had the app on and therefore they won't cover you. TNC would say they were not driving for us, the personal auto carrier can come to a different conclusion, and it is likely they will. Therefore the drivers would be in the middle in the battle between Uber and the insurance company; they would have to go through extra steps in order to recover from the secondary policy, the TNC policy.

Senator Axxess Is the Insurance Dept. comfortable with SB 2368? Do we need this bill then?

Jeff Ubben for the most part we want to see collision coverage added.

Chairman Oehlke has the insurance dept. filed any rates for this kind of coverage?

Chrystal Bartuska, Product Filing Division Director, ND Insurance Dept. We have not approved any filings of that nature. We don't review the surplus lines. We have some policies specifically excluding this type of TNC activity from personal auto policy.

Senator Axxess: the app on feature, does it time out?

Sagar Shah: the app can be on in the background and it can time out of the app

Senator Campbell if we approve Mr. Ward's suggested amendments, what is Uber going to do. Why do you allow California to be the primary in some of those periods and not ND?

Sagar Shah: The insertion of the word "specifically" is very problematic for us, that is not how auto insurance is written, it is written as an exclusion policy. Regarding collision and comprehensive, there is not auto policy in any state that requires it; if this bill passes this would be the first state, we cannot accept that. California is our biggest market in the USA, there we things we were able to compromise on, ND is a smaller market, a little bit tighter from the financial and cost perspective, to be able to accept this.

Senator Campbell: if we approve the amendments, it would discourage Uber to move to Fargo?

Sagar Shah: We would have to oppose the bill. It would be very difficult for us to come to ND.

Senator Rust: collision and comp being very problematic how about saying "if the driver's insurance included collision and comprehensive" would you be ok? If driver doesn't have collision insurance, then Uber policy doesn't provide the insurance? (Was told that is correct). Why would you object then if that were in the law?

Sagar Shah: Uber is paying, this is our policy and we shouldn't be mandated to allow for collision and comprehensive under any circumstances; this coverage is not a safety issue that is why most states don't require it as mandatory. This would be the first one.

Linda Sitz, Director, Motor Vehicle Division, North Dakota Department of Transportation (DOT) I have a question at the DOT Director's request: page 6, under controlling authority, line 30 says we are supposed to be adopting rules for TNCs. We want clarity: if we are adopting rules, are we regulating something? If we are regulating something, what are the expectations on the DOT, what are we regulating ?

Senator Axness since we agreed that is why we changed it to the Secretary of State

No additional testimony, **Chairman Oehlke** closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1144
3/19/2015
Recording job number 25112

Subcommittee Conference Committee

Committee Clerk Signature

David E. Porey

Explanation or reason for introduction of bill/resolution:

Relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits.

Minutes:

Attachment: 1

Chairman Oehlke opened the discussion on HB 1144, all committee members were present.

Senator Rust: what happened to the bill we sent out?

Chairman Oehlke it will have a hearing this afternoon

Jeff Ubben, General Counsel, ND Insurance Dept. walked committee thru Ins. Dept. amendment, attachment #1
Page 1, line 22: technical correction

Page 2, line 5: this one, Uber was opposed to but Pat Ward and the Dept. were in support of inserting after "that", the word "specifically".

Chairman Oehlke: would a situation where this would be applicable be: I have a car I will use for Uber; the TNC insurance policy would have to specifically include my particular vehicle?

Jeff Ubben: yes, that is kind of where we are getting at.

Chrystal Bartuska, Product Filing, ND Insurance Dept., it encompasses the exclusions that could potentially come in a policy, a lot of carriers are already excluding TNC type of activity in their contracts.

Senator Rust: it would specifically have to say that this policy does cover TNC activity. (Was told yes) Would not necessarily have to name the vehicle? (Was told: correct)

Chairman Oehlke does TNC insurance means the network company's insurance policy or does it mean my personal insurance policy with an endorsement or covering network activity?

Ms. Bartuska, it means a policy that specifically covers a driver's use of a vehicle in connection with a TNC's online enabled application or platform. That would mean either the TNC's policy or your personal policy. Both have to specifically say that they cover this type of activity. I don't think it would need to list your specific vehicle.

Senator Rust: Page 2 line 5 definition 7 doesn't say your personal insurance

Chairman Oehlke it is a definition of what the insurance policy for the TNC is.

Ms. Bartuska: on page 3, top, references type of insurance required, read from page 3 of the bill lines 3 to7

Senator Axness: We are saying driver needs some form of TNC insurance and it doesn't matter if it is the personal insurance or the TNC itself.

Ms. Bartuska: correct, even a commercial policy, if they go up and beyond. This is how this will be playing out; we are seeing exclusions on the personal side already. You will need a commercial policy if you want to do this.

Vice Chairman Casper does that insurance that specifically covers Uber drivers exist?

Ms. Bartuska: Glico has, in some states, a commercial policy that covers all periods, in California 2 carriers have this type of coverage (they put a surcharge on your rate and count the number of miles you do in this capacity). Not yet in ND. CA, CO and VA carriers have policies for TNCs because they have state legislation covering this type of activity. If something passes here we will see these types of policies in the state.

Chairman Oehlke you could get a policy in ND thru the surplus lines, more expensive

Senator Campbell isn't that kind of unaffordable right now

Chairman Oehlke if very active, it won't be unaffordable.

Senator Rust: Sagar said word "specifically" would become a deal breaker in ND, why?

Chairman Oehlke they may be thinking they specifically have to insure that person's car in their policy. I don't think that is what this is saying; it just says vehicle needs to be insured.

Sagar Shah: "specifically" would be a deal breaker because it re-writes contractual language that the insurance policies already have. Insurance contracts are written as exclusions, they don't specifically cover anything, and they cover everything unless it is excluded. What this would do is actually reinterpret existing contracts that consumers have purchased thru their insurance carriers.

Chairman Oehlke insurance companies would change wording saying coverage would not apply to livery service except if you drive for a TNC company. What if we change that to "provides for coverage of a driver's use of a vehicle in TNC activity"?

Sagar Shah: that's fine

Senator Sinner read online news release from Geico regarding TNC coverage. The policy is personal/commercial.

Sagar Shah: let the free market operate; let the insurance companies adjust to this. Geico excluded coverage in just 10 days, now they are creating and adjusting policies for TNC activity, it is being done on a state by state basis.

Jeff Ubben: if the word "specifically" is not there it leaves it open to interpretation about if covered or not, they will argue it doesn't cover TNCs.

Senator Rust: Chairman Oehlke, do you buy into that, if it is not an exception then it must be covered. Do insurance companies list what they cover?

Chairman Oehlke No that is not what I typically see. Yes they do, they add conditions and exclusions

Ms. Bartuska: showed an ISO form with an exclusionary endorsement, specifically saying they exclude any type of vehicle ride sharing program. If they allow it, then they would put another kind of endorsement or schedule in the policy specifically telling you can do that activity.

Senator Rust without that exclusion you are covered.

Ms. Bartuska: that is where you are going to get into your consumer litigation.

Vice Chairman Casper do you have an example of a specific inclusion? If this activity is not included then there is no insurance available for anybody to do this. (Was told at this time that is correct, ND doesn't have any carriers that cover this now)

Jeff Ubben: in the dept.'s amendments: Page 3, line 16 replaces "subdivision" with "subsection", a technical correction. Page 3, after line 25, insert: ... what follows most of page 1 and page 2 of amendment is language for the app on stage that was put in the Senate bill. The differences are: on letter a: limits 50-100; letters b and c had incorrect citation we corrected it. Letter e is an addition, the comprehensive and collision coverage, app on, no passenger stage; TNC should provide comprehensive and collision in the same amount as the participating driver's policy on a secondary basis. If the primary coverage is excluded, for the personal auto insurance, we go down to the secondary. Number 5, bottom page 2 language was in Senate bill. Rest of the language is from the Senate Bill we just changed subsection to subdivision on 2.c. We think this language is a fair compromise, it closes the gaps in the insurance even though it puts an initial burden on the consumer to figure out after being excluded by their primary coverage what they need to do.

Chairman Oehlke I think if someone did not have the proper primary coverage and had an accident, the policy excluded coverage and the Uber policy picked it up. Do you think the driver might end up with a citation for not carrying coverage?

Jeff Ubban: that could happen. Page 3, line 26, page 4, line 1 are technical changes. Page 4 line 4 that is the "specifically" language we desired. Page 3 shows renumbering of sections. Page 4 inserted language from Senate bill. This amendments aim to make this bill like the Senate bill, the Dept. felt that was a fair compromise.

Vice Chairman Casper if you have comprehensive and collision is there any other place in code where state requires this.

Chairman Oehlke no, what it says is that if you carry comprehensive and collision it is primary, if for some reason the activity is excluded then the Uber policy would step in. They provide comprehensive.

No further discussion meeting adjourned.

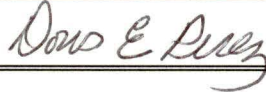
2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1144
3/20/2015
Recording job number 25186

Subcommittee Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits.

Minutes:

Attachments: 0

Chairman Oehlke opened the discussion on HB 1144 all committee members were present.

Chairman Oehlke: Vice Chairman Casper sat at the House hearing yesterday, he will give us an update.

Vice Chairman Casper: I think they came to our viewpoint on it. There will be some clean up amendments to some portions of it. If we end up in a conference committee it will be agreeable. My biggest concern was that they might hog house our bill but seems they won't.

Senator Sinner given what we know today, are we going to sit on 1144?

Chairman Oehlke we won't do anything on it today. We will get 1144 in the best shape we can before we do anything to it. I don't know if we will end up with both bills at the same time, that would be cool, we would end up with one then.

Vice Chairman Casper I think that getting down to one bill would be the ideal situation.

Chairman Oehlke being there no additional discussion, meeting adjourned.

2015 SENATE STANDING COMMITTEE MINUTES

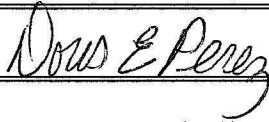
Transportation Committee
Lewis and Clark Room, State Capitol

HB 1144
3/26/2015

Recording job number 25463

Subcommittee Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits.

Minutes:

Attachments: 3

Chairman Oehlke opened the discussion on HB 1144, all committee members were present.

Chairman Oehlke distributed copies of TNC Insurance Compromise Model Bill (1-2 to 1-5) attachment #1, which includes Suggested Key Messages for TNC Insurance Compromise Model Bill Supporters (1-1) and FAQs - TNC Insurance Compromise Model Bill (1-6)

Sagar Shah, Uber Technologies, distributed House Bill No 2368 - Amendments Proposed by Sagar Shah (Uber Technologies) - March 26, 2015, attachment #2, as of 36 hrs. ago a deal was struck between Uber and the Insurance Industry. Initially because of how far ND has been in relation to other states there is a mutual understanding to exempt ND from that compromise and we can reach an agreement everybody can agree with. The agreement would be a kind of all or nothing type of deal. I outlined the changes in the amendments that Vice Chairman Casper shared with you all. The terms of the deal are largely what were passed thru SB 2368 with some changes as well as the TNC coverage during that app on/ period 1 the TNC would be primary, this was something Uber conceded on in exchange for other nuances we didn't feel were appropriate.

Chairman Oehlke if I am an Uber driver you provide comprehensive and collision if my policy would not provide it? At \$1K deductible?

Sagar Shah: yes for periods 2 and 3, when the driver is engaged, has a passenger in the car and if their personal plan denies coverage. We agreed comp and collision is not required in any state, it is optional.

Vice Chairman Casper I think it would be to Uber's advantage, if other TNCs did not offer that then I would be an Uber driver. Are you seeing that in the market place?

Sagar Shah Insurance companies are starting to release products around the extra things for Uber drivers.

Vice Chairman Casper distributed Proposed Amendment to Engrossed House Bill No 1144, LC no 15.0434.03001 dated 3/12/2015. It would align this bill with SB 2368. We would add to these amendments to align them with the insurance companies. *Attachment 3*

Sagar Shah walked committee members thru changes in HB 1144, attachment #2 (recording segment 10:30 fwd.)

Definitions page 1 line 19: participating driver definition replace with #2 definition, add driver is transporting passengers for compensation thru the online-enabled application
Definition of TNC, we want to make clear the TNC is providing the app and the technology that connects drivers and riders. Drivers are providing transportation using their personal car.

Next **Senators Casper's** amendments, attachment #3, and compare to my amendments where it says app on stage we would include the words is primary for the TNC insurance, remove references to secondary insurance; remove sections 3 and 4 no longer needed because personal insurance no longer applies. We would change the coverage amounts to 50-100-25. Sections related to periods 2 and 3 on the bottom of page 2 in HB 1144, part b page 3 which talks about un/underinsured motorist coverage in order to honor the compromise, change that to the state requirements (26.1-40-15.10), item 3 attachment #2. Last, regarding PII (personal identifiable information) section at the end of the bill, this was created in the House side, it was very restrictive in terms of how we can share the information we collect. No other company is held to this level of restrictions by any state, either modify with language I provide, attachment #2, item 8 or strike it entirely. The language we provide ties the disclosure of personal information to our publicly available privacy policy which we provide on the app, our website, our blog, etc... Written consent every time you share personal information is not feasible, we just can't do that. You can order Uber thru google maps; you are sharing personal information with them without user consent. In order to operate we need this change (11:40- fwd.)

Chairman Oehlke greeted high school students, explained what bill is about. (16:50 - 18:14)]

I have gone thru all the changes and don't foresee disagreements with the insurance folks. (18:48)

Chrystal Bartuska, Product Filing Division Director, ND Insurance Dept. We appreciate **Vice Chairman Casper** pulling in 2368 into 1144. The Model Bill, attachment #1, page 2, (19:24) We appreciate Uber and TNCs for compromising as far as going to primary for the app on/no passengers stage. In looking at the model bill:

Page 1 definitions, ours are simpler if the committee wants to use these we defer to them.
Page 2 section B, some of the bigger differences we see is in number 2i: 50-100-25, the Insurance Dept. would prefer 50-100-50, gives extra cushion CA, CO and UT went up to 30 (**Chairman Oehlke**, ND required limits are 25-50-25). It would be above state requirement, I think it would be more protection for the consumer. 2. ii mandated coverages there is no indication that would still be primary, it just references that the liability would be primary. That would be a preference if you want to add that, it could be put in each individual location somewhat like on 2368 or where it says "all these coverages are primary". ND is one of the few states that require PIP or no fault benefits. We have specific state law that says that the owner of the vehicle is responsible for PIP. The fact they want to be primary would be tricky because of the specificity of ND statute. Another law says you can't stack

coverages on PIP (personal injury protection or no fault benefits, the minimum state limits is \$30k). We may have to work on this

Section 3 is what we have now, stages 2 and 3. We want to make sure TNCs are primary thru liability UM, UIM and PIP.

The biggest difference for us is that 1144 and 2368, this section says the UIM and UM is \$1M, here it would be going to the state limits, that is a big difference, we would like the \$1M to stay consistent (here passenger in the car)

Page 3 sections 1 thru 8 we have no concerns,

Page 4 D Automobile Insurance Provisions: this may be an area where we can potentially get around the PIP challenge because under current state law you cannot exclude PIP. If a carrier wants to exclude Uber or TNC activity we wouldn't allow it if they exclude PIP, however in section D if we would incorporate that the carriers can now exclude PIP coverage under D.1. ii personal injury protection as defined in the citation can be excluded by carriers that would then automatically trump the current law we have on the books. Then they are able to exclude PIP coverage for TNC activity therefore in pulling Uber into that primary. This maps our potential workaround with the ND PIP statutes, so we don't have to go in and amend code to get this to work. That would then truly make the TNC company primary and allow to exclude PIP for TNCs (22:35 - 33:57).

Chairman Oehlke: If we don't do that and the personal policy was primary for PIP in an Uber related accident. Will they go away from ND and not insure anybody here. We haven't seen a lot of filings that document excluding TNC activity you could pull in a rider to cover up things. I think that is how carriers will potentially do it. They may have to go to the commercial market to get these policies. If we don't have anything on the books that say that you can't exclude something it is a challenge for the Ins. Dept. By giving them the option to exclude PIP, makes it easier for TNCs to do the primary coverage.

Vice Chairman Casper: will we hog house the bill or take different amendments?

Chrystal Bartuska: We got the most recent version of the amendments. I think the easiest part, and if it is the committee's intent, is to get it closer to the senate bill and tweak it from there. Adopt your amendment; get it to look like the senate bill. We worked with Sagar, the insurance people and with the house and it really went well. I think we are in agreement that primary would be consistent through liability UM/ UIM and PIP. In stages 2 and 3 the \$1M

Chris Aufenthie, Forms Analysts, ND Insurance Dept. 25-50 means \$25K/person for uninsured, underinsured and \$50K for the accident.

Chairman Oehlke: we might agree not to go down to the basic limits, but higher. We are talking about a commercial operation here

Chrystal Bartuska: I missed in section B, model bill, after 1.i and before 1.ii it has "or" we would prefer "and" so there is not potential ambiguity.

Senator Sinner: that would mean that it must be both before there is coverage and that is why you have "or".

Johnny Palsgraaf, Attorney, ND Insurance Dept., and the way I read it: a person could choose to elect coverage under B.1.ii and completely ignore B.1.i; in that circumstance under B.2 none of those would be required.

Senator Sinner but 2 would be covered under the following subsection 3?

Johnny Palsgraaf: One would be applicable to number 2, logged on portion. If 1 is not required 2 would be out of the picture, we go then to 3 and there is nothing saying that in addition to TNC insurance for stage 2 and 3 there is no requirement in our law for stage one. It would be what the personal auto covers.

Chairman Oehlke and Senator **Sinner** discussed if that section is needed at all. (50:56 - 51:40)

Pat Ward, State Farm, PCI who are parties to this national agreement, we have no big issues. It makes sense to have a uniform law.

Meeting adjourned until Thursday, next week.

2015 SENATE STANDING COMMITTEE MINUTES

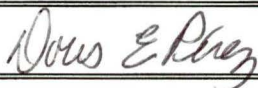
Transportation Committee
Lewis and Clark Room, State Capitol

HB 1144
4/2/2015

Tape Recording Number 25740

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits.

Minutes:

Attachments: 2

Chairman Oehlke opened the discussion on HB 1144, all committee members were present.

Vice Chairman Casper distributed copies of latest amended version of HB 1144, version 03005, attachment #1 and version 03003, attachment #2. There are portions of version 03003 that should be put back in version 03005:

Page 1 Line 19 definition of "participating driver"

Page 2 Line 7 definition of "transportation Network Company"

Chairman Oehlke did Tim Dawson tell you why he morphed that?

Vice Chairman Casper I think it was a miscommunication

Page 9 line 14 forward: Controlling authority, regarding political subdivisions

Chairman Oehlke on page 9, 03003 version, lines 21 and 21 were also left out of version 05

Vice Chairman Casper walked committee thru changes in the 05 version:

Page 1 line 21

Page 2 lines 1-4

Page 3 line 21; lines 26- Insurance coverage during the application on stage with no passengers in vehicle, puts the transportation network company coverage as primary, limits coverage

Chairman Oehlke: page 3 line 21, f, is this where we are trying to pick up comp and collision?

Pat Ward, Insurance Industry: the TNC insurance can be a combination of the insurance obtained by the driver or the TNC to cover situation where driver coverage ceased or lapsed, the TNC is primary for the second and third phase for the entire million but in the first phase for the 50-100. Next section allows it to be a combination of driver and TNC insurance.

Chairman Oehlke: SB 2368 passed out of the House. That leaves the driver's coverage as primary.

Pat Ward: Yes, they chose not to abide by the national agreement between TNCs and the insurance companies.

Chairman Oehlke on the uninsured/underinsured motorist coverage, bill comes back with a \$1M in both cases.

Mr. Ward was not sure; he prefers this version of the bill

Chrystal Bartuska, Insurance Dept. in version 3005 we noticed cleanup types of things: Page 1 line 19 instead of "person": "individual" ND Century Code doesn't use "person" Page 3 basically stages 2 and 3; in 1.a page 2 under liability insurance TNC is primary, but on page 3: b, c, and d there is no reference that it is primary. For consistency if that is the intent of the committee, to have it primary for all stages, then primary needs to be added to b, c, and d.

Chrystal Bartuska: In version 003, it is my understanding only the highlighted portion was going to be incorporated. It is on 003.

Vice Chairman Casper Are you saying it should be primary insurance?

Chrystal Bartuska: Is that your intent? That it is primary in that stage for all: liability, uninsured, underinsured and no-fault? Then it would need to reference that those sections are primary. When I look at the 003, on page 3 of the 005 version, lines 8, 12 and 15, basically b, c and d, the uninsured, underinsured and PIP. Actually it even wouldn't need to be d (the sole duty to defend), just b and c. Or you could put it at the beginning of that subsection to say: all of these following insurance coverages are primary. The way it reads now they are not primary under uninsured, underinsured and PIP in that stage. It is not in the 003 version either.

Chairman Oehlke if we go to 1.a that is clear the TNC is primary page version 005, so we should add that.

Chrystal Bartuska in b if you want to put TNC insurance coverage provided under this section is primary and provides for an uninsured, underinsured motorist. Page 3 line 13 the insurance dept. refers that "when required" be removed and just keep it generic (version 005) Page 4, lines 3 and 5 we don't think you guys moved the subsections. It would be better to just refer to that chapter as a whole because those sections came from the first version of the bill and the citations were wrong since then.

The only other thing we have is when you refer to personal injury protection throughout the bill you all know it means PIP. That is more of an industry term, in our Century Code there is no term called personal injury protection it is actually called no fault insurance. So that reference needs to be changed to no fault benefits.

Senator Sinner can it be put in the definitions? (PIP) then it is uniform thru the bill.

Senator Campbell is there anything on automobile insurers?

Chrystal Bartuska: it is covered on page 4, line 13- allowing no-fault insurance coverage to be conditional.

Johnny Palsgraaf: page 3, version 005, lines 15, 17 d, e, f, drafting wise those will only be applicable to the app engaged stage on 40.1-03 on page 2. If we want those to be applicable also to the app on stage, line 26, we either need to take those three paragraphs and put them in 04 or bump them out to their own section and make them universal to both (app on, app engaged stage). The easiest thing to do would be to add them on to 04 and adjust line 16 where it says provided under subdivision a of subsection 1

Chairman Oehlke on page 2 line 27 it says during the engaged stage and during the passenger on board stage.

Johnny Palsgraaf however line 26, page 3 we start the no passengers on board stage but yet we are all primary now for both stages and without d, e and f copied and pasted into the 40.1-04 stage you are not including those under the app on stage.

Chrystal Bartuska: the way it is now section f would not apply to the app on stage, you need put d, e and f in 04 and say renumber accordingly.

Johnny Palsgraaf you no longer need to call them d, e and f anymore.

Chairman Oehlke after the legislative council is done with these changes we will meet again.

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1144
4/2/2015
Recording number 25782

Subcommittee Conference Committee

Committee Clerk Signature

Doris E. Perry

Explanation or reason for introduction of bill/resolution:

Relating to insurance coverage of motor vehicles participating in transportation network company, networks and services, priority of coverage and minimum limits.

Minutes:

Attachment #1

Chairman Oehlke opened the discussion on HB 1144; all committee members except Senator Campbell were present.

Amendment 15.0434.03007 was handed out. ATTACHMENT #1

Chairman Oehlke Page 1, line 15 doesn't fit in

Senator Sinner what it says is that it replaces what is in line 15

Vice Chairman Casper: I confirm that. Page 1, line 19 we redefined what the driver is, lines 20 and 21 we inserted "an individual who:" Renumbering followed. Replaced lines 2-4 with new definition of driver

Page 3 line 8 the next two here are where we are saying that underinsured and uninsured must be required at the state minimums under phase 1; (\$1M liability) code references were added.

Page 3 line 13 put "when required"

Chairman Oehlke that 26.1-40.1-04 at the end of line 25 page 3 we just add all that in

Vice Chairman Casper parts b and c under/uninsured is the same language in code as in phase 1

Senator Sinner on page 3, this is all new code, adding in language and renumbering. We get to page 4 lines 26-30 replacing all of that with this. On page 6 lines 14.

Committee members continued reading thru the amendment page 3 forward.

Senator Sinner vehicle capacity has to be less than eight persons, so no more than 7.

Chairman Oehlke: 39-34-05. Audit, was put back with DOT

Senator Axness we changed it to the Secretary of State now it is back with DOT.

Chairman Oehlke and **Senator Rust** agreed that the phrase "The department may audit...", "may" is the important work, if anything comes up they might want to audit ND only

Vice Chairman Casper Page 3 replace lines 9-11, the word "primary" should be there.

Chairman Oehlke let us doctor this again, and review it after legislative council is done

Meeting adjourned until tomorrow at 8 am, if amendments are ready.

2015 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1144
4/3/2015
Recording job number 25793

- Subcommittee
 Conference Committee

Committee Clerk Signature

Doris E. Peren

Explanation or reason for introduction of bill/resolution:

Relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits.

Minutes:

Attachments:1

Chairman Oehlke opened the discussion on HB 1144. All committee members except Senator Campbell were present.

Vice Chairman Casper distributed christmas tree version .03008 (attachment #1)

Page 1 lines 3-4 "and to declare an emergency" was added

Page 1 lines 22-24 replaced language with " and individual who:"

Page 2 line 10 forward new definition of TNC

Page 3 line 21-27 new language regarding TNC insurance coverage

Page 4 lines 15- forward: insurance coverage with application on stage with no passengers

Page 6 confidentiality of passenger personal information was moved to 39.34.04 under personally identifiable information, page 8

Page 6 lines 24-28 proof of insurance

Page 39-34-05 Audit section and political subdivision language lines 19-21

Senator Sinner moved to adopt amendment 03008

Vice Chairman Casper seconded

No further discussion **Voice vote: all in favor of adopting amendment 03008**

Vice Chairman Casper moved do pass as amended

Senator Axness seconded

Roll call vote: yes: 5 no: 0 absent not voting: 1

Carrier: Vice Chairman Casper

April 2, 2015

187
4/2/15
JBE

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

Page 1, line 3, after "limits" insert "; and to declare an emergency"

Page 1, line 19, remove "any person who uses a vehicle in connection"

Page 1, replace lines 20 and 21 with "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."

Page 2, line 1, after "6." insert """Personal injury protection" means basic no-fault benefits as defined under subsection 2 of section 26.1-41-01.

7."

Page 2, line 1, remove "that"

Page 2, replace lines 2 through 4 with "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."

Page 2, line 5, replace "7." with "8."

Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"

Page 3, replace lines 9 through 11 with "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."

Page 3, line 12, replace "c." with "d."

Page 3, line 12, after "provide" insert "primary"

Page 3, line 13, remove "when required"

Page 3, line 15, replace "d." with "e."

Page 3, line 17, replace "e." with "f."

Page 3, line 21, replace "f." with "g."

Page 3, line 21, replace "In every instance where" with "If"

294

Page 3, after line 25, insert:

"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 subsections 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."

3084

Page 3, line 26, replace "26.1-40.1-04" with "26.1-40.1-06"

Page 4, line 1, replace "26.1-40.1-05" with "26.1-40.1-07"

Page 4, line 5, after the second "of" insert "less than"

Page 4, line 5, remove "or less"

Page 4, line 8, replace "26.1-40.1-06" with "26.1-40.1-08"

Page 4, remove lines 15 through 21

Page 4, line 22, replace "26.1-40.1-08" with "26.1-40.1-09"

Page 4, line 25, replace "26.1-40.1-09" with "26.1-40.1-10"

Page 4, replace lines 26 through 30 with:

"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."

Page 5, line 1, replace "26.1-40.1-10" with "26.1-40.1-11"

Page 6, line 14, replace "eighteen" with "twenty-one"

Page 6, line 15, replace "Records" with "Personally identifiable information"

Page 6, replace lines 16 through 26 with "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. Audit.

1. The department may audit the records of a transportation network company by means of random sample of the transportation network company's records related to transportation network drivers:
 - a. No more than twice in a year's time.
 - b. At an agreed upon location.
 - c. Notwithstanding subdivision a, in a reasonable timeframe to investigate a complaint related to public safety or a violation of this Act, if the department provides details on the nature of the complaint.
2. The department may impose a civil penalty of up to five hundred dollars for each violation of this chapter."

Page 7, line 3, after the underscored period insert "A political subdivision may prohibit a transportation network company from operating without a state permit within the jurisdiction of the political subdivision."

4051

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

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 HB NO. 1144**

Senate TRANSPORTATION Committee

Subcommittee

Amendment LC# or Description: 15.0434.03008

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Sinner Seconded By Vice Chairman Casper

Senators	Yes	No	Senators	Yes	No
Chairman Oehlke			Senator Axness		
Vice Chairman Casper			Senator Sinner		
Senator Campbell	ABS				
Senator Rust					
VOICE VOTE			ALL IN FAVOR		

Total (Yes) _____ No 0

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Addition of definitions in agreement with TNC Insurance compromise
 Insurance coverage during the application on stage with no passengers
 Proof of insurance
 Personal identifiable information
 Audit
 Controlling authority re political subdivisions and emergency clause

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 HB NO. 1144**

Senate _____ **TRANSPORTATION** _____ Committee

Subcommittee

Amendment LC# or Description: 15.0434.03008

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Vice Chairman Casper Seconded By Senator Axness

Senators	Yes	No	Senators	Yes	No
Chairman Oehlke	X		Senator Axness	X	
Vice Chairman Casper	X		Senator Sinner	X	
Senator Campbell	ABS				
Senator Rust	X				

Total (Yes) _____ **5** _____ No _____ **0** _____

Absent NOT VOTING: _____ **1** _____

Floor Assignment _____ **Vice Chairman Casper** _____

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1144, as engrossed: Transportation Committee (Sen. Oehlke, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1144 was placed on the Sixth order on the calendar.

Page 1, line 3, after "limits" insert "; and to declare an emergency"

Page 1, line 19, remove "any person who uses a vehicle in connection"

Page 1, replace lines 20 and 21 with "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."

Page 2, line 1, after "6." insert """Personal injury protection" means basic no-fault benefits as defined under subsection 2 of section 26.1-41-01.

7."

Page 2, line 1, remove "that"

Page 2, replace lines 2 through 4 with "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."

Page 2, line 5, replace "7." with "8."

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Page 3, replace lines 9 through 11 with "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."

Page 3, line 12, replace "c." with "d."

Page 3, line 12, after "provide" insert "primary"

Page 3, line 13, remove "when required"

Page 3, line 15, replace "d." with "e."

Page 3, line 17, replace "e." with "f."

Page 3, line 21, replace "f." with "g."

Page 3, line 21, replace "In every instance where" with "I"

Page 3, after line 25, insert:

"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 subsections 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."

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Page 4, line 1, replace "26.1-40.1-05" with "26.1-40.1-07"

Page 4, line 5, after the second "of" insert "less than"

Page 4, line 5, remove "or less"

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Page 5, line 1, replace "26.1-40.1-10" with "26.1-40.1-11"

Page 6, line 14, replace "eighteen" with "twenty-one"

Page 6, line 15, replace "Records" with "Personally identifiable information"

Page 6, replace lines 16 through 26 with "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. Audit.

1. The department may audit the records of a transportation network company by means of random sample of the transportation network company's records related to transportation network drivers:
 - a. No more than twice in a year's time.
 - b. At an agreed upon location.
 - c. Notwithstanding subdivision a, in a reasonable timeframe to investigate a complaint related to public safety or a violation of this Act, if the department provides details on the nature of the complaint.
2. The department may impose a civil penalty of up to five hundred dollars for each violation of this chapter."

Page 7, line 3, after the underscored period insert "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."

Re-number accordingly

2015 CONFERENCE COMMITTEE

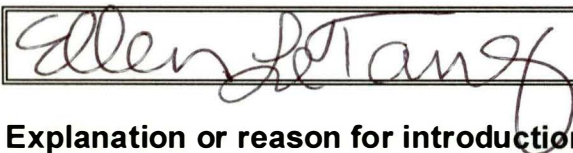
HB 1144

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1144
4/14/2015
26103

Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Minutes:

Attachments 1, 2,

Representative Lefor: Opens the Conference committee hearing on HB 1144. I ask the representative from the DOT to come up and explain their amendments.

Mark Nelson~Deputy Director of the Department of Transportation: (Attachment 1)
We have one amendment to propose. We worked with the Senator Oehlke and his team on the Senate side. We came up with this amendment. The amendment was based off the house bill engrossed version and it did not include the Senate amendments.

Senator Oehlke: On your propose amendment, number 1, b & c, would there be any heart burn if those two lines did not appear?

Nelson: What we were trying to do was think of the information that when we report back to this body, that might be information that this group would like to see. Those were ideas that we had when we met as an executive group in DOT.

Senator Casper: (Attachment 2). First of all, do you have any questions about the changes made on the Senate side?

Representative Lefor: No, I do not.

Senator Casper: This is similar to the DOT's but the main change is on the 2nd page, taking out the sections regard to the number of drivers and rides. Visiting with one of the TNC's, that's proprietary information and if we are requesting that publically for open records, people can know what their business model and where their concentration is in the state. I don't, personally, have an issue not including those two items.

I think the key information is the part of b & c, if violations are taking place in section 39, is in regard to safety and not necessarily knowing the day to day operations of the TNC. It's

more of a public safety issue. The number of crashes and incidents taking place, as far as traffic violations, that would suffice for us to put in place any further regulation legislation.

Representative Lefor: Would it be accurate to say that your amendment is the same as DOT's taking out b & c on their amendment?

Senator Casper: Yes and the change in section 3, page 2, making it discretionary for the DOT to be able to do that in the fine or penalty.

Representative Lefor: Taking about b, c and number 3?

Senator Casper: Correct, that part of number 3. In lawyer words, mandatory to discretionary.

Representative Lefor: May impose?

Senator Casper: Yes. Section 39-34-05, the audit part, this removes the audit part of the bill and talking with the DOT attorney, it was the understanding that DOT wanted the audit part removed.

Senator Oehlke: I thought we wanted to get rid of the audit type stuff, as I recall, that's what the DOT was having most of their angst with where it says "they may audit" and talks about an agreed upon location and no more than twice a year's time. Mark, is there some wording in here that changes that?

Senator Casper: The audit section would be removed. So, page 7, line 27, replace the audit section and when you go to part two, it says "with".

Representative Lefor: It's a new section 5.

Representative Lefor: Has the DOT had an opportunity to review this?

Mark Nelson: It takes out the part that they were mainly concerned about so they don't have to hire extra people to do that.

Mark Nelson: It was our intent when we met at the executive level, to have both the audit & controlling authority sections removed and replaced with our amendment.

Representative Lefor: I want to make sure you had time to read that amendment and that you are comfortable with it. If it's not today, it's fine. They were also concerned about 39-34-06 and wanted that removed.

Mark Nelson: If it's possible, I would like to do is listen to the discussions of this group and then take this back and meet with our director.

Representative Lefor: Sounds good to me. So basically, DOT wants 5 & 6 removed and Senator Casper's amendment does change the number 5 to virtually the same as DOT's except for items b, c & number 3. Is that fair?

Senator Casper: Yes, it fair and thanks for the summary.

Representative Lefor: Does anyone have any comments?

Representative Sukut: Are we eliminating 39-34-06, the controlling authority with your second set of amendments, has that gone also?

Senator Casper: I did not strike that part. I don't believe I would have a problem striking that part. The only issue I would see there is I know some of the local communities, wanted to have some control over the TNCs and potentially limit their operation. I would have no problem between now and visiting with the DOT about that if we struck everything but that. That could be agreeable.

Representative Sukut: They wanted it out and if that was gone, then we would simply putting your amendments in there and replacing this 39-34-06 also with their amendments.

Senator Casper: That's correct.

Representative Lefor: Any more comments? We will set up another conference committee and go from there.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1144
4/15/2015
26126

- Subcommittee
 Conference Committee

Ellen Litang

Explanation or reason for introduction of bill/resolution:

Insurance coverage of motor vehicles participation in transportation network company networks, priority of coverage and minimum limits and to provide for application.

Minutes:

Attachment 1

Representative Lefor: Opens the Conference committee hearing on HB 1144.

Mark Nelson~North Dakota DOT: We have had an opportunity to go through the amendment that was proposed yesterday and the removal of the audits section and the replacement under the new version of 39-34-05, that seems to mirror what we had in our amendment minus a couple of data elements that we agree that we want to collect. From the DOT perspective we are fine with that amendment as written.

Representative Lefor: How are you with 39-34, sections 1, 2 & 3?

Mark Nelson: No had no issues with those.

Senator Oehlke: On the controlling issue on page 9, we had a conversation earlier and you indicated that 39-34-06, the DOT was nervous about the wording. On line 27, of the marked up version on page 9, if after 26.4-40.1, if we crossed out the "and any rules adopted by the department of transportation" and left everything else in that paragraph, is that more suitable to you ends?

Mark Nelson: That would be correct. If we had the rule making responsibility from the DOT struck from there, then 39-34-06, controlling authority is fine with us.

Senator Oehlke: Could you briefly explain why?

Representative M Nelson: We felt that the burden placed on us to create rules to govern this is something that would be cumbersome on our agency and we don't have the personnel and staff to do it. The conversation in this room felt that there should still be some reference should be made to the political subdivisions and that language was fine.

Truly, the concern fell on us that we would have to fall into the rule making process and have to develop the rules to regulate it.

Senator Casper: I don't have an issue with that at all.

Representative Lefor: On section 6, the line that was edited by the Senate, page 10, line 1 where it state "without a state permit", I couldn't find.

Senator Oehlke: That's early in the bill somewhere, the TNC's must registered with the Secretary of State's office and one of the things the businesses must do when they register is to provide proof of insurance. That was one of the pieces of pie that wanted to make sure there is a way to find that out.

Representative Lefor: I think, we are basically not talking about 39-34-05 and the DOT is comfortable with Senator Casper's amendment. The only change they would request is on 39-34-06, on line 27, striking out "and any rules adopted by the department of transportation". Is that a fair analysis?

Mark Nelson: That's correct.

Representative Lefor: Are there any things in the bill that need to be discussed or are we ready to make a motion?

Senator Casper: Moves that the Senate recede from Senate amendments and amends.

Senator Sinner: Second.

Representative Lefor: Further discussion?

Pat Ward: Instead of adopting the phrase "in any rules adopted" you should start with "by the Department of Transportation consistent with this chapter and" but leave in "any rules adopted by", then you will still have the insurance commissioner under the section.

Senator Casper: I agree with that. I withdraw my amendment.

Senator Casper: Further amends.

Representative Sukut: Second.

Representative Lefor: Ask the clerk to take roll.

Roll call was taken on SB 1144 for the Senate recede from Senate amendments and amends as follows with 6 yes, 0 no, 0 absent and members of the committee are Representative Lefor, Representative Sukut, Representative M Nelson, Senator Casper, Senator Oehlke and Senator Sinner.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

That the Senate recede from its amendments as printed on pages 1452-1455 of the House Journal and pages 1198-1201 of the Senate Journal and that House Bill No. 1144 be amended as follows:

Page 1, line 3, after "limits" insert "; and to declare an emergency"

Page 1, line 19, remove "any person who uses a vehicle in connection"

Page 1, replace lines 20 and 21 with "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."

Page 2, line 1, after "6." insert """Personal injury protection" means basic no-fault benefits as defined under subsection 2 of section 26.1-41-01.

7."

Page 2, line 1, remove "that"

Page 2, replace lines 2 through 4 with "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."

Page 2, line 5, replace "7." with "8."

Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"

Page 3, replace lines 9 through 11 with "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."

Page 3, line 12, replace "c." with "d."

Page 3, line 12, after "provide" insert "primary"

Page 3, line 13, remove "when required"

Page 3, line 15, replace "d." with "e."

Page 3, line 17, replace "e." with "f."

Page 3, line 21, replace "f." with "g."

Page 3, line 21, replace "In every instance where" with "If"

Page 3, after line 25, insert:

"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."

Page 3, line 26, replace "26.1-40.1-04" with "26.1-40.1-06"

Page 4, line 1, replace "26.1-40.1-05" with "26.1-40.1-07"

Page 4, line 5, after the second "of" insert "less than"

Page 4, line 5, remove "or less"

Page 4, line 8, replace "26.1-40.1-06" with "26.1-40.1-08"

Page 4, remove lines 15 through 21

Page 4, line 22, replace "26.1-40.1-08" with "26.1-40.1-09"

Page 4, line 25, replace "26.1-40.1-09" with "26.1-40.1-10"

Page 4, replace lines 26 through 30 with:

"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."

Page 5, line 1, replace "26.1-40.1-10" with "26.1-40.1-11"

Page 6, line 14, replace "eighteen" with "twenty-one"

Page 6, line 15, replace "Records" with "Personally identifiable information"

Page 6, replace lines 16 through 26 with "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

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- 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."

Page 6, line 30, remove "by the department of transportation"

Page 7, line 3, after the underscored period insert "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."

Renumber accordingly

Date: 4/15/2015

Roll Call Vote #: 1

**2015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO: 1144 as (re) engrossed

House Industry, Business and Labor Committee

- Action Taken:**
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Casper Seconded by: Representative Sukut

Representatives	Apr 14	Apr 15		Yes	No	Senators	Apr 14	Apr 15		Yes	No
Representative Lefor	x	x		x		Senator Casper	x	x		x	
Representative Sukut	x	x		x		Senator Oehlke	x	x		x	
Representative M Nelson	x	x		x		Senator Sinner	x	x		x	
Total Rep. Vote						Total Senate Vote					

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier No Carrier Senate Carrier No Carrier

LC Number 15.0434 . 03010 of amendment

LC Number 05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1144, as engrossed: Your conference committee (Sens. Casper, Oehlke, Sinner and Reps. Lefor, Sukut, M. Nelson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1452-1455, adopt amendments as follows, and place HB 1144 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1452-1455 of the House Journal and pages 1198-1201 of the Senate Journal and that House Bill No. 1144 be amended as follows:

Page 1, line 3, after "limits" insert "; and to declare an emergency"

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

Insert LC: 15.0434.03010

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."

Page 6, line 30, remove "by the department of transportation"

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

Renumber accordingly

Engrossed HB 1144 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1144

1

House IBL Committee
January 26, 2015

TESTIMONY OF PATRICK J. WARD IN SUPPORT TO HB 1144

Good morning Chairman Keiser and Members of the House IBL Committee.

My name is Pat Ward. I represent Property Casualty Insurance Association of America and the Association of North Dakota Insurers in support of HB 1144.

This bill relates to insurance coverage for companies like Uber and Lyft, who hire people to drive their own personal vehicles, not company vehicles, and carry passengers for a fare similar to a taxi or other paid ride service. The passengers and fares are arranged through an electronic device such as an email phone app.

We support this innovative idea and business concept. It is a very successful business enterprise. These companies do business all over the world and are substantially funded companies. They could meet unmet needs for transportation in North Dakota. However, their operations in the United States have led to situations where the applicable insurance coverage is nonexistent or vague. The insurance industry supports innovation in both the transportation and insurance market place but we are asking for this bill to provide clear guidelines for who will be responsible to provide TNC insurance.

The purpose of the bill is to define the various stages of operation and to make sure that there is adequate insurance coverage on these vehicles at all

times when the driver is working for the transportation network company and especially when carrying passengers.

Private passenger automobile insurance (which is what most of these drivers would likely have when retained by one of these companies) **expressly excludes coverage** for carrying passengers for hire or what is also called “livery.”

Automobile insurers make rating and underwriting decisions based upon likely use of a vehicle. Commercial passenger auto insurance is rated differently than private passenger automobile insurance. Personal auto lines do not provide coverage for TNC activity unless there would be a policy which expressly provides for that coverage, which currently there is not.

This bill helps to define the periods of time that a driver is logged on to the app and working or when the passengers are on board and it provides for various stages of coverage and operation.

The bill also provides clarity as to whose coverage is primary in the various situations. It also requires for certain disclosures, which insurer will provide a legal defense if a dispute is brought, and requires the transportation network company to share data and information from its database when necessary to assist in the investigation of an accident.

The bill also provides for disclosures to drivers participating in these programs.

We strongly urge a Do Pass on this bill. I will walk you through the bill and try to answer any questions.

Section 1 of the bill defines the various stages of operation.

Section 1 also includes, at line 9 of page 2, required disclosures between these companies and their drivers as to the insurance coverages and limits of liability provided. I have heard stories of people getting into vehicles with an Uber or Lyft driver and asking them questions about their insurance coverage and oftentimes the driver thinks his personal auto policy provides the coverage.

The bill is designed to provide for substantial coverage when there are passengers in the vehicle, additional or excess coverage while the driver is working and engaged in going to or from collecting passengers and more likely to have a claim than with personal use, and those situations where the vehicle is the driver's personal vehicle and the driver is on personal business. The bill does allow for the coverage to be aggregated between the driver if he has an appropriate policy and the transportation network company. However, the bill makes sure that the transportation network company has excess coverage in the event the driver is uninsured or underinsured.

The bill also provides which insurer will have the primary duty to defend any liability claim arising from an accident occurring within the time limits specified.

Page 6, line 1, allows for a situation which may come in the near future when drivers may buy these coverages or endorsements to protect themselves.

We did not attempt to address other non-car insurance issues relating to these types of companies. Those of you from Fargo may be aware that Fargo has been addressing some of these other issues at the municipal level. We

believe that legislation relating to regulation of these companies, background checks, worker's compensation insurance for the drivers, and other issues should be addressed separately and that this should be an auto insurance only bill.

The majority of this bill results from hard fought discussions, negotiations and lobbying in other states such as California, Colorado, Illinois, and so forth that have resulted in compromises or legislation very similar to the above bill.

I ask for a Do Pass recommendation. I will try to answer any questions.

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HB1144

Jan 26, 2015 #2

Good morning Mr. Chairman, Honorable Members of the House Committee on Industry, Business and Labor:

My name is Sagar Shah. I am a General Manager with Uber Technologies and am responsible for our potential expansion to North Dakota. I am also joined today by my colleague Mike White, who is a General Manager for Uber's Central Region.

I am here to speak on behalf of Uber and express our serious concerns with HB1144. This bill, in its current form, would make it nearly impossible for Uber to operate in North Dakota for a number of reasons.

While I'll be suggesting amendments to this bill with the support of Representative Tom Beadle, I want to make it clear that I am not trying to imply that the authors of the bill intentionally created an unworkable regulatory scheme. But we believe the process would be best served if we could have the opportunity to work with the legislature so you all can better understand our

business and the benefits Uber can bring to North Dakota.

Uber is a technology company. We've built a smartphone application that has transformed the way people move around their cities by connecting riders and drivers.

Uber was founded in 2009 on the idea that anyone should be able to order a car and be picked up within 5 minutes of requesting. At the time, we contracted with existing limo companies by bringing them onto the system and allowing riders to request the nearest car at

the touch of a button. We continue to partner with those same drivers today through our UberBlack product. Since then, we have committed ourselves to also bringing safe on demand transportation to communities of all sizes, and at a lower price, through our uberX product, which is 40% cheaper than a taxi. UberX offers an economic opportunity for everyday Americans to provide rides with their personal vehicles - teachers, nurses, military veterans, and retirees are examples of the part time drivers we see on uberX.

Companies like this, that match passengers with drivers of rideshare vehicles through a digital network have become known as Transportation Network Companies, or TNCs.

[At this time, I would like to show you a quick video to demonstrate how Uber works and the experience each user enjoys: Potentially show video: Uber basics:

<https://www.youtube.com/watch?v=G8VjcZeuvmo>]

Today, Uber operates in over 250 cities around the world and millions of people are relying on Uber as their primary means of transportation. While we are not currently operating in North Dakota, we hope to be here soon in cities like Fargo and Bismarck. These cities can strongly benefit from the convenience and reliability Uber brings. In fact, just last month alone, our app was opened over 6,000 times in North Dakota by people looking for a car. That includes both visitors and over 1,500 people with North Dakota area codes.

In addition to offering more accessible and reliable transportation options, Uber has made several positive social impacts on the cities in which we operate, such as a reduction in DUIs. Cities like Seattle and Philadelphia previously did not have reliable transportation late at night, leading to excessive drunk driving. After Uber's entry, monthly DUI arrests have come down over 10% in these cities. For this reason, organizations like Mothers Against Drunk Driving have publicly embraced ridesharing.

By coming to North Dakota, we can create hundreds of income opportunities for the people

here and provide a safe ride home for many who previously lacked viable transportation options. The beauty of the Uber system is that it allows anyone who is properly qualified -- to start earning money by using an existing asset – their car...and does so in a flexible way that allows drivers to work on their own schedule.

Working with former Secretary of Defense Dr. Robert Gates, we've launched an initiative called UberMilitary, which has already created thousands of opportunities for veterans and military spouses by driving with Uber--we want

North Dakota veterans and their spouses to have the opportunity to participate as well.

And finally, we maintain industry leading end-to-end insurance coverage that ensures all parties are protected throughout the Uber experience. Every single ride request that is accepted on the Uber platform is covered by a primary \$1-million commercial auto liability insurance policy -- maintained by Uber and rated "excellent" by AM Best. This is in place from the time the driver accepts the request for a ride until the passenger exits the vehicle at their intended location.

When a driver is logged into the Uber app, but waiting for a trip request and not actually engaged with a passenger, Uber is proposing to provide insurance coverage at North Dakota state required levels in the event that a driver's personal policy does not cover a claim. We currently maintain coverage at these levels in the states where we operate.

Which brings me to HB 1144. We are dedicated to provide excellent safety and protection to both our riders and drivers, however HB 1144 would require standards far too onerous for us

to be able to operate in North Dakota. North Dakota has a positive reputation for being a business friendly state that supports American innovation and we believe together with you we can find a path forward. 20+ jurisdictions in the US have passed TNC regulations, but have done so in a manner different from what is proposed in this insurance bill. HB 1144 would over regulate the TNC and insurance industries and actually prevent the free market from adapting to this new technology.

Concerns:

1. First, there is wording here that actually attempts to re-write the contractual language between an insurer and the driver -- for insurance contracts already sold and purchased by consumers. This is contrary to longstanding North Dakota contract law. We rather believe in a free market approach where insurers can decide for themselves whether or not they choose to cover TNC services. The market is actually already adapting, as Farmers and USAA have both changed their policy language to reflect TNC activity. Other insurers have also

filed for similar products in 6 states and we believe more are on the horizon.

Therefore, we wonder: what is the public policy imperative to mandate such a rigid regime, when we are already seeing the market respond?

2. Second, the \$200,000 excess coverage requirement is far beyond what we see as the associated risk during the no trip, app-on stage. No person or business in the state is required to buy \$200K of excess coverage. We believe this is something that will only increase litigation as plaintiffs chase large limits.

[if challenged:

- Passing this would align North Dakota with California, which is noted by the The American Tort Reform Foundation to have “a legislature that is seemingly run by and for personal injury lawyers and a wildly permissive judiciary”.
- The Colorado Department of Insurance (DOI) submitted a report to the Colorado legislature supporting the limits we are recommending.]

3. The bill mandates TNCs to offer comprehensive and collision insurance, which is not required by any personal or commercial vehicle in any state! This would serve as a barrier to entry for our business.

4. And finally, we oppose the requirement for TNCs to provide primary insurance during the “no trip, application on stage.” This could lead to moral hazard, by incentivizing drivers to turn on the app simply to use Uber’s insurance without intending on accepting a ride. As you can imagine, this would cause a whole host of issues.

There are a number of additional concerns that have been reflected in the amendments we have provided.

I want to summarize this by saying that we are not against regulation, but in favor of balanced regulation that would promote American innovation, allow free markets to operate, and bring on-demand transportation to communities of all sizes.

In closing, I urge you to please consider these concerns and take your time before voting on

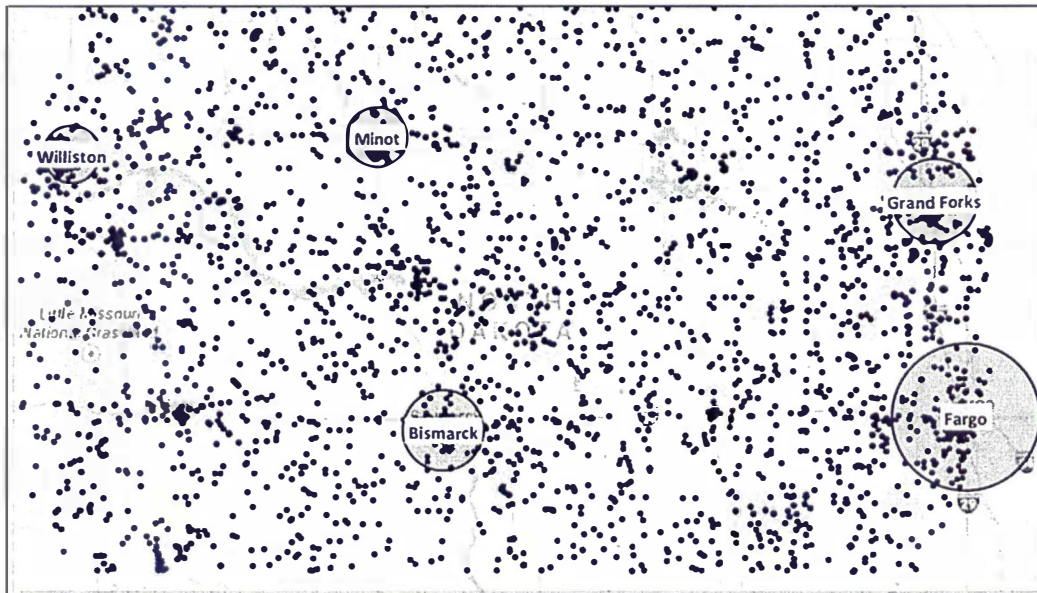
HB1144. We want to work with you to bring Uber to North Dakota and hope we can help you all learn more about the TNC industry, our existing end-to-end insurance coverage, and the advantages Uber can bring here.

I would like to thank all of you for your time and attention, and would be happy to answer any questions.

WHAT IS UBER?

Uber is a technology company whose smartphone application connects people who need a ride with a driver at the tap of a button. The Uber app is available in over 250 cities in 50+ countries. Uber's technology gives drivers added efficiency and an opportunity to grow their own business, while giving riders access to safest and most reliable transportation options – even in traditionally underserved areas.

UBER'S DEMAND IN NORTH DAKOTA



BACKGROUND CHECKS YOU CAN TRUST

Every ridesharing driver is thoroughly screened through a rigorous process we've developed using industry-leading standards. This includes an annual, three-step criminal background screening for the U.S. — with county, federal and multi-state checks that go back as far as the law allows — and ongoing reviews of drivers' motor vehicle records throughout their time on Uber.



ANONYMOUS FEEDBACK, FULL ACCOUNTABILITY

After every trip, we ask you to rate the driver and provide feedback about your ride — but your comments always remain anonymous to them. We are constantly monitoring feedback to help drivers improve the Uber experience they deliver. Drivers work hard to keep their

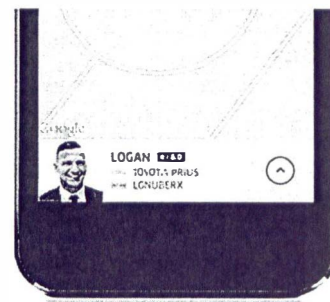
ratings high, and they know our culture of accountability goes both ways.

DRIVERS RATE RIDERS TO GIVE YOU CONTROL

Driver feedback counts, too. We're not OK with any rider behavior that makes drivers concerned for their safety or the safety of their vehicles. Riders who are reported to be abusive toward drivers or violate our terms of service will lose access to the system.

DRIVER PROFILES FOR PEACE OF MIND

Making sure you always have a safe, relaxing ride starts before you even get in an Uber. You'll see your driver's name, license plate number, photo, and rating when your request is confirmed — so you know who's picking you up ahead of time. Drivers are also professional and friendly during the ride, respectful of your privacy or your preference for casual conversation. And after the trip, you'll still be able to contact the driver in case you leave something behind.



VEHICLE STANDARDS THAT RAISE THE BAR

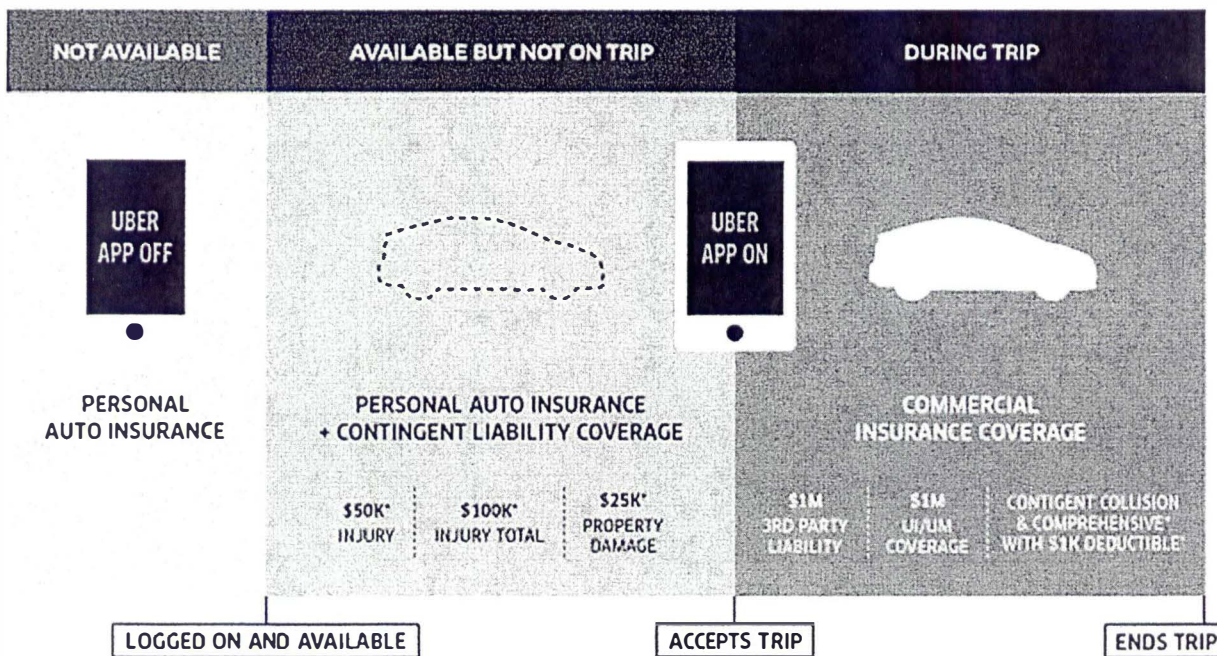
Not just any car can be an Uber. It's a title reserved for safe, high-quality vehicles that are in exceptional condition. In the U.S., the average model year for vehicles on our platform is 2008, and none are from before 2005+. With our recently launched vehicle financing partnership, we are continuously helping drivers bring brand new Chrysler and GM vehicles onto the system.

END-TO-END INSURANCE, WE HAVE YOU COVERED

From the moment you get into any Uber product (e.g. uberX, UberBLACK) to the moment you're dropped off, your ride is covered by commercial liability insurance. That goes for every trip in every city around the world. In the U.S. specifically, ridesharing has become a popular choice — and Uber is the first company to ensure true end-to-end insurance coverage for ridesharing, with drivers on uberX protected by liability coverage even between trips.

uberX Ridesharing Insurance Coverage

AS OF MARCH 14, 2015



*PROVIDES BACK-UP COVERAGE WHEN/IF DRIVER'S PERSONAL AUTO INSURANCE DECLINES CLAIM
 *\$50K MAXIMUM

HOUSE BILL 1144 AMENDMENTS

26.1-40.1-01.(7) Amend definition of transportation network company insurance

<u>Original Bill Text:</u>	<u>Amended Text:</u>
"Transportation network company insurance" means a liability insurance policy that specifically covers liabilities arising from a participating driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.	"Transportation network company insurance" means a liability insurance policy that covers liabilities arising from a participating driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

26.1-40.1-02. Amend section to allow for factual disclosures

<u>Original Bill Text:</u>	<u>Amended Text:</u>
<p><u>26.1-40.1-02. Required disclosures.</u></p> <ol style="list-style-type: none">1. A transportation network company shall disclose in writing 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 in writing of when the driver's personal automobile insurance policy will not provide coverage under the agreement.2. A transportation network company shall disclose in writing to participating drivers, as part of its agreement with those drivers, of when the driver's personal automobile insurance policy will not provide collision or comprehensive coverage under the agreement.3. A transportation network company shall provide notice of a driver's participation in the transportation network directly to the driver's personal automobile insurer unless that insurer is providing transportation network company insurance to the driver.	<p><u>26.1-40.1-02. Required disclosures.</u></p> <ol style="list-style-type: none">1. A transportation network company shall disclose 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 depending upon their policy's terms.2. A transportation network company shall disclose to participating drivers, as part of its agreement with those drivers, that a driver's personal automobile insurance policy may not provide collision or comprehensive coverage under the agreement depending upon their policy's terms.3. A participating driver should consult with their agent or personal automobile insurer if they have any questions regarding the coverage provided by their personal automobile policy.

26.1-40.1-03. Amend section to allow for a combination of innovative products to provide coverage

Original Bill Text:	Amended Text:
<p><u>26.1-40.1-03. Coverage required when transportation network company application is engaged until completion of ride.</u></p> <p>1. A transportation network company and any participating driver shall maintain transportation network company insurance and unless otherwise specified, the following requirements apply to transportation network company insurance during the engaged stage and during the passenger on-board stage.</p> <p>a. Transportation network company insurance is primary and in the amount of one million dollars for death, personal injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:</p> <p>(1) Transportation network company insurance maintained by a participating driver.</p> <p>(2) Transportation network company insurance maintained by a transportation network company.</p> <p>(3) Any combination of paragraphs 1 and 2.</p> <p>b. 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.</p> <p>c. Transportation network company insurance coverage must provide personal injury protection to drivers, passengers, and pedestrians as provided under chapter 26.1-41.</p> <p>d. The primary insurer, in the case of insurance coverage provided under subdivision a, has the duty to defend and indemnify the insured.</p> <p>e. A transportation network company may meet its obligations under this section through a policy obtained by a participating driver under paragraph 1 or 3 of subdivision a only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.</p>	<p><u>26.1-40.1-03. Coverage required when transportation network company application is engaged until completion of ride.</u></p> <p>1. A transportation network company and any participating driver shall maintain transportation network company insurance that provides the following coverage during the engaged stage and during the passenger on-board stage:</p> <p>a. Transportation network company insurance in the amount of one million dollars for death, personal injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:</p> <p>(1) Transportation network company insurance maintained by a participating driver.</p> <p>(2) Transportation network company insurance maintained by a transportation network company.</p> <p>(3) Any combination of paragraphs 1 and 2.</p> <p>b. Uninsured motorist coverage and underinsured motorist coverage anytime the driver has transportation network company passengers on board in the amount required by N.D. Cent. Code § 26.1-40-15.2(1) and N.D. Cent. Code § 26.1-40-15.3(1).</p> <p>c. Transportation network company insurance coverage must provide personal injury protection to drivers, passengers, and pedestrians where required under chapter 26.1-41.</p> <p>d. DELETED</p> <p>e. DELETED</p>

26.1-40.1-04. Amend section to allow for a combination of innovative products to provide coverage.

Original Bill Text:	Amended Text:
<p><u>26.1-40.1-04. Insurance coverage during the application on stage with no passengers in vehicle.</u></p> <ol style="list-style-type: none"> 1. The following requirements apply to transportation network company insurance for application on stage: <ol style="list-style-type: none"> a. Transportation network company insurance shall be primary and in the amount of at least twenty-five thousand dollars for death and personal injury per person, fifty thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage. b. Transportation network company insurance coverage must provide: <ol style="list-style-type: none"> (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1; (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1; (3) Personal injury protection under chapter 26.1-41; and (4) Collision physical damage coverage and comprehensive physical damage coverage. 2. The requirements for the coverage required by this section may be satisfied by any of the following: <ol style="list-style-type: none"> 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 a participating driver's insurance policy under subdivision a of subsection 1 has ceased to exist or has been canceled, or the participating driver does not otherwise maintain transportation network company insurance pursuant to this section. c. Any combination of subsections a and b. 3. A transportation network company shall maintain insurance coverage that provides excess coverage insuring the transportation network company and the driver in the amount of at least two hundred thousand dollars per occurrence to cover any liability arising from a participating driver using a vehicle in connection with a transportation network company's online-enabled application or platform within the application on stage specified in this section, which liability exceeds the required coverage limits in subdivision a of subsection 1. 4. The insurer providing insurance coverage under this section is the only insurer having the duty to defend any liability claim arising from an accident occurring within the time periods specified in this section. 5. A transportation network company may meet its obligations under this section through a policy obtained by a participating driver under subdivisions a or c of subsection 2, only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform. 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 be required to first deny a claim. 7. In every instance where 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. 	<p><u>26.1-40.1-04. Insurance coverage during the application on stage with no passengers in vehicle.</u></p> <ol style="list-style-type: none"> 1. The following requirements apply to transportation network company insurance for application on stage: <ol style="list-style-type: none"> a. Transportation network company insurance in the amount of at least twenty-five thousand dollars for death and personal injury per person, fifty thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage. b. Transportation network company insurance coverage must provide: <ol style="list-style-type: none"> (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1; (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1; (3) Personal injury protection where required under chapter 26.1-41; and (4) DELETED 2. The requirements for the coverage required by this section may be satisfied by any of the following: <ol style="list-style-type: none"> 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 a participating driver's insurance policy under subdivision a of subsection 1 excludes coverage according to its terms or has ceased to exist or the participating driver does not otherwise maintain transportation network company insurance. c. Any combination of subsections a and b. 3. DELETED 4. DELETED 5. DELETED 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 be required to first deny a claim. 7. In every instance where transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy terms or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

26.1-40.1-06 Amend to delete subsection (b) and (c) which are anti-consumer and violate public policy or protecting consumers against adhesion contracts.

Original Bill Text:	Amended Text:
<p><u>26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board stage, engaged stage, and application on stage.</u></p> <p>1. During the application on stage, engaged stage, or passenger on-board stage, the following apply:</p> <p>a. The participating driver's or the vehicle owner's personal automobile insurance policy does not provide any coverage to the participating driver, vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this section is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.</p> <p>b. The participating driver's or the vehicle owner's personal automobile insurance company does not have the duty to defend or indemnify for the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise for the period of time to which this section is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.</p> <p>c. Nothing in this chapter may be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the application on stage, engaged stage, or passenger on-board stage.</p>	<p><u>26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board stage, engaged stage, and application on stage.</u></p> <p>1. During the application on stage, engaged stage, or passenger on-board stage, the following apply:</p> <p>a. DELETED</p> <p>b. DELETED</p> <p>c. Nothing in this chapter may be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the application on stage, engaged stage, or passenger on-board stage.</p>

26.1-40.1-07 Amend to remove anti business and anti consumer provisions

<u>Original Bill Text:</u>	<u>Amended Text:</u>
<p>26.1-40.1-07. Discretionary personal insurance where offered by personal automobile insurer.</p> <p>Notwithstanding any other law, 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 eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform only if the policy expressly provides for the coverage during the time period specified in section 26.1-40.1-03, with or without a separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged.</p>	<p>26.1-40.1-07. Discretionary personal insurance where offered by personal automobile insurer.</p> <p>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 eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform.</p>

26.1-40.1-12 Add provision to allow eligible surplus lines carriers to provide coverage:

Text

ADD 26.1-40.1-12. Authorized or Eligible Carrier. Transportation network company insurance required by this Act may be placed with an insurer authorized to do business in the state or with a surplus lines insurer eligible under N.D. Cent. Code § 26.1-44-03.

HOUSE BILL 1144 AMENDMENTS

26.1-40.1-01.(7) Amend definition of transportation network company insurance

Original Bill Text:	Amended Text:
<p>"Transportation network company insurance" means a liability insurance policy that specifically covers liabilities arising from a participating driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.</p>	<p>"Transportation network company insurance" means a liability insurance policy that covers liabilities arising from a participating driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.</p>

Rationale:

1. An insurance policy covers what it agrees to cover pursuant to its written contract terms. Introducing "specifically" written adds an element that causes confusion and deviates from well-recognized insurance and legal standards.
2. Multi-peril insurance such as automobile liability insurance is built around a universal standard of a broad coverage grant "all bodily injury and property damage arising out of the use of an automobile" which is then limited by narrowly tailored exclusions.
3. Insurance is an adhesion contract, which must provide the broadest interpretation of coverage in favor to the purchasing insured.
 - a. ND Statute recognizes this: ND Law N.D. Cent. Code, § 9-07-19: In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist. The promisor is presumed to be such party, except in a contract between a public officer or body, as such, and a private party, and in such case it is presumed that all uncertainty was caused by the private party.
 - b. The North Dakota Supreme Court has held: "**We regard insurance policies as adhesion contracts, . . . and therefore, in applying the rules to resolve ambiguities, we balance the equities against the insurer, i.e., in favor of providing coverage to the insured. . . .** Furthermore, if the rules for interpreting a written contract do not remove uncertainty, **the language of the contract is to be construed most strongly against the party who drafted the contract. NDCC 9-07-19; . . .**"

Exclusions from broad coverage in an insurance policy must be both clear and explicit, and will be strictly construed against the insurer. E.g., Theidin v. United States Fidelity & Guaranty Insurance Co., 518 N.W.2d 703, 706 (N.D. 1994); 13 Appleman, Insurance Law and Practice 7405 (1976); 12 Couch, Insurance 44A:3 (2d ed. 1981).

26.1-40.1-02. Amend section to allow for factual disclosures

<u>Original Bill Text:</u>	<u>Amended Text:</u>
<p>26.1-40.1-02. Required disclosures.</p> <ol style="list-style-type: none"> 1. A transportation network company shall disclose in writing 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 in writing of when the driver's personal automobile insurance policy will not provide coverage under the agreement. 2. A transportation network company shall disclose in writing to participating drivers, as part of its agreement with those drivers, of when the driver's personal automobile insurance policy will not provide collision or comprehensive coverage under the agreement. 3. A transportation network company shall provide notice of a driver's participation in the transportation network directly to the driver's personal automobile insurer unless that insurer is providing transportation network company insurance to the driver. 	<p>26.1-40.1-02. Required disclosures.</p> <ol style="list-style-type: none"> 1. A transportation network company shall disclose 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 depending upon their policy's terms. 2. A transportation network company shall disclose to participating drivers, as part of its agreement with those drivers, that a driver's personal automobile insurance policy may not provide collision or comprehensive coverage under the agreement depending upon their policy's terms. 3. A participating driver should consult with their agent or personal automobile insurer if they have any questions regarding the coverage provided by their personal automobile policy.

Rationale:

1. There is no such thing as a standard personal auto policy or standard livery exclusion.
2. Leading insurers use proprietary forms that have multiple coverage differences.
3. Insurance policies provide and exclude coverage based according to each policy's specific terms.
4. The proposed edits to these notices reflect the diversity of exclusions included in leading personal automobile insurance policies.
5. Participating drivers interact with the Uber platform through a digital medium and providing electronic disclosure is the most appropriate and effective way to ensure drivers are notified.
6. Personal automobile contracts are a private contractual relationship between the insurer and insured and it is not appropriate to require a TNC to interfere in that relationship.

26.1-40.1-03. Amend section to allow for a combination of innovative products to provide coverage

Original Bill Text:	Amended Text:
<p><u>26.1-40.1-03. Coverage required when transportation network company application is engaged until completion of ride.</u></p> <p>1. A transportation network company and any participating driver shall maintain transportation network company insurance and unless otherwise specified, the following requirements apply to transportation network company insurance during the engaged stage and during the passenger on-board stage:</p> <p>a. Transportation network company insurance is primary and in the amount of one million dollars for death, personal injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:</p> <p>(1) Transportation network company insurance maintained by a participating driver.</p> <p>(2) Transportation network company insurance maintained by a transportation network company.</p> <p>(3) Any combination of paragraphs 1 and 2.</p> <p>b. 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.</p> <p>c. Transportation network company insurance coverage must provide personal injury protection to drivers, passengers, and pedestrians as provided under chapter 26.1-41.</p> <p>d. The primary insurer, in the case of insurance coverage provided under subdivision a, has the duty to defend and indemnify the insured.</p> <p>e. A transportation network company may meet its obligations under this section through a policy obtained by a participating driver under paragraph 1 or 3 of subdivision a only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.</p>	<p><u>26.1-40.1-03. Coverage required when transportation network company application is engaged until completion of ride.</u></p> <p>1. A transportation network company and any participating driver shall maintain transportation network company insurance that provides the following coverage during the engaged stage and during the passenger on-board stage:</p> <p>a. Transportation network company insurance in the amount of one million dollars for death, personal injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:</p> <p>(1) Transportation network company insurance maintained by a participating driver.</p> <p>(2) Transportation network company insurance maintained by a transportation network company.</p> <p>(3) Any combination of paragraphs 1 and 2.</p> <p>b. Uninsured motorist coverage and underinsured motorist coverage anytime the driver has transportation network company passengers on board in the amount required by N.D. Cent. Code, § 26.1-40-15.2(1) and N.D. Cent. Code, § 26.1-40-15.3(1).</p> <p>c. Transportation network company insurance coverage must provide personal injury protection to drivers, passengers, and pedestrians where required under chapter 26.1-41.</p> <p>d. DELETED</p> <p>e. DELETED</p>

Rationale:

1. This amendment allows a variety of authorized, surplus, personal and commercial products to provide coverage for TNC vehicles.
2. Object to "primary" designation, as it is not needed in order to provide proper protection.
3. No other North Dakota financial responsibility statute has such a requirement. All policies are primary unless limited by their terms.
4. Recommend that the TNC *or* the driver be required to provide coverage to be consistent with the other language allowing either the TNC *or* driver to satisfy the coverage requirement.
5. Uninsured and Underinsured Motorist coverage should be tied to existing state requirements for that coverage for all vehicles.

26.1-40.1-04. Amend section to allow for a combination of innovative products to provide coverage.

Original Bill Text:	Amended Text:
<p>26.1-40.1-04. Insurance coverage during the application on stage with no passengers in vehicle.</p> <p>1. The following requirements apply to transportation network company insurance for application on stage:</p> <p>a. Transportation network company insurance shall be primary and in the amount of at least twenty-five thousand dollars for death and personal injury per person, fifty thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage.</p> <p>b. Transportation network company insurance coverage must provide:</p> <p>(1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;</p> <p>(2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;</p> <p>(3) Personal injury protection under chapter 26.1-41; and</p> <p>(4) Collision physical damage coverage and comprehensive physical damage coverage.</p> <p>2. The requirements for the coverage required by this section may be satisfied by any of the following:</p> <p>a. Transportation network company insurance maintained by a participating driver;</p> <p>b. Transportation network company insurance maintained by a transportation network company that provides coverage in the event a participating driver's insurance policy under subdivision a of subsection 1 has ceased to exist or has been canceled, or the participating driver does not otherwise maintain transportation network company insurance pursuant to this section;</p> <p>c. Any combination of subsections a and b.</p> <p>3. A transportation network company shall maintain insurance coverage that provides excess coverage insuring the transportation network company and the driver in the amount of at least two hundred thousand dollars per occurrence to cover any liability arising from a participating driver using a vehicle in connection with a transportation network company's online-enabled application or platform within the application on stage specified in this section, which liability exceeds the required coverage limits in subdivision a of subsection 1.</p> <p>4. The insurer providing insurance coverage under this section is the only insurer having the duty to defend any liability claim arising from an accident occurring within the time periods specified in this section.</p> <p>5. A transportation network company may meet its obligations under this section through a policy obtained by a participating driver under subdivisions a or c of subsection 2, only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.</p> <p>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 be required to first deny a claim.</p> <p>7. In every instance where 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.</p>	<p>26.1-40.1-04. Insurance coverage during the application on stage with no passengers in vehicle.</p> <p>1. The following requirements apply to transportation network company insurance for application on stage:</p> <p>a. Transportation network company insurance in the amount of at least twenty-five thousand dollars for death and personal injury per person, fifty thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage.</p> <p>b. Transportation network company insurance coverage must provide:</p> <p>(1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;</p> <p>(2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1; (3) Personal injury protection where required under chapter 26.1-41; and</p> <p>(4) DELETED</p> <p>2. The requirements for the coverage required by this section may be satisfied by any of the following:</p> <p>a. Transportation network company insurance maintained by a participating driver;</p> <p>b. Transportation network company insurance maintained by a transportation network company that provides coverage in the event a participating driver's insurance policy under subdivision a of subsection 1 excludes coverage according to its terms or has ceased to exist or the participating driver does not otherwise maintain transportation network company insurance;</p> <p>c. Any combination of subsections a and b.</p> <p>3. DELETED</p> <p>4. DELETED</p> <p>5. DELETED</p> <p>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 be required to first deny a claim.</p> <p>7. In every instance where transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy terms or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.</p>

Rationale

1. This amendment allows a variety of authorized, surplus, personal and commercial products to provide coverage for TNC vehicles.
2. Object to "primary" designation, as it is not needed in order to provide proper protection.
3. No other North Dakota financial responsibility statute has such a requirement. All policies are primary unless limited by their terms.
4. Recommend that the TNC *or* the driver be required to provide coverage to be consistent with the other language allowing either the TNC *or* driver to satisfy the coverage requirement.
5. Uninsured and Underinsured Motorist coverage should be tied to existing state requirements for that coverage for all vehicles.
6. Verification requirement will cause confusion and ambiguity. TNCs are required to cover all losses at dollar \$1 where coverage is excluded or does not other exists. Anti business anti competitive requirement.

26.1-40.1-06 Amend to delete subsection (b) and (c) which are anti-consumer and violate public policy or protecting consumers against adhesion contracts.

Original Bill Text:	Amended Text:
<p><u>26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board stage, engaged stage, and application on stage.</u></p> <p>1. During the application on stage, engaged stage, or passenger on-board stage, the following apply:</p> <p>a. The participating driver's or the vehicle owner's personal automobile insurance policy does not provide any coverage to the participating driver, vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this section is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.</p> <p>b. The participating driver's or the vehicle owner's personal automobile insurance company does not have the duty to defend or indemnify for the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise for the period of time to which this section is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.</p> <p>c. Nothing in this chapter may be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the application on stage, engaged stage, or passenger on-board stage.</p>	<p><u>26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board stage, engaged stage, and application on stage.</u></p> <p>1. During the application on stage, engaged stage, or passenger on-board stage, the following apply:</p> <p>a. DELETED</p> <p>b. DELETED</p> <p>c. Nothing in this chapter may be construed to require a private passenger automobile insurance policy to provide primary or excess coverage during the application on stage, engaged stage, or passenger on-board stage.</p>

Rationale

1. This entire section presents very serious consumer protection issues.
2. This attempts to change or interpret contractual language already issued between an insurer and a driver.
3. The insurer must be held to uphold the terms coverage that it sold in its insurance policy. The driver has very little power to negotiate the insurance policy language, and this section would further limit the power of the driver/insured.
4. Insurers already have the ability to write broad or narrow exclusions and to write additional riders or endorsements to limit or extend coverage. Attempting to statutorily limit the coverage in existing insurance contracts is anti-consumer and will result in litigation.
5. Insurers can easily amend existing insurance products with the Insurance Department.
6. Insurance is an adhesion contract, which provides that the broadest interpretation of coverage must go to the insured's benefit.

26.1-40.1-07 Amend to remove confusing anti business and anti consumer provisions

<u>Original Bill Text:</u>	<u>Amended Text:</u>
<p>26.1-40.1-07. Discretionary personal insurance where offered by personal automobile insurer.</p> <p>Notwithstanding any other law, 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 eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform only if the policy expressly provides for the coverage during the time period specified in section 26.1-40.1-03, with or without a separate charge, or the policy contains an endorsement or an endorsement to provide that coverage, for which a separately stated premium may be charged.</p>	<p>26.1-40.1-07. Discretionary personal insurance where offered by personal automobile insurer.</p> <p>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 eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform.</p>

Rationale

1. This section is unnecessary, as insurers already have the ability to write this coverage without this statutory language.
2. The phrase “only if the policy expressly provides coverage” is a confusing and unnecessary limitation.

26.1-40.1-12 Add provision to allow eligible surplus lines carriers to provide coverage:

Text

ADD 26.1-40.1-12. Authorized or Eligible Carrier. Transportation network company insurance required by this Act may be placed with an insurer authorized to do business in the state or with a surplus lines insurer eligible under N.D. Cent. Code § 26.1-44-03.

Rationale

1. Surplus lines carriers play a critical role in providing coverage for new and innovative business models like the three leading TNCs.
2. This allows the admitted market time to adapt to new industries.
3. Surplus lines are financially strong and have far fewer financial impairments when compared to the admitted market.
4. This addition is a national trend in every jurisdiction that has passed TNC regulations.

February 4, 2015
Submitted to H-IBL

PAT WARD PROPOSED AMENDMENTS TO HB 1144
(with DOI)

Page 2, remove lines 5 through 8 and replace with: 7. As used in this article, "transportation network company insurance" is an insurance policy that specifically covers a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

Page 2, line 15, replace "will" with "may"

Page 2, line 17, replace "of when" with "that"

Page 2, line 24, after "ride" insert "when the passenger has exited the vehicle"

Page 2, line 29, after "company" insert "liability"

Page 2, line 29, remove "is" and replace with "shall be"

Page 3, line 9, remove "also provides" and replace with "shall be primary and shall provide:

(1)"

Page 3, line 11, remove "." and replace with ", and"

Page 3, remove lines 12 through 14, replace with

"(2) in an amount that is not less than the limits provided under the personal injury protection insurance limits provided by the Transportation Network Company driver's private passenger auto insurance policy; and

(3) comprehensive and/or collision insurance, in an amount that is not less than the limits provided under the comprehensive and/or collision insurance limits provided by the Transportation Network Company driver's private passenger auto insurance policy."

Page 3, line 16, insert "sole" between "the" and "duty"

Page 3, line 25, replace "for" with "during"

Page 3, line 27, insert "liability" after "company" and replace with "bodily"

Page 3, remove lines 28 through 30 and replace with

Option 1 - "Two Hundred Fifty Thousand Dollars for death, bodily injury, and property damage."

OR

Option 2 - "In an amount that matches and is not less than the limits provided in the driver's personal auto insurance policy."

Page 4, remove lines 1 through 5 and replace with: "(1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1, in an amount not less than the limits provided under the Transportation Network Company driver's private passenger auto policy's uninsured motorist coverage; (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1, in an amount not less than the limits provided under the Transportation Network Company driver's private passenger auto policy's underinsured motorist coverage; (3) Personal injury protection under chapter 26.1-41, in an amount not less than the limits provided under the Transportation Network Company driver's private passenger auto policy's personal injury protection coverage; and (4) Collision physical damage coverage and comprehensive physical damage insurance, in an amount that is not less than the limits provided under the comprehensive and/or collision insurance limits provided by the Transportation Network Company driver's private passenger auto insurance policy.

Page 7, remove lines 3 through 5.

Re-number Accordingly

February 4, 2015
Submitted to H-IBL

PAT WARD PROPOSED AMENDMENTS TO HB 1144
(with DOI)

Insurance Dept
↓
use chapter

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Page 7, remove lines 3 through 5.

Renumber Accordingly

Feb 11, 2015 am

15.0434.02002
Title.

Prepared by the Legislative Council staff for
Representative Keiser

February 9, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 1, replace "chapter" with "chapters"

Page 1, line 1, after "26.1-40.1" insert "and 39-34"

Page 1, line 3, after "networks" insert "and services"

Page 7, after line 2, insert:

"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.

u1

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.

UBER

UBER is →

39-34-02. Not other carriers.

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

UBER →
is trying
to define

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

Permit from DOT

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

39-34-04. Agent.

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

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

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

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

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

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

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

39-34-08. Zero tolerance for drug or alcohol use.

We may want to clarify

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 services, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the trip.
2. Upon receipt of a passenger complaint alleging a violation of the zero tolerance policy, the transportation network company shall immediately suspend the transportation network company driver's access to the transportation network company's digital platform, and shall conduct an

investigation into the reported incident. The suspension shall last the duration of the investigation. *That may need to be clarified*

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

ok **39-34-09. 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, 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 years of age.

39-34-10. 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.

39-34-11. 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.

39-34-12. 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.

39-34-13. 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.
2. Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.
3. Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.
4. A transportation network company may not impose additional charges for providing services to persons with physical disabilities because of those disabilities.
5. A transportation network company shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange wheelchair-accessible transportation network company service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

39-34-14. Records.

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

39-34-15. Confidentiality of passenger personal information.

A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger unless the customer knowingly consents, under a legal obligation, or the disclosure is to the insurance commissioner in order to investigate a complaint filed with the commissioner against a transportation network company or a participating driver and the commissioner treats the information under confidentiality protections.

39-34-16. Controlling authority.

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter and any rules adopted by the department consistent with this chapter and section 1 of this Act. A municipality or other local entity 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 municipality's or other local entity's rate, entry, operational, or other requirements."

Renumber accordingly

I don't support this, but committee

Taking local authority away

Insurance Dept & Pat Ward
agree upon

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Feb 11, 2015

Introduced by

Representative Keiser

Senator Klein

ok

1 A BILL for an Act to create and enact chapter 26.1-40.1 of the North Dakota Century Code,
2 relating to insurance coverage of motor vehicles participating in transportation network
3 company networks, priority of coverage, and minimum limits; ~~and to provide for application.~~

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

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

7 **26.1-40.1-01. Definitions.**

Ward - ok
Ins Dep - ok

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Application off stage" of operation means the time period when the driver is operating
10 the vehicle for personal noncommercial reasons and not engaged in any manner or
11 operation for the transportation network company.
- 12 2. "Application on stage" means the time period the driver is logged onto the
13 online-enabled application of a transportation network company and available for hire
14 but not engaged and there is no passenger on board.
- 15 3. "Engaged stage" means the time period from the moment a participating driver
16 accepts a ride request on the transportation network company online-enabled
17 application or platform until the driver completes the transaction on the online-enabled
18 application or platform or until the ride is complete, whichever is later.
- 19 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
20 with a transportation network company's online-enabled application or platform to
21 connect with passengers.
- 22 5. "Passengers on-board stage" means the time period when there are passengers in the
23 vehicle pursuant to the driver's participation in a transportation network company.

1 6. "Transportation network company" means a person operating in this state that
2 *UBER-change*
3 *Pat - ok* provides prearranged transportation services for compensation using an
4 online-enabled application or platform to connect passengers with drivers using a
5 personal vehicle.

6 7. "Transportation network company insurance" means ~~a liability insurance policy that~~
7 ~~specifically covers liabilities arising from a participating driver's use of a vehicle in~~
8 ~~connection with a transportation network company's online-enabled application or~~
9 ~~platform.~~ an insurance policy that specifically covers a driver's use of a vehicle in
10 connection with a transportation network company's online-enabled application or
11 platform. *UBE*

12 **26.1-40.1-02. Required disclosures.**

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

19 2. A transportation network company shall disclose in writing to participating drivers, as
20 part of its agreement with those drivers, ~~of when that~~ the driver's personal automobile
21 insurance policy ~~will~~ may not provide collision or comprehensive coverage, under the
22 agreement. *depending what their policy*

23 3. A transportation network company shall provide notice of a driver's participation in the
24 transportation network directly to the driver's personal automobile insurer unless that
25 insurer is providing transportation network company insurance to the driver.

26 **26.1-40.1-03. Coverage required when transportation network company application is**
27 **engaged until completion of ride when the passenger has exited the vehicle.**

28 1. A transportation network company and any participating driver shall maintain
29 transportation network company insurance and unless *otherwise specified*, the
30 following requirements apply to transportation network company insurance during the
engaged stage and during the passenger on-board stage.

UBER = OK but

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

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

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

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

10 b. Transportation network company insurance coverage provided under this section
11 also provides primary and must provide for uninsured motorist coverage and
12 underinsured motorist coverage in the amount of one million dollars anytime the
13 driver has transportation network company passengers on board; and

14 ~~c. Transportation network company insurance coverage must provide personal~~
15 ~~injury protection to drivers, passengers, and pedestrians as provided under~~
16 ~~chapter 26.1-41.~~

17 (1) In an amount that is not less than the limits provided under the personal
18 injury protection insurance limits provided by the transportation network
19 company driver's private passenger automobile insurance policy; and

20 d (2) Comprehensive or collision insurance, or both, in an amount that is not less
21 than the limits provided under the comprehensive or collision, or both,
22 insurance limits provided by the transportation network company driver's
23 private passenger automobile insurance policy.

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

26 e. A transportation network company may meet its obligations under this section
27 through a policy obtained by a participating driver under paragraph 1 or 3 of
28 subdivision a only if the transportation network company verifies that the policy is
29 maintained by the driver and is specifically written to cover the driver's use of a
30 vehicle in connection with a transportation network company's online-enabled
31 application or platform.

UBER 2:15:2
Add confusion
remove

1 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
2 **in vehicle.**

3 1. The following requirements apply to transportation network company liability insurance
4 for application on stage:

5 a. Transportation network company insurance shall be primary and in the amount of
6 at least twenty five thousand dollars for death and personal injury per person, fifty
7 thousand dollars for death and personal injury per incident, and twenty five
8 thousand dollars for property damage. two hundred fifty thousand dollars for
9 death, bodily injury, and property damage.

10 b. Transportation network company insurance coverage must provide:

11 ~~(1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;~~

12 ~~(2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;~~

13 ~~(3) Personal injury protection under chapter 26.1-41; and~~

14 ~~(4) Collision physical damage coverage and comprehensive physical damage~~
15 ~~coverage.~~

16 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1, in
17 an amount not less than the limits provided under the transportation network
18 company driver's private passenger automobile policy's uninsured motorist
19 coverage;

20 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1,
21 in an amount not less than the limits provided under the transportation
22 network company driver's private passenger automobile policy's
23 underinsured motorist coverage;

24 (3) Personal injury protection under chapter 26.1-41, in an amount not less than
25 the limits provided under the transportation network company driver's
26 private passenger automobile policy's personal injury protection coverage;
27 and

28 (4) Collision physical damage coverage and comprehensive physical damage
29 insurance, in an amount that is not less than the limits provided under the
30 comprehensive and collision insurance limits provided by the transportation
31 network company driver's private passenger automobile insurance policy.

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

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

4 b. Transportation network company insurance maintained by a transportation
5 network company that provides coverage in the event a participating driver's
6 insurance policy under subdivision a of subsection 1 has ceased to exist or has
7 been canceled, or the participating driver does not otherwise maintain
8 transportation network company insurance pursuant to this section.

9 c. Any combination of subsections a and b.

10 3. ~~A transportation network company shall maintain insurance coverage that provides~~
11 ~~excess coverage insuring the transportation network company and the driver in the~~
12 ~~amount of at least two hundred thousand dollars per occurrence to cover any liability~~
13 ~~arising from a participating driver using a vehicle in connection with a transportation~~
14 ~~network company's online-enabled application or platform within the application on~~
15 ~~stage specified in this section, which liability exceeds the required coverage limits in~~
16 ~~subdivision a of subsection 1.~~

17 ~~4.~~ ~~The insurer providing insurance coverage under this section is the only insurer having~~
18 ~~the duty to defend any liability claim arising from an accident occurring within the time~~
19 ~~periods specified in this section.~~

20 ~~5.4.~~ A transportation network company may meet its obligations under this section through
21 a policy obtained by a participating driver under subdivisions a or c of subsection 2
22 only if the transportation network company verifies that the policy is maintained by the
23 driver and is specifically written to cover the driver's use of a vehicle in connection with
24 a transportation network company's online-enabled application or platform.

25 ~~6.5.~~ Coverage under a transportation network company insurance policy may neither be
26 dependent on a driver's personal automobile insurance policy carrier first denying a
27 claim nor a personal automobile insurance policy carrier be required to first deny a
28 claim.

29 ~~7.6.~~ In every instance where transportation network company insurance maintained by a
30 participating driver to fulfill the insurance obligations of this section has lapsed or

Kei - is this clarifying

1 ceased to exist, the transportation network company shall provide the coverage
2 required by this section beginning with the first dollar of a claim.

3 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

7 **26.1-40.1-06. Limitations on driver's personal ~~auto~~automobile policy during**
8 **passenger on-board stage, engaged stage, and application on stage.**

9 1. During the application on stage, engaged stage, or passenger on-board stage, the
10 following apply:

11 a. The participating driver's or the vehicle owner's personal automobile insurance
12 policy does not provide any coverage to the participating driver, vehicle owner, or
13 any third party, unless the policy expressly provides for that coverage during the
14 period of time to which this section is applicable, with or without a separate
15 charge, or the policy contains an amendment or endorsement to provide that
16 coverage, for which a separately stated premium is charged.

17 b. The participating driver's or the vehicle owner's personal automobile insurance
18 company does not have the duty to defend or indemnify for the driver's activities
19 in connection with the transportation network company, unless the policy
20 expressly provides otherwise for the period of time to which this section is
21 applicable, with or without a separate charge, or the policy contains an
22 amendment or endorsement to provide that coverage, for which a separately
23 stated premium is charged.

24 c. Nothing in this chapter may be construed to require a private passenger
25 automobile insurance policy to provide primary or excess coverage during the
26 application on stage, engaged stage, or passenger on-board stage.

27 **26.1-40.1-07. Discretionary personal insurance where offered by personal automobile**
28 **insurer.**

29 Notwithstanding any other law, a personal automobile insurer may offer an automobile
30 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
31 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons

1 or less, including the driver, while used in connection with a transportation network company's
2 online-enabled application or platform only if the policy expressly provides for the coverage
3 during the time period specified in section 26.1-40.1-03, with or without a separate charge, or
4 the policy contains an amendment or an endorsement to provide that coverage, for which a
5 separately stated premium may be charged.

6 **26.1-40.1-08. Duty to cooperate.**

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

13 **26.1-40.1-09. Confidentiality of passenger personal information.**

14 A transportation network company may not disclose to a third party any personally
15 identifiable information of a transportation network company passenger unless the customer
16 knowingly consents, under a legal obligation, or the disclosure is to the commissioner of
17 insurance in order to investigate a complaint filed with the commissioner against a
18 transportation network company or a participating driver and the commissioner treats the
19 information under confidentiality protections.

20 **26.1-40.1-10. Financial responsibility.**

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

23 **26.1-40.1-11. Proof of insurance.**

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

29 ~~—SECTION 2. APPLICATION. The insurance commissioner shall expedite review of any~~
30 ~~application for approval of transportation network company insurance products so that these~~
31 ~~products become available for purchase on or before the effective date of this Act.~~

Pat Ward

Feb 11, 2015 AM

LA

HB 1144



COLORADO

Department of
Regulatory Agencies

Division of Insurance

Marguerite Salazar
Commissioner of Insurance

January 06, 2015

Dear Committee Members:

The Division of Insurance is pleased to present this report to the Business, Labor, Economic and Workforce Development Committee in the House of Representatives, the Business, Labor, and Technology Committee in the Senate, the Transportation and Energy Committee in the House of Representatives and the Transportation Committee in the Senate.

This report is submitted pursuant to Senate Bill 14-125 and Section 40-10.1-604 (3) (c), C.R.S. This report is the result of a Stakeholder meeting and the Division's analysis of actuarial data received from various sources. The report discusses steps taken to arrive at the conclusion and recommendation of the Division of Insurance.

The mission of the Department of Regulatory Agencies and the Division of Insurance is consumer protection. The results of this report take into consideration the safety and protection of the Colorado consumer.

If you have any questions, please contact me at the Division.

Regards,

A handwritten signature in cursive script, appearing to read 'Marguerite Salazar', written over a horizontal line.

Marguerite Salazar
Commissioner of Insurance

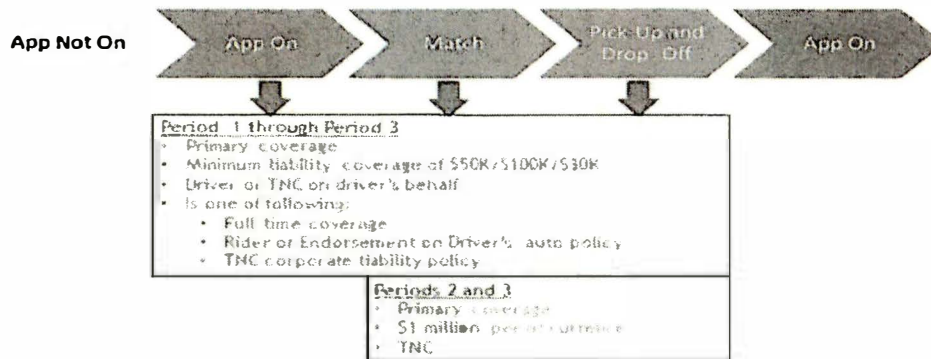


pa 1

Introduction:

The Colorado Legislature enacted Senate Bill 14-125 concerning Transportation Networking Companies (TNC) and Governor Hickenlooper signed the Act on June 6, 2014. A provision of the Act required the Commissioner of Insurance to convene at least one stakeholder meeting and conduct a study concerning the appropriate limits of insurance coverage for TNC drivers during a certain period of time. The specific time in question begins when the TNC driver logs onto the TNC digital network and ends when the TNC driver is matched with a rider, which was commonly referred to as the "gap" period during the session. The minimum limits of coverage, for this Period 1, established by the General Assembly in the Act are \$50,000 bodily injury per person, \$100,000 bodily injury per accident and \$30,000 property damage per accident (\$50/\$100/\$30), and will become effective January 15, 2015. The following chart identifies the amount of primary coverage required for all TNC drivers. Period 1 (or App On) requires the \$50/\$100/\$30 limits until a match is made (Period 2). Periods 2 (Match) and 3 (Pick up/Drop off) require \$1 Million of primary coverage. The Division of Insurance was charged with determining whether the Period 1 coverage limits are appropriate.

Consolidated Timeline



Fact Finding:

The Division collected information from several sources for its analysis and preparation of this report. The Division's actuarial staff requested loss data from insurance companies currently writing livery conveyance coverage for taxicabs. The insurance industry definition of "livery conveyance" is the transporting of people and/or goods for hire, such as taxi service, motor carrier or delivery service. We chose taxicab data because it is the most similar to the TNC industry in that drivers of a vehicle transport a rider for a fee. The data provided was not considered to be credible due to the limited quantity and high variability of the data. Therefore, the Division contacted rating and advisory organizations, including the Insurance Service Office, Inc. (ISO), the American Association of Insurance Services (AAIS), the Independent Statistical Service, Inc. (ISS) and the National Independent Statistical Service (NISS) in hopes of increasing the credibility of the data considered in this study.

Through these contacts, the Division received additional loss information related to both private passenger automobiles and taxi/limousines.

The analysis of the additional data provided by these rating and advisory organizations continues to be inconclusive. The data provided was also determined not to be credible due to the limited quantity and high variability. It can be very difficult to make conclusions based on data sets that are not considered fully credible. That being said, of the 128 claims reported between 2010 and 2012, only two exceeded \$100,000 in claim payments. Both of these claims were paid under a combined single limit that includes both bodily injury and property damage coverage; therefore, the Division is unable to differentiate between a bodily injury payment and a property damage payment.

The Division also reached out to Lyft and Uber with a request to review their loss information. Both of these companies have been operating in Colorado since approximately August 2013. Both companies requested confidentiality of their data; therefore, whether individual or in aggregate, the Division is unable to disclose its findings. However, the Division's recommendation takes into consideration the information reviewed from both TNC companies.

Stakeholder Meeting:

On September 23, 2014, the Division held its first Stakeholder meeting. Members of the Stakeholder group included representatives from Uber and Lyft (together the "TNCs"), the Property & Casualty Insurance Association of America (PCIAA), Public Utilities Commission (PUC), Transdev (formerly known as Veolia Transportation, a taxicab company), James River Insurance Company (a surplus lines insurer currently underwriting the TNCs' commercial policies) and Division of Insurance staff. The meeting was an information-gathering meeting. The PUC, PCIAA, Lyft and Division of Insurance presented facts, issues and concerns related to this new industry. The Division discussed the purpose of the Stakeholder meeting. The Division also discussed other states' activities concerning TNCs, including California's recent legislation. The PUC representative discussed the rule making process and explained how the limits for livery vehicles were established. PCIAA addressed key insurance industry concerns related to safety and the integrity of the private passenger automobile policy. Lyft discussed various aspects of the company including the driver profile and safety and background checks.

At the time of the Stakeholder meeting the Division had not yet received the data discussed above. After gathering information at this meeting and collecting and analyzing the data the Division made the determination that a second stakeholder meeting was unnecessary.

Current marketplace trends:

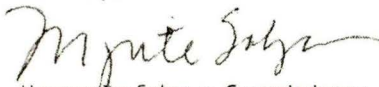
The Division is aware of at least five private passenger automobile insurers that are in the development stages, or have already developed, a "Ride-Sharing" endorsement. While personal automobile policies have never insured nor rated for the livery risk, each of the companies is submitting clarifying language to ensure the policyholders understand the personal automobile policy contract excludes livery, or driving passengers for hire. Concurrent to submitting the clarifying language, the companies are also submitting a new "Ride-Share" endorsement. This endorsement insures the time between the driver signing in to the TNC digital network and the match with a rider (Period 1 - App On to Match). One of the three companies is providing coverage for all periods, including sign-in, match, pick up and drop off. If purchased, the TNC drivers would have coverage from their personal automobile policy, up to the purchased policy limits, as well as the one million dollars provided under the TNC policy. The purchased policy limits under the driver's policy would be no less than the minimum required for a TNC driver, \$50,000 bodily injury per person, \$100,000 bodily injury per accident and \$30,000 property damage per accident. As of the writing of this report five companies, four in the USAA group of companies and MetLife Property and Casualty Insurance Company, have filed a specific TNC driver coverage; however, we are aware of at least one other group of companies in development stages.

Summary and Recommendation:

At this time, there is not enough credible data to determine whether the minimum insurance requirements of \$50,000 bodily injury per person, \$100,000 bodily injury per accident and \$30,000 per accident property damage are appropriate for this new transportation system. However, based on the limited amount of data we were able to collect, the Division would not recommend it be changed.

After reviewing the information and discussing with staff, the Division recommends the existing limits of \$50,000/\$100,000/\$30,000 be maintained for now. Given the fact that three private passenger automobile insurers have already developed or are in the process of developing products for this new "ride-sharing" industry, the Division would anticipate additional companies entering the market in the future. The Division believes a minimum of three years of claim experience specific to this type of business would provide better support for any future changes. If the General Assembly determines additional information is necessary, the Division would propose another study be conducted no earlier than 2019 with a report to the General Assembly due January 2020. If you have any questions please feel free to contact me at marguerite.salazar@state.co.us or 303-894-7425 or Bobbie Baca at bobbie.baca@state.co.us or 303-894-7783.

Sincerely,



Marguerite Salazar, Commissioner
Division of Insurance

Combination plus
what UBER Pat Ward & Ins Dept
wanted.
yellow is UBER

Feb 11, 2015³
AM

15.0434.02001

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact chapter 26.1-40.1 of the North Dakota Century Code,
2 relating to insurance coverage of motor vehicles participating in transportation network
3 company networks, priority of coverage, and minimum limits; ~~and to provide for application.~~

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

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

7 **26.1-40.1-01. Definitions.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Application off stage" of operation means the time period when the driver is operating
10 the vehicle for personal noncommercial reasons and not engaged in any manner or
11 operation for the transportation network company.
- 12 2. "Application on stage" means the time period the driver is logged onto the
13 online-enabled application of a transportation network company and available for hire
14 but not engaged and there is no passenger on board.
- 15 3. "Engaged stage" means the time period from the moment a participating driver
16 accepts a ride request on the transportation network company online-enabled
17 application or platform until the driver completes the transaction on the online-enabled
18 application or platform or until the ride is complete, whichever is later.
- 19 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
20 with a transportation network company's online-enabled application or platform to
21 connect with passengers.
- 22 5. "Passengers on-board stage" means the time period when there are passengers in the
23 vehicle pursuant to the driver's participation in a transportation network company.

1 6. "Transportation network company" means a person operating in this state that
2 provides prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with drivers using a
4 personal vehicle.

5 7. "Transportation network company insurance" means ~~a liability insurance policy that~~
6 ~~specifically covers liabilities arising from a participating driver's use of a vehicle in~~
7 ~~connection with a transportation network company's online-enabled application or~~
8 ~~platform.~~ an insurance policy that specifically covers a driver's use of a vehicle in
9 connection with a transportation network company's online-enabled application or
10 platform.

Comment [CAB1]: Uber's preferred verbiage on the definition.

11 "Transportation network company insurance" means a liability insurance policy that covers liabilities arising from a participating driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

Pat Ward has issue.

Comment [CAB2]: Uber wishes to have in writing removed in 1 & 2.

12 **26.1-40.1-02. Required disclosures.**

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

UBER

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

23 3. A transportation network company shall provide notice of a driver's participation in the
24 transportation network directly to the driver's personal automobile insurer unless that
25 insurer is providing transportation network company insurance to the driver.

26 A participation driver should consult their agent or personal automobile insurer if they have any questions regarding the coverage provided by their personal automobile policy.

Comment [CAB3]: Uber wants this verbiage for number 3 above it.

27 **26.1-40.1-03. Coverage required when transportation network company application is**
28 **engaged until completion of ride when the passenger has exited the vehicle.**

29 1. A transportation network company and any participating driver shall maintain
30 transportation network company insurance and unless otherwise specified, the

pg 2

31 following requirements apply to transportation network company insurance during the
32 engaged stage and during the passenger on-board stage.

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

- 5 (1) Transportation network company insurance maintained by a participating
6 driver.
7 (2) Transportation network company insurance maintained by a transportation
8 network company.
9 (3) Any combination of paragraphs 1 and 2.

10 b. Transportation network company insurance coverage provided under this section
11 also provides primary and must provide for uninsured motorist coverage and
12 underinsured motorist coverage in the amount of one million dollars anytime the
13 driver has transportation network company passengers on board. -and

14 Uninsured motorist coverage and underinsured motorist coverage anytime the
driver has transportation network company passengers on board in the amount
required by ND Cent Code- 26.1-40-15 2(1) and ND Cent Code 26.1-40-15 3(1)

15 e. ~~Transportation network company insurance coverage must provide personal~~
16 ~~injury protection to drivers, passengers, and pedestrians as provided under~~
16 ~~chapter 26.1-41.~~

17 (1) In an amount that is not less than the limits provided under the personal
18 injury protection insurance limits provided by the transportation network
19 company driver's private passenger automobile insurance policy, and

20 (2) Comprehensive or collision insurance, or both, in an amount that is not less
21 than the limits provided under the comprehensive or collision, or both,
22 insurance limits provided by the transportation network company driver's
23 private passenger automobile insurance policy.

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

26 e. A transportation network company may meet its obligations under this section
27 through a policy obtained by a participating driver under paragraph 1 or 3 of
28 subdivision a only if the transportation network company verifies that the policy is

Comment [CAB4]: Uber wishes to remove primary

Comment [CAB5]: Uber wishes to use the limits established in current code.

Comment [CAB6]: Uber wishes to have the minimum referenced above under NDCC 26.1-41. Does not want the "less than the limits" verbiage.

Comment [CAB7]: Uber wishes to remove comprehensive and collision coverage.

Comment [CAB8]: Uber wants this section deleted.

Pg 3

29 maintained by the driver and is specifically written to cover the driver's use of a
30 vehicle in connection with a transportation network company's online-enabled
31 application or platform.

Comment [CAB9]: Uber wants this section deleted.

1 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
2 **in vehicle.**

3 1. The following requirements apply to transportation network company liability insurance
4 for application on stage:

Comment [CAB10]: Uber wishes to remove shall be primary.

5 a. Transportation network company insurance shall be primary and in the amount of
6 at least twenty-five thousand dollars for death and personal injury per person, fifty
7 thousand dollars for death and personal injury per incident, and twenty-five
8 thousand dollars for property damage, two hundred fifty thousand dollars for
9 death, bodily injury, and property damage.

Comment [CAB11]: Uber is willing to do 50/100/25

10 b. Transportation network company insurance coverage must provide:

- 11 - (1) ~~Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;~~
12 - (2) ~~Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;~~
13 - (3) ~~Personal injury protection where required under chapter 26.1-41; and~~
14 - (4) ~~Collision physical damage coverage and comprehensive physical damage~~
15 ~~coverage.~~

Comment [CAB12]: Uber wishes to retain the NDCC limits as in current statute in 1-3 which are struck through.

16 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1, in
17 an amount not less than the limits provided under the transportation network
18 company driver's private passenger automobile policy's uninsured motorist
19 coverage;

20 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1,
21 in an amount not less than the limits provided under the transportation
22 network company driver's private passenger automobile policy's
23 underinsured motorist coverage;

24 (3) Personal injury protection under chapter 26.1-41, in an amount not less than
25 the limits provided under the transportation network company driver's
26 private passenger automobile policy's personal injury protection coverage;
27 and

28 (4) Collision physical damage coverage and comprehensive physical damage
29 insurance, in an amount that is not less than the limits provided under the
30 comprehensive and collision insurance limits provided by the transportation

Remove Motion 11

pg 4

31 network company driver's private passenger automobile insurance policy.

Comment [CAB13]: Uber does not want comp and collision

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

- 3 a. Transportation network company insurance maintained by a participating driver.
- 4 b. Transportation network company insurance maintained by a transportation
5 network company that provides coverage in the event a participating driver's
6 insurance policy under subdivision a of subsection 1 has ceased to exist or has
7 been canceled, or the participating driver does not otherwise maintain
8 transportation network company insurance pursuant to this section.
- 9 c. Any combination of subsections a and b.

10 3. ~~A transportation network company shall maintain insurance coverage that provides~~
11 ~~excess coverage insuring the transportation network company and the driver in the~~
12 ~~amount of at least two hundred thousand dollars per occurrence to cover any liability~~
13 ~~arising from a participating driver using a vehicle in connection with a transportation~~
14 ~~network company's online-enabled application or platform within the application on~~
15 ~~stage specified in this section, which liability exceeds the required coverage limits in~~
16 ~~subdivision a of subsection 1.~~

17 4. The insurer providing insurance coverage under this section is the only insurer having
18 the duty to defend any liability claim arising from an accident occurring within the time
19 periods specified in this section.

20 5.4. A transportation network company may meet its obligations under this section through
21 a policy obtained by a participating driver under subdivisions a or c of subsection 2
22 only if the transportation network company verifies that the policy is maintained by the
23 driver and is specifically written to cover the driver's use of a vehicle in connection with
24 a transportation network company's online-enabled application or platform.

Comment [CAB14]: Uber wishes to have duty to defend and policy verification deleted from bill entirely.

25 6.5. Coverage under a transportation network company insurance policy may neither be
26 dependent on a driver's personal automobile insurance policy carrier first denying a
27 claim nor a personal automobile insurance policy carrier be required to first deny a
28 claim.

29 7.6. In every instance where transportation network company insurance maintained by a
30 participating driver to fulfill the insurance obligations of this section has lapsed or

1 ceased to exist, the transportation network company shall provide the coverage
2 required by this section beginning with the first dollar of a claim.

3 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

7 **26.1-40.1-06. Limitations on driver's personal ~~auto~~automobile policy during**
8 **passenger on-board stage, engaged stage, and application on stage.**

9 1. During the application on stage, engaged stage, or passenger on-board stage, the
10 following apply:

11 a. The participating driver's or the vehicle owner's personal automobile insurance
12 policy does not provide any coverage to the participating driver, vehicle owner, or
13 any third party, unless the policy expressly provides for that coverage during the
14 period of time to which this section is applicable, with or without a separate
15 charge, or the policy contains an amendment or endorsement to provide that
16 coverage, for which a separately stated premium is charged.

17 b. The participating driver's or the vehicle owner's personal automobile insurance
18 company does not have the duty to defend or indemnify for the driver's activities
19 in connection with the transportation network company, unless the policy
20 expressly provides otherwise for the period of time to which this section is
21 applicable, with or without a separate charge, or the policy contains an
22 amendment or endorsement to provide that coverage, for which a separately
23 stated premium is charged.

24 c. Nothing in this chapter may be construed to require a private passenger
25 automobile insurance policy to provide primary or excess coverage during the
26 application on stage, engaged stage, or passenger on-board stage.

27 **26.1-40.1-07. Discretionary personal insurance where offered by personal automobile**
28 **insurer.**

29 Notwithstanding any other law, a personal automobile insurer may offer an automobile
30 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
31 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons

Comment [CAB15]: Uber wishes to have these two sections deleted entirely, both a & b.

Comment [CAB16]: If a & b are deleted- section c would not be needed.

1 or less, including the driver, while used in connection with a transportation network company's
2 online-enabled application or platform only if the policy expressly provides for the coverage
3 during the time period specified in section 26.1-40.1-03, with or without a separate charge, or
4 the policy contains an amendment or an endorsement to provide that coverage, for which a
5 separately stated premium may be charged.

6 **26.1-40.1-08. Duty to cooperate.**

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

13 **26.1-40.1-09. Confidentiality of passenger personal information.**

14 A transportation network company may not disclose to a third party any personally
15 identifiable information of a transportation network company passenger unless the customer
16 knowingly consents, under a legal obligation, or the disclosure is to the commissioner of
17 insurance in order to investigate a complaint filed with the commissioner against a
18 transportation network company or a participating driver and the commissioner treats the
19 information under confidentiality protections.

20 **26.1-40.1-10. Financial responsibility.**

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

23 **26.1-40.1-11. Proof of insurance.**

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

29 **Add Section- 26.1-40-12. Authorized or Eligible Carrier.**

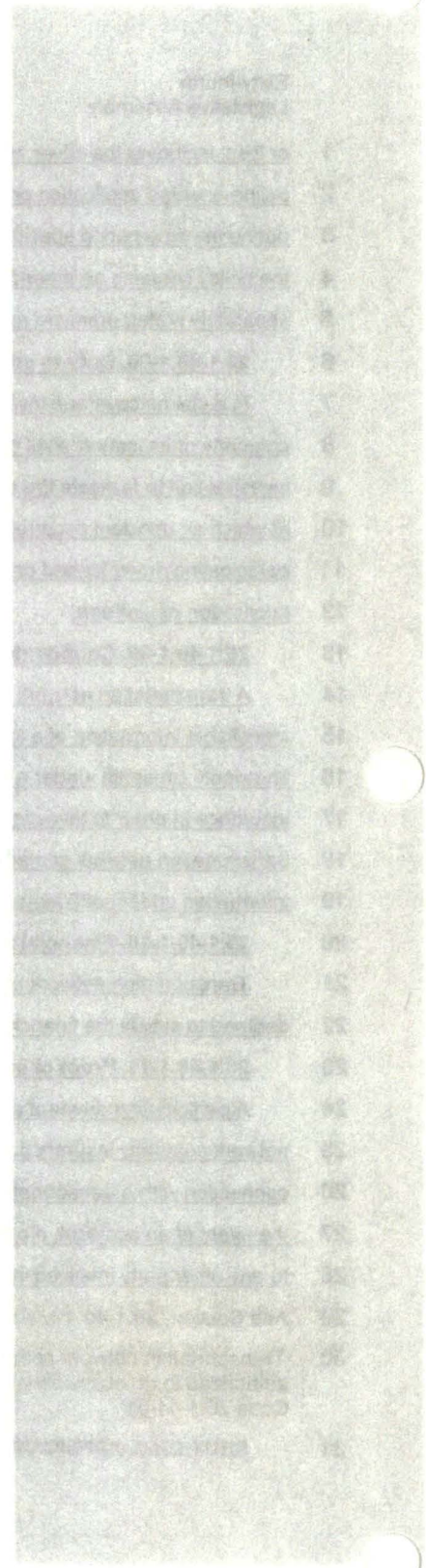
30 **Transportation network company insurance required by this Act may be placed with an insurer
authorized to do business in the state or with a surplus lines insurer eligible under ND Cent.
Code 26.1-44-03**

31 - **SECTION 2. APPLICATION.** ~~The insurance commissioner shall expedite review of any~~

Comment [CAB17]: Uber wishes to include this new section.

Sixty-fourth
Legislative Assembly

- 32 ~~application for approval of transportation network company insurance products so that these~~
33 ~~products become available for purchase on or before the effective date of this Act.~~



UBER'S

Feb 11, 2015
AM

4

15.0434.02001

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact chapter 26.1-40.1 of the North Dakota Century Code,
2 relating to insurance coverage of motor vehicles participating in transportation network
3 company networks, priority of coverage, and minimum limits; and to provide for application.

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

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

7 **26.1-40.1-01. Definitions.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Application off stage" of operation means the time period when the driver is operating
10 the vehicle for personal noncommercial reasons and not engaged in any manner or
11 operation for the transportation network company.
- 12 2. "Application on stage" means the time period the driver is logged onto the
13 online-enabled application of a transportation network company and available for hire
14 but not engaged and there is no passenger on board.
- 15 3. "Engaged stage" means the time period from the moment a participating driver
16 accepts a ride request on the transportation network company online-enabled
17 application or platform until the driver completes the transaction on the online-enabled
18 application or platform or until the ride is complete, whichever is later.
- 19 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
20 with a transportation network company's online-enabled application or platform to
21 connect with passengers.
- 22 5. "Passengers on-board stage" means the time period when there are passengers in the
23 vehicle pursuant to the driver's participation in a transportation network company.

Comment [A1]: Typo

1 6. "Transportation network company" is an organization, including, but not limited to, a
2 corporation, limited liability company, partnership, sole proprietor, or any other entity,
3 operating in North Dakota. ~~means a person operating in this state that~~

Comment [A2]: Uber wishes to delete "means a person operating in this state" and replace with the highlighted text

4 provides prearranged transportation services for compensation using an
5 online-enabled application or platform to connect passengers with drivers using a
6 personal vehicle.

7 7. "Transportation network company insurance" means a liability insurance policy that
8 specifically covers liabilities arising from a participating driver's use of a vehicle in
9 connection with a transportation network company's online-enabled application or
10 platform. an insurance policy that specifically covers a driver's use of a vehicle in
11 connection with a transportation network company's online-enabled application or
12 platform.

13 "Transportation network company insurance" means a liability insurance policy that
14 covers liabilities arising from a participating driver's use of a vehicle in connection with
15 a transportation network company's online-enabled application or platform.

Comment [A3]: Uber wishes to strike (7) above and replace with this text.

16 **26.1-40.1-02. Required disclosures.**

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

Comment [A4]: Uber wishes to have in writing removed in 1 & 2.

Comment [A5]: Uber wishes to replace "in writing of when" with "that"

24 2. A transportation network company shall disclose in writing to participating drivers, as
25 part of its agreement with those drivers, of when that the a driver's personal automobile
26 insurance policy will may not provide collision or comprehensive coverage, under the
27 agreement depending upon their policy's terms.

Comment [A6]: Uber wishes to replace "the" with "a"

Comment [A7]: Uber wishes to add this to the end of (2).

28 3. A transportation network company shall provide notice of a driver's participation in the
29 transportation network directly to the driver's personal automobile insurer unless that
30 insurer is providing transportation network company insurance to the driver.

31 A transportation network company shall notify affiliated participating drivers that they
32 should contact their agent or personal automobile insurer to discuss the coverage
33 provided by their personal automobile policy.

Comment [A8]: Uber wishes to strike (3) above and replace with this language.

34 **26.1-40.1-03. Coverage required when transportation network company application is**

28 engaged until completion of ride when the passenger has exited the vehicle.

29 1. A transportation network company and any participating driver shall maintain
30 transportation network company insurance and unless otherwise specified that provides
for, the

Comment [A9]: Uber wishes to replace "and unless otherwise specified," with "that provides for"

31 following requirements apply to transportation network company insurance during the
32 engaged stage and during the passenger on-board stage.

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

Comment [A10]: Uber wishes to strike "is primary and"

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

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

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

1:31.

10 b. Transportation network company insurance coverage provided under this section
11 also provides primary and must provide for uninsured motorist coverage and
12 underinsured motorist coverage in the amount of one million dollars anytime the
13 driver has transportation network company passengers on board; and

14 Uninsured motorist coverage and underinsured motorist coverage anytime the
driver has transportation network company passengers on board in the amount
required by ND Cent Code- 26.1-40-15 2(1) and ND Cent Code 26.1-40-15 3(1)

Motion 4 am

Comment [A11]: Uber wishes to strike (b) and replace with this language - removes "primary" and uses the limits established in current code.

15 c. Transportation network company insurance coverage must provide personal
16 injury protection to drivers, passengers, and pedestrians as provided under
16 chapter 26.1-41.

Comment [A12]: Uber wishes to keep the old language here, but replace "as provided" with "where required"

17 (1) In an amount that is not less than the limits provided under the personal
18 injury protection insurance limits provided by the transportation network
19 company driver's private passenger automobile insurance policy; and

1:55.39

Motion 5

Comment [A13]: Uber is opposed to this amended change and wishes to strike entirely

20 (2) Comprehensive or collision insurance, or both, in an amount that is not less
21 than the limits provided under the comprehensive or collision, or both,
22 insurance limits provided by the transportation network company driver's
23 private passenger automobile insurance policy.

Comment [A14]: Uber is opposed to this amended change and wishes to strike entirely

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

Comment [A15]: Uber wishes to delete this section.

26 e. A transportation network company may meet its obligations under this section
27 through a policy obtained by a participating driver under paragraph 1 or 3 of
28 subdivision a only if the transportation network company verifies that the policy is
29 maintained by the driver and is specifically written to cover the driver's use of a
30 vehicle in connection with a transportation network company's online-enabled
31 application or platform.

UBER = we are meeting our obligation

Comment [A16]: Uber wishes to delete this section.

1 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
2 **in vehicle.**

3 1. The following requirements apply to transportation network company liability insurance
4 for application on stage:

5 a. Transportation network company insurance shall be primary and in the amount of
6 at least twenty-five thousand dollars for death and personal injury per person, fifty
7 thousand dollars for death and personal injury per incident, and twenty-five
8 thousand dollars for property damage; two hundred fifty thousand dollars for
9 death, bodily injury, and property damage.

Comment [A17]: Uber wishes to remove "shall be primary and"

250k 50

Comment [A18]: Uber against \$250K. Willing to go as high as 50/100/25 per Colorado study.

Motion 8

10 b. Transportation network company insurance coverage must provide:

- 11 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;
- 12 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;
- 13 (3) Personal injury protection where required under chapter 26.1-41; and
- 14 (4) Collision physical damage coverage and comprehensive physical damage
15 coverage.

Comment [A19]: Uber wishes to keep (1)-(3) as they were and retain the NDCC limits as in current statute. Opposed the amended (1)-(3) below.

Comment [A20]: In (3), Uber wishes to replace "under" with "where required"

Comment [A21]: Uber wishes to strike (4) entirely.

16 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1, in
17 an amount not less than the limits provided under the transportation network
18 company driver's private passenger automobile policy's uninsured motorist
19 coverage;

20 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1,
21 in an amount not less than the limits provided under the transportation
22 network company driver's private passenger automobile policy's
23 underinsured motorist coverage;

24 (3) Personal injury protection under chapter 26.1-41, in an amount not less than
25 the limits provided under the transportation network company driver's
26 private passenger automobile policy's personal injury protection coverage;
27 and

Comment [A22]: Uber wishes to strike the revised (1)-(3) here in favor of the old language above

28 (4) Collision physical damage coverage and comprehensive physical damage
29 insurance, in an amount that is not less than the limits provided under the
30 comprehensive and collision insurance limits provided by the transportation
31 network company driver's private passenger automobile insurance policy,

Comment [A23]: Uber wishes to strike (4) entirely, which relates to comp and collision.

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

3 a. Transportation network company insurance maintained by a participating driver.
4 b. Transportation network company insurance maintained by a transportation
5 network company that provides coverage in the event a participating driver's
6 insurance policy under subdivision a of subsection 1 excludes coverage according to
7 its terms or has ceased to exist or has
8 been canceled, or the participating driver does not otherwise maintain
9 transportation network company insurance pursuant to this section.

Comment [A24]: Uber wishes to add this highlighted language through "or"

Comment [A25]: Uber wishes to delete the word "has"

10 c. Any combination of subsections a and b.
11 3. A transportation network company shall maintain insurance coverage that provides
12 excess coverage insuring the transportation network company and the driver in the
13 amount of at least two hundred thousand dollars per occurrence to cover any liability
14 arising from a participating driver using a vehicle in connection with a transportation
15 network company's online-enabled application or platform within the application on
16 stage specified in this section, which liability exceeds the required coverage limits in
17 subdivision a of subsection 1.

18 4. The insurer providing insurance coverage under this section is the only insurer having
19 the duty to defend any liability claim arising from an accident occurring within the time
20 periods specified in this section.

Comment [A26]: Uber wishes to have (4) deleted - duty to defend

21 5. A transportation network company may meet its obligations under this section through
22 a policy obtained by a participating driver under subdivisions a or c of subsection 2
23 only if the transportation network company verifies that the policy is maintained by the
24 driver and is specifically written to cover the driver's use of a vehicle in connection with
25 a transportation network company's online-enabled application or platform.

Comment [A27]: Uber wishes to have (5) deleted - policy verification.

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

Comment [A28]: Uber wishes to have (6) deleted

2:54:26

29 | 7. In every instance where transportation network company insurance maintained by a
30 | participating driver to fulfill the insurance obligations of this section has excluded coverage
according to its policy lapsed or
1 | ceased to exist, the transportation network company shall provide the coverage
2 | required by this section beginning with the first dollar of a claim.

Comment [A29]: Uber wishes to strike "lapsed" and replace with "excluded coverage according to its policy"

3 | **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

7 | **26.1-40.1-06. Limitations on driver's personal automobile policy during**
8 | **passenger on-board stage, engaged stage, and application on stage.**

9 | 1. During the application on stage, engaged stage, or passenger on-board stage, the
10 | following apply:

11 | a. The participating driver's or the vehicle owner's personal automobile insurance
12 | policy does not provide any coverage to the participating driver, vehicle owner, or
13 | any third party, unless the policy expressly provides for that coverage during the
14 | period of time to which this section is applicable, with or without a separate
15 | charge, or the policy contains an amendment or endorsement to provide that
16 | coverage, for which a separately stated premium is charged.

17 | b. The participating driver's or the vehicle owner's personal automobile insurance
18 | company does not have the duty to defend or indemnify for the driver's activities
19 | in connection with the transportation network company, unless the policy
20 | expressly provides otherwise for the period of time to which this section is
21 | applicable, with or without a separate charge, or the policy contains an
22 | amendment or endorsement to provide that coverage, for which a separately
23 | stated premium is charged.

24 | c. Nothing in this chapter may be construed to require a private passenger
25 | automobile insurance policy to provide primary or excess coverage during the
26 | application on stage, engaged stage, or passenger on-board stage.

Comment [A30]: Uber wishes to have these two sections deleted entirely, both a & b.

Motion 15

27 | **26.1-40.1-07. Discretionary personal insurance where offered by personal automobile**
28 | **insurer.**

29 | Notwithstanding any other law, a personal automobile insurer may offer an automobile
30 | liability insurance policy, or an amendment or endorsement to an existing policy that covers a

Comment [A31]: Uber wishes to strike this highlighted part "Notwithstanding any other law"

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31 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons
1 or less, including the driver, while used in connection with a transportation network company's
2 online-enabled application or platform, only if the policy expressly provides for the coverage
3 during the time period specified in section 26.1-40.1-03, with or without a separate charge, or
4 the policy contains an amendment or an endorsement to provide that coverage, for which a
5 separately stated premium may be charged.

Comment [A32]: Uber wishes to strike this highlighted part

6 **26.1-40.1-08. Duty to cooperate.**

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

13 **26.1-40.1-09. Confidentiality of passenger personal information.**

14 A transportation network company may not disclose to a third party any personally
15 identifiable information of a transportation network company passenger unless the customer
16 knowingly consents, under a legal obligation, or the disclosure is to the commissioner of
17 insurance in order to investigate a complaint filed with the commissioner against a
18 transportation network company or a participating driver and the commissioner treats the
19 information under confidentiality protections.

20 **26.1-40.1-10. Financial responsibility.**

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

23 **26.1-40.1-11. Proof of insurance.**

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

29 Add Section- 26.1-40-12. Authorized or Eligible Carrier.

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

Comment [A33]: Uber wishes to include this new section related to surplus lines.

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31 - ~~SECTION 2. APPLICATION. The insurance commissioner shall expedite review of any~~
32 ~~application for approval of transportation network company insurance products so that these~~
33 ~~products become available for purchase on or before the effective date of this Act.~~

Feb 11, 2015 - PM

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact chapter 26.1-40.1 of the North Dakota Century Code,
2 relating to insurance coverage of motor vehicles participating in transportation network
3 company networks, priority of coverage, and minimum limits; ~~and to provide for application.~~

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

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

7 **26.1-40.1-01. Definitions.**

8 As used in this chapter, unless the context otherwise requires:

- 9 1. "Application off stage" of operation means the time period when the driver is operating
10 the vehicle for personal noncommercial reasons and not engaged in any manner or
11 operation for the transportation network company.
- 12 2. "Application on stage" means the time period the driver is logged onto the
13 online-enabled application of a transportation network company and available for hire
14 but not engaged and there is no passenger on board.
- 15 3. "Engaged stage" means the time period from the moment a participating driver
16 accepts a ride request on the transportation network company online-enabled
17 application or platform until the driver completes the transaction on the online-enabled
18 application or platform or until the ride is complete, whichever is later.
- 19 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
20 with a transportation network company's online-enabled application or platform to
21 connect with passengers.
- 22 5. "Passengers on-board stage" means the time period when there are passengers in the
23 vehicle pursuant to the driver's participation in a transportation network company.

1 6. "Transportation network company" means a person operating in this state that
2 provides prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with drivers using a
4 personal vehicle.

5 7. "Transportation network company insurance" means ~~a liability insurance policy that~~
6 ~~specifically covers liabilities arising from a participating driver's use of a vehicle in~~
7 ~~connection with a transportation network company's online-enabled application or~~
8 ~~platform.~~an insurance policy that specifically covers a driver's use of a vehicle in
9 connection with a transportation network company's online-enabled application or
10 platform.

11 **26.1-40.1-02. Required disclosures.**

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

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

23 3. A transportation network company shall provide notice of a driver's participation in the
24 transportation network directly to the driver's personal automobile insurer unless that
25 insurer is providing transportation network company insurance to the driver.

26 **26.1-40.1-03. Coverage required when transportation network company application is**
27 **engaged until completion of ride when the passenger has exited the vehicle.**

28 1. A transportation network company and any participating driver shall maintain
29 transportation network company insurance and unless otherwise specified that provides
30 for the
31 following requirements apply to transportation network company insurance during the
32 engaged stage and during the passenger on-board stage.

- 1 a. Transportation network company liability insurance is primary and in the amount
2 of one million dollars for death, personal injury, and property damage. The
3 requirements for the coverage required by this subdivision may be satisfied by
4 any of the following:
- 5 (1) Transportation network company insurance maintained by a participating
6 driver.
- 7 (2) Transportation network company insurance maintained by a transportation
8 network company.
- 9 (3) Any combination of paragraphs 1 and 2.
- 10 b. Transportation network company insurance coverage provided under this section
11 also providesis primary and must provide for uninsured motorist coverage and
12 underinsured motorist coverage in the amount of one million dollars anytime the
13 driver has transportation network company passengers on board.; and
- 14 c. Transportation network company insurance coverage must provide personal
15 injury protection to drivers, passengers, and pedestrians as providedwhen
16 required under
17 chapter 26.1-41.
- 18 ~~(1) In an amount that is not less than the limits provided under the personal~~
19 ~~injury protection insurance limits provided by the transportation network~~
20 ~~company driver's private passenger automobile insurance policy; and~~
- 21 ~~(2) Comprehensive or collision insurance, or both, in an amount that is not less~~
22 ~~than the limits provided under the comprehensive or collision, or both,~~
23 ~~insurance limits provided by the transportation network company driver's~~
24 ~~private passenger automobile insurance policy.~~
- 24 d. The primary insurer, in the case of insurance coverage provided under
25 subdivision a, has the sole duty to defend and indemnify the insured.
- 26 ~~e. A transportation network company may meet its obligations under this section~~
27 ~~through a policy obtained by a participating driver under paragraph 1 or 3 of~~
28 ~~subdivision a only if the transportation network company verifies that the policy is~~
29 ~~maintained by the driver and is specifically written to cover the driver's use of a~~
30 ~~vehicle in connection with a transportation network company's online-enabled~~
31 ~~application or platform.~~

1 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**

2 **in vehicle.**

3 1. The following requirements apply to transportation network company liability insurance
4 for application on stage:

5 a. Transportation network company insurance shall be primary and in the amount of
6 at least ~~twenty five~~ fifty thousand dollars for death and personal injury per person,
7 ~~fiftyone hundred~~
8 thousand dollars for death and personal injury per incident, and twenty-five
9 thousand dollars for property damage. ~~two hundred fifty thousand dollars for~~
death, bodily injury, and property damage.

10 b. Transportation network company insurance coverage must provide:

11 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;

12 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;

13 (3) Personal injury protection under chapter 26.1-41; and

14 (4) ~~Collision physical damage coverage and comprehensive physical damage~~
15 ~~coverage.~~

16 (1) ~~Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1, in~~
17 ~~an amount not less than the limits provided under the transportation network~~
18 ~~company driver's private passenger automobile policy's uninsured motorist~~
19 ~~coverage;~~

20 (2) ~~Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1,~~
21 ~~in an amount not less than the limits provided under the transportation~~
22 ~~network company driver's private passenger automobile policy's~~
23 ~~underinsured motorist coverage;~~

24 (3) ~~Personal injury protection under chapter 26.1-41, in an amount not less than~~
25 ~~the limits provided under the transportation network company driver's~~
26 ~~private passenger automobile policy's personal injury protection coverage;~~
27 ~~and~~

28 (4) ~~Collision physical damage coverage and comprehensive physical damage~~
29 ~~insurance, in an amount that is not less than the limits provided under the~~
30 ~~comprehensive and collision insurance limits provided by the transportation~~
31 ~~network company driver's private passenger automobile insurance policy.~~

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

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

4 b. Transportation network company insurance maintained by a transportation
5 network company that provides coverage in the event a participating driver's
6 insurance policy under subdivision a of subsection 1 has ceased to exist or has
7 been canceled, or the participating driver does not otherwise maintain
8 transportation network company insurance pursuant to this section.

9 c. Any combination of subsections a and b.

10 3. ~~A transportation network company shall maintain insurance coverage that provides~~
11 ~~excess coverage insuring the transportation network company and the driver in the~~
12 ~~amount of at least two hundred thousand dollars per occurrence to cover any liability~~
13 ~~arising from a participating driver using a vehicle in connection with a transportation~~
14 ~~network company's online-enabled application or platform within the application on~~
15 ~~stage specified in this section, which liability exceeds the required coverage limits in~~
16 ~~subdivision a of subsection 1.~~

17 4. ~~The insurer providing insurance coverage under this section is the only insurer having~~
18 ~~the duty to defend any liability claim arising from an accident occurring within~~
19 ~~The primary insurer, in the case of the insurance coverage provided under subdivision (a)~~
20 ~~has the sole duty to defend and indemnify the insured during the time~~
21 ~~periods specified in this section.~~

20 5.4. A transportation network company may meet its obligations under this section through
21 a policy obtained by a participating driver under subdivisions a or c of subsection 2
22 only if the transportation network company verifies that the policy is maintained by the
23 driver and is specifically written to cover the driver's use of a vehicle in connection with
24 a transportation network company's online-enabled application or platform.

25 6.5. Coverage under a transportation network company insurance policy may neither be
26 dependent on a driver's personal automobile insurance policy carrier first denying a
27 claim nor a personal automobile insurance policy carrier be required to first deny a
28 claim.

29 7.6. In every instance where transportation network company insurance maintained by a

30

participating driver to fulfill the insurance obligations of this section has ~~lapsed~~ excluded
coverage according to its policy or

1 ceased to exist, the transportation network company shall provide the coverage
2 required by this section beginning with the first dollar of a claim.

3 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

7 ~~**26.1-40.1-06. Limitations on driver's personal autoautomobile policy during**~~
8 ~~**passenger on-board stage, engaged stage, and application on stage.**~~

9 ~~1. During the application on stage, engaged stage, or passenger on-board stage, the~~
10 ~~following apply:~~

11 ~~a. The participating driver's or the vehicle owner's personal automobile insurance~~
12 ~~policy does not provide any coverage to the participating driver, vehicle owner, or~~
13 ~~any third party, unless the policy expressly provides for that coverage during the~~
14 ~~period of time to which this section is applicable, with or without a separate~~
15 ~~charge, or the policy contains an amendment or endorsement to provide that~~
16 ~~coverage, for which a separately stated premium is charged.~~

17 ~~b. The participating driver's or the vehicle owner's personal automobile insurance~~
18 ~~company does not have the duty to defend or indemnify for the driver's activities~~
19 ~~in connection with the transportation network company, unless the policy~~
20 ~~expressly provides otherwise for the period of time to which this section is~~
21 ~~applicable, with or without a separate charge, or the policy contains an~~
22 ~~amendment or endorsement to provide that coverage, for which a separately~~
23 ~~stated premium is charged.~~

24 ~~c. Nothing in this chapter may be construed to require a private passenger~~
25 ~~automobile insurance policy to provide primary or excess coverage during the~~
26 ~~application on stage, engaged stage, or passenger on-board stage.~~

27 **26.1-40.1-07. Discretionary personal insurance where offered by personal automobile**
28 **insurer.**

29 ~~Notwithstanding any other law, a~~A personal automobile insurer may offer an automobile
30 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
31 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons

1 or less, including the driver, while used in connection with a transportation network company's
2 online-enabled application or platform only if the policy expressly provides for the coverage
3 during the time period specified in section 26.1-40.1-03, with or without a separate charge, or
4 the policy contains an amendment or an endorsement to provide that coverage, for which a
5 separately stated premium may be charged. Motion 3, - Strike 2-7 lines

6 **26.1-40.1-08. Duty to cooperate.**

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

13 **26.1-40.1-09. Confidentiality of passenger personal information.**

14 A transportation network company may not disclose to a third party any personally
15 identifiable information of a transportation network company passenger unless the customer
16 knowingly consents, under a legal obligation, or the disclosure is to the commissioner of
17 insurance in order to investigate a complaint filed with the commissioner against a
18 transportation network company or a participating driver and the commissioner treats the
19 information under confidentiality protections.

20 **26.1-40.1-10. Financial responsibility.**

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

23 **26.1-40.1-11. Proof of insurance.**

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

29 26.1-40.1-12. Authorized or Eligible Carrier.

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

31 - ~~**SECTION 2. APPLICATION.** The insurance commissioner shall expedite review of any~~

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- 32 ~~application for approval of transportation network company insurance products so that these~~
33 ~~products become available for purchase on or before the effective date of this Act.~~

HB 1144 Feb 11, 2015 pm
Pat Ward

2

26.1-40-12

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

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

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

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 1, replace "chapter" with "chapters"

Page 1, line 1, after "26.1-40.1" insert "and 39-34"

Page 1, line 3, after "networks" insert "and services"

Page 7, after line 2, insert:

"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.

39-34-02. Not other carriers.

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

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

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

39-34-04. Agent.

The transportation network company must maintain a registered agent for service of process in this state. add: "with the secretary of state (motion 4)"

39-34-05. Fare charged for services.

Motion 5
Delete
highlighted

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

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

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

39-34-07. Electronic receipt.

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

39-34-08. 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 services, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a passenger was matched and whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the trip.
2. Upon receipt of a passenger complaint alleging a violation of the zero tolerance policy, the transportation network company shall immediately suspend the transportation network company driver's access to the transportation network company's digital platform, and shall conduct an

investigation into the reported incident. The suspension shall last the duration of the investigation.

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

39-34-09. 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, 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 years of age.

39-34-10. Vehicle equipment.

The transportation network company shall require that any motor vehicle that a transportation network company driver will use to provide transportation network

Motion 7
adopt all
of 39-34-09

company services meets the vehicle equipment requirements for personal vehicles in chapter 39-21.

39-34-11. 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.

39-34-12. 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.

39-34-13. 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.
2. Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.
3. Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.
4. A transportation network company may not impose additional charges for providing services to persons with physical disabilities because of those disabilities.
5. A transportation network company shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange wheelchair-accessible transportation network company service in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

39-34-14. Records.

Motion 8 but change to 6 years from 1 year

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

Motion 10 = TNC may not disclose to a 3rd party any personal info of a TNC passenger except at the request of the courts
39-34-15. Confidentiality of passenger personal information.

A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger unless the customer knowingly consents, under a legal obligation, or the disclosure is to the insurance commissioner in order to investigate a complaint filed with the commissioner against a transportation network company or a participating driver and the commissioner treats the information under confidentiality protections.

39-34-16. Controlling authority.

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter and any rules adopted by the department consistent with this chapter and section 1 of this Act. A municipality or other local entity 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 municipality's or other local entity's rate, entry, operational, or other requirements."

Motion 9 Adopt & reference with 39-34 & 26.1-40.1

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 7, after line 31, insert:

Section 3. Chapter 39-01.1 of the North Dakota Century Code is created and enacted as follows:

39-01.1-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Participating driver" means any person who uses a vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.
2. "Transportation network company" means a person operating in this state that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.

39-01.1-02. Transportation network company required to notify department of all participating drivers.

A transportation network company shall be required to notify the department of all participating drivers that are registered with the transportation network company once a participating driver has completed all the requirements for a participating driver under state law. The transportation network company shall provide the department with the full name of the driver, North Dakota Driver's License number, vehicle make, model, year and vehicle identification number.

Renumber Accordingly

Feb 16, 2015 AM

15.0434.02005

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation
3 network company networks and services, priority of coverage, and minimum limits; ~~and to~~
4 ~~provide for application.~~

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

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

8 **26.1-40.1-01. Definitions.**

9 As used in this chapter, unless the context otherwise requires:

- 10 1. "Application off stage" of operation means the time period when the driver is operating
11 the vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the
14 online-enabled application of a transportation network company and available for hire
15 but not engaged and there is no passenger on board.
- 16 3. "Engaged stage" means the time period from the moment a participating driver
17 accepts a ride request on the transportation network company online-enabled
18 application or platform until the driver completes the transaction on the online-enabled
19 application or platform or until the ride is complete, whichever is later.
- 20 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
21 with a transportation network company's online-enabled application or platform to
22 connect with passengers.
- 23 5. "Passengers on-board stage" means the time period when there are passengers in the
24 vehicle pursuant to the driver's participation in a transportation network company.

1 6. "Transportation network company" means a person operating in this state that
2 provides prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with drivers using a
4 personal vehicle.

5 7. "Transportation network company insurance" means ~~a liability insurance policy that~~
6 ~~specifically covers liabilities arising from a participating driver's use of a vehicle in~~
7 ~~connection with a transportation network company's online-enabled application or~~
8 ~~platform.~~an insurance policy that covers a driver's use of a vehicle in connection with a
9 transportation network company's online-enabled application or platform.

10 **26.1-40.1-02. Required disclosures.**

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

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

22 3. A transportation network company shall provide notice of a driver's participation in the
23 transportation network directly to the driver's personal automobile insurer unless that
24 insurer is providing transportation network company insurance to the driver.

25 **26.1-40.1-03. Coverage required when transportation network company application is**
26 **engaged until completion of ride when the passenger has exited the vehicle.**

27 1. A transportation network company and any participating driver shall maintain
28 transportation network company insurance ~~and unless otherwise specified, that~~
29 provides for the following requirements apply to transportation network company
30 insurance during the engaged stage and during the passenger on-board stage.

- 1 a. Transportation network company liability insurance is primary and in the amount
2 of one million dollars for death, personal injury, and property damage. The
3 requirements for the coverage required by this subdivision may be satisfied by
4 any of the following:
- 5 (1) Transportation network company insurance maintained by a participating
6 driver.
- 7 (2) Transportation network company insurance maintained by a transportation
8 network company.
- 9 (3) Any combination of paragraphs 1 and 2.
- 10 b. ~~Transportation network company insurance coverage provided under this section~~
11 ~~also provides for uninsured motorist coverage and underinsured motorist~~
12 ~~coverage in the amount of one million dollars anytime the driver has~~
13 ~~transportation network company passengers on board.~~Uninsured motorist
14 coverage and underinsured motorist coverage, anytime the driver has
15 transportation network passengers on board, in the amount required by sections
16 26.1-40-15.2 and 26.1-40-15.3.
- 17 c. Transportation network company insurance coverage must provide personal
18 injury protection to drivers, passengers, and pedestrians ~~as provided~~when
19 required under chapter 26.1-41.
- 20 d. The primary insurer, in the case of insurance coverage provided under
21 subdivision a, has the sole duty to defend and indemnify the insured.
- 22 ~~e. A transportation network company may meet its obligations under this section~~
23 ~~through a policy obtained by a participating driver under paragraph 1 or 3 of~~
24 ~~subdivision a only if the transportation network company verifies that the policy is~~
25 ~~maintained by the driver and is specifically written to cover the driver's use of a~~
26 ~~vehicle in connection with a transportation network company's online-enabled~~
27 ~~application or platform.~~
- 28 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
29 **in vehicle.**
- 30 1. The following requirements apply to transportation network company insurance for
31 application on stage:

Sixty-fourth
Legislative Assembly

- 1 a. Transportation network company insurance shall be primary and in the amount of
2 at least ~~twenty-five~~ fifty thousand dollars for death and ~~personal~~ bodily injury per
3 person, ~~fifty-one~~ hundred thousand dollars for death and ~~personal~~ bodily injury per
4 incident, and twenty-five thousand dollars for property damage.
- 5 b. Transportation network company insurance coverage must provide:
- 6 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;
7 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;
8 and
9 (3) Personal injury protection under chapter 26.1-41; and as required.
10 ~~(4) Collision physical damage coverage and comprehensive physical damage~~
11 ~~coverage.~~
- 12 2. The requirements for the coverage required by this section may be satisfied by any of
13 the following:
- 14 a. Transportation network company insurance maintained by a participating driver.
15 b. Transportation network company insurance maintained by a transportation
16 network company that provides coverage in the event a participating driver's
17 insurance policy under subdivision a of subsection 1 has ceased to exist or has
18 been canceled, or the participating driver does not otherwise maintain
19 transportation network company insurance pursuant to this section.
- 20 c. Any combination of subsections a and b.
- 21 3. ~~A transportation network company shall maintain insurance coverage that provides~~
22 ~~excess coverage insuring the transportation network company and the driver in the~~
23 ~~amount of at least two hundred thousand dollars per occurrence to cover any liability~~
24 ~~arising from a participating driver using a vehicle in connection with a transportation~~
25 ~~network company's online-enabled application or platform within the application on-~~
26 ~~stage specified in this section, which liability exceeds the required coverage limits in~~
27 ~~subdivision a of subsection 1.~~
- 28 ~~4. The insurer providing insurance coverage under this section is the only insurer having~~
29 ~~the duty to defend any liability claim arising from an accident occurring within the time-~~
30 ~~periods specified in this section.~~

1 ~~5. A transportation network company may meet its obligations under this section through~~
2 ~~a policy obtained by a participating driver under subdivisions a or c of subsection 2~~
3 ~~only if the transportation network company verifies that the policy is maintained by the~~
4 ~~driver and is specifically written to cover the driver's use of a vehicle in connection with~~
5 ~~a transportation network company's online-enabled application or platform. The~~
6 ~~primary insurer, in the case of the insurance coverage provided under subdivision a,~~
7 ~~has the sole duty to defend and indemnify the insured during the time period specified~~
8 ~~in this section.~~

of
subsection

03

9 ~~6.4. Coverage under a transportation network company insurance policy may neither be~~
10 ~~dependent on a driver's personal automobile insurance policy carrier first denying a~~
11 ~~claim nor a personal automobile insurance policy carrier be required to first deny a~~
12 ~~claim.~~

^ being

13 ~~7.5. In every instance where transportation network company insurance maintained by a~~
14 ~~participating driver to fulfill the insurance obligations of this section has~~
15 ~~lapsed excluded coverage according to its policy or ceased to exist, the transportation~~
16 ~~network company shall provide the coverage required by this section beginning with~~
17 ~~the first dollar of a claim.~~

18 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

22 ~~**26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board**~~
23 ~~**stage, engaged stage, and application on stage.**~~

24 ~~1. During the application on stage, engaged stage, or passenger on-board stage, the~~
25 ~~following apply:~~

26 ~~a. The participating driver's or the vehicle owner's personal automobile insurance~~
27 ~~policy does not provide any coverage to the participating driver, vehicle owner, or~~
28 ~~any third party, unless the policy expressly provides for that coverage during the~~
29 ~~period of time to which this section is applicable, with or without a separate~~
30 ~~charge, or the policy contains an amendment or endorsement to provide that~~
31 ~~coverage, for which a separately stated premium is charged.~~

1 ~~b. The participating driver's or the vehicle owner's personal automobile insurance~~
2 ~~company does not have the duty to defend or indemnify for the driver's activities~~
3 ~~in connection with the transportation network company, unless the policy~~
4 ~~expressly provides otherwise for the period of time to which this section is~~
5 ~~applicable, with or without a separate charge, or the policy contains an~~
6 ~~amendment or endorsement to provide that coverage, for which a separately~~
7 ~~stated premium is charged.~~

8 ~~c. Nothing in this chapter may be construed to require a private passenger~~
9 ~~automobile insurance policy to provide primary or excess coverage during the~~
10 ~~application on stage, engaged stage, or passenger on board stage.~~

11 ~~26.1-40.1-07~~ **26.1-40.1-06.** Discretionary personal insurance where offered by personal
12 automobile insurer.

13 ~~Notwithstanding any other law, a~~ personal automobile insurer may offer an automobile
14 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
15 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons
16 or less, including the driver, while used in connection with a transportation network company's
17 online-enabled application or platform only if the policy expressly provides for the coverage
18 during the time period specified in section 26.1-40.1-03, with or without a separate charge, or
19 the policy contains an amendment or an endorsement to provide that coverage, for which a
20 separately stated premium may be charged. *Will be struck*

21 ~~26.1-40.1-08~~ **26.1-40.1-07. Duty to cooperate.**

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

28 ~~26.1-40.1-09~~ **26.1-40.1-08. Confidentiality of passenger personal information.**

29 ~~A transportation network company may not disclose to a third party any personally~~
30 ~~identifiable information of a transportation network company passenger unless the customer~~
31 ~~knowingly consents, under a legal obligation, or the disclosure is to the commissioner of~~

1 ~~insurance in order to investigate a complaint filed with the commissioner against a~~
2 ~~transportation network company or a participating driver and the commissioner treats the~~
3 ~~information under confidentiality protections.~~ A transportation network company may not disclose
4 to a third party any personally identifiable information of a transportation network company
5 passenger except under a legal obligation. *Makes it consistent*
Kasper - not share, "period"

6 ~~26.1-40.1-10~~ **26.1-40.1-09. Financial responsibility.**

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

9 ~~26.1-40.1-11~~ **26.1-40.1-10. Proof of insurance.**

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

15 **26.1-40.1-11. Authorized or eligible carrier.**

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

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

21 **39-34-01. Agent.**

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

24 **39-34-02. Fare charged for services.**

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

28 **39-34-03. Transportation driver requirements.**

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

- 1 a. Require the individual to submit an application to the transportation network
- 2 company, which includes information regarding the individual's address, age,
- 3 driver's license, driving history, motor vehicle registration, automobile liability
- 4 insurance, and other information required by the transportation network
- 5 company;
- 6 b. Conduct, or have a third party conduct, a local and national criminal background
- 7 check for each applicant that must include:
- 8 (1) Multistate and multijurisdiction criminal records locator or other similar
- 9 commercial nationwide database with validation; and
- 10 (2) National sex offender registry database; and
- 11 c. Obtain and review a driving history research report for the individual.
- 12 2. The transportation network company may not permit an individual to act as a
- 13 transportation network company driver on its digital platform who:
- 14 a. Has had more than three moving violations in the prior three-year period, or one
- 15 major violation in the prior three-year period, including attempting to evade the
- 16 police, reckless driving, or driving on a suspended or revoked license;
- 17 b. Has been convicted, within the past seven years, of driving under the influence of
- 18 drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a
- 19 felony, a crime involving property damage, theft, acts of violence, or acts of terror;
- 20 c. Is a match in the national sex offender registry database;
- 21 d. Does not possess a valid driver's license;
- 22 e. Does not possess proof of registration for the motor vehicle used to provide
- 23 transportation network company services;
- 24 f. Does not possess proof of automobile liability insurance for the motor vehicle
- 25 used to provide transportation network company services; or
- 26 g. Is not at least eighteen years of age.

27 **39-34-04. Records.**

28 A transportation network company shall maintain individual trip records for at least one year

29 from the date each trip was provided and transportation network company driver records at

30 least until the six-year anniversary of the date on which a transportation network company

31 driver's activation on the transportation network company digital network has ended.

1 **39-34-05. Confidentiality of passenger personal information.**

2 A transportation network company may not disclose to a third party any personally
3 identifiable information of a transportation network company passenger except under a legal
4 obligation.

5 **39-34-06. Controlling authority.**

6 Notwithstanding any other provision of law, transportation network companies and
7 transportation network company drivers are governed exclusively by this chapter and chapter
8 26.1-40.1 and any rules adopted by the department of transportation consistent with this
9 chapter and insurance commissioner in section 1 of this Act. A political subdivision may not
10 impose a tax on, or require a license for, a transportation network company or a transportation
11 network company driver or subject a transportation network company to the municipality's or
12 other local entity's rate, entry, operational, or other requirements.

13 ~~— **SECTION 3. APPLICATION.** The insurance commissioner shall expedite review of any~~
14 ~~application for approval of transportation network company insurance products so that these~~
15 ~~products become available for purchase on or before the effective date of this Act.~~

Feb 16, 2015

2

15.0434.02005
Title.

Prepared by the Legislative Council staff for
Representative Keiser
February 13, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

Page 1, line 1, replace "chapter" with "chapters"

Page 1, line 1, after "26.1-40.1" insert "and 39-34"

Page 1, line 3, after "networks" insert "and services"

Page 1, line 3, remove "; and to provide for application"

Page 2, line 5, remove "a liability insurance policy that"

Page 2, replace lines 6 through 8 with:

"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."

Page 2, line 10, after "writing" insert "or electronic form"

Page 2, line 14, replace "in writing of when" with "that"

Page 2, line 15, replace "will" with "may"

Page 2, line 16, after "writing" insert "or electronic form"

Page 2, line 24, after "ride" insert "**when the passenger has exited the vehicle**"

Page 2, line 26, replace "and unless otherwise specified," with "that provides for"

Page 2, line 29, after "company" insert "liability"

Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"

Page 3, replace lines 9 through 11 with:

"Uninsured motorist coverage and underinsured motorist coverage, anytime the driver has transportation network passengers on board, in the amount required by sections 26.1-40-15.2 and 26.1-40-15.3."

Page 3, line 13, replace "as provided" with "when required"

Page 3, line 16, after the first "the" insert "sole"

Page 3, remove lines 17 through 22

Page 3, line 28, replace "twenty-five" with "fifty"

Page 3, line 28, replace "personal" with "bodily"

Page 3, line 28, replace "fifty" with "one hundred"

Page 3, line 29, replace "personal" with "bodily"

Page 4, line 2, after the underscored semicolon insert "and"

Page 4, line 3, remove "; and"

Page 4, remove line 4

Page 4, line 5, remove "coverage"

Page 4, line 15, remove "A transportation network company shall maintain insurance coverage that provides"

Page 4, replace lines 16 through 29 with:

"The primary insurer, in the case of the insurance coverage provided under subdivision a, has the sole duty to defend and indemnify the insured during the time period specified in this section."

Page 4, line 30, replace "6." with "4."

Page 5, line 3, replace "7." with "5."

Page 5, line 4, replace "lapsed" with "excluded coverage according to its policy"

Page 5, remove lines 11 through 30

Page 6, line 1, replace "26.1-40.1-07" with "26.1-40.1-06"

Page 6, line 3, replace "Notwithstanding any other law, a" with "A".

Page 6, line 11, replace "26.1-40.1-08" with "26.1-40.1-07"

Page 6, line 18, replace "26.1-40.1-09" with "26.1-40.1-08"

Page 6, replace lines 19 through 24 with:

"A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation."

Page 6, line 25, replace "26.1-40.1-10" with "26.1-40.1-09"

Page 6, line 28, replace "26.1-40.1-11" with "26.1-40.1-10"

Page 7, after line 2, insert:

"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 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, 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 eighteen years of age.

39-34-04. Records.

A transportation network company shall maintain individual trip records for at least one year from the date each trip was provided and transportation network company driver records at least until the six-year anniversary of the date on which a

transportation network company driver's activation on the transportation network company digital network has ended.

39-34-05. Confidentiality of passenger personal information.

A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation.

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 by the department of transportation consistent with this chapter and insurance commissioner in 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 municipality's or other local entity's rate, entry, operational, or other requirements."

Page 7, remove lines 3 through 5

Renumber accordingly

Feb 16, 2015

3

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation
3 network company networks and services, priority of coverage, and minimum limits; ~~and to~~
4 ~~provide for application~~.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

8 **26.1-40.1-01. Definitions.**

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

- 10 1. "Application off stage" of operation means the time period when the driver is operating
11 the vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the
14 online-enabled application of a transportation network company and available for hire
15 but not engaged and there is no passenger on board.
- 16 3. "Engaged stage" means the time period from the moment a participating driver
17 accepts a ride request on the transportation network company online-enabled
18 application or platform until the driver completes the transaction on the online-enabled
19 application or platform or until the ride is complete, whichever is later.
- 20 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
21 with a transportation network company's online-enabled application or platform to
22 connect with passengers.
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24 vehicle pursuant to the driver's participation in a transportation network company.

- 1 6. "Transportation network company" means a person operating in this state that
2 provides prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with drivers using a
4 personal vehicle.
- 5 7. "Transportation network company insurance" means ~~a liability insurance policy that~~
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8 ~~platform.~~ an insurance policy that covers a driver's use of a vehicle in connection with a
9 transportation network company's online-enabled application or platform.

10 **26.1-40.1-02. Required disclosures.**

- 11 1. A transportation network company shall disclose in writing or electronic form to
12 participating drivers, as part of its agreement with those drivers, the insurance
13 coverage and limits of liability that the transportation network company provides while
14 the driver uses a vehicle in connection with a transportation network company's
15 online-enabled application or platform and shall advise a participating driver ~~in writing~~
16 ~~of when~~ that the driver's personal automobile insurance policy ~~will~~ may not provide
17 coverage under the agreement.
- 18 2. A transportation network company shall disclose in writing or electronic form to
19 participating drivers, as part of its agreement with those drivers, of when the driver's
20 personal automobile insurance policy will not provide collision or comprehensive
21 coverage, under the agreement.
- 22 3. A transportation network company shall provide notice of a driver's participation in the
23 transportation network directly to the driver's personal automobile insurer unless that
24 insurer is providing transportation network company insurance to the driver.

25 **26.1-40.1-03. Coverage required when transportation network company application is**
26 **engaged until completion of ride when the passenger has exited the vehicle.**

- 27 1. A transportation network company and any participating driver shall maintain
28 transportation network company insurance ~~and unless otherwise specified, that~~
29 provides for the following requirements that apply to transportation network company
30 insurance during the engaged stage and during the passenger on-board stage.

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

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

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

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

10 b. ~~Transportation network company insurance coverage provided under this section~~
11 ~~also provides for uninsured motorist coverage and underinsured motorist~~
12 ~~coverage in the amount of one million dollars anytime the driver has~~
13 ~~transportation network company passengers on board.~~Uninsured motorist
14 coverage and underinsured motorist coverage, anytime the driver has
15 transportation network passengers on board, in the amount required by sections
16 26.1-40-15.2 and 26.1-40-15.3.

17 c. Transportation network company insurance coverage must provide personal
18 injury protection to drivers, passengers, and pedestrians ~~as provided~~when
19 required under chapter 26.1-41.

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

22 ~~A transportation network company may meet its obligations under this section~~
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24 ~~subdivision a only if the transportation network company verifies that the policy is~~
25 ~~maintained by the driver and is specifically written to cover the driver's use of a~~
26 ~~vehicle in connection with a transportation network company's online-enabled~~
27 ~~application or platform.~~

28 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
29 **in vehicle.**

30 1. The following requirements apply to transportation network company insurance for
31 application on stage:

- 1 a. Transportation network company insurance shall be primary and in the amount of
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3 person, ~~fiftyone~~ hundred thousand dollars for death and ~~personal~~ bodily injury per
4 incident, and twenty-five thousand dollars for property damage.
- 5 b. Transportation network company insurance coverage must provide:
- 6 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;
7 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;
8 and
9 (3) Personal injury protection ~~when required~~ under chapter 26.1-41; ~~and~~
10 ~~(4) Collision physical damage coverage and comprehensive physical damage~~
11 ~~coverage.~~
- 12 2. The requirements for the coverage required by this section may be satisfied by any of
13 the following:
- 14 a. Transportation network company insurance maintained by a participating driver.
15 b. Transportation network company insurance maintained by a transportation
16 network company that provides coverage in the event a participating driver's
17 insurance policy under subdivision a of subsection 1 has ceased to exist or has
18 been canceled, or the participating driver does not otherwise maintain
19 transportation network company insurance pursuant to this section.
20 c. Any combination of subsections a and b.
- 21 3. ~~A transportation network company shall maintain insurance coverage that provides~~
22 ~~excess coverage insuring the transportation network company and the driver in the~~
23 ~~amount of at least two hundred thousand dollars per occurrence to cover any liability~~
24 ~~arising from a participating driver using a vehicle in connection with a transportation~~
25 ~~network company's online-enabled application or platform within the application on-~~
26 ~~stage specified in this section, which liability exceeds the required coverage limits in~~
27 ~~subdivision a of subsection 1.~~
- 28 ~~4. The insurer providing insurance coverage under this section is the only insurer having~~
29 ~~the duty to defend any liability claim arising from an accident occurring within the time~~
30 ~~periods specified in this section.~~

1 ~~5. A transportation network company may meet its obligations under this section through~~
2 ~~a policy obtained by a participating driver under subdivisions a or c of subsection 2~~
3 ~~only if the transportation network company verifies that the policy is maintained by the~~
4 ~~driver and is specifically written to cover the driver's use of a vehicle in connection with~~
5 ~~a transportation network company's online-enabled application or platform. The~~
6 primary insurer, in the case of the insurance coverage provided under subdivision a of
7 subsection 1 of section 26.1-40.1-03, has the sole duty to defend and indemnify the
8 insured during the time period specified in this section.

9 6.4. Coverage under a transportation network company insurance policy may neither be
10 dependent on a driver's personal automobile insurance policy carrier first denying a
11 claim nor a personal automobile insurance policy carrier ~~be~~ being required to first deny
12 a claim.

13 7.5. In every instance where transportation network company insurance maintained by a
14 participating driver to fulfill the insurance obligations of this section has
15 ~~lapsed~~ excluded coverage according to its policy or ceased to exist, the transportation
16 network company shall provide the coverage required by this section beginning with
17 the first dollar of a claim.

18 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

22 ~~**26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board**~~
23 ~~**stage, engaged stage, and application on stage.**~~

24 ~~1. During the application on stage, engaged stage, or passenger on-board stage, the~~
25 ~~following apply:~~

26 ~~a. The participating driver's or the vehicle owner's personal automobile insurance~~
27 ~~policy does not provide any coverage to the participating driver, vehicle owner, or~~
28 ~~any third party, unless the policy expressly provides for that coverage during the~~
29 ~~period of time to which this section is applicable, with or without a separate~~
30 ~~charge, or the policy contains an amendment or endorsement to provide that~~
31 ~~coverage, for which a separately stated premium is charged.~~

1 ~~b. The participating driver's or the vehicle owner's personal automobile insurance~~
2 ~~company does not have the duty to defend or indemnify for the driver's activities~~
3 ~~in connection with the transportation network company, unless the policy~~
4 ~~expressly provides otherwise for the period of time to which this section is~~
5 ~~applicable, with or without a separate charge, or the policy contains an~~
6 ~~amendment or endorsement to provide that coverage, for which a separately~~
7 ~~stated premium is charged.~~

8 ~~c. Nothing in this chapter may be construed to require a private passenger~~
9 ~~automobile insurance policy to provide primary or excess coverage during the~~
10 ~~application on stage, engaged stage, or passenger on board stage.~~

11 ~~26.1-40.1-07~~~~26.1-40.1-06.~~ Discretionary personal insurance where offered by personal
12 automobile insurer.

13 ~~Notwithstanding any other law, a~~A personal automobile insurer may offer an automobile
14 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
15 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons
16 or less, including the driver, while used in connection with a transportation network company's
17 online-enabled application or platform ~~only if the policy expressly provides for the coverage~~
18 ~~during the time period specified in section 26.1-40.1-03, with or without a separate charge, or~~
19 ~~the policy contains an amendment or an endorsement to provide that coverage, for which a~~
20 ~~separately stated premium may be charged.~~

21 ~~26.1-40.1-08~~~~26.1-40.1-07.~~ **Duty to cooperate.**

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

28 ~~26.1-40.1-09~~~~26.1-40.1-08.~~ **Confidentiality of passenger personal information.**

29 ~~A transportation network company may not disclose to a third party any personally~~
30 ~~identifiable information of a transportation network company passenger unless the customer~~
31 ~~knowingly consents, under a legal obligation, or the disclosure is to the commissioner of~~

1 ~~insurance in order to investigate a complaint filed with the commissioner against a~~
2 ~~transportation network company or a participating driver and the commissioner treats the~~
3 ~~information under confidentiality protections.~~ A transportation network company may not disclose
4 to a third party any personally identifiable information of a transportation network company
5 passenger except under a legal obligation.

6 ~~26.1-40.1-10~~ **26.1-40.1-09. Financial responsibility.**

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

9 ~~26.1-40.1-11~~ **26.1-40.1-10. Proof of insurance.**

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

15 **26.1-40.1-11. Authorized or eligible carrier.**

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

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

21 **39-34-01. Agent.**

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

24 **39-34-02. Fare charged for services.**

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

28 **39-34-03. Transportation driver requirements.**

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

- 1 a. Require the individual to submit an application to the transportation network
2 company, which includes information regarding the individual's address, age,
3 driver's license, driving history, motor vehicle registration, automobile liability
4 insurance, and other information required by the transportation network
5 company;
- 6 b. Conduct, or have a third party conduct, a local and national criminal background
7 check for each applicant that must include:
- 8 (1) Multistate and multijurisdiction criminal records locator or other similar
9 commercial nationwide database with validation; and
- 10 (2) National sex offender registry database; and
- 11 c. Obtain and review a driving history research report for the individual.
- 12 2. The transportation network company may not permit an individual to act as a
13 transportation network company driver on its digital platform who:
- 14 a. Has had more than three moving violations in the prior three-year period, or one
15 major violation in the prior three-year period, including attempting to evade the
16 police, reckless driving, or driving on a suspended or revoked license;
- 17 b. Has been convicted, within the past seven years, of driving under the influence of
18 drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a
19 felony, a crime involving property damage, theft, acts of violence, or acts of terror;
- 20 c. Is a match in the national sex offender registry database;
- 21 d. Does not possess a valid driver's license;
- 22 e. Does not possess proof of registration for the motor vehicle used to provide
23 transportation network company services;
- 24 f. Does not possess proof of automobile liability insurance for the motor vehicle
25 used to provide transportation network company services; or
- 26 g. Is not at least eighteen years of age.

27 **39-34-04. Records.**

28 A transportation network company shall maintain individual trip records for at least one year
29 from the date each trip was provided and transportation network company driver records at
30 least until the six-year anniversary of the date on which a transportation network company
31 driver's activation on the transportation network company digital network has ended.

1 **39-34-05. Confidentiality of passenger personal information.**

2 A transportation network company may not disclose to a third party any personally
3 identifiable information of a transportation network company passenger except under a legal
4 obligation.

5 **39-34-06. Controlling authority.**

6 Notwithstanding any other provision of law, transportation network companies and
7 transportation network company drivers are governed exclusively by this chapter and chapter
8 26.1-40.1 and any rules adopted by the department of transportation consistent with this
9 chapter and insurance commissioner in section 1 of this Act. A political subdivision may not
10 impose a tax on, or require a license for, a transportation network company or a transportation
11 network company driver or subject a transportation network company to the municipality's or
12 other local entity's rate, entry, operational, or other requirements.

13 ~~— **SECTION 3. APPLICATION.** The insurance commissioner shall expedite review of any~~
14 ~~application for approval of transportation network company insurance products so that these~~
15 ~~products become available for purchase on or before the effective date of this Act.~~

Feb 16, 2015

4

15.0434.02006
Title.

Prepared by the Legislative Council staff for
Representative Keiser
February 16, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

- Page 1, line 1, replace "chapter" with "chapters"
- Page 1, line 1, after "26.1-40.1" insert "and 39-34"
- Page 1, line 3, after "networks" insert "and services"
- Page 1, line 3, remove "; and to provide for application"
- Page 1, line 8, after "chapter" insert "and chapter 39-34"
- Page 2, line 5, remove "a liability insurance policy that"
- Page 2, replace lines 6 through 8 with "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."
- Page 2, line 10, after "writing" insert "or electronic form"
- Page 2, line 14, replace "in writing of when" with "that"
- Page 2, line 15, replace "will" with "may"
- Page 2, line 16, after "writing" insert "or electronic form"
- Page 2, line 24, after "ride" insert "**when the passenger has exited the vehicle**"
- Page 2, line 26, replace "and unless otherwise specified," with "that provides for"
- Page 2, line 27, after "requirements" insert "that"
- Page 2, line 29, after "company" insert "liability"
- Page 2, line 30, replace "personal" with "bodily"
- Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"
- Page 3, replace lines 9 through 11 with "Uninsured motorist coverage and underinsured motorist coverage, anytime the driver has transportation network passengers on board, in the amount required by sections 26.1-40-15.2 and 26.1-40-15.3."
- Page 3, line 13, replace "as provided" with "when required"
- Page 3, line 16, after the first "the" insert "sole"
- Page 3, remove lines 17 through 22
- Page 3, line 28, replace "twenty-five" with "fifty"
- Page 3, line 28, replace "personal" with "bodily"
- Page 3, line 28, replace "fifty" with "one hundred"
- Page 3, line 29, replace "personal" with "bodily"
- Page 4, line 2, after the underscored semicolon insert "and"

Page 4, line 3, after "protection" insert "when required"

Page 4, line 3, remove "; and"

Page 4, remove line 4

Page 4, line 5, remove "coverage"

Page 4, line 15, remove "A transportation network company shall maintain insurance coverage that provides"

Page 4, replace lines 16 through 29 with "The primary insurer, in the case of the insurance coverage provided under subdivision a of subsection 1 of section 26.1-40.1-03, has the sole duty to defend and indemnify the insured during the time period specified in this section."

Page 4, line 30, replace "6." with "4."

Page 5, line 1, replace "be" with "being"

Page 5, line 3, replace "7." with "5."

Page 5, line 4, replace "lapsed" with "excluded coverage according to its policy"

Page 5, remove lines 11 through 30

Page 6, line 1, replace "26.1-40.1-07" with "26.1-40.1-06"

Page 6, line 3, replace "Notwithstanding any other law, a" with "A"

Page 6, line 7, remove "only if the policy expressly provides for the coverage"

Page 6, remove lines 8 and 9

Page 6, line 10, remove "separately stated premium may be charged"

Page 6, line 11, replace "26.1-40.1-08" with "26.1-40.1-07"

Page 6, line 18, replace "26.1-40.1-09" with "26.1-40.1-08"

Page 6, replace lines 19 through 24 with "A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation."

Page 6, line 25, replace "26.1-40.1-10" with "26.1-40.1-09"

Page 6, line 28, replace "26.1-40.1-11" with "26.1-40.1-10"

Page 7, after line 2, insert:

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 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, 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 eighteen years of age.

39-34-04. Records.

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

39-34-05. Confidentiality of passenger personal information.

A transportation network company may not disclose to a third party any personally identifiable information of a transportation network company passenger except under a legal obligation.

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 by the department of transportation consistent with this chapter and insurance commissioner in 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 municipality's or other local entity's rate, entry, operational, or other requirements."

Page 7, remove lines 3 through 5

Renumber accordingly

Feb 16, 2015

HB 1144

1

39-34-05. Confidentiality of passenger personal information.

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.

Feb 16, 2015 pm

2

HB 1144 - Proposed Amendment

Page 2 line 22 (of Green Lined copy):

After "notice" insert: "in writing or electronically to driver instructing the driver to notify their personal automobile insurer"

Page 2 line 22: replace "a" with "the".

Page 2 line 23-24: remove "directly to the driver's personal automobile insurer unless that insurer is providing transportation network company insurance to the driver"

Current text:

3. A transportation network company shall provide notice of a driver's participation in the transportation network directly to the driver's personal automobile insurer unless that insurer is providing transportation network company insurance to the driver.

New Text:

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

pg 1

Feb 16, 2015

3

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation
3 network company networks and services, priority of coverage, and minimum limits; ~~and to~~
4 ~~provide for application.~~

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

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

8 **26.1-40.1-01. Definitions.**

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

- 10 1. "Application off stage" of operation means the time period when the driver is operating
11 the vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the
14 online-enabled application of a transportation network company and available for hire
15 but not engaged and there is no passenger on board.
- 16 3. "Engaged stage" means the time period from the moment a participating driver
17 accepts a ride request on the transportation network company online-enabled
18 application or platform until the driver completes the transaction on the online-enabled
19 application or platform or until the ride is complete, whichever is later.
- 20 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
21 with a transportation network company's online-enabled application or platform to
22 connect with passengers.
- 23 5. "Passengers on-board stage" means the time period when there are passengers in the
24 vehicle pursuant to the driver's participation in a transportation network company.

1 6. "Transportation network company" means a person operating in this state that
2 provides prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with drivers using a
4 personal vehicle.

5 7. "Transportation network company insurance" means ~~a liability insurance policy that~~
6 ~~specifically covers liabilities arising from a participating driver's use of a vehicle in~~
7 ~~connection with a transportation network company's online-enabled application or~~
8 ~~platform.~~an insurance policy that covers a driver's use of a vehicle in connection with a
9 transportation network company's online-enabled application or platform.

10 **26.1-40.1-02. Required disclosures.**

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

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

22 3. A transportation network company shall provide notice of a driver's participation in the
23 transportation network directly to the driver's personal automobile insurer unless that
24 insurer is providing transportation network company insurance to the driver.

25 **26.1-40.1-03. Coverage required when transportation network company application is**
26 **engaged until completion of ride ~~when the passenger has exited the vehicle.~~**

27 1. A transportation network company and any participating driver shall maintain
28 transportation network company insurance ~~and unless otherwise specified, that~~
29 ~~provides for~~ the following requirements ~~that~~ apply to transportation network company
30 insurance during the engaged stage and during the passenger on-board stage.

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

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

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

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

10 b. ~~Transportation network company insurance coverage provided under this section~~
11 ~~also provides for uninsured motorist coverage and underinsured motorist~~
12 ~~coverage in the amount of one million dollars anytime the driver has~~
13 ~~transportation network company passengers on board.~~Uninsured motorist
14 coverage and underinsured motorist coverage, anytime the driver has
15 transportation network passengers on board, in the amount required by sections
16 26.1-40-15.2 and 26.1-40-15.3.

17 c. Transportation network company insurance coverage must provide personal
18 injury protection to drivers, passengers, and pedestrians as providedwhen
19 required under chapter 26.1-41.

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

22 ~~A transportation network company may meet its obligations under this section~~
23 ~~through a policy obtained by a participating driver under paragraph 1 or 3 of~~
24 ~~subdivision a only if the transportation network company verifies that the policy is~~
25 ~~maintained by the driver and is specifically written to cover the driver's use of a~~
26 ~~vehicle in connection with a transportation network company's online-enabled~~
27 ~~application or platform.~~

28 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
29 **in vehicle.**

30 1. The following requirements apply to transportation network company insurance for
31 application on stage:

- 1 a. Transportation network company insurance shall be primary and in the amount of
2 at least ~~twenty five~~ fifty thousand dollars for death and ~~personal~~ bodily injury per
3 person, ~~fiftyone~~ hundred thousand dollars for death and ~~personal~~ bodily injury per
4 incident, and twenty-five thousand dollars for property damage.
- 5 b. Transportation network company insurance coverage must provide:
- 6 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;
7 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;
8 and
9 (3) Personal injury protection ~~when required~~ under chapter 26.1-41; ~~and~~
10 ~~(4) Collision physical damage coverage and comprehensive physical damage~~
11 ~~coverage.~~
- 12 2. The requirements for the coverage required by this section may be satisfied by any of
13 the following:
- 14 a. Transportation network company insurance maintained by a participating driver.
15 b. Transportation network company insurance maintained by a transportation
16 network company that provides coverage in the event a participating driver's
17 insurance policy under subdivision a of subsection 1 has ceased to exist or has
18 been canceled, or the participating driver does not otherwise maintain
19 transportation network company insurance pursuant to this section.
20 c. Any combination of subsections a and b.
- 21 3. ~~A transportation network company shall maintain insurance coverage that provides~~
22 ~~excess coverage insuring the transportation network company and the driver in the~~
23 ~~amount of at least two hundred thousand dollars per occurrence to cover any liability~~
24 ~~arising from a participating driver using a vehicle in connection with a transportation~~
25 ~~network company's online-enabled application or platform within the application on-~~
26 ~~stage specified in this section, which liability exceeds the required coverage limits in~~
27 ~~subdivision a of subsection 1.~~
- 28 ~~4. The insurer providing insurance coverage under this section is the only insurer having~~
29 ~~the duty to defend any liability claim arising from an accident occurring within the time~~
30 ~~periods specified in this section.~~

1 ~~5. A transportation network company may meet its obligations under this section through~~
2 ~~a policy obtained by a participating driver under subdivisions a or c of subsection 2~~
3 ~~only if the transportation network company verifies that the policy is maintained by the~~
4 ~~driver and is specifically written to cover the driver's use of a vehicle in connection with~~
5 ~~a transportation network company's online-enabled application or platform. The~~
6 primary insurer, in the case of the insurance coverage provided under subdivision a of
7 subsection 1 of section 26.1-40.1-03, has the sole duty to defend and indemnify the
8 insured during the time period specified in this section.

9 6.4. Coverage under a transportation network company insurance policy may neither be
10 dependent on a driver's personal automobile insurance policy carrier first denying a
11 claim nor a personal automobile insurance policy carrier ~~be~~ being required to first deny
12 a claim.

13 7.5. In every instance where transportation network company insurance maintained by a
14 participating driver to fulfill the insurance obligations of this section has
15 ~~lapsed~~ excluded coverage according to its policy or ceased to exist, the transportation
16 network company shall provide the coverage required by this section beginning with
17 the first dollar of a claim.

18 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

22 ~~**26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board**~~
23 ~~**stage, engaged stage, and application on stage.**~~

24 ~~1. During the application on stage, engaged stage, or passenger on-board stage, the~~
25 ~~following apply:~~

26 ~~a. The participating driver's or the vehicle owner's personal automobile insurance~~
27 ~~policy does not provide any coverage to the participating driver, vehicle owner, or~~
28 ~~any third party, unless the policy expressly provides for that coverage during the~~
29 ~~period of time to which this section is applicable, with or without a separate~~
30 ~~charge, or the policy contains an amendment or endorsement to provide that~~
31 ~~coverage, for which a separately stated premium is charged.~~

1 ~~b. The participating driver's or the vehicle owner's personal automobile insurance~~
2 ~~company does not have the duty to defend or indemnify for the driver's activities~~
3 ~~in connection with the transportation network company, unless the policy~~
4 ~~expressly provides otherwise for the period of time to which this section is~~
5 ~~applicable, with or without a separate charge, or the policy contains an~~
6 ~~amendment or endorsement to provide that coverage, for which a separately~~
7 ~~stated premium is charged.~~

8 ~~c. Nothing in this chapter may be construed to require a private passenger~~
9 ~~automobile insurance policy to provide primary or excess coverage during the~~
10 ~~application on stage, engaged stage, or passenger on board stage.~~

11 ~~26.1-40.1-07~~~~26.1-40.1-06.~~ Discretionary personal insurance where offered by personal
12 automobile insurer.

13 ~~Notwithstanding any other law, a~~A personal automobile insurer may offer an automobile
14 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
15 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons
16 or less, including the driver, while used in connection with a transportation network company's
17 online-enabled application or platform~~only if the policy expressly provides for the coverage~~
18 ~~during the time period specified in section 26.1-40.1-03, with or without a separate charge, or~~
19 ~~the policy contains an amendment or an endorsement to provide that coverage, for which a~~
20 ~~separately stated premium may be charged.~~

21 ~~26.1-40.1-08~~~~26.1-40.1-07.~~ **Duty to cooperate.**

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

28 ~~26.1-40.1-09~~~~26.1-40.1-08.~~ **Confidentiality of passenger personal information.**

29 ~~A transportation network company may not disclose to a third party any personally~~
30 ~~identifiable information of a transportation network company passenger unless the customer~~
31 ~~knowingly consents, under a legal obligation, or the disclosure is to the commissioner of~~

1 ~~insurance in order to investigate a complaint filed with the commissioner against a~~
2 ~~transportation network company or a participating driver and the commissioner treats the~~
3 ~~information under confidentiality protections.~~ A transportation network company may not disclose
4 to a third party any personally identifiable information of a transportation network company
5 passenger except under a legal obligation.

6 ~~26.1-40.1-10~~ **26.1-40.1-09. Financial responsibility.**

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

9 ~~26.1-40.1-11~~ **26.1-40.1-10. Proof of insurance.**

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

15 **26.1-40.1-11. Authorized or eligible carrier.**

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

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

21 **39-34-01. Agent.**

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

24 **39-34-02. Fare charged for services.**

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

28 **39-34-03. Transportation driver requirements.**

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

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

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

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

10 (2) National sex offender registry database; and

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

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

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

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

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

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

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

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

26 g. Is not at least eighteen years of age.

27 **39-34-04. Records.**

28 A transportation network company shall maintain individual trip records for at least one year
29 from the date each trip was provided and transportation network company driver records at
30 least until the six-year anniversary of the date on which a transportation network company
31 driver's activation on the transportation network company digital network has ended.

1 **39-34-05. Confidentiality of passenger personal information.**

2 A transportation network company may not disclose to a third party any personally
3 identifiable information of a transportation network company passenger except under a legal
4 obligation.

5 **39-34-06. Controlling authority.**

6 Notwithstanding any other provision of law, transportation network companies and
7 transportation network company drivers are governed exclusively by this chapter and chapter
8 26.1-40.1 and any rules adopted by the department of transportation consistent with this
9 chapter and insurance commissioner in section 1 of this Act. A political subdivision may not
10 impose a tax on, or require a license for, a transportation network company or a transportation
11 network company driver or subject a transportation network company to the municipality's or
12 other local entity's rate, entry, operational, or other requirements.

13 ~~— **SECTION 3. APPLICATION.** The insurance commissioner shall expedite review of any~~
14 ~~application for approval of transportation network company insurance products so that these~~
15 ~~products become available for purchase on or before the effective date of this Act.~~

Feb 17, 2015

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation
3 network company networks and services, priority of coverage, and minimum limits; ~~and to~~
4 ~~provide for application~~.

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

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

8 **26.1-40.1-01. Definitions.**

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

- 10 1. "Application off stage" of operation means the time period when the driver is operating
11 the vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the
14 online-enabled application of a transportation network company and available for hire
15 but not engaged and there is no passenger on board.
- 16 3. "Engaged stage" means the time period from the moment a participating driver
17 accepts a ride request on the transportation network company online-enabled
18 application or platform until the driver completes the transaction on the online-enabled
19 application or platform or until the ride is complete, whichever is later.
- 20 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
21 with a transportation network company's online-enabled application or platform to
22 connect with passengers.
- 23 5. "Passengers on-board stage" means the time period when there are passengers in the
24 vehicle pursuant to the driver's participation in a transportation network company.

1 6. "Transportation network company" means a person operating in this state that
2 provides prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with drivers using a
4 personal vehicle.

5 7. "Transportation network company insurance" means ~~a liability insurance policy that~~
6 ~~specifically covers liabilities arising from a participating driver's use of a vehicle in~~
7 ~~connection with a transportation network company's online-enabled application or~~
8 ~~platform.~~an insurance policy that covers a driver's use of a vehicle in connection with a
9 transportation network company's online-enabled application or platform.

10 **26.1-40.1-02. Required disclosures.**

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

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

22 3. A transportation network company shall provide notice of a driver's participation in the
23 transportation network directly to the driver's personal automobile insurer unless that
24 insurer is providing transportation network company insurance to the driver.

25 **26.1-40.1-03. Coverage required when transportation network company application is**
26 **engaged until completion of ride when the passenger has exited the vehicle.**

27 1. A transportation network company and any participating driver shall maintain
28 transportation network company insurance ~~and unless otherwise specified, that~~
29 ~~provides for~~ the following requirements ~~that~~ apply to transportation network company
30 insurance during the engaged stage and during the passenger on-board stage.

- 1 a. Transportation network company liability insurance is primary and in the amount
2 of one million dollars for death, personalbodily injury, and property damage. The
3 requirements for the coverage required by this subdivision may be satisfied by
4 any of the following:
- 5 (1) Transportation network company insurance maintained by a participating
6 driver.
- 7 (2) Transportation network company insurance maintained by a transportation
8 network company.
- 9 (3) Any combination of paragraphs 1 and 2.
- 10 b. ~~Transportation network company insurance coverage provided under this section~~
11 ~~also provides for uninsured motorist coverage and underinsured motorist~~
12 ~~coverage in the amount of one million dollars anytime the driver has~~
13 ~~transportation network company passengers on board.~~Uninsured motorist
14 coverage and underinsured motorist coverage, anytime the driver has
15 transportation network passengers on board, in the amount required by sections
16 26.1-40-15.2 and 26.1-40-15.3.
- 17 c. Transportation network company insurance coverage must provide personal
18 injury protection to drivers, passengers, and pedestrians as providedwhen
19 required under chapter 26.1-41.
- 20 d. The primary insurer, in the case of insurance coverage provided under
21 subdivision a, has the sole duty to defend and indemnify the insured.
- 22 ~~e. A transportation network company may meet its obligations under this section~~
23 ~~through a policy obtained by a participating driver under paragraph 1 or 3 of~~
24 ~~subdivision a only if the transportation network company verifies that the policy is~~
25 ~~maintained by the driver and is specifically written to cover the driver's use of a~~
26 ~~vehicle in connection with a transportation network company's online-enabled~~
27 ~~application or platform.~~
- 28 e. Coverage under a transportation network company insurance policy may neither
29 be dependent on a driver's personal automobile insurance policy carrier first
30 denying a claim nor a personal automobile insurance policy carrier being required
31 to first deny a claim.

1 f. In every instance where transportation network company insurance maintained
2 by a participating driver to fulfill the insurance obligations of this section has
3 excluded coverage according to its policy or ceased to exist, the transportation
4 network company shall provide the coverage required by this section beginning
5 with the first dollar of a claim.

6 ~~26.1-40.1-04. Insurance coverage during the application on stage with no passengers~~
7 ~~in vehicle.~~

8 ~~1. The following requirements apply to transportation network company insurance for~~
9 ~~application on stage:~~

10 ~~a. Transportation network company insurance shall be primary and in the amount of~~
11 ~~at least twenty five thousand dollars for death and personal injury per person, fifty~~
12 ~~thousand dollars for death and personal injury per incident, and twenty five~~
13 ~~thousand dollars for property damage.~~

14 ~~b. Transportation network company insurance coverage must provide:~~

15 ~~(1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;~~

16 ~~(2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;~~

17 ~~(3) Personal injury protection under chapter 26.1-41; and~~

18 ~~(4) Collision physical damage coverage and comprehensive physical damage~~
19 ~~coverage.~~

20 ~~2. The requirements for the coverage required by this section may be satisfied by any of~~
21 ~~the following:~~

22 ~~a. Transportation network company insurance maintained by a participating driver.~~

23 ~~b. Transportation network company insurance maintained by a transportation~~
24 ~~network company that provides coverage in the event a participating driver's~~
25 ~~insurance policy under subdivision a of subsection 1 has ceased to exist or has~~
26 ~~been canceled, or the participating driver does not otherwise maintain~~
27 ~~transportation network company insurance pursuant to this section.~~

28 ~~c. Any combination of subsections a and b.~~

29 ~~3. A transportation network company shall maintain insurance coverage that provides~~
30 ~~excess coverage insuring the transportation network company and the driver in the~~
31 ~~amount of at least two hundred thousand dollars per occurrence to cover any liability~~

1 ~~arising from a participating driver using a vehicle in connection with a transportation~~
2 ~~network company's online-enabled application or platform within the application on-~~
3 ~~stage specified in this section, which liability exceeds the required coverage limits in~~
4 ~~subdivision a of subsection 1.~~

5 ~~4. The insurer providing insurance coverage under this section is the only insurer having~~
6 ~~the duty to defend any liability claim arising from an accident occurring within the time~~
7 ~~periods specified in this section.~~

8 ~~5. A transportation network company may meet its obligations under this section through~~
9 ~~a policy obtained by a participating driver under subdivisions a or c of subsection 2-~~
10 ~~only if the transportation network company verifies that the policy is maintained by the~~
11 ~~driver and is specifically written to cover the driver's use of a vehicle in connection with~~
12 ~~a transportation network company's online-enabled application or platform.~~

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 be required to first deny a~~
16 ~~claim.~~

17 ~~7. In every instance where transportation network company insurance maintained by a~~
18 ~~participating driver to fulfill the insurance obligations of this section has lapsed or~~
19 ~~ceased to exist, the transportation network company shall provide the coverage~~
20 ~~required by this section beginning with the first dollar of a claim.~~

21 ~~26.1-40.1-05~~ **26.1-40.1-04. Liability of transportation network company beyond**
22 **required limits.**

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

26 ~~26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board~~
27 ~~stage, engaged stage, and application on stage.~~

28 ~~1. During the application on stage, engaged stage, or passenger on-board stage, the~~
29 ~~following apply:~~

30 ~~a. The participating driver's or the vehicle owner's personal automobile insurance~~
31 ~~policy does not provide any coverage to the participating driver, vehicle owner, or~~

1 ~~any third party, unless the policy expressly provides for that coverage during the~~
2 ~~period of time to which this section is applicable, with or without a separate~~
3 ~~charge, or the policy contains an amendment or endorsement to provide that~~
4 ~~coverage, for which a separately stated premium is charged.~~

5 ~~b. The participating driver's or the vehicle owner's personal automobile insurance~~
6 ~~company does not have the duty to defend or indemnify for the driver's activities~~
7 ~~in connection with the transportation network company, unless the policy~~
8 ~~expressly provides otherwise for the period of time to which this section is~~
9 ~~applicable, with or without a separate charge, or the policy contains an~~
10 ~~amendment or endorsement to provide that coverage, for which a separately~~
11 ~~stated premium is charged.~~

12 ~~c. Nothing in this chapter may be construed to require a private passenger~~
13 ~~automobile insurance policy to provide primary or excess coverage during the~~
14 ~~application on stage, engaged stage, or passenger on-board stage.~~

15 ~~26.1-40.1-07~~**26.1-40.1-05. Discretionary personal insurance where offered by personal**
16 **automobile insurer.**

17 ~~Notwithstanding any other law, a~~ A personal automobile insurer may offer an automobile
18 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
19 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons
20 or less, including the driver, while used in connection with a transportation network company's
21 online-enabled application or platform ~~only if the policy expressly provides for the coverage~~
22 ~~during the time period specified in section 26.1-40.1-03, with or without a separate charge, or~~
23 ~~the policy contains an amendment or an endorsement to provide that coverage, for which a~~
24 ~~separately stated premium may be charged.~~

25 ~~26.1-40.1-08~~**26.1-40.1-06. Duty to cooperate.**

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

1 **26.1-40.1-0926.1-40.1-07. Confidentiality of passenger personal information.**

2 ~~A transportation network company may not disclose to a third party any personally~~
3 ~~identifiable information of a transportation network company passenger unless the customer~~
4 ~~knowingly consents, under a legal obligation, or the disclosure is to the commissioner of~~
5 ~~insurance in order to investigate a complaint filed with the commissioner against a~~
6 ~~transportation network company or a participating driver and the commissioner treats the~~
7 ~~information under confidentiality protections.~~ A transportation network company may not disclose
8 any personally identifiable information of a transportation network company passenger except
9 under a legal obligation or for payment processing. For any other disclosure, the transportation
10 network company must obtain the passenger's written consent on a separate form specifically
11 addressing passenger personal information before the company may disclose the passenger's
12 personally identifiable information.

13 **26.1-40.1-1026.1-40.1-08. Financial responsibility.**

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

16 **26.1-40.1-1126.1-40.1-09. Proof of insurance.**

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

22 **26.1-40.1-10. Authorized or eligible carrier.**

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

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

28 **39-34-01. Agent.**

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

1 **39-34-02. Fare charged for services.**

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

5 **39-34-03. Transportation driver requirements.**

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

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

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

- 15 (1) Multistate and multijurisdiction criminal records locator or other similar
16 commercial nationwide database with validation; and
17 (2) National sex offender registry database; and

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

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

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

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

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

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

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

- 1 f. Does not possess proof of automobile liability insurance for the motor vehicle
2 used to provide transportation network company services; or
3 g. Is not at least eighteen years of age.

4 **39-34-04. Records.**

5 A transportation network company shall maintain individual trip records for at least one year
6 from the date each trip was provided and transportation network company driver records at
7 least until the six-year anniversary of the date on which a transportation network company
8 driver's activation on the transportation network company digital network has ended.

9 **39-34-05. Confidentiality of passenger personal information.**

10 A transportation network company may not disclose any personally identifiable information
11 of a transportation network company passenger except under a legal obligation or for payment
12 processing. For any other disclosure, the transportation network company must obtain the
13 passenger's written consent on a separate form specifically addressing passenger personal
14 information before the company may disclose the passenger's personally identifiable
15 information.

16 **39-34-06. Controlling authority.**

17 Notwithstanding any other provision of law, transportation network companies and
18 transportation network company drivers are governed exclusively by this chapter and chapter
19 26.1-40.1 and any rules adopted by the department of transportation consistent with this
20 chapter and by the insurance commissioner under section 1 of this Act. A political subdivision
21 may not impose a tax on, or require a license for, a transportation network company or a
22 transportation network company driver or subject a transportation network company to the
23 municipality's or other local entity's rate, entry, operational, or other requirements.

24 ~~— **SECTION 3. APPLICATION.** The insurance commissioner shall expedite review of any~~
25 ~~application for approval of transportation network company insurance products so that these~~
26 ~~products become available for purchase on or before the effective date of this Act.~~

Feb 17, 2015

2

15.0434.02007

Title.

Prepared by the Legislative Council staff for
Representative Keiser

February 16, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1144

- Page 1, line 1, replace "chapter" with "chapters"
- Page 1, line 1, after "26.1-40.1" insert "and 39-34"
- Page 1, line 3, after "networks" insert "and services"
- Page 1, line 3, remove "; and to provide for application"
- Page 1, line 8, after "chapter" insert "and chapter 39-34"
- Page 2, line 5, remove "a liability insurance policy that"
- Page 2, replace lines 6 through 8 with "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."
- Page 2, line 10, after "writing" insert "or electronic form"
- Page 2, line 14, replace "in writing of when" with "that"
- Page 2, line 15, replace "will" with "may"
- Page 2, line 16, after "writing" insert "or electronic form"
- Page 2, line 18, replace "will" with "may"
- Page 2, line 24, after "**ride**" insert "**when the passenger has exited the vehicle**"
- Page 2, line 26, replace "and unless otherwise specified," with "that provides for"
- Page 2, line 27, after "requirements" insert "that"
- Page 2, line 29, after "company" insert "liability"
- Page 2, line 30, replace "personal" with "bodily"
- Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"
- Page 3, replace lines 9 through 11 with "Uninsured motorist coverage and underinsured motorist coverage, anytime the driver has transportation network passengers on board, in the amount required by sections 26.1-40-15.2 and 26.1-40-15.3."
- Page 3, line 13, replace "as provided" with "when required"
- Page 3, line 16, after the first "the" insert "sole"
- Page 3, replace lines 17 through 22 with:
- "e. 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."

- f. In every instance where 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."

Page 3, remove lines 23 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 6

Page 5, line 7, replace "26.1-40.1-05" with "26.1-40.1-04"

Page 5, remove lines 11 through 30

Page 6, line 1, replace "26.1-40.1-07" with "26.1-40.1-05"

Page 6, line 3, replace "Notwithstanding any other law, a" with "A"

Page 6, line 7, remove "only if the policy expressly provides for the coverage"

Page 6, remove lines 8 and 9

Page 6, line 10, remove "separately stated premium may be charged"

Page 6, line 11, replace "26.1-40.1-08" with "26.1-40.1-06"

Page 6, line 18, replace "26.1-40.1-09" with "26.1-40.1-07"

Page 6, replace lines 19 through 24 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 6, line 25, replace "26.1-40.1-10" with "26.1-40.1-08"

Page 6, line 28, replace "26.1-40.1-11" with "26.1-40.1-09"

Page 7, after line 2, insert:

"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. 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 eighteen years of age.

39-34-04. Records.

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

39-34-05. Confidentiality of passenger personal information.

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.

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 by the department of transportation 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 municipality's or other local entity's rate, entry, operational, or other requirements."

Page 7, remove lines 3 through 5

Renumber accordingly

#1 3/13/15

HOUSE BILL NO. 1144

- Line 19, page 1 replace the definition of "Participating driver" with the following:

"Participating driver" or "driver" means any person who uses a vehicle in connection with a transportation network company's online-enabled application or platform to transport passengers for compensation.

- Line 1, page 2 replace the definition of "transportation network company" with the following:

"Transportation network company" means a person operating in this state that enables prearranged transportation services for compensation using an online - enabled application or platform to connect passengers with independent participating drivers using a personal vehicle.

- Before line 26 on page 3, insert new section and renumber thereafter:

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

A transportation network company shall maintain transportation network company insurance that provides for the following requirements during the application on stage.

- a. Secondary transportation network company liability insurance in the amount of 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. Secondary Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1.
 - c. Secondary Underinsured motorist coverage under subsection 2 of section 26.1 - 40 - 15.1.
 - d. Secondary Personal injury protection under chapter 26.1-41.
 - e. If the participating driver's vehicle is insured under a personal automobile insurance policy that does not exclude coverage during the application on stage, then such policy must provide primary coverage and an insurance policy maintained by the transportation network company under subdivision subsection 1 must provide excess coverage up to at least the limits required by subsection 1.
 - f. 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 insurance maintained by the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.
- Strike lines 20-26, on page 6.
 - Alternatively strike and replace with:
 - 39 - 34 - 05. Personally identifiable information. A transportation network company may not disclose any personally identifiable information of a transportation network company passenger except pursuant to the publically disclosed terms of the transportation network company's privacy policy. For any other disclosure not governed by the transportation network company's privacy policy, the transportation network company must obtain the passenger's consent before the company may disclose the passenger's personally identifiable information.

#2 -1

Senate Transportation Committee
March 13, 2015

TESTIMONY OF PATRICK J. WARD IN OPPOSITION TO
ENGROSSED HB 1144

Good morning Chairman Oehlke and Members of the Senate Transportation Committee.

My name is Pat Ward. I represent the Property Casualty Insurance Association of America and the Association of North Dakota Insurers in regard to Engrossed HB 1144.

This bill relates to insurance coverage for companies like Uber and Lyft, who hire people to drive their own personal vehicles, not company vehicles, and carry passengers for a fare similar to a taxi or other paid ride service. The passengers and fares are arranged through an electronic device such as a phone app or a separate dedicated device.

We support this innovative idea and business concept. It is a very successful business enterprise. These companies do business all over the world and are substantially funded companies. They could meet unmet needs for transportation in North Dakota. However, their operations in the United States have led to situations where the applicable insurance coverage is nonexistent or vague. There has been and will be much litigation involving these businesses, the employment status of drivers and background checks. Insurance adequacy is an important component that can be addressed legislatively in this bill.

The purpose of the bill is to define the various stages of operation and to make sure that there is adequate insurance coverage on these vehicles at all times when the driver is logged in and working for the transportation network company and especially when carrying passengers.

Private passenger automobile insurance (which is what most of these drivers would likely have when retained by one of these companies) **expressly excludes coverage** for "carrying passengers for hire" or "business pursuits," what is also called "livery." You could require drivers to get a business auto policy for a period of say, 2 years, until TNC policies roll out.

Automobile insurers make rating and underwriting decisions based upon likely use of a vehicle. Commercial auto insurance is rated differently than private passenger automobile

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insurance. Personal auto lines do not provide coverage for TNC activity unless there would be a policy which expressly or specifically provides for that coverage. Currently, there is not such a policy form approved for North Dakota.

This bill helps to define the periods of time that a driver is logged on to the app and working or when the passengers are on board or engaged to pick up a passenger and it provides for various amounts of coverage depending on the stage of operation.

The bill needs to provide more clarity as to whose coverage is primary in the various situations. It must require certain disclosures, which insurer will provide a legal defense to a claim if a lawsuit is brought, and require the transportation network company to share data and information from its database when necessary to assist in the investigation of an accident and coverage.

We oppose this bill as currently drafted. However, this committee obviously believes there is a need for adequate Uber regulation as provided in SB 2368. I believe that you should clear up the insurance requirements in this bill and amend this bill to correct its insurance deficiencies.

There are many legal issues and potential quagmires presented by this type of operation. We believe that the insurance regulation portion should be carefully crafted with supervision of the ND DOI.

We believe you should give strong consideration to the lead set by Colorado where the lobbying was intense and California where these two large TNC companies are based. Colorado is ahead of us on legislation and insurance policies for these operations.

We urge you to further amend Engrossed HB 1144 and make it the best bill possible.

I am offering the attached amendments today.

P:\PWARD\Legislative 2015\Testimony in Opposition of Engrossed HB1144.doc

PROPOSED AMENDMENTS TO ENGROSS HB 1144

Page 1, line 2, change the first "Passengers" to "Passenger"

Page 1, line 2, add "one or more" between "are" and "passengers"

Page 2, line 5, add "specifically" between "that" and "covers"

Page 2, line 17, remove "if when" and replace with "that"

Page 3, line 16, remove "a." and replace with "1"

Page 3, line 25, insert the following as section 26.1-40.1-04:

26.1-40.1-04. Insurance coverage during the application on stage when the driver is logged into the TNC platform but is not yet engaged and has no passengers in the vehicle.

1. During the application on stage, the transportation network company insurance must include:
 - a. Motor vehicle liability coverage and the coverage is primary. 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 26.1-40-15.1² and the coverage is primary.
 - c. Underinsured motorist coverage under ~~subsection 2~~ of section 26.1-40-15.1³ and the coverage is primary.
 - d. Personal injury protection under chapter 26.1-41 and the coverage is primary.
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. In every instance in which transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section is excluded, 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.

Page 4, line 4, add "specifically" between "that" and "covers"

- 1) Collision
- 2) Certificate of Coverage

#1-1

Prepared by the North Dakota
Insurance Department
March 19, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

Page 1, line 22, replace the first "Passengers" with "Passenger" and after "are" insert "one or more"

Page 2, line 5, after "that" insert "specifically"

Page 3, line 16, "subdivision a" with "subsection 1"

Page 3, after line 25, insert:

"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 thousand dollars per incident for death and bodily injury and at least fifty thousand dollars for property damage.
 - b. Uninsured motorist coverage as required by section 26.1-40-15.2 and the coverage is secondary.
 - c. Underinsured motorist coverage as required by section 26.1-40-15.3 and the coverage is secondary.
 - d. Personal injury protection under chapter 26.1-41 and the coverage is secondary.
 - e. In the event a participating driver's vehicle has collision physical damage coverage and comprehensive physical damage coverage under a personal automobile policy, the transportation network company insurance coverage shall also provide collision physical damage coverage and comprehensive physical damage coverage in the same amounts carried by the participating driver's personal

automobile policy and the transportation network company's coverage is secondary.

2. The requirements for the 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 a participating driver's insurance policy under subdivision a has ceased to exist or has been canceled, or the participating driver does not otherwise maintain transportation network company insurance pursuant to this section.
 - c. Any combination of subdivisions 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 subdivision a or c of subsection 2 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 an 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 where 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."

Page 3, line 26, replace "26.1-40.1-04" with "26.1-40.1-05"

Page 4, line 1, replace "26.1-40.1-05" with "26.1-40.1-06"

Page 4, line 4, after "that" insert "specifically"

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Page 4, line 8, replace "26.1-40.1-06" with 26.1-40.1-07"

Page 4, line 15, replace "26.1-40.1-07" with "26.1-40.1-08"

Page 4, line 22, replace "26.1-40.1-08" with "26.1-40.1-09"

Page 4, line 25, replace "26.1-40.1-09" with "26.1-40.1-10"

Page 4, line 26, before "A" insert "1."

Page 4, after line 30, insert:

- "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."

Page 5, line 1, replace "26.1-40.1-10" with "26.1-40.1-11"

Renumber accordingly

SUGGESTED KEY MESSAGES FOR TNC INSURANCE COMPROMISE MODEL BILL SUPPORTERS:

- Over the past months, state legislatures have been evaluating proposals to regulate the activities of Transportation Network Companies (TNCs). The auto insurance and transportation network industries share a mutual commitment to ensuring safe transportation options and this includes ensuring that transportation network companies and their drivers maintain appropriate automobile insurance.
- Some of the leading auto insurance organizations and Transportation Network Companies have come together to urge adoption of commonsense TNC insurance rules designed to:
 - eliminate consumer confusion,
 - provide a framework for safe transportation options, and
 - support continued marketplace innovation.
- The TNC Insurance Compromise Model Bill will help bring clarity and consistency to TNC insurance laws, and will:
 - enhance consumer choice,
 - increase entrepreneurial activity, and
 - bring greater stability and confidence to the transportation network industry.
- Residents in states that have passed similar regulations have already begun to benefit from the clearly-defined insurance requirements for Transportation Network Companies and their drivers. We believe this model imposes reasonable and workable requirements for TNCs and their drivers and provides insurers with the ability to make sound underwriting and pricing decisions. We believe it will also create an environment where TNC services will thrive and also facilitate development of a robust insurance market for this new business model.

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1-2

TNC Insurance Compromise Model Bill

March 24, 2015 v2

(Stat/Reg #): Transportation Network Vehicle Insurance Requirements

A. Definitions

1. "Personal Vehicle" means a vehicle that is used by a Transportation Network Company Driver in connection with providing a Prearranged Ride and is:
 - i. Owned, leased or otherwise authorized for use by the Transportation Network Company Driver; and
 - ii. Not a [TAXICAB, LIMOUSINE, OR FOR-HIRE VEHICLE].
2. "Digital network" means any online-enabled application, software, website or system offered or utilized by a Transportation Network Company that enables the prearrangement of rides with Transportation Network Company drivers.
3. "Transportation Network Company" means a corporation, partnership, sole proprietorship, or other entity that is licensed pursuant to this [Chapter/Title] and operating in [STATE] that uses a digital network to connect Transportation Network Company Riders to Transportation Network Company Drivers who provide Prearranged Rides. A Transportation Network Company shall not be deemed to control, direct or manage the Personal Vehicles or Transportation Network Company Drivers that connect to its digital network, except where agreed to by written contract.
4. "Transportation Network Company Driver" or "driver" means an individual who:
 - i. Receives connections to potential passengers and related services from a Transportation Network Company in exchange for payment of a fee to the Transportation Network Company; and
 - ii. Uses a Personal Vehicle to provide a Prearranged Ride to riders upon connection through a Digital network controlled by a Transportation Network Company in return for compensation or payment of a fee.
5. "Transportation Network Company Rider" or "rider" means an individual or persons who use a Transportation Network Company's digital network to connect with a Transportation Network Driver who provides Prearranged Rides to the rider in the driver's Personal Vehicle between points chosen by the rider.
6. "Prearranged Ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a Transportation Network Company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the Personal Vehicle. A Prearranged Ride does not include transportation provided using a Taxi, Limousine, or other for-hire vehicle pursuant to [CITE DEFINITION IN STATE LAW OR MOTOR CARRIER ACT].

TNC Insurance Compromise Model Bill

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B. Financial Responsibility of Transportation Network Companies

On or before [MONTH, DAY, YEAR] and thereafter, a Transportation Network Company Driver or Transportation Network Company on the driver's behalf shall maintain primary automobile insurance that:

1. Recognizes that the driver is a Transportation Network Company Driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:
 - i. while the driver is logged on to the Transportation Network Company's digital network; or
 - ii. while the driver is engaged in a Prearranged Ride.

2. The following automobile insurance requirements shall apply while a participating Transportation Network Company Driver is logged on to the Transportation Network Company's digital network and is available to receive transportation requests but is not engaged in a Prearranged Ride:
 - i. Primary automobile liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage.
 - ii. *[Scriveners notes: Reference by statute all other state mandated coverage's for motor vehicles by state financial responsibility law, UM/ UIM, Med Pay, NF and/or PIP.]*
 - iii. The coverage requirements of this subsection 2 may be satisfied by any of the following:
 - a. Automobile insurance maintained by the Transportation Network Company Driver; or
 - b. Automobile insurance maintained by the Transportation Network Company; or
 - c. Any combination of subparagraphs (a) and (b).

3. The following automobile insurance requirements shall apply while a Transportation Network Company Driver is engaged in a Prearranged Ride:
 - i. Primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury and property damage;
 - ii. *[Scriveners notes: Reference by statute all other state mandated coverage's for motor vehicles by state financial responsibility law, UM/ UIM, Med Pay, NF and/or PIP.]*
 - iii. The coverage requirements of this subsection 3 may be satisfied by any of the following:
 - a. Automobile insurance maintained by the Transportation Network Company Driver; or
 - b. Automobile insurance maintained by the Transportation Network Company; or
 - c. Any combination of subparagraphs (a) and (b).

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TNC Insurance Compromise Model Bill

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4. If insurance maintained by driver in subsections 2 or 3 has lapsed or does not provide the required coverage, insurance maintained by a Transportation Network Company shall provide the coverage required by Section B beginning with the first dollar of a claim and have the duty to defend such claim.
5. Coverage under an automobile insurance policy maintained by the Transportation Network Company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.
6. Insurance required by this Section B may be placed with an insurer licensed under [CITE STATUTE] or with a surplus lines insurer eligible under [CITE STATUTE].
7. Insurance satisfying the requirements of this Section B shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under [STATE FINANCIAL RESPONSIBILITY STATUTE].
8. A Transportation Network Company Driver shall carry proof of coverage satisfying sections B.2 and B.3 with him or her at all times during his or her use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a Transportation Network Company Driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers, upon request pursuant to [INSERT ELECTRONIC ID CARD LAW OR CREATE SUCH LAW]. Upon such request, a Transportation Network Company Driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the Transportation Network Company's digital network or on a Prearranged Ride at the time of an accident.

C. Disclosures

1. The Transportation Network Company shall disclose in writing to Transportation Network Company Drivers the following before they are allowed to accept a request for a Prearranged Ride on the Transportation Network Company's digital network:
 - i. The insurance coverage, including the types of coverage and the limits for each coverage, that the Transportation Network Company provides while the Transportation Network Company Driver uses a Personal Vehicle in connection with a Transportation Network Company's digital network; and
 - ii. That the Transportation Network Company Driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the Transportation Network Company's digital network and is available to receive transportation requests or is engaged in a Prearranged Ride depending on its terms.

TNC Insurance Compromise Model Bill

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D. Automobile Insurance Provisions

1. Insurers that write automobile insurance in [INSERT STATE] may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a Driver is logged on to a Transportation Network Company's digital network or while a Driver provides a Prearranged Ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:
 - i. Liability coverage for bodily injury and property damage;
 - ii. Personal injury protection coverage as defined in [CITE STATUTE];
 - iii. Uninsured and underinsured motorist coverage;
 - iv. . Medical payments coverage;
 - v. Comprehensive physical damage coverage; and
 - vi. Collision physical damage coverage.

Such exclusions shall apply notwithstanding any requirement under [STATE FINANCIAL RESPONSIBILITY STATUTE]. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the Transportation Network Company's digital network, while the driver is engaged in a Prearranged Ride or while the driver otherwise uses a vehicle to transport passengers for compensation.

Nothing shall be deemed to preclude an insurer from providing coverage for the Transportation Network Company Driver's vehicle, if it so chose to do so by contract or endorsement.

2. Automobile insurers that exclude the coverage described in Section B shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this Article shall be deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in [STATE] prior to the enactment of this Article.

An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy, shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of Section B at the time of loss.

3. In a claims coverage investigation, Transportation Network Companies and any insurer potentially providing coverage under Section B shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the Transportation Network Company Driver if applicable, including the precise times that a Transportation Network Company Driver logged on and off of the Transportation Network Company's digital network in the twelve hour period immediately preceding and in the twelve hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under Section B.

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1-6 **FAQs – TNC Insurance Compromise Model Bill**

March 24, 2015 v2

Which organizations support the TNC Insurance Compromise Model Bill?

As of March 24, 2015, the American Insurance Association (AIA), the Property and Casualty Insurance Association of America (PCIAA), the National Association of Mutual Insurance Companies (NAMIC), State Farm, USAA, Farmers Insurance and Uber support the TNC Insurance Compromise Model Bill.

Why have Uber and some of the Leading Insurers Compromised on Legislation?

State legislatures across the country are considering TNC insurance legislation to help protect their citizens and encourage innovation. Several states have enacted TNC insurance laws and others are close.

After several conversations, we found that Uber's "essential elements" were not too far from those articulated in the Industry Toolkit.

The supporting insurance organizations and Uber concluded that if we could reach a compromise on the differences, we would ensure the proper insurance protection for consumers, and achieve more consistent legislative outcomes that allow both industries to innovate.

What are the main provisions of the TNC Insurance Compromise Model Bill?

- The model is similar to bill passed in Colorado and the pending compromise bill in New Mexico.
- In summary the legislation accomplishes the following:
 1. Expressly permits personal auto policies to exclude coverage for TNC related driving.
 2. During Period 1, this bill would mandate primary insurance coverage of **50/100/25** and includes all state mandated coverages (e.g., UM or PIP). The mandate does not include comprehensive or collision coverages.
 - Each of the six states that have passed TNC laws have enacted similar period 1 limits
 - CA, CO, UT = 50/100/30
 - IL, DC, VA = 50/100/25
 3. During Periods 2 and 3 when a driver has accepted a ride request and/or while the fare paying passenger is in the vehicle, the bill would mandate primary insurance of \$1 million in liability coverage (up to \$1.5 in a minority of states that mandate such coverage for limos) as well as any other coverage mandated for limos by the state's financial responsibility laws. The mandate does not include comprehensive or collision.
 4. These coverage mandates can be satisfied by either a policy maintained by the TNC driver, by the TNC itself or a combination of both.
 5. The primary TNC coverage shall not be dependent upon a personal auto policy denying a claim before coverage is triggered.
 6. TNC drivers will be required to carry proof of TNC insurance coverage.
 7. TNCs must disclose to their drivers that their current personal auto policy may not provide any coverage for TNC related driving.
 8. After an accident, TNC drivers must disclose whether they were logged into the TNC system.
 9. Requires cooperation between TNCs and insurers involved in a coverage investigation.
 10. Grants a statutory right of contribution against TNCs for claims insurers may have erroneously paid.

What is the main difference between the Industry Toolkit Model and this Compromise Model?

The biggest difference is the absence of the "firewall" language that appears in the California law. The Compromise Model creates neither a presumption of coverage nor a presumption against coverage for TNC related activities.

This bill also does not contain any mandate that TNCs or their drivers maintain comprehensive or collision coverage. This was only an "optional" provision in the Industry Toolkit Model.

#2

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2-1

HOUSE BILL NO. 2368

Amendments Proposed by Sagar Shah (Uber Technologies) – March 26, 2015

Definitions:

1. Page 1, line 18 replace the definition of “Participating driver” with the following:

"Participating driver" or "driver" means any person who uses a vehicle in connection with a transportation network company's online-enabled application or platform to transport passengers for compensation.

2. Page 1, line 23 replace the definition of “Transportation network company” with the following:

"Transportation network company" means a person operating in this state that enables prearranged transportation services for compensation using an online - enabled application or platform to connect passengers with independent participating drivers using a personal vehicle.

Insurance:

3. Page 3, line 4 STRIKE “in the amount of one million dollars” and replace with the following language:

“under subsection 3 of section 26.1-40-15.1”

4. Page 3, line 24 add “is primary and”
5. P. 3, lines 27-29 replace limit amounts with 50/100/25:

“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.”

6. P. 4, STRIKE lines 13-22
7. P. 5, STRIKE lines 25-28

Privacy:

8. P. 7, lines 19-25 – STRIKE section 39-34-05. Personally identifiable information

Alternatively, strike and replace with:

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

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The department may audit the records of a transportation network company, by means of a random sample of the transportation network company's records related to transportation network drivers:

- (a) two times a year or fewer
- (b) at a third party location agreed to by the division and the transportation network company; and
- (c) notwithstanding Subsection (X)(a), in a reasonable timeframe to investigate a complaint related to public safety or violations of this bill, provided the authority has first provided details of the nature of the complaint.

The department may fine a transportation network company up to \$500 for each violation of this chapter.

March 12, 2015

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3-26-15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

Page 2, line 1, replace "that" with "who"

Page 3, line 21, replace "In every instance where" with "If"

Page 3, after line 25, insert:

"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 subdivision a or c of subsection 2, 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.

Page 3, line 26, replace "26.1-40.1-04" with "26.1-40.1-05"

Page 4, line 1, replace "26.1-40.1-05" with "26.1-40.1-06"

Page 4, line 5, after the second "of" insert "more than"

Page 4, line 5, remove "or less"

Page 4, line 8, replace "26.1-40.1-06" with "26.1-40.1-07"

Page 4, remove lines 15 through 21

Page 4, replace lines 26 through 30 with:

- "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.

Page 6, line 14, replace "eighteen" with "twenty-one"

Page 6, line 20, replace "Confidentiality of passenger personal" with "Personally identifiable"

Renumber accordingly

1-1

4/2/15

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation network
3 company networks and services, priority of coverage, and minimum limits.

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

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

7 **26.1-40.1-01. Definitions.**

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

- 9 1. "Application off stage" of operation means the time period when the driver is operating
10 the vehicle for personal noncommercial reasons and not engaged in any manner or
11 operation for the transportation network company.
- 12 2. "Application on stage" means the time period the driver is logged onto the
13 online-enabled application of a transportation network company and available for hire
14 but not engaged and there is no passenger on board.
- 15 3. "Engaged stage" means the time period from the moment a participating driver
16 accepts a ride request on the transportation network company online-enabled
17 application or platform until the driver completes the transaction on the online-enabled
18 application or platform or until the ride is complete, whichever is later.
- 19 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
20 with a transportation network company's online-enabled application or platform to
21 ~~connect with passengers~~transport passengers for compensation.
- 22 5. "Passengers on-board stage" means the time period when there are passengers in the
23 vehicle pursuant to the driver's participation in a transportation network company.

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Sixty-fourth
Legislative Assembly

- 1 6. "Transportation network company" means a person operating in this state that
2 provides which enables prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with independent
4 participating drivers using a personal vehicle.
5 7. "Transportation network company insurance" means an insurance policy that covers a
6 driver's use of a vehicle in connection with a transportation network company's
7 online-enabled application or platform.

8 **26.1-40.1-02. Required disclosures.**

- 9 1. A transportation network company shall disclose in writing or electronic form to
10 participating drivers, as part of its agreement with those drivers, the insurance
11 coverage and limits of liability that the transportation network company provides while
12 the driver uses a vehicle in connection with a transportation network company's
13 online-enabled application or platform and shall advise a participating driver that the
14 driver's personal automobile insurance policy may not provide coverage under the
15 agreement.
16 2. A transportation network company shall disclose in writing or electronic form to
17 participating drivers, as part of its agreement with those drivers, of when the driver's
18 personal automobile insurance policy may not provide collision or comprehensive
19 coverage, under the agreement.
20 3. A transportation network company shall provide notice in writing or electronically to the
21 driver instructing the driver to notify the driver's personal automobile insurer of the
22 driver's participation in the transportation network.

23 **26.1-40.1-03. Coverage required when transportation network company application is**
24 **engaged until completion of ride when the passenger has exited the vehicle.**

- 25 1. A transportation network company and any participating driver shall maintain
26 transportation network company insurance that provides for the following requirements
27 that apply to transportation network company insurance during the engaged stage and
28 during the passenger on-board stage.
29 a. Transportation network company liability insurance is primary and in the amount
30 of one million dollars for death, bodily injury, and property damage. The

- 1 requirements for the coverage required by this subdivision may be satisfied by
2 any of the following:
3 (1) Transportation network company insurance maintained by a participating
4 driver.
5 (2) Transportation network company insurance maintained by a transportation
6 network company.
7 (3) Any combination of paragraphs 1 and 2.
8 b. Transportation network company insurance coverage provided under this section
9 also provides for uninsured motorist coverage and underinsured motorist
10 coverage in the amount of one million dollars anytime the driver has
11 transportation network company passengers on board.
12 c. Transportation network company insurance coverage must provide personal
13 injury protection to drivers, passengers, and pedestrians when required under
14 chapter 26.1-41.
15 d. The primary insurer, in the case of insurance coverage provided under
16 subdivision a, has the sole duty to defend and indemnify the insured.
17 e. Coverage under a transportation network company insurance policy may neither
18 be dependent on a driver's personal automobile insurance policy carrier first
19 denying a claim nor a personal automobile insurance policy carrier being required
20 to first deny a claim.
21 f. ~~In every instance where~~ if transportation network company insurance maintained
22 by a participating driver to fulfill the insurance obligations of this section has
23 excluded coverage according to its policy or ceased to exist, the transportation
24 network company shall provide the coverage required by this section beginning
25 with the first dollar of a claim.

26 26.1-40.1-04. Insurance coverage during the application on stage with no passengers
27 in vehicle.

- 28 1. During the application on stage, the transportation network company insurance must
29 include:
30 a. Motor vehicle liability coverage that is primary coverage. The coverage must
31 include at least fifty thousand dollars per person and one hundred thousand

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1 dollars per incident for death and bodily injury and at least twenty-five thousand
2 dollars for property damage.

3 b. Uninsured motorist coverage under subsection 1 of section 26.1-40-15.2 which
4 is primary coverage.

5 c. Underinsured motorist coverage under subsection 1 of section 26.1-40-15.3
6 which is primary coverage.

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

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

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

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

12 c. Any combination of subsections a and b.

13 **26.1-40.1-05. Automobile insurers.**

14 Insurers that write personal automobile insurance may allow no-fault insurance coverage to
15 be conditional on transportation network company no-fault insurance coverage under sections
16 26.1-40.1-03 and 26.1-40.1-04.

17 **~~26.1-40.1-04~~26.1-40.1-06. Liability of transportation network company beyond**
18 **required limits.**

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

22 **~~26.1-40.1-05~~26.1-40.1-07. Discretionary personal insurance where offered by personal**
23 **automobile insurer.**

24 A personal automobile insurer may offer an automobile liability insurance policy, or an
25 amendment or endorsement to an existing policy that covers a private passenger vehicle or
26 similar type of vehicle with a passenger capacity of less than eight persons ~~or less~~, including the
27 driver, while used in connection with a transportation network company's online-enabled
28 application or platform.

29 **~~26.1-40.1-06~~26.1-40.1-08. Duty to cooperate.**

30 In a claims coverage investigation involving a participating driver, a transportation network
31 company or its insurer shall cooperate with insurers that are involved in the claims coverage

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1 investigation to facilitate the exchange of information, including the provision of dates and times
2 at which an accident occurred involving a participating driver and the precise times that the
3 participating driver logged on and off the transportation network company's online-enabled
4 application or platform.

5 ~~26.1-40.1-07. Confidentiality of passenger personal information.~~

6 ~~A transportation network company may not disclose any personally identifiable information~~
7 ~~of a transportation network company passenger except under a legal obligation or for payment~~
8 ~~processing. For any other disclosure, the transportation network company must obtain the~~
9 ~~passenger's written consent on a separate form specifically addressing passenger personal~~
10 ~~information before the company may disclose the passenger's personally identifiable~~
11 ~~information.~~

12 ~~26.1-40.1-08~~ 26.1-40.1-09. Financial responsibility.

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

15 ~~26.1-40.1-09~~ 26.1-40.1-10. Proof of insurance.

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

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

26 ~~26.1-40.1-10~~ 26.1-40.1-11. Authorized or eligible carrier.

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

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

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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;

- 1 d. Does not possess a valid driver's license;
- 2 e. Does not possess proof of registration for the motor vehicle used to provide
- 3 transportation network company services;
- 4 f. Does not possess proof of automobile liability insurance for the motor vehicle
- 5 used to provide transportation network company services; or
- 6 g. Is not at least ~~eighteen~~twenty-one years of age.

7 **39-34-04. Records Personally identifiable information.**

8 ~~A transportation network company shall maintain individual trip records for at least one year~~

9 ~~from the date each trip was provided and transportation network company driver records at~~

10 ~~least until the six year anniversary of the date on which a transportation network company~~

11 ~~driver's activation on the transportation network company digital network has ended.~~

12 ~~**39-34-05. Confidentiality of passenger personal information.**~~

13 ~~A transportation network company may not disclose any personally identifiable information~~

14 ~~of a transportation network company passenger except under a legal obligation or for payment~~

15 ~~processing. For any other disclosure, the transportation network company must obtain the~~

16 ~~passenger's written consent on a separate form specifically addressing passenger personal~~

17 ~~information before the company may disclose the passenger's personally identifiable~~

18 ~~information.~~ A transportation network company may not disclose any personally identifiable

19 information of the transportation network company passenger except pursuant to the publicly

20 disclosed terms of the transportation network company's privacy policy. For any other disclosure

21 not governed by the privacy policy, the transportation network company must obtain a

22 passenger's consent before the company may disclose the passenger's personally identifiable

23 information.

24 **39-34-05. Audit.**

- 25 1. The department may audit the records of a transportation network company by means
- 26 of random sample of the transportation network company's records related to
- 27 transportation network drivers:
- 28 a. No more than two times in a year's time.
 - 29 b. At an agreed upon location.

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1 c. Notwithstanding subdivision a. in a reasonable timeframe to investigate a
2 complaint related to public safety or a violation of this Act. if the department
3 provides details on the nature of the complaint.

4 2. The department may impose a civil penalty of up to five hundred dollars for each
5 violation of this chapter.

6 **39-34-06. Controlling authority.**

7 Notwithstanding any other provision of law, transportation network companies and
8 transportation network company drivers are governed exclusively by this chapter and chapter
9 26.1-40.1 and any rules adopted by the department of transportation consistent with this
10 chapter and by the insurance commissioner under section 1 of this Act. A political subdivision
11 may not impose a tax on, or require a license for, a transportation network company or a
12 transportation network company driver or subject a transportation network company to the
13 political subdivision's rate, entry, operational, or other requirements.

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ENGROSSED HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation network
3 company networks and services, priority of coverage, and minimum limits.

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

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

7 **26.1-40.1-01. Definitions.**

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

- 9 1. "Application off stage" of operation means the time period when the driver is operating
10 the vehicle for personal noncommercial reasons and not engaged in any manner or
11 operation for the transportation network company.
- 12 2. "Application on stage" means the time period the driver is logged onto the
13 online-enabled application of a transportation network company and available for hire
14 but not engaged and there is no passenger on board.
- 15 3. "Engaged stage" means the time period from the moment a participating driver
16 accepts a ride request on the transportation network company online-enabled
17 application or platform until the driver completes the transaction on the online-enabled
18 application or platform or until the ride is complete, whichever is later.
- 19 4. "Participating driver" or "driver" means ~~any person who uses a vehicle in connection~~
20 ~~with a transportation network company's online-enabled application or platform to~~
21 ~~connect with passengers; an individual who:~~
 - 22 a. Receives connections to potential passengers and related services from a
23 transportation network company in exchange for payment or a fee to the
24 transportation network company; and

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- 1 b. Uses a personal vehicle to offer or provide prearranged transportation services to
2 a passenger upon connection through an online-enabled application or platform
3 controlled by a transportation network company in return for compensation or
4 payment of a fee.
- 5 5. "Passengers on-board stage" means the time period when there are passengers in the
6 vehicle pursuant to the driver's participation in a transportation network company.
- 7 6. "Transportation network company" means a person operating in this state that
8 ~~provides prearranged transportation services for compensation using an~~
9 ~~online-enabled application or platform to connect passengers with drivers using a~~
10 ~~personal vehicle.~~ uses an online-enabled application or platform to connect a
11 passenger with an independent participating driver who provides prearranged
12 transportation services using a personal vehicle. A transportation network company
13 may not be deemed to control, direct, or manage the personal vehicles or participating
14 drivers that connect to the transportation network company online-enabled application
15 or platform, unless if agreed to by written contract.
- 16 7. "Transportation network company insurance" means an insurance policy that covers a
17 driver's use of a vehicle in connection with a transportation network company's
18 online-enabled application or platform.
- 19 **26.1-40.1-02. Required disclosures.**
- 20 1. A transportation network company shall disclose in writing or electronic form to
21 participating drivers, as part of its agreement with those drivers, the insurance
22 coverage and limits of liability that the transportation network company provides while
23 the driver uses a vehicle in connection with a transportation network company's
24 online-enabled application or platform and shall advise a participating driver that the
25 driver's personal automobile insurance policy may not provide coverage under the
26 agreement.
- 27 2. A transportation network company shall disclose in writing or electronic form to
28 participating drivers, as part of its agreement with those drivers, of when the driver's
29 personal automobile insurance policy may not provide collision or comprehensive
30 coverage, under the agreement.

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

4 **26.1-40.1-03. Coverage required when transportation network company application is**
5 **engaged until completion of ride when the passenger has exited the vehicle.**

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

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

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

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

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

19 b. Transportation network company insurance coverage provided under this section
20 also provides for uninsured motorist coverage and underinsured motorist
21 coverage in the amount ~~of one million dollars~~ required by subsection 1 of section
22 26.1-40-15.2 and subsection 1 of section 26.1-40-15.3 anytime the driver has
23 transportation network company passengers on board.

24 c. Transportation network company insurance coverage must provide personal
25 injury protection to drivers, passengers, and pedestrians when required under
26 chapter 26.1-41.

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

29 e. Coverage under a transportation network company insurance policy may neither
30 be dependent on a driver's personal automobile insurance policy carrier first

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- 1 denying a claim nor a personal automobile insurance policy carrier being required
2 to first deny a claim.
3 f. In every instance where if transportation network company insurance maintained
4 by a participating driver to fulfill the insurance obligations of this section has
5 excluded coverage according to its policy or ceased to exist, the transportation
6 network company shall provide the coverage required by this section beginning
7 with the first dollar of a claim.

8 26.1-40.1-04. Insurance coverage during the application on stage with no passengers
9 in vehicle.

- 10 1. During the application on stage, the transportation network company insurance must
11 include:
12 a. Motor vehicle liability coverage and the coverage is primary. The coverage must
13 include at least fifty thousand dollars per person and one hundred thousand
14 dollars per incident for death and bodily injury and at least fifty thousand dollars
15 for property damage.
16 b. Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1 and the
17 coverage is secondary.
18 c. Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1 and
19 the coverage is secondary.
20 d. Personal injury protection under chapter 26.1-41 and the coverage is secondary.
21 2. The requirements for coverage required by this section may be satisfied by any of the
22 following:
23 a. Transportation network company insurance maintained by a participating driver.
24 b. Transportation network company insurance maintained by a transportation
25 network company that provides coverage in the event that a participating driver's
26 insurance policy under subsection a has ceased to exist or has been canceled or
27 in the event the participating driver does not otherwise maintain transportation
28 network company insurance.
29 c. Any combination of subsections a and b.

1 26.1-40.1-05. Automobile insurers.

2 1. Automobile insurers in this state may exclude any or all coverage afforded under the
3 owner's insurance policy for any loss or injury that occurs while a driver is logged on to
4 a transportation network company's digital network or while a driver provides a
5 prearranged ride. This right to exclude coverage may apply to any coverage included
6 in an automobile insurance policy, including:

7 a. Liability coverage for bodily injury and property damage;

8 b. Personal injury protection coverage as defined under section 26.1-41-02;

9 c. Uninsured and underinsured motorist coverage;

10 d. Medical payments coverage;

11 e. Comprehensive physical damage coverage; and

12 f. Collision physical damage coverage.

13 2. The exclusions apply notwithstanding any requirement under section 26.1-41-07.

14 Nothing in this section requires that a personal automobile insurance policy provide
15 coverage while the driver is logged on to the transportation network company's digital
16 network, while the driver is engaged in a prearranged ride, or while the driver
17 otherwise uses a vehicle to transport passengers for compensation.

18 3. Notwithstanding any other provision of law, an insurer may provide coverage for a
19 transportation network company driver's vehicle, if the insurer chooses to do so by
20 contract or endorsement.

21 **26.1-40.1-0426.1-40.1-06. Liability of transportation network company beyond**
22 **required limits.**

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

26 **26.1-40.1-0526.1-40.1-07. Discretionary personal insurance where offered by personal**
27 **automobile insurer.**

28 A personal automobile insurer may offer an automobile liability insurance policy, or an
29 amendment or endorsement to an existing policy that covers a private passenger vehicle or
30 similar type of vehicle with a passenger capacity of ~~more than~~ eight persons ~~or less~~, including

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1 the driver, while used in connection with a transportation network company's online-enabled
2 application or platform.

3 **26.1-40.1-06**~~26.1-40.1-08~~. **Duty to cooperate.**

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

10 ~~— **26.1-40.1-07. Confidentiality of passenger personal information.**~~

11 ~~— A transportation network company may not disclose any personally identifiable information~~
12 ~~of a transportation network company passenger except under a legal obligation or for payment~~
13 ~~processing. For any other disclosure, the transportation network company must obtain the~~
14 ~~passenger's written consent on a separate form specifically addressing passenger personal~~
15 ~~information before the company may disclose the passenger's personally identifiable~~
16 ~~information.~~

17 ~~26.1-40.1-08~~**26.1-40.1-09. Financial responsibility.**

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

20 ~~26.1-40.1-09~~**26.1-40.1-10. Proof of insurance.**

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

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

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

5 **26.1-40.1-1026.1-40.1-11. Authorized or eligible carrier.**

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

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

11 **39-34-01. 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 **39-34-02. Fare charged for services.**

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

18 **39-34-03. Transportation driver requirements.**

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

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

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

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

30 (2) National sex offender registry database; and

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

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

17 **39-34-04. ~~Records~~Personally identifiable information.**

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

22 **~~39-34-05. Confidentiality of passenger personal information.~~**

23 ~~— A transportation network company may not disclose any personally identifiable information~~
24 ~~of a transportation network company passenger except under a legal obligation or for payment~~
25 ~~processing. For any other disclosure, the transportation network company must obtain the~~
26 ~~passenger's written consent on a separate form specifically addressing passenger personal~~
27 ~~information before the company may disclose the passenger's personally identifiable~~
28 ~~information.~~
29 A transportation network company may not disclose any personally identifiable
30 information of the transportation network company passenger except pursuant to the publicly
31 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 a

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

3 **39-34-05. Audit.**

4 1. The department may audit the records of a transportation network company by means
5 of random sample of the transportation network company's records related to
6 transportation network drivers:

7 a. No more than two times in a year's time.

8 b. At an agreed upon location.

9 c. Notwithstanding subdivision a. in a reasonable timeframe to investigate a
10 complaint related to public safety or a violation of this chapter, if the department
11 provides details on the nature of the complaint.

12 2. The department may impose a civil penalty of up to five hundred dollars for each
13 violation of this chapter.

14 **39-34-06. Controlling authority.**

15 Notwithstanding any other provision of law, transportation network companies and
16 transportation network company drivers are governed exclusively by this chapter ~~and chapter~~
17 ~~26.1-40.1~~ and any rules adopted by the department ~~of transportation~~ consistent with this
18 chapter ~~and by the insurance commissioner under section 1 of this Act.~~ A political subdivision
19 may not impose a tax on, or require a license for, a transportation network company ~~or a~~
20 transportation network company driver, ~~or a vehicle used by a transportation network company~~
21 driver, if the tax or license relates to providing transportation network services, or subject a
22 transportation network company to the political subdivision's rate, entry, operational, or other
23 requirements. A political subdivision may prohibit a transportation network company from
24 operating without a state permit within the jurisdiction of the political subdivision.

April 2, 2015

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

Page 1, line 3, after "limits" insert "; and to declare an emergency"

Page 1, line 15, after the underscored period insert: ""Personal injury protection" means basic no-fault benefits as defined under subsection 2 of section 26.1-41-01.

4."

Page 1, line 19, replace "4." with "5."

Page 1, line 19, remove "any person who uses a vehicle in connection"

Page 1, replace lines 20 and 21 with "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."

Page 1, line 22, replace "5." with "6."

Page 2, line 1, replace "6." with "7."

Page 2, line 1, remove "that"

Page 2, replace lines 2 through 4 with "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."

Page 2, line 5, replace "7." with "8."

Page 3, line 8, remove "Transportation network company insurance coverage provided under this section"

Page 3, replace lines 9 through 11 with "Transportation network company insurance coverage provided under this section for uninsured motorist coverage must meet the requirements under section 26.1-40-15.2.

- 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."

Page 3, line 12, replace "c." with "d."

Page 3, line 12, after "provide" insert "primary"

Page 3, line 13, remove "when required"

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Page 3, line 15, replace "d." with "e."

Page 3, line 17, replace "e." with "f."

Page 3, line 21, replace "f." with "g."

Page 3, line 21, replace "In every instance where" with "If"

Page 3, after line 25, insert:

"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 subsections 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.

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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."

Page 3, line 26, replace "26.1-40.1-04" with "26.1-40.1-06"

Page 4, line 1, replace "26.1-40.1-05" with "26.1-40.1-07"

Page 4, line 5, after the second "of" insert "less than"

Page 4, line 5, remove "or less"

Page 4, line 8, replace "26.1-40.1-06" with "26.1-40.1-08"

Page 4, remove lines 15 through 21

Page 4, line 22, replace "26.1-40.1-08" with "26.1-40.1-09"

Page 4, line 25, replace "26.1-40.1-09" with "26.1-40.1-10"

Page 4, replace lines 26 through 30 with:

"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."

Page 5, line 1, replace "26.1-40.1-10" with "26.1-40.1-11"

Page 6, line 14, replace "eighteen" with "twenty-one"

Page 6, line 15, replace "Records" with "Personally identifiable information"

Page 6, replace lines 16 through 26 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."

39-34-05. Audit.

1. The department may audit the records of a transportation network company by means of random sample of the transportation network company's records related to transportation network drivers:
 - a. No more than two times in a year's time.
 - b. At an agreed upon location.
 - c. Notwithstanding subdivision a, in a reasonable timeframe to investigate a complaint related to public safety or a violation of this Act, if the department provides details on the nature of the complaint.

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2. The department may impose a civil penalty of up to five hundred dollars for each violation of this chapter.

Page 7, line 3, after the underscored period insert "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."

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation network
3 company networks and services, priority of coverage, and minimum limits; and to declare an
4 emergency.

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

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

8 **26.1-40.1-01. Definitions.**

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

- 10 1. "Application off stage" of operation means the time period when the driver is operating
11 the vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the
14 online-enabled application of a transportation network company and available for hire
15 but not engaged and there is no passenger on board.
- 16 3. "Personal injury protection" means basic no-fault benefits as defined under
17 subsection 2 of section 26.1-41-01.
- 18 4. "Engaged stage" means the time period from the moment a participating driver
19 accepts a ride request on the transportation network company online-enabled
20 application or platform until the driver completes the transaction on the online-enabled
21 application or platform or until the ride is complete, whichever is later.
- 22 ~~4.5. "Participating driver" or "driver" means any person who uses a vehicle in connection~~
23 ~~with a transportation network company's online-enabled application or platform to~~
24 ~~connect with passengers.~~ an individual who:

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- 1 a. Receives connections to potential passengers and related services from a
2 transportation network company in exchange for payment or a fee to the
3 transportation network company; and
4 b. Uses a personal vehicle to offer or provide prearranged transportation services to
5 a passenger upon connection through an online-enabled application or platform
6 controlled by a transportation network company in return for compensation or
7 payment of a fee.

8 ~~5.6.~~ "Passengers on-board stage" means the time period when there are passengers in the
9 vehicle pursuant to the driver's participation in a transportation network company.

10 ~~6.7.~~ "Transportation network company" means a person operating in this state ~~that~~
11 ~~provides prearranged transportation services for compensation using an~~
12 ~~online-enabled application or platform to connect passengers with drivers using a~~
13 ~~personal vehicle.~~ which uses an online-enabled application or platform to connect a
14 passenger with an independent participating driver who provides prearranged
15 transportation services using a personal vehicle. A transportation network company
16 may not be deemed to control, direct, or manage the personal vehicles or participating
17 drivers that connect to the transportation network company online-enabled application
18 or platform, unless agreed to by written contract.

19 ~~7.8.~~ "Transportation network company insurance" means an insurance policy that covers a
20 driver's use of a vehicle in connection with a transportation network company's
21 online-enabled application or platform.

22 **26.1-40.1-02. Required disclosures.**

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

30 2. A transportation network company shall disclose in writing or electronic form to
31 participating drivers, as part of its agreement with those drivers, of when the driver's

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1 personal automobile insurance policy may not provide collision or comprehensive
2 coverage, under the agreement.

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

6 **26.1-40.1-03. Coverage required when transportation network company application is**
7 **engaged until completion of ride when the passenger has exited the vehicle.**

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

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

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

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

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

21 b. ~~Transportation network company insurance coverage provided under this section~~
22 ~~also provides for uninsured motorist coverage and underinsured motorist~~
23 ~~coverage in the amount of one million dollars anytime the driver has~~
24 ~~transportation network company passengers on board.~~ Transportation network
25 company insurance coverage provided under this section for uninsured motorist
26 coverage must meet the requirements under section 26.1-40-15.2, which is
27 primary coverage.

28 c. Transportation network company insurance coverage provided under this section
29 for underinsured motorist coverage must meet the requirements under section
30 26.1-40-15.3, which is primary coverage.

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- 1 e.d. Transportation network company insurance coverage must provide primary
2 personal injury protection to drivers, passengers, and pedestrians ~~when required~~
3 under chapter 26.1-41.
- 4 d.e. The primary insurer, in the case of insurance coverage provided under
5 subdivision a, has the sole duty to defend and indemnify the insured.
- 6 e.f. Coverage under a transportation network company insurance policy may neither
7 be dependent on a driver's personal automobile insurance policy carrier first
8 denying a claim nor a personal automobile insurance policy carrier being required
9 to first deny a claim.
- 10 f.g. In every instance where if transportation network company insurance maintained
11 by a participating driver to fulfill the insurance obligations of this section has
12 excluded coverage according to its policy or ceased to exist, the transportation
13 network company shall provide the coverage required by this section beginning
14 with the first dollar of a claim.

15 26.1-40.1-04. Insurance coverage during the application on stage with no passengers
16 in vehicle.

- 17 1. During the application on stage, the transportation network company insurance must
18 include:
- 19 a. Motor vehicle liability coverage that is primary coverage. The coverage must
20 include at least fifty thousand dollars per person and one hundred thousand
21 dollars per incident for death and bodily injury and at least twenty-five thousand
22 dollars for property damage.
- 23 b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary
24 coverage.
- 25 c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary
26 coverage.
- 27 d. Personal injury protection under chapter 26.1-41 which is primary coverage.
- 28 2. The requirements for coverage under this section may be satisfied by:
- 29 a. Transportation network company insurance maintained by a participating driver;
30 b. Transportation network company insurance maintained by a transportation
31 network company; or

1 c. Any combination of subsections a and b.

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

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

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

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

14 **26.1-40.1-05. Automobile insurers.**

15 Insurers that write personal automobile insurance may allow no-fault insurance coverage to
16 be conditional on transportation network company no-fault insurance coverage under sections
17 26.1-40.1-03 and 26.1-40.1-04.

18 **~~26.1-40.1-04~~26.1-40.1-06. Liability of transportation network company beyond**
19 **required limits.**

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

23 **~~26.1-40.1-05~~26.1-40.1-07. Discretionary personal insurance where offered by personal**
24 **automobile insurer.**

25 A personal automobile insurer may offer an automobile liability insurance policy, or an
26 amendment or endorsement to an existing policy that covers a private passenger vehicle or
27 similar type of vehicle with a passenger capacity of less than eight persons-or-less, including the
28 driver, while used in connection with a transportation network company's online-enabled
29 application or platform.

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1 ~~26.1-40.1-06~~26.1-40.1-08. Duty to cooperate.

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

8 ~~26.1-40.1-07. Confidentiality of passenger personal information.~~

9 ~~A transportation network company may not disclose any personally identifiable information~~
10 ~~of a transportation network company passenger except under a legal obligation or for payment~~
11 ~~processing. For any other disclosure, the transportation network company must obtain the~~
12 ~~passenger's written consent on a separate form specifically addressing passenger personal~~
13 ~~information before the company may disclose the passenger's personally identifiable~~
14 ~~information.~~

15 ~~26.1-40.1-08~~26.1-40.1-09. 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~~26.1-40.1-10. Proof of insurance.

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

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

1 **26.1-40.1-1026.1-40.1-11. 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:

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- 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, a sexual offense, use of a motor vehicle to commit a
- 6 felony, a crime involving property damage, theft, an act of violence, or an act of
- 7 terror;
- 8 c. Is a match in the national sex offender registry database;
- 9 d. Does not possess a valid driver's license;
- 10 e. Does not possess proof of registration for the motor vehicle used to provide
- 11 transportation network company services;
- 12 f. Does not possess proof of automobile liability insurance for the motor vehicle
- 13 used to provide transportation network company services; or
- 14 g. Is not at least ~~eighteen~~twenty-one years of age.

15 **39-34-04. Records**Personally identifiable information.

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

20 ~~— 39-34-05. Confidentiality of passenger personal information.~~

21 ~~— A transportation network company may not disclose any personally identifiable information~~
22 ~~of a transportation network company passenger except under a legal obligation or for payment~~
23 ~~processing. For any other disclosure, the transportation network company must obtain the~~
24 ~~passenger's written consent on a separate form specifically addressing passenger personal~~
25 ~~information before the company may disclose the passenger's personally identifiable~~
26 ~~information.~~A transportation network company may not disclose any personally identifiable
27 information of a transportation network company passenger except pursuant to the publicly
28 disclosed terms of the transportation network company's privacy policy. For any other disclosure
29 not governed by the privacy policy, the transportation network company must obtain the
30 passenger's consent before the company may disclose the passenger's personally identifiable
31 information.

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1 39-34-05. Audit.

2 1. The department may audit the records of a transportation network company by means
3 of random sample of the transportation network company's records related to
4 transportation network drivers:

5 a. No more than two times in a year's time.

6 b. At an agreed upon location.

7 c. Notwithstanding subdivision a, in a reasonable timeframe to investigate a
8 complaint related to public safety or a violation of this Act, if the department
9 provides details on the nature of the complaint.

10 2. The department may impose a civil penalty of up to five hundred dollars for each
11 violation of this chapter.

12 **39-34-06. Controlling authority.**

13 Notwithstanding any other provision of law, transportation network companies and
14 transportation network company drivers are governed exclusively by this chapter and chapter
15 26.1-40.1 and any rules adopted by the department of transportation consistent with this
16 chapter and by the insurance commissioner under section 1 of this Act. A political subdivision
17 may not impose a tax on, or require a license for, a transportation network company or a
18 transportation network company driver or subject a transportation network company to the
19 political subdivision's rate, entry, operational, or other requirements. A political subdivision may
20 prohibit a transportation network company from operating without a state permit within the
21 jurisdiction of the political subdivision.

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

April 14, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1144

Page 6, after line 26, insert:

“39-34-06. 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:
 - a. A list of political subdivisions in which the transportation network company operates;
 - b. The number of drivers operating in each political subdivision;
 - c. The number of trips and passengers per political subdivision;
 - d. The number of vehicle crashes that occurred involving transportation network company drivers while operating in the passengers on-board stage;
 - e. Any traffic and criminal violations committed by transportation network company drivers while on duty; and
 - f. Any other information that the department may require consistent with this section.
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 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 is prohibited from operating within the state for 180 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.”

Page 6, line 27, replace “39-34-06” with “39-34-07”

Renumber accordingly.

April 14, 2015

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PROPOSED AMENDMENT TO HOUSE BILL NO. 1144 (v. 04000)

AMENDMENT #1

That the House accede to the Senate amendments as printed on page 1215 of the Senate Journal and page 851 of the House Journal and that House Bill No. 1144 be further amended as follows:

Page 1, line 3, after first semicolon insert "to provide a penalty:"

Page 7, line 25, replace:

"39-34-05. Audit.

1. The department may audit the records of a transportation network company by means of random sample of the transportation network company's records related to transportation network drivers:
 - a. No more than twice in a year's time.
 - b. At an agreed upon location.
 - c. Notwithstanding subdivision a, in a reasonable timeframe to investigate a complaint related to public safety or a violation of this Act, if the department provides details on the nature of the complaint.
2. The department may impose a civil penalty of up to five hundred dollars for each violation of this chapter." with

"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:

- a. A list of political subdivisions in which the transportation network company operates;
 - b. Number of accidents that were reported to the transportation network company during the passenger on-board stage;
 - c. Number and types of traffic violations and any other violations that were reported to the transportation network company during the passenger on-board stage; and
 - d. Any other information that the department may require consistent with this section.
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 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 is may be prohibited by the department of transportation from operating within the state for 180 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."

Sixty-fourth
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of North Dakota

ENGROSSED HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

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 insurance coverage of motor vehicles participating in transportation network
3 company networks and services, priority of coverage, and minimum limits; and to declare an
4 emergency.

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

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

8 **26.1-40.1-01. Definitions.**

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

- 10 1. "Application off stage" of operation means the time period when the driver is operating
11 the vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the
14 online-enabled application of a transportation network company and available for hire
15 but not engaged and there is no passenger on board.
- 16 3. "Engaged stage" means the time period from the moment a participating driver
17 accepts a ride request on the transportation network company online-enabled
18 application or platform until the driver completes the transaction on the online-enabled
19 application or platform or until the ride is complete, whichever is later.
- 20 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
21 with a transportation network company's online-enabled application or platform to
22 connect with passengers.an individual who:

- 1 a. Receives connections to potential passengers and related services from a
2 transportation network company in exchange for payment or a fee to the
3 transportation network company; and
4 b. Uses a personal vehicle to offer or provide prearranged transportation services to
5 a passenger upon connection through an online-enabled application or platform
6 controlled by a transportation network company in return for compensation or
7 payment of a fee.

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

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

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

21 ~~7.8.~~ "Transportation network company insurance" means an insurance policy that covers a
22 driver's use of a vehicle in connection with a transportation network company's
23 online-enabled application or platform.

24 **26.1-40.1-02. Required disclosures.**

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

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

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

8 **26.1-40.1-03. Coverage required when transportation network company application is**
9 **engaged until completion of ride when the passenger has exited the vehicle.**

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

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

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

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

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

23 b. ~~Transportation network company insurance coverage provided under this section~~
24 ~~also provides for uninsured motorist coverage and underinsured motorist~~
25 ~~coverage in the amount of one million dollars anytime the driver has~~
26 ~~transportation network company passengers on board.~~Transportation network
27 company insurance coverage provided under this section for uninsured motorist
28 coverage must meet the requirements under section 26.1-40-15.2, which is
29 primary coverage.

1 c. Transportation network company insurance coverage provided under this section
2 for underinsured motorist coverage must meet the requirements under section
3 26.1-40-15.3, which is primary coverage.

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

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

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

13 f.g. In every instance where if transportation network company insurance maintained
14 by a participating driver to fulfill the insurance obligations of this section has
15 excluded coverage according to its policy or ceased to exist, the transportation
16 network company shall provide the coverage required by this section beginning
17 with the first dollar of a claim.

18 26.1-40.1-04. Insurance coverage during the application on stage with no passengers
19 in vehicle.

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

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

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

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

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

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

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

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

4 c. Any combination of subdivisions a and b.

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

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

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

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

17 **26.1-40.1-05. Automobile insurers.**

18 Insurers that write personal automobile insurance may allow no-fault insurance coverage to
19 be conditional on transportation network company no-fault insurance coverage under sections
20 26.1-40.1-03 and 26.1-40.1-04.

21 **~~26.1-40.1-04~~26.1-40.1-06. Liability of transportation network company beyond**
22 **required limits.**

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

26 **~~26.1-40.1-05~~26.1-40.1-07. Discretionary personal insurance where offered by personal**
27 **automobile insurer.**

28 A personal automobile insurer may offer an automobile liability insurance policy, or an
29 amendment or endorsement to an existing policy that covers a private passenger vehicle or
30 similar type of vehicle with a passenger capacity of less than eight persons-or less, including the

1 driver, while used in connection with a transportation network company's online-enabled
2 application or platform.

3 ~~26.1-40.1-06~~26.1-40.1-08. Duty to cooperate.

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

10 ~~26.1-40.1-07. Confidentiality of passenger personal information.~~

11 ~~A transportation network company may not disclose any personally identifiable information~~
12 ~~of a transportation network company passenger except under a legal obligation or for payment~~
13 ~~processing. For any other disclosure, the transportation network company must obtain the~~
14 ~~passenger's written consent on a separate form specifically addressing passenger personal~~
15 ~~information before the company may disclose the passenger's personally identifiable~~
16 ~~information.~~

17 ~~26.1-40.1-08~~26.1-40.1-09. Financial responsibility.

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

20 ~~26.1-40.1-09~~26.1-40.1-10. Proof of insurance.

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

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

1 ~~26.1-40.1-10~~ 26.1-40.1-11. 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, a sexual offense, use of a motor vehicle to commit a
- 6 felony, a crime involving property damage, theft, an act of violence, or an act of
- 7 terror;
- 8 c. Is a match in the national sex offender registry database;
- 9 d. Does not possess a valid driver's license;
- 10 e. Does not possess proof of registration for the motor vehicle used to provide
- 11 transportation network company services;
- 12 f. Does not possess proof of automobile liability insurance for the motor vehicle
- 13 used to provide transportation network company services; or
- 14 g. Is not at least ~~eighteen~~twenty-one years of age.

15 **39-34-04. Records**Personally identifiable information.

16 ~~A transportation network company shall maintain individual trip records for at least one year~~

17 ~~from the date each trip was provided and transportation network company driver records at~~

18 ~~least until the six-year anniversary of the date on which a transportation network company~~

19 ~~driver's activation on the transportation network company digital network has ended.~~

20 ~~**39-34-05. Confidentiality of passenger personal information.**~~

21 ~~A transportation network company may not disclose any personally identifiable information~~

22 ~~of a transportation network company passenger except under a legal obligation or for payment~~

23 ~~processing. For any other disclosure, the transportation network company must obtain the~~

24 ~~passenger's written consent on a separate form specifically addressing passenger personal~~

25 ~~information before the company may disclose the passenger's personally identifiable~~

26 ~~information.~~ A transportation network company may not disclose any personally identifiable

27 information of a transportation network company passenger, except pursuant to the publicly

28 disclosed terms of the transportation network company's privacy policy. For any other disclosure

29 not governed by the privacy policy, the transportation network company must obtain the

30 passenger's consent before the company may disclose the passenger's personally identifiable

31 information.

1 39-34-05. Transportation network company reporting requirements - Legislative
2 management report - Penalty.

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

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

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

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

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

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

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

24 **39-34-06. Controlling authority.**

25 Notwithstanding any other provision of law, transportation network companies and
26 transportation network company drivers are governed exclusively by this chapter and chapter
27 26.1-40.1 and any rules adopted by the department of transportation consistent with this
28 chapter and by the insurance commissioner under section 1 of this Act. A political subdivision
29 may not impose a tax on, or require a license for, a transportation network company or a
30 transportation network company driver or subject a transportation network company to the
31 political subdivision's rate, entry, operational, or other requirements. A political subdivision may

1 prohibit a transportation network company from operating without a state permit within the
2 jurisdiction of the political subdivision.

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