

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 in writing or electronically to the
23 driver instructing the driver to notify the driver's personal automobile insurer of a the
24 driver's participation in the transportation network ~~directly to the driver's personal~~
25 ~~automobile insurer unless that insurer is providing transportation network company~~
26 ~~insurance to the driver.~~

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, that~~

1 provides for the following requirements that apply to transportation network company
2 insurance during the engaged stage and during the passenger on-board stage.

3 a. Transportation network company liability insurance is primary and in the amount
4 of one million dollars for death, personalbodily injury, and property damage. The
5 requirements for the coverage required by this subdivision may be satisfied by
6 any of the following:

7 (1) Transportation network company insurance maintained by a participating
8 driver.

9 (2) Transportation network company insurance maintained by a transportation
10 network company.

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

12 b. Transportation network company insurance coverage provided under this section
13 also provides for uninsured motorist coverage and underinsured motorist
14 coverage in the amount of one million dollars anytime the driver has
15 transportation network company passengers on board.

16 c. Transportation network company insurance coverage must provide personal
17 injury protection to drivers, passengers, and pedestrians as providedwhen
18 required under chapter 26.1-41.

19 d. The primary insurer, in the case of insurance coverage provided under
20 subdivision a, has the sole duty to defend and indemnify the insured.

21 ~~e. A transportation network company may meet its obligations under this section~~
22 ~~through a policy obtained by a participating driver under paragraph 1 or 3 of~~
23 ~~subdivision a only if the transportation network company verifies that the policy is~~
24 ~~maintained by the driver and is specifically written to cover the driver's use of a~~
25 ~~vehicle in connection with a transportation network company's online-enabled~~
26 ~~application or platform.~~

27 e. Coverage under a transportation network company insurance policy may neither
28 be dependent on a driver's personal automobile insurance policy carrier first
29 denying a claim nor a personal automobile insurance policy carrier being required
30 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 **26.1-40.1-0726.1-40.1-05. 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 **26.1-40.1-0826.1-40.1-06. 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.

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;

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 political subdivision'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.~~