

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; and to declare an  
4 emergency.

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

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

8 **26.1-40.1-01. 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 period when the driver is operating  
11 the vehicle for personal noncommercial reasons and not engaged in any manner or  
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the  
14 online-enabled application of a transportation network company and available for hire  
15 but not engaged and there is no passenger on board.
- 16 3. "Engaged stage" means the time period from the moment a participating driver  
17 accepts a ride request on the transportation network company online-enabled  
18 application or platform until the driver completes the transaction on the online-enabled  
19 application or platform or until the ride is complete, whichever is later.
- 20 4. "Participating driver" or "driver" means ~~any person who uses a vehicle in connection~~  
21 ~~with a transportation network company's online-enabled application or platform to~~  
22 ~~connect with passengers~~ an individual who:

- 1 a. Receives connections to potential passengers and related services from a  
2 transportation network company in exchange for payment or a fee to the  
3 transportation network company; and  
4 b. Uses a personal vehicle to offer or provide prearranged transportation services to  
5 a passenger upon connection through an online-enabled application or platform  
6 controlled by a transportation network company in return for compensation or  
7 payment of a fee.

8 5. "Passengers on-board stage" means the time period when there are passengers in the  
9 vehicle pursuant to the driver's participation in a transportation network company.

10 6. "Personal injury protection" means basic no-fault benefits as defined under  
11 subsection 2 of section 26.1-41-01.

12 7. "Transportation network company" means a person operating in this state ~~that~~  
13 ~~provides prearranged transportation services for compensation using an~~  
14 ~~online-enabled application or platform to connect passengers with drivers using a~~  
15 ~~personal vehicle which uses an online-enabled application or platform to connect a~~  
16 ~~passenger with an independent participating driver who provides prearranged~~  
17 ~~transportation services using a personal vehicle. A transportation network company~~  
18 ~~may not be deemed to control, direct, or manage the personal vehicles or participating~~  
19 ~~drivers that connect to the transportation network company online-enabled application~~  
20 ~~or platform, unless agreed to by written contract.~~

21 ~~7.8.~~ "Transportation network company insurance" means an insurance policy that covers a  
22 driver's use of a vehicle in connection with a transportation network company's  
23 online-enabled application or platform.

24 **26.1-40.1-02. Required disclosures.**

25 1. A transportation network company shall disclose in writing or electronic form to  
26 participating drivers, as part of its agreement with those drivers, the insurance  
27 coverage and limits of liability that the transportation network company provides while  
28 the driver uses a vehicle in connection with a transportation network company's  
29 online-enabled application or platform and shall advise a participating driver that the  
30 driver's personal automobile insurance policy may not provide coverage under the  
31 agreement.

- 1       2. A transportation network company shall disclose in writing or electronic form to  
2       participating drivers, as part of its agreement with those drivers, of when the driver's  
3       personal automobile insurance policy may not provide collision or comprehensive  
4       coverage, under the agreement.
- 5       3. A transportation network company shall provide notice in writing or electronically to the  
6       driver instructing the driver to notify the driver's personal automobile insurer of the  
7       driver's participation in the transportation network.

8       **26.1-40.1-03. Coverage required when transportation network company application is**  
9       **engaged until completion of ride when the passenger has exited the vehicle.**

- 10      1. A transportation network company and any participating driver shall maintain  
11      transportation network company insurance that provides for the following requirements  
12      that apply to transportation network company insurance during the engaged stage and  
13      during the passenger on-board stage.
- 14      a. Transportation network company liability insurance is primary and in the amount  
15      of one million dollars for death, bodily injury, and property damage. The  
16      requirements for the coverage required by this subdivision may be satisfied by  
17      any of the following:
- 18          (1) Transportation network company insurance maintained by a participating  
19          driver.
- 20          (2) Transportation network company insurance maintained by a transportation  
21          network company.
- 22          (3) Any combination of paragraphs 1 and 2.
- 23      b. ~~Transportation network company insurance coverage provided under this section~~  
24      ~~also provides for uninsured motorist coverage and underinsured motorist~~  
25      ~~coverage in the amount of one million dollars anytime the driver has~~  
26      ~~transportation network company passengers on board.~~ Transportation network  
27      company insurance coverage provided under this section for uninsured motorist  
28      coverage must meet the requirements under section 26.1-40-15.2, which is  
29      primary coverage.

1 c. Transportation network company insurance coverage provided under this section  
2 for underinsured motorist coverage must meet the requirements under section  
3 26.1-40-15.3, which is primary coverage.

4 ~~e.d.~~ Transportation network company insurance coverage must provide primary  
5 personal injury protection to drivers, passengers, and pedestrians ~~when required~~  
6 under chapter 26.1-41.

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

9 ~~e.f.~~ Coverage under a transportation network company insurance policy may neither  
10 be dependent on a driver's personal automobile insurance policy carrier first  
11 denying a claim nor a personal automobile insurance policy carrier being required  
12 to first deny a claim.

13 ~~f.g.~~ ~~In every instance where~~ if transportation network company insurance maintained  
14 by a participating driver to fulfill the insurance obligations of this section has  
15 excluded coverage according to its policy or ceased to exist, the transportation  
16 network company shall provide the coverage required by this section beginning  
17 with the first dollar of a claim.

18 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**  
19 **in vehicle.**

20 1. During the application on stage, the transportation network company insurance must  
21 include:

22 a. Motor vehicle liability coverage that is primary coverage. The coverage must  
23 include at least fifty thousand dollars per person and one hundred thousand  
24 dollars per incident for death and bodily injury and at least twenty-five thousand  
25 dollars for property damage.

26 b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary  
27 coverage.

28 c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary  
29 coverage.

30 d. Personal injury protection under chapter 26.1-41 which is primary coverage.

31 2. The requirements for coverage under this section may be satisfied by:

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

17 **26.1-40.1-05. Automobile insurers.**

18 Insurers that write personal automobile insurance may allow no-fault insurance coverage to  
19 be conditional on transportation network company no-fault insurance coverage under sections  
20 26.1-40.1-03 and 26.1-40.1-04.

21 **~~26.1-40.1-04~~26.1-40.1-06. Liability of transportation network company beyond**  
22 **required limits.**

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

26 **~~26.1-40.1-05~~26.1-40.1-07. Discretionary personal insurance where offered by personal**  
27 **automobile insurer.**

28 A personal automobile insurer may offer an automobile liability insurance policy, or an  
29 amendment or endorsement to an existing policy that covers a private passenger vehicle or  
30 similar type of vehicle with a passenger capacity of less than eight persons ~~or less~~, including the

1 driver, while used in connection with a transportation network company's online-enabled  
2 application or platform.

3 ~~26.1-40.1-06~~**26.1-40.1-08. Duty to cooperate.**

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

10 ~~26.1-40.1-07. Confidentiality of passenger personal information.~~

11 ~~— A transportation network company may not disclose any personally identifiable information~~  
12 ~~of a transportation network company passenger except under a legal obligation or for payment~~  
13 ~~processing. For any other disclosure, the transportation network company must obtain the~~  
14 ~~passenger's written consent on a separate form specifically addressing passenger personal~~  
15 ~~information before the company may disclose the passenger's personally identifiable~~  
16 ~~information.~~

17 ~~26.1-40.1-08~~**26.1-40.1-09. Financial responsibility.**

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

20 ~~26.1-40.1-09~~**26.1-40.1-10. Proof of insurance.**

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

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 **26.1-40.1-1026.1-40.1-11. 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~~twenty-one years of age.

15           **39-34-04. ~~Records~~Personally identifiable information.**

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.~~A transportation network company may not disclose any personally identifiable

27 information of a transportation network company passenger except pursuant to the publicly

28 disclosed terms of the transportation network company's privacy policy. For any other disclosure

29 not governed by the privacy policy, the transportation network company must obtain the

30 passenger's consent before the company may disclose the passenger's personally identifiable

31 information.



1 **39-34-05. Audit.**

2 1. The department may audit the records of a transportation network company by means  
3 of random sample of the transportation network company's records related to  
4 transportation network drivers:

5 a. No more than two times in a year's time.

6 b. At an agreed upon location.

7 c. Notwithstanding subdivision a, in a reasonable timeframe to investigate a  
8 complaint related to public safety or a violation of this Act, if the department  
9 provides details on the nature of the complaint.

10 2. The department may impose a civil penalty of up to five hundred dollars for each  
11 violation of this chapter.

12 **39-34-06. Controlling authority.**

13 Notwithstanding any other provision of law, transportation network companies and  
14 transportation network company drivers are governed exclusively by this chapter and chapter  
15 26.1-40.1 and any rules adopted by the department of transportation consistent with this  
16 chapter and by the insurance commissioner under section 1 of this Act. A political subdivision  
17 may not impose a tax on, or require a license for, a transportation network company or a  
18 transportation network company driver or subject a transportation network company to the  
19 political subdivision's rate, entry, operational, or other requirements. A political subdivision may  
20 prohibit a transportation network company from operating without a state permit within the  
21 jurisdiction of the political subdivision.

22 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.