

HOUSE BILL NO. 1440

Introduced by

Representatives D. Ruby, Kasper, Ostlie, Schobinger, Tveit, Vigesaa

Senators Klein, Luick, Rust, Wobbema

1 A BILL for an Act to create and enact chapter 26.1-40.2 of the North Dakota Century Code,
2 relating to delivery network company insurance; and to amend and reenact sections 39-34-01,
3 39-34-02, 39-34-03, 39-34-04, and 39-34-06 of the North Dakota Century Code, relating to
4 transportation and delivery company networks.

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

6 **SECTION 1.** Chapter 26.1-40.2 of the North Dakota Century Code is created and enacted
7 as follows:

8 **26.1-40.2-01. 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 when the driver is operating the
11 vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the delivery network company.
- 13 2. "Application on stage" means the time the driver is logged onto the online-enabled
14 application of a delivery network company and available for hire but not engaged and
15 has no goods on board.
- 16 3. "Customer" means a person who uses a delivery network company's online-enabled
17 application or platform to connect with a delivery network company driver to receive a
18 prearranged delivery of goods from the driver using the driver's personal vehicle.
- 19 4. "Delivery network company" means a person operating in this state which uses an
20 online-enabled application or platform to connect a customer with an independent
21 participating driver who provides prearranged delivery services using a personal
22 vehicle. A delivery network company may not be deemed to control, direct, or manage
23 the personal vehicles or participating drivers that connect to the delivery network

1 company's online-enabled application or platform, unless agreed to by written
2 contract.

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

6 6. "Engaged stage" means the time from the moment a participating driver accepts a
7 delivery request on the delivery network company's online-enabled application or
8 platform until the driver completes the transaction on the online-enabled application or
9 platform or until the delivery is complete, whichever is later.

10 7. "Goods" means any item, including food, other than mail or a package to which
11 postage has been affixed.

12 8. "Goods on-board stage" means the time when there are goods in the vehicle pursuant
13 to the driver's participation in a delivery network company.

14 9. "Participating driver" or "driver" means an individual who:

15 a. Receives connections to a potential customer and related services from a
16 delivery network company in exchange for payment or a fee to the delivery
17 network company; and

18 b. Uses a personal vehicle to offer or provide prearranged delivery services to a
19 customer upon connection through an online-enabled application or platform
20 controlled by a delivery network company in return for compensation or payment
21 of a fee.

22 10. "Personal injury protection" means basic no-fault benefits as defined under section
23 26.1-41-01.

24 **26.1-40.2-02. Required disclosures.**

25 A delivery network company shall disclose in writing or electronic form to participating
26 drivers, as part of its agreement with those drivers:

27 1. The insurance coverage and limits of liability that the delivery network company
28 provides while the driver uses a vehicle in connection with a delivery network
29 company's online-enabled application or platform, and shall advise a participating
30 driver that the driver's personal automobile insurance policy may not provide coverage
31 under the agreement.

- 1 2. When the driver's personal automobile insurance policy may not provide collision or
2 comprehensive coverage, under the agreement.
- 3 3. An instruction to the driver to notify the driver's personal automobile insurer of the
4 driver's participation in the delivery network.
- 5 4. A notice that:
- 6 a. The driver's personal automobile insurance policy may exclude coverage for
7 delivery services and the driver's personal auto policy may need to be revised,
8 endorsed, or changed to provide coverage for delivery services; and
- 9 b. Failure to revise, endorse, or change the driver's personal auto policy may result
10 in no coverage.

11 **26.1-40.2-03. Coverage required when delivery network company application is**
12 **engaged until completion of delivery of goods.**

- 13 1. A delivery network company and any participating driver shall maintain delivery
14 network company insurance that provides for the following requirements that apply to
15 delivery network company insurance during the engaged stage and during the goods
16 on-board stage.
- 17 a. Delivery network company liability insurance is primary and in the amount of at
18 least twenty-five thousand dollars per person and fifty thousand dollars per
19 incident for death and bodily injury and at least twenty-five thousand dollars for
20 property damage. The requirements for the coverage required by this subdivision
21 may be satisfied by any of the following:
- 22 (1) Delivery network company insurance maintained by a participating driver.
- 23 (2) Delivery network company insurance maintained by a delivery network
24 company.
- 25 (3) Any combination of paragraphs 1 and 2.
- 26 b. Delivery network company insurance coverage provided under this section for
27 uninsured motorist coverage must meet the requirements under section
28 26.1-40-15.2, which is primary coverage.
- 29 c. Delivery network company insurance coverage provided under this section for
30 underinsured motorist coverage must meet the requirements under section
31 26.1-40-15.3, which is primary coverage.

- 1 d. Delivery network company insurance coverage must provide primary personal
2 injury protection to drivers, passengers, and pedestrians under chapter 26.1-41.
3 e. The primary insurer, in the case of insurance coverage provided under
4 subdivision a, has the sole duty to defend and indemnify the insured.
5 f. Coverage under a delivery network company insurance policy may neither be
6 dependent on a driver's personal automobile insurance policy carrier first denying
7 a claim nor a personal automobile insurance policy carrier being required to first
8 deny a claim.
9 g. If delivery network company insurance maintained by a participating driver to
10 fulfill the insurance obligations of this section has excluded coverage according to
11 its policy or ceased to exist, the delivery network company shall provide the
12 coverage required by this section beginning with the first dollar of a claim.

13 **26.1-40.2-04. Insurance coverage during the application on stage with no goods in**
14 **vehicle.**

- 15 1. During the application on stage, the delivery network company insurance must
16 include:
17 a. Motor vehicle liability coverage that is primary coverage. The coverage must
18 include at least fifty thousand dollars per person and one hundred thousand
19 dollars per incident for death and bodily injury and at least twenty-five thousand
20 dollars for property damage.
21 b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary
22 coverage.
23 c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary
24 coverage.
25 d. Personal injury protection under chapter 26.1-41 which is primary coverage.
26 2. The requirements for coverage under this section may be satisfied by:
27 a. Delivery network company insurance maintained by a participating driver;
28 b. Delivery network company insurance maintained by a delivery network company;
29 or
30 c. Any combination of subdivisions a and b.
31 3. The following apply to insurance requirements under this section:

- 1 a. The primary insurer, in the case of insurance coverage provided under
2 subdivision a of subsection 1, has the sole duty to defend and indemnify the
3 insured.
- 4 b. Coverage under a delivery network company insurance policy may neither be
5 dependent on a driver's personal automobile insurance policy carrier first denying
6 a claim nor a personal automobile insurance policy carrier being required to first
7 deny a claim.
- 8 c. If delivery network company insurance maintained by a participating driver to
9 fulfill the insurance obligations of this section has excluded coverage according to
10 its policy or ceased to exist, the delivery network company shall provide the
11 coverage required by this section beginning with the first dollar of a claim.

12 **26.1-40.2-05. Liability of delivery network company beyond required limits.**

13 This chapter does not limit the liability of a delivery network company arising out of an
14 automobile accident involving a participating driver in any action for damages against a delivery
15 network company for an amount above the required insurance coverage.

16 **26.1-40.2-06. Discretionary personal insurance where offered by personal automobile**
17 **insurer.**

18 A personal automobile insurer may offer an automobile liability insurance policy, or an
19 amendment or endorsement to an existing policy that covers a private passenger vehicle or
20 similar type of vehicle with a passenger capacity of fewer than eight persons, including the
21 driver, while used in connection with a delivery network company's online-enabled application or
22 platform.

23 **26.1-40.2-07. Duty to cooperate.**

24 In a claims coverage investigation involving a participating driver, a delivery network
25 company or its insurer shall cooperate with insurers involved in the claims coverage
26 investigation to facilitate the exchange of information, including the provision of dates and times
27 at which an accident occurred involving a participating driver and the precise times that the
28 participating driver logged on and off the delivery network company's online-enabled application
29 or platform.

1 **26.1-40.2-08. Proof of insurance.**

2 A participating driver of a delivery network company shall carry proof of delivery network
3 company insurance coverage at all times during the driver's use of a vehicle in connection with
4 a delivery network company's online-enabled application or platform. In the event of an
5 accident, a participating driver shall provide this insurance coverage information to any other
6 party involved in the accident and to a police officer, upon request.

7 **26.1-40.2-09. Authorized or eligible carrier.**

8 Delivery network company insurance required by this chapter may be placed with an insurer
9 authorized to do business in the state or with a surplus lines insurer eligible under section
10 26.1-44-03.

11 **26.1-40.2-10. Does not supersede other requirements.**

12 This chapter may not be construed to limit application of any other provision of law.

13 **SECTION 2. AMENDMENT.** Section 39-34-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **39-34-01. Agent.**

16 The transportation network company or delivery network company must maintain a
17 registered agent with the secretary of state for service of process in this state.

18 **SECTION 3. AMENDMENT.** Section 39-34-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **39-34-02. Fare or fee charged for services.**

21 The transportation network company or delivery network company shall provide passengers
22 or customers with the applicable rates being charged and the option to receive an estimated
23 fare or fee before the passenger enters the transportation network company driver's vehicle or
24 before the customer finalizes the delivery request.

25 **SECTION 4. AMENDMENT.** Section 39-34-03 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **39-34-03. Transportation driver requirements.**

28 1. Before permitting an individual to act as a transportation network company driver or
29 delivery network company driver on its digital platform, the transportation network
30 company or delivery network company shall:

- 1 a. Require the individual to submit an application to the transportation network
2 company or delivery network company, which includes information regarding the
3 individual's address, age, driver's license, driving history, motor vehicle
4 registration, automobile liability insurance, and other information required by the
5 transportation network company or delivery network 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 or delivery network company may not permit an
13 individual to act as a transportation network company driver or delivery network
14 company driver on its digital platform who:
- 15 a. Has had more than three moving violations in the prior three-year period, or one
16 major violation in the prior three-year period, including attempting to evade the
17 police, reckless driving, or driving on a suspended or revoked license;
- 18 b. Has been convicted, within the past seven years, of driving under the influence of
19 drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a
20 felony, a crime involving property damage, theft, an act of violence, or an act of
21 terror;
- 22 c. Is a match in the national sex offender registry database;
- 23 d. Does not possess a valid driver's license;
- 24 e. Does not possess proof of registration for the motor vehicle used to provide
25 transportation network company or delivery network company services;
- 26 f. Does not possess proof of automobile liability insurance for the motor vehicle
27 used to provide transportation network company or delivery network company
28 services; or
- 29 g. Is not at least twenty-one years of age.

30 **SECTION 5. AMENDMENT.** Section 39-34-04 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **39-34-04. Personally identifiable information.**

2 A transportation network company or delivery network company may not disclose any
3 personally identifiable information of a transportation network company passenger or delivery
4 network company customer, except pursuant to the publicly disclosed terms of the
5 transportation network company's or delivery network company's privacy policy. For any other
6 disclosure not governed by the privacy policy, the transportation network company or delivery
7 network company must obtain the passenger's consent before the company may disclose the
8 passenger's or customer's personally identifiable information.

9 **SECTION 6. AMENDMENT.** Section 39-34-06 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **39-34-06. Controlling authority.**

- 12 1. Notwithstanding any other provision of law, transportation network companies and
13 transportation network company drivers are governed exclusively by this chapter,
14 chapter 26.1-40.1, and any rules adopted consistent with this chapter and adopted by
15 the insurance commissioner under chapter 26.1-40.1.
- 16 2. A political subdivision may not impose a tax on, or require a license for, a
17 transportation network company ~~or a~~ transportation network company driver, delivery
18 network company, or a delivery network company driver or subject a transportation
19 network company or delivery network company to the political subdivision's rate, entry,
20 operational, or other requirements.
- 21 3. This chapter may not be construed to limit the ability of a commercial service airport or
22 the governing body of a commercial service airport to enter an operating agreement
23 with a transportation network company which authorizes operational access to the
24 commercial service airport. An operating agreement entered under this subsection
25 may provide guidelines for entry, pick-up, drop-off, fees, and other airport operational
26 procedures required by the commercial service airport for the transportation network
27 company to be allowed operational access to the commercial service airport. As used
28 in this subsection, "commercial service airport" means a public airport that has at least
29 two thousand five hundred passenger boardings per calendar year and receives
30 scheduled passenger aircraft service.