

March 21, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1440

Page 1, line 1, after "26.1-40.2" insert "and a new section to chapter 39-34"

Page 1, line 2, after "insurance" insert "and classifying a transportation network company driver as an independent contractor"

Page 1, line 2, after "reenact" insert "subsection 3 of section 26.1-40.1-01, section 26.1-40.1-03, subsection 1 of section 26.1-40.1-04, and"

Page 1, line 3, remove "39-34-03,"

Page 1, after line 3 insert "transportation network company insurance and"

Page 1, after line 5, insert:

**"SECTION 1. AMENDMENT.** Subsection 3 of section 26.1-40.1-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Engaged stage" means the time period from the moment a participating driver accepts a ride request on the transportation network company's online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the ride is complete, whichever is later passengers on-board stage begins.

**SECTION 2. AMENDMENT.** Section 26.1-40.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-40.1-03. Coverage insurance coverage required when transportation network company application is engaged until completion of ride when during the passenger has exited the vehicle on-board stage.**

4. A transportation network company and any participating driver shall maintain transportation network company insurance that provides for the following requirements that apply to transportation network company insurance during the ~~engaged stage and during the~~ passenger on-board stage.

- a. 1. Transportation network company liability insurance is primary and in the amount of one million dollars for death, bodily injury, and property damage. The requirements for the coverage required by this ~~subdivision~~ subsection may be satisfied by ~~any of the following~~:
  - (~~1~~)a. Transportation network company insurance maintained by a participating driver.
  - (~~2~~)b. Transportation network company insurance maintained by a transportation network company.
  - (~~3~~)c. Any combination of ~~paragraphs 1 and 2~~ subdivisions a and b.
- b. 2. Transportation network company insurance coverage provided under this section for uninsured motorist coverage must meet the requirements under section 26.1-40-15.2, which is primary coverage.

- e-3. Transportation network company insurance coverage provided under this section for underinsured motorist coverage must meet the requirements under section 26.1-40-15.3, which is primary coverage.
- d-4. Transportation network company insurance coverage must provide primary personal injury protection to drivers, passengers, and pedestrians under chapter 26.1-41.
- e-5. The primary insurer, in the case of insurance coverage provided under ~~subdivision a~~subsection 1, has the sole duty to defend and indemnify the insured.
- f-6. Coverage under a transportation network company insurance policy may neither be dependent on a driver's personal automobile insurance policy carrier first denying a claim nor a personal automobile insurance policy carrier being required to first deny a claim.
- g-7. If transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

**SECTION 3. AMENDMENT.** Subsection 1 of section 26.1-40.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. During the application on stage and during the engaged stage, the transportation network company insurance must include:
  - a. Motor vehicle liability coverage that is primary coverage. The coverage must include at least fifty thousand dollars per person and one hundred thousand dollars per incident for death and bodily injury and at least twenty-five thousand dollars for property damage.
  - b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary coverage.
  - c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary coverage.
  - d. Personal injury protection under chapter 26.1-41 which is primary coverage."

Page 6, remove lines 11 through 30

Page 7, remove lines 1 through 15

Page 8, after line 17, insert:

"**SECTION 9.** A new section to chapter 39-34 of the North Dakota Century Code is created and enacted as follows:

**Delivery network driver - Independent contractor.**

1. As used in this chapter:

- a. "Delivery network company" has the same meaning as provided under section 26.1-40.2-01.
  - b. "Delivery network driver" has the same meaning as provided under section 26.1-40.2-01.
2. A delivery network driver is an independent contractor and not an employee of a delivery network company if the delivery network company:
- a. Enters an agreement with the delivery network driver that the delivery network driver is an independent contractor and not an employee of the delivery network company;
  - b. Does not unilaterally prescribe specific hours during which the delivery network driver must be available to accept service requests submitted through the delivery network company's digital network;
  - c. Does not prohibit the delivery network driver from engaging in outside employment or performing services through other delivery network companies except while the delivery network driver is engaged in performing services through the delivery network company's digital network; and
3. A delivery network company may not terminate the contract of the delivery network company driver for a driver's refusal to accept a specific delivery request."

Renumber accordingly