

House Substitute for SENATE BILL No. 117

AN ACT regulating traffic; relating to transportation network companies, transportation network company services, regulation.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the Kansas transportation network company services act.

Sec. 2. Except as otherwise provided, as used in the Kansas transportation network company services act:

(a) "Act" means the Kansas transportation network company services act.

(b) "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.

(c) "Personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing a prearranged ride and is:

(1) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(2) not a taxicab, limousine or for-hire vehicle.

(d) "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.

(e) "Transportation network company" or "TNC" means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to this act and operating in Kansas 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.

(f) "Transportation network company driver" or "driver" means an individual who:

(1) 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

(2) uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company and receives, in exchange for providing the passenger a ride, compensation that exceeds the individual's cost to provide the ride.

(g) "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.

(h) "Vehicle owner" means the owner of a personal vehicle.

Sec. 3. Transportation network companies or drivers shall not be considered motor carriers, private motor carriers or public motor carriers of passengers as those terms are defined in K.S.A. 66-1,108, and amendments thereto, nor determined to provide taxicab or for-hire vehicle service so long as such TNC or driver meets the requirements of this act. In addition, a driver shall not be required to register the personal vehicle such driver uses for prearranged rides as a commercial or for-hire vehicle.

Sec. 4. The TNC must maintain an agent for service of process in the state of Kansas.

Sec. 5. A TNC may charge a fare for the services provided to riders, provided that, if a fare is charged, the TNC shall disclose to riders the fare calculation method on its digital network. The TNC shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the driver's personal vehicle.

Sec. 6. The TNC's digital network shall display a picture of the driver, and the license plate number of the personal vehicle utilized for providing the prearranged ride before the rider enters the driver's vehicle.

Sec. 7. Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the rider that lists:

- (a) The origin and destination of the trip;
- (b) the total time and distance of the trip; and
- (c) an itemization of the total fare paid, if any.

Sec. 8. On January 1, 2016, and thereafter, a transportation network company driver or vehicle owner or transportation network company on the driver's behalf shall maintain primary automobile insurance that:

(a) Recognizes that the driver is a transportation network company driver and covers the driver 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.

(b) (1) 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:

(A) 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; and

(B) primary automobile liability insurance that meets the minimum coverage requirements where required by K.S.A. 40-284 and 40-3107(f), and amendments thereto.

(2) The coverage requirements of this subsection (b) may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver or vehicle owner ;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of subparagraphs (A) and (B).

(c) (1) The following automobile insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

(A) Primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury and property damage;

(B) primary automobile liability insurance that meets the minimum coverage requirements where required by K.S.A. 40-284 and 40-3107(f), and amendments thereto.

(2) The coverage requirements of this subsection (c) may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver or vehicle owner;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of subparagraphs (A) and (B).

(d) If insurance maintained by the driver or vehicle owner in subsection (b) or (c) has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim and shall have the duty to defend such claim.

(e) 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.

(f) Insurance required by this section may be placed with an insurer licensed under K.S.A. 40-208 or 40-209, and amendments thereto, or with a surplus lines insurer eligible under K.S.A. 40-246b, and amendments thereto.

(g) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a personal vehicle under the Kansas automobile injury reparations act, K.S.A. 40-3101 et seq., and amendments thereto.

(h) A transportation network company driver shall carry proof of coverage satisfying subsections (b) and (c) with such driver at all times during such driver's 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 K.S.A. 8-173, and amendments thereto. Upon such request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers and investigating police officers, whether such driver was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

Sec. 9. 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:

- (a) 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
- (b) 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.

Sec. 10. (a) Insurers that write automobile insurance in Kansas may exclude any and all coverage afforded under the driver's or vehicle 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:

- (1) Liability coverage for bodily injury and property damage;
- (2) personal injury protection coverage as defined in K.S.A. 40-3107(f), and amendments thereto;
- (3) uninsured and underinsured motorist coverage;
- (4) medical payments coverage;
- (5) comprehensive physical damage coverage; and
- (6) collision physical damage coverage.

Such exclusions shall apply notwithstanding any requirement under the Kansas automobile injury reparations act, K.S.A. 40-3101 et seq., and amendments thereto. 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.

(b) Nothing in this section shall be deemed to preclude an insurer from providing coverage for the transportation network company driver's vehicle, if such insurer chooses to do so by contract or endorsement.

(c) Automobile insurers that exclude coverage as permitted in subsection (a) shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this act shall be deemed to invalidate or limit an exclusion contained in a policy.

(d) An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy as permitted in subsection (a) 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 8, and amendments thereto, at the time of loss.

(e) In a claims coverage investigation, transportation network companies and any insurer potentially providing coverage under section 8, and amendments thereto, 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 12-hour period immediately preceding and in the 12-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 8, and amendments thereto.

Sec. 11. (a) The TNC shall implement a zero tolerance policy on the use of drugs or alcohol while a driver is providing a prearranged ride or is logged into the TNC's digital network but is not providing a prearranged ride, and shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(b) Upon receipt of such rider complaint alleging a violation of the zero tolerance policy, the TNC shall immediately suspend such driver's access to the TNC's digital network and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(c) The TNC shall maintain records relevant to the enforcement of this requirement for a period of at least two years from the date that a rider complaint is received by the TNC.

Sec. 12. (a) Prior to permitting an individual to act as a driver on its digital network, the TNC shall:

(1) Require the individual to submit an application to the TNC, which includes information regarding the applicant's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance and other information required by the TNC;

(2) obtain a local and national criminal background check on the individual, conducted by the Kansas bureau of investigation;

(A) fingerprints submitted pursuant to this section shall be released by the attorney general to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation; and

(B) each individual shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the individual and whether the individual has been convicted of any crime that would disqualify the individual from being a transportation network driver under this act;

(3) obtain and review a driving history research report for such individual; and

(4) require the individual, if such individual's personal vehicle is subject to a lien, to provide proof of comprehensive and collision insurance coverage for such personal vehicle that covers the period when the individual is logged on to a TNC's digital network but not engaged in a prearranged ride and when the individual is engaged in a prearranged ride to the lien holder of such personal vehicle and to the TNC.

(b) The TNC shall not permit an individual to act as a driver on its digital network who:

(1) Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license;

(2) 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, or theft, acts of violence, or acts of terror;

(3) is a match in the national sex offender registry database;

(4) does not possess a valid driver's license;

(5) does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;

(6) does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride; or

(7) is not at least 19 years of age.

Sec. 13. The TNC shall require that any personal vehicle that a driver will use to provide a prearranged ride meets the equipment requirements applicable to private personal vehicles under article 17 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 14. A driver shall only provide prearranged rides and shall not solicit or accept street hails.

Sec. 15. The TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify drivers of such policy.

Drivers shall not solicit or accept cash payments from riders. Any payment for prearranged rides shall be made only electronically using the TNC's digital network.

Sec. 16. (a) The TNC shall adopt a policy of non-discrimination with respect to riders and potential riders and notify drivers of such policy.

(b) Drivers shall comply with all applicable laws regarding non-discrimination against riders or potential riders.

(c) Drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(e) A TNC shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible TNC service in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

Sec. 17. A TNC shall maintain:

(a) Individual trip records for at least one year from the date each trip was provided; and

(b) driver records at least until the one-year anniversary of the date on which a TNC driver's activation on the digital network has ended.

Sec. 18. A TNC shall not disclose a rider's personally identifiable information to a third party unless: (a) The rider consents or disclosure is required by a legal obligation; or (b) disclosure is required to protect or defend the terms of use of the service or to investigate violations of those terms. In addition to the foregoing, a TNC shall be permitted to share a rider's name or telephone number with the driver providing pre-arranged rides to such rider in order to facilitate correct identification of the rider by the driver, or to facilitate communication between the rider and the driver.

Sec. 19. (a) A TNC shall disclose to its TNC drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital network or software application:

“If the vehicle that you plan to use to provide transportation network company services has a lien against it, using the vehicle for transportation network company services may violate the terms of your contract with the lienholder.”

(b) If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. The commission shall not assess any fines as a result of a violation of this subsection.

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Sec. 20. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.