

CARRIAGE

CHAPTER 131

SENATE BILL NO. 2251
(Olin, Lips)

RIDESHARING ARRANGEMENTS

AN ACT to define ridesharing arrangements; to create and enact a new subdivision to subsection 2 of section 26-41-10, new subsections to sections 32-12.1-03 and 49-18-02 of the North Dakota Century Code, relating to priority of applicable security for basic no-fault benefits, political subdivision liability, and motor carrier regulation; and to amend and reenact sections 3-03-09, 8-07-01, 32-12.1-15, subsection 2 of section 34-06-01, subsections 3 and 6 of section 39-01-01, subsection 3 of section 39-01-08, and subsection 27 of section 40-05-01 of the North Dakota Century Code, relating to agents' negligence, common carriers, state and political subdivision liability, minimum wages and hours, motor vehicle regulation, and powers of municipalities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. RIDESHARING ARRANGEMENT - DEFINITION.

1. "Carpool" means a ridesharing arrangement in a private passenger automobile or station wagon by two or more persons, regardless of their relationship to each other, to and from common or nearby employment sites. The term includes:
 - a. Shared-driving, in which the car of each person in the arrangement is used and alternated on an agreed upon schedule; and
 - b. Shared-riding, in which the same car is used during the arrangement and each member contributes an agreed-upon amount to compensate for the cost of operating the pool.
2. "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of the driver or owner and is not provided for pecuniary gain. The term shall

include ridesharing arrangements known as carpools and vanpools.

3. "Vanpool" means a ridesharing arrangement by a prearranged membership group whose members are picked up at specified points to be taken to and from common or nearby employment sites. The vanpool members each contribute an agreed-upon amount to compensate for the cost of operating the pool, the motor vehicle used is other than a passenger automobile or station wagon, and is manufactured and equipped to carry not more than fifteen persons, including the driver. The vanpool may be owner-operated or employer-sponsored.

SECTION 2. AMENDMENT. Section 3-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3-03-09. NEGLIGENCE OF AGENT. Unless required by or under the authority of law to employ that particular agent, a principal is responsible to third persons for the negligence of ~~his~~ the principal's agent in the transaction of the business of the agency, including wrongful acts committed by ~~such~~ the agent in and as a part of the transaction of ~~such~~ the business, and for ~~his~~ the agent's willful omission to fulfill the obligations of the principal. The principal is not responsible for ~~no other wrongs committed by his agent--unless--he--has--authorized--or--ratified--them,--even--though--they--are--committed--while--the--agent--is--engaged--in--his--service--:~~

1. Other wrongs committed by the principal's agent unless the principal has authorized or ratified them, even though they are committed while the agent is engaged in the principal's service.
2. Injuries or death to passengers and other persons or damage to properties resulting from:
 - a. Operation or use of a motor vehicle, not owned, leased, or contracted for by the principal in a ridesharing arrangement, as defined in section 1 of this Act.
 - b. Information, incentives, or other encouragement to agents to participate in a ridesharing arrangement, as defined in section 1 of this Act.

SECTION 3. AMENDMENT. Section 8-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8-07-01. COMMON CARRIER - DEFINITION. Everyone who offers to the public to carry persons, property, or messages is a common carrier of whatever ~~he--thus~~ or whoever the person offers to carry. Provided, everyone who offers to carry persons under a ridesharing arrangement, as defined in section 1 of this Act, is not a common carrier of whoever the person offers to carry.

SECTION 4. A new subdivision to subsection 2 of section 26-41-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

As to any person injured while occupying a secured motor vehicle which is transporting persons under a ridesharing arrangement, as defined in section 1 of this Act, the benefit shall be payable by the basic no-fault insurer affording benefits to the injured person as the owner of a secured motor vehicle or as a relative of the owner of a secured motor vehicle; and, if there is no basic no-fault insurer affording benefits to the injured person, then the benefits shall be payable to the injured person by the basic no-fault insurer of the secured motor vehicle.

SECTION 5. A new subsection to section 32-12.1-03 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Notwithstanding the provisions of this chapter, a political subdivision or its insurance carrier is not liable for any claim arising out of the conduct of a ridesharing arrangement, as defined in section 1 of this Act.

SECTION 6. AMENDMENT. Section 32-12.1-15 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12.1-15. STATE AGENCIES AUTHORIZED TO PURCHASE INSURANCE.

1. The state ~~of North Dakota~~ or any state agency, bureau, or department ~~is hereby authorized to~~ may insure against liabilities provided by this chapter for its own protection and for the protection of any state employee. If a premium savings will result therefrom, ~~such~~ the policies of insurance may be taken out for more than one year, but in no event beyond a period of five years.
2. If the state or any state agency, bureau, or department shall purchase insurance pursuant to this section, the purchaser shall waive its immunity to suit only to the types of insurance coverage purchased and only to the extent of the policy limits of ~~such~~ the coverage. Provided, the purchaser or its insurance carrier is not liable for claims arising out of the conduct of a ridesharing arrangement, as defined in section 1 of this Act.
3. The insurance coverage authorized by this chapter may be in addition to insurance coverage which may be purchased by the state or any state agency, bureau, or department,

or a political subdivision, under any other provision of law.

4. The attorney general shall appear and defend all actions and proceedings against any state employee for alleged negligence within the scope of employment in any court in this state or of the United States when the agency, bureau, or department employing ~~such~~ the employee has not purchased liability insurance coverage pursuant to law. If both parties to an action are state employees, the attorney general shall determine which state employee ~~he~~ the attorney general shall represent, and the other employee may employ counsel to represent ~~him~~ the employee. If one of the adverse parties is a state agency, bureau, or department, the attorney general shall appear and defend the agency, bureau, or department in the manner otherwise provided by law.

SECTION 7. AMENDMENT. Subsection 2 of section 34-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Employee" includes any individual employed by an employer. Provided, an individual is not an "employee" while engaged in a ridesharing arrangement, as defined in section 1 of this Act.

SECTION 8. AMENDMENT. Subsections 3 and 6 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 1 of this Act, is not a "bus".
6. "Commercial passenger transportation" means the carriage of passengers for hire, except that ~~such~~ the term shall not include:
 - a. The carriage of passengers within the limits of a city~~+-of~~.
 - b. The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits ~~thereof~~ of the city.
 - c. The carriage of passengers under a ridesharing arrangement, as defined in section 1 of this Act.

* SECTION 9. AMENDMENT. Subsection 3 of section 39-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. If insurance is purchased pursuant to subsection 1, then the purchaser waives its immunity against liability only to the types of its insurance coverage and only to the extent of the policy limits of such the coverage. Provided, the purchaser or its insurance carrier is not liable for claims arising out of the conduct of a ridesharing arrangement, as defined in section 1 of this Act.

SECTION 10. AMENDMENT. Subsection 27 of section 40-05-01 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27. Regulation and license of draymen, taxi drivers, porters, and others pursuing like occupations. To license, tax, regulate, and prescribe the rates charged by draymen, parcel delivery men, busdrivers, taxi drivers, porters, expressmen, watermen, and others pursuing like occupations, and the operation of taxicabs. Provided, all motor vehicles used in ridesharing arrangements, as defined in section 1 of this Act, are not taxicabs.

SECTION 11. A new subsection to section 49-18-02 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To the transportation of persons in a motor vehicle under a ridesharing agreement, as defined in section 1 of this Act.

Approved March 25, 1981

* NOTE: Section 39-01-08 was also amended by section 24 of House Bill No. 1069, chapter 91.