

February 2, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1440

Page 1, remove lines 6 through 23

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 29

Page 6, replace lines 1 through 12 with:

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

26.1-40.2-01. Definitions.

1. "Delivery available period" means the period when a driver:
 - a. Has logged on to a digital network and is available to receive requests to provide delivery services from a delivery network company;
 - b. Is operating a personal vehicle; and
 - c. Is not providing delivery services or operating in the delivery service period.
2. "Delivery network company" means a corporation, partnership, sole proprietorship, or other entity that operates in the state and uses a digital network to connect a delivery network company customer to a delivery network driver to provide delivery services. A delivery network company may not be deemed to control, direct, or manage the personal vehicle or delivery network drivers that connect to the delivery network company's digital network, unless agreed to by written contract.
3. "Delivery network company customer" means a person that orders the delivery of goods, where the delivery network driver delivers the goods at the direction of the delivery network company customer.
4. "Delivery network driver" means an individual who provides delivery services through a delivery network company's digital network using a personal vehicle.
5. "Delivery service period" means the period:
 - a. Beginning when a driver starts operating a personal vehicle en route to pick up a good for a delivery as documented via a digital network controlled by a delivery network company;
 - b. Continuing while the driver transports the requested delivery; and
 - c. Ending upon delivery of the requested good to:

- (1) The delivery network company customer or the last delivery network company customer in a series of deliveries; or
 - (2) A location designated by the delivery network company, including for purposes of returning the good.
6. "Delivery services" means the fulfillment of delivery requests made by a delivery network company customer through a digital network, including the pickup of any good and the delivery of the good to a delivery network company customer by a delivery network driver. Delivery services may include a series of deliveries to different customers.
7. "Digital network" means any online-enabled application, software, website, or system offered or used by a delivery network company which enables deliveries with delivery network drivers.
8. "Personal injury protection" means basic no-fault benefits as defined under section 26.1-41-01.
9. "Personal vehicle" means a vehicle that is:
 - a. Used by a delivery network driver to provide delivery services via a digital network; or
 - b. Owned, leased, or otherwise authorized for use by the delivery network driver.

26.1-40.2-02. Required disclosures.

A delivery network company shall disclose in writing or electronic form to a participating delivery network driver, as part of the delivery network company's agreement with the driver:

1. The insurance coverage, including the types of coverage and the limits for each coverage, the delivery network company provides while the driver uses a personal vehicle in connection with a delivery network company's digital network; and
2. That the driver's automobile insurance policy might not provide any coverage during the delivery available period, if it applies, or the delivery service period.

26.1-40.2-03. Insurance requirements - Delivery network companies and delivery network company drivers.

1. A delivery network company shall ensure that during the delivery available period, if it applies, and during the delivery service period, primary automobile liability insurance is in place which recognizes the driver is a delivery network driver or that does not exclude coverage for use of a personal vehicle to provide deliveries.
2. During the delivery service period and delivery available period, the delivery network driver, delivery network company, or any combination of the two shall maintain:

- a. Insurance that insures the driver for liability to third parties of not less than fifty thousand dollars for damages arising out of bodily injury sustained by any one person in an accident, of not less than one hundred thousand dollars for damages arising out of bodily injury sustained by all persons injured in an accident, and of not less than twenty-five thousand dollars for all damages arising out of damage to or destruction of property in an accident;
 - b. Uninsured motorist coverage under section 26.1-40-15.2;
 - c. Underinsured motorist coverage under section 26.1-40-15.3; and
 - d. Personal injury protection under chapter 26.1-41.
3. If the insurance coverage maintained by a delivery network driver under subsections 1 and 2 has lapsed or does not provide the required coverage, insurance maintained by the delivery network company must provide the coverage required by subsections 1 and 2 beginning with the first dollar of a claim and the insurance maintained by the delivery network company has the duty to defend the claim.
 4. Coverage under an automobile insurance policy maintained by the delivery network company may not be dependent on another motor vehicle liability insurer first denying a claim, or on another motor vehicle liability insurance policy being required to first deny a claim.
 5. Insurance coverage required by this section may be obtained from an insurance company duly licensed to transact business under title 26.1 or by an eligible surplus lines broker.
 6. During a claim coverage investigation, a delivery network company or a delivery network company's insurer shall cooperate with all insurers involved in the claim coverage investigation to facilitate the exchange of information and shall immediately provide upon request by directly involved parties or any insurer the precise times a delivery network driver began and ended the delivery available period and delivery service period on the delivery network company's digital network in the twelve-hour period immediately preceding the accident and in the twelve-hour period immediately following the accident. An insurer potentially providing the coverage required in this section shall disclose upon request by any other insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained to satisfy the requirements of this section.
 7. The insurer of a delivery network company providing coverage under subsections 1 and 2 shall assume primary liability for a claim when a dispute exists as to when the delivery available period and the delivery service period began or ended and the delivery network company does not have available, did not retain, or fails to provide the information required by subsection 6.

26.1-40.2-04. Exclusions in motor vehicle liability insurance policies.

1. An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or

indemnify for any injury or loss occurring during the delivery available period and the delivery service period, including:

- a. Liability coverage for bodily injury and property damage;
 - b. Personal injury protection coverage under chapter 26.1-41;
 - c. Uninsured and underinsured motorist coverage;
 - d. Medical payments coverage;
 - e. Comprehensive physical damage coverage; and
 - f. Collision physical damage coverage.
2. This chapter does not:
- a. Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use which excludes coverage for motor vehicles used for delivery or for any business use.
 - b. Invalidate, limit, or restrict an insurer's ability to underwrite any insurance policy.
 - c. Invalidate, limit, or restrict an insurer's ability to cancel and nonrenew policies.
3. A motor vehicle liability insurer that defends or indemnifies a claim against a delivery network driver who is excluded under the terms of the insurer's policy may seek recovery against the insurer providing coverage under subsections 1 and 2 of section 26.1-40.2-03 if the claim:
- a. Occurs during the delivery available period or the delivery service period; and
 - b. Is excluded under the terms of its policy.

26.1-40.2-05. Proof of insurance.

1. A delivery network driver shall carry proof of insurance required at all times while using a personal vehicle in connection with a digital network. If an accident occurs, a delivery network driver shall, upon request, provide insurance coverage information to a directly interested party, automobile insurer, and investigating law enforcement officer.
2. The insurance coverage information may be displayed or provided in either paper or electronic form. A delivery network driver shall, upon request, disclose to a directly interested party, automobile insurer, and investigating law enforcement officer whether the driver was operating during the delivery available period or the delivery service period at the time of the accident.

26.1-40.2-06. Authorized or eligible carrier.

Insurance coverage required by this chapter may be obtained from an insurance company licensed to transact business under title 26.1.

26.1-40.2-07. Interaction with other law.

This chapter does not limit the scope of federal or state law regarding delivery or transport of goods. A delivery made under this chapter which is subject to such other law also must comply with the requirements of that law. If there is a conflict between this chapter and another law dealing with the delivery or transport of goods, the other law prevails."

Page 7, line 29, overstrike "twenty-one" and insert immediately thereafter "eighteen"

Renumber accordingly