

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact chapters 26.1-40.1 and 39-34 of the North Dakota Century
2 Code, relating to insurance coverage of motor vehicles participating in transportation network
3 company networks and services, priority of coverage, and minimum limits.

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

5 **SECTION 1.** Chapter 26.1-40.1 of the North Dakota Century Code is created and enacted
6 as follows:

7 **26.1-40.1-01. Definitions.**

8 As used in this chapter and chapter 39-34, unless the context otherwise requires:

- 9 1. "Application off stage" of operation means the time period when the driver is operating
10 the vehicle for personal noncommercial reasons and not engaged in any manner or
11 operation for the transportation network company.
- 12 2. "Application on stage" means the time period the driver is logged onto the
13 online-enabled application of a transportation network company and available for hire
14 but not engaged and there is no passenger on board.
- 15 3. "Engaged stage" means the time period from the moment a participating driver
16 accepts a ride request on the transportation network company online-enabled
17 application or platform until the driver completes the transaction on the online-enabled
18 application or platform or until the ride is complete, whichever is later.
- 19 4. "Participating driver" or "driver" means any person who uses a vehicle in connection
20 with a transportation network company's online-enabled application or platform to
21 connect with passengers.
- 22 5. "Passengers on-board stage" means the time period when there are passengers in the
23 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 an insurance policy that covers a
6 driver's use of a vehicle in connection with a transportation network company's
7 online-enabled application or platform.

8 **26.1-40.1-02. Required disclosures.**

- 9 1. A transportation network company shall disclose in writing or electronic form to
10 participating drivers, as part of its agreement with those drivers, the insurance
11 coverage and limits of liability that the transportation network company provides while
12 the driver uses a vehicle in connection with a transportation network company's
13 online-enabled application or platform and shall advise a participating driver that the
14 driver's personal automobile insurance policy may not provide coverage under the
15 agreement.
- 16 2. A transportation network company shall disclose in writing or electronic form to
17 participating drivers, as part of its agreement with those drivers, of when the driver's
18 personal automobile insurance policy may not provide collision or comprehensive
19 coverage, under the agreement.
- 20 3. A transportation network company shall provide notice in writing or electronically to the
21 driver instructing the driver to notify the driver's personal automobile insurer of the
22 driver's participation in the transportation network.

23 **26.1-40.1-03. Coverage required when transportation network company application is**
24 **engaged until completion of ride when the passenger has exited the vehicle.**

- 25 1. A transportation network company and any participating driver shall maintain
26 transportation network company insurance that provides for the following requirements
27 that apply to transportation network company insurance during the engaged stage and
28 during the passenger on-board stage.
- 29 a. Transportation network company liability insurance is primary and in the amount
30 of one million dollars for death, bodily injury, and property damage. The

1 requirements for the coverage required by this subdivision may be satisfied by
2 any of the following:

3 (1) Transportation network company insurance maintained by a participating
4 driver.

5 (2) Transportation network company insurance maintained by a transportation
6 network company.

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

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

12 c. Transportation network company insurance coverage must provide personal
13 injury protection to drivers, passengers, and pedestrians when required under
14 chapter 26.1-41.

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

17 e. Coverage under a transportation network company insurance policy may neither
18 be dependent on a driver's personal automobile insurance policy carrier first
19 denying a claim nor a personal automobile insurance policy carrier being required
20 to first deny a claim.

21 f. In every instance where transportation network company insurance maintained
22 by a participating driver to fulfill the insurance obligations of this section has
23 excluded coverage according to its policy or ceased to exist, the transportation
24 network company shall provide the coverage required by this section beginning
25 with the first dollar of a claim.

26 **26.1-40.1-04. Liability of transportation network company beyond required limits.**

27 This chapter does not limit the liability of a transportation network company arising out of an
28 automobile accident involving a participating driver in any action for damages against a
29 transportation network company for an amount above the required insurance coverage.

1 **26.1-40.1-05. Discretionary personal insurance where offered by personal automobile**
2 **insurer.**

3 A personal automobile insurer may offer an automobile liability insurance policy, or an
4 amendment or endorsement to an existing policy that covers a private passenger vehicle or
5 similar type of vehicle with a passenger capacity of eight persons or less, including the driver,
6 while used in connection with a transportation network company's online-enabled application or
7 platform.

8 **26.1-40.1-06. Duty to cooperate.**

9 In a claims coverage investigation involving a participating driver, a transportation network
10 company or its insurer shall cooperate with insurers that are involved in the claims coverage
11 investigation to facilitate the exchange of information, including the provision of dates and times
12 at which an accident occurred involving a participating driver and the precise times that the
13 participating driver logged on and off the transportation network company's online-enabled
14 application or platform.

15 **26.1-40.1-07. Confidentiality of passenger personal information.**

16 A transportation network company may not disclose any personally identifiable information
17 of a transportation network company passenger except under a legal obligation or for payment
18 processing. For any other disclosure, the transportation network company must obtain the
19 passenger's written consent on a separate form specifically addressing passenger personal
20 information before the company may disclose the passenger's personally identifiable
21 information.

22 **26.1-40.1-08. Financial responsibility.**

23 Transportation network company insurance that meets the requirements of this chapter is
24 deemed to satisfy the financial responsibility requirements of chapter 39-16.

25 **26.1-40.1-09. Proof of insurance.**

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

1 **26.1-40.1-10. Authorized or eligible carrier.**

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

5 **SECTION 2.** Chapter 39-34 of the North Dakota Century Code is created and enacted as
6 follows:

7 **39-34-01. Agent.**

8 The transportation network company must maintain a registered agent with the secretary of
9 state for service of process in this state.

10 **39-34-02. Fare charged for services.**

11 The transportation network company shall provide passengers with the applicable rates
12 being charged and the option to receive an estimated fare before the passenger enters the
13 transportation network company driver's vehicle.

14 **39-34-03. Transportation driver requirements.**

15 1. Before permitting an individual to act as a transportation network company driver on its
16 digital platform, the transportation network company shall:

17 a. Require the individual to submit an application to the transportation network
18 company, which includes information regarding the individual's address, age,
19 driver's license, driving history, motor vehicle registration, automobile liability
20 insurance, and other information required by the transportation network
21 company;

22 b. Conduct, or have a third party conduct, a local and national criminal background
23 check for each applicant that must include:

24 (1) Multistate and multijurisdiction criminal records locator or other similar
25 commercial nationwide database with validation; and

26 (2) National sex offender registry database; and

27 c. Obtain and review a driving history research report for the individual.

28 2. The transportation network company may not permit an individual to act as a
29 transportation network company driver on its digital platform who:

- 1 a. Has had more than three moving violations in the prior three-year period, or one
- 2 major violation in the prior three-year period, including attempting to evade the
- 3 police, reckless driving, or driving on a suspended or revoked license;
- 4 b. Has been convicted, within the past seven years, of driving under the influence of
- 5 drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a
- 6 felony, a crime involving property damage, theft, an act of violence, or an act of
- 7 terror;
- 8 c. Is a match in the national sex offender registry database;
- 9 d. Does not possess a valid driver's license;
- 10 e. Does not possess proof of registration for the motor vehicle used to provide
- 11 transportation network company services;
- 12 f. Does not possess proof of automobile liability insurance for the motor vehicle
- 13 used to provide transportation network company services; or
- 14 g. Is not at least eighteen years of age.

15 **39-34-04. Records.**

16 A transportation network company shall maintain individual trip records for at least one year
17 from the date each trip was provided and transportation network company driver records at
18 least until the six-year anniversary of the date on which a transportation network company
19 driver's activation on the transportation network company digital network has ended.

20 **39-34-05. Confidentiality of passenger personal information.**

21 A transportation network company may not disclose any personally identifiable information
22 of a transportation network company passenger except under a legal obligation or for payment
23 processing. For any other disclosure, the transportation network company must obtain the
24 passenger's written consent on a separate form specifically addressing passenger personal
25 information before the company may disclose the passenger's personally identifiable
26 information.

27 **39-34-06. Controlling authority.**

28 Notwithstanding any other provision of law, transportation network companies and
29 transportation network company drivers are governed exclusively by this chapter and chapter
30 26.1-40.1 and any rules adopted by the department of transportation consistent with this
31 chapter and by the insurance commissioner under section 1 of this Act. A political subdivision

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- 1 may not impose a tax on, or require a license for, a transportation network company or a
- 2 transportation network company driver or subject a transportation network company to the
- 3 political subdivision's rate, entry, operational, or other requirements.