

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 436 By: Quinn and Sharp of the
Senate
3
4 and
5 Mulready of the House
6
7

8 [motor vehicles - Transportation Network Act of 2015
9 - certain limits of liability - ride requests -
10 coverage requirements - lapse of coverage - personal
11 automobile coverage - claims coverage investigation -
12 proof of insurance - noncodification - codification -
13 effective date]

14 NOTE: Emergency not considered

15 AUTHOR: Remove Mulready as principal House author and substitute
16 Echols as principal House author

17 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
18 entire bill and insert

19 "[motor vehicle - Oklahoma Transportation Network
20 Company Services Act - insurance - liability -
21 codification - ~~effective date~~ -
22 ~~emergency~~]

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1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 1050 of Title 47, unless there
4 is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Oklahoma
6 Transportation Network Company Services Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1051 of Title 47, unless there
9 is created a duplication in numbering, reads as follows:

10 As used in the Oklahoma Transportation Network Company Services
11 Act:

12 1. "Digital network" means any online-enabled application,
13 software, website or system offered or utilized by a transportation
14 network company that enables the prearrangement of rides with
15 transportation network company drivers;

16 2. "Personal vehicle" means a vehicle that is used by a TNC
17 driver in connection with providing prearranged rides and is:

18 a. owned, leased or otherwise authorized for use by the
19 TNC driver, and

20 b. not a taxicab, limousine or other similar for-hire
21 motor carrier service;

22 3. "Prearranged ride" means the provision of transportation by
23 a driver to a rider, beginning when a driver accepts a ride
24 requested by a rider through a digital network controlled by a

1 transportation network company, continuing while the driver
2 transports a requesting rider, and ending when the last requesting
3 rider departs from the personal vehicle. A prearranged ride does
4 not include transportation provided using a taxi, limousine or other
5 for-hire vehicle pursuant to state law;

6 4. "Transportation network company" (TNC) means a business
7 entity operating in Oklahoma that uses a digital network or software
8 application service to connect passengers to transportation network
9 company services provided by transportation network company drivers.
10 A TNC does not provide taxicab, limousine or other similar for-hire
11 motor carrier service. A TNC shall not be deemed to control, direct
12 or manage the personal vehicles or participating drivers that
13 connect to its digital network, except where agreed to by written
14 contract;

15 5. "Transportation network company driver" (TNC driver) means
16 an individual who:

- 17 a. receives connections to potential passengers and
18 related services from a TNC in exchange for payment of
19 a fee to the TNC, and
- 20 b. uses a personal vehicle to provide TNC services to
21 passengers upon connection through a digital network
22 controlled by a TNC in return for compensation or
23 payment of a fee; and

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1 6. "Transportation network company passenger" (TNC passenger)
2 means an individual or persons who use a prearranged-rides digital
3 network to connect with a TNC driver who provides prearranged rides
4 to the passenger in the driver's personal vehicle between points
5 chosen by the passenger.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1052 of Title 47, unless there
8 is created duplication in numbering, reads as follows:

9 A. Beginning July 1, 2015, a transportation network company
10 (TNC) driver or transportation network company on the TNC driver's
11 behalf shall maintain primary automobile insurance that recognizes
12 that the driver is a TNC driver or otherwise uses a vehicle to
13 transport passengers for compensation and covers the driver:

14 1. While the driver is logged onto the TNC's digital network;
15 and

16 2. While the driver is engaged in providing prearranged rides.

17 B. The following automobile insurance requirements shall apply
18 while a TNC driver is logged onto the TNC's digital network and is
19 available to receive transportation requests but is not engaged in
20 prearranged rides:

21 1. Primary automobile liability insurance in the amount of at
22 least Fifty Thousand Dollars (\$50,000.00) for death and bodily injury
23 per person, One Hundred Thousand Dollars (\$100,000.00) for death and
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1 bodily injury per incident, and Twenty-five Thousand Dollars
2 (\$25,000.00) for property damage;

3 2. Uninsured motorist coverage unless waived pursuant to
4 Section 3636 of Title 36 of the Oklahoma Statutes; and

5 3. The coverage requirements of this subsection may be satisfied
6 by any of the following:

- 7 a. automobile insurance maintained by the TNC driver,
- 8 b. automobile insurance maintained by the TNC, or
- 9 c. any combination of subparagraphs a and b of this
10 paragraph.

11 C. The following automobile insurance requirements shall apply
12 while a TNC driver is engaged in a prearranged ride:

13 1. Primary automobile liability insurance that provides at
14 least One Million Dollars (\$1,000,000.00) for death, bodily injury,
15 and property damage;

16 2. Uninsured motorist coverage unless waived pursuant to
17 Section 3636 of Title 36 of the Oklahoma Statutes; and

18 3. The coverage requirements of this subsection may be satisfied
19 by any of the following:

- 20 a. automobile insurance maintained by the TNC driver,
- 21 b. automobile insurance maintained by the TNC, or
- 22 c. any combination of subparagraphs a and b of this
23 paragraph.

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1 D. If insurance maintained by a TNC driver in subsection B or C
2 of this section has lapsed or does not provide the required coverage,
3 insurance maintained by a TNC shall provide the coverage required by
4 this section beginning with the first dollar of a claim and have the
5 duty to defend such claim.

6 E. Coverage under an automobile insurance policy maintained by
7 the TNC shall not be dependent on a personal automobile insurer first
8 denying a claim nor shall a personal automobile insurance policy be
9 required to first deny a claim.

10 F. Insurance required by this section may be placed with an
11 insurer authorized to do business in this state or with a surplus
12 lines insurer eligible under the Unauthorized Insurers and Surplus
13 Lines Insurance Act.

14 G. Insurance satisfying the requirements of this section shall
15 be deemed to satisfy the financial responsibility requirement for a
16 motor vehicle under Section 7-601 of Title 47 of the Oklahoma
17 Statutes during the driver's use of the vehicle in connection with a
18 TNC's digital network.

19 H. A TNC driver shall carry proof of coverage satisfying
20 subsections B and C of this section with the driver at all times
21 during the driver's use of a vehicle in connection with a
22 transportation network company's digital network. Proof of coverage
23 may be presented in electronic format. In the event of an accident,
24 a TNC driver shall provide this insurance coverage information, upon

1 request, to the directly interested parties, automobile insurers and
2 investigating police officers. Upon such request, a TNC driver
3 shall also disclose to directly interested parties, automobile
4 insurers, and investigating police officers, whether the driver was
5 logged onto the TNC's digital network or on a prearranged ride at the
6 time of an accident.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1053 of Title 47, unless there
9 is created duplication in numbering, reads as follows:

10 The transportation network company (TNC) shall disclose in
11 writing to TNC drivers the following before they are allowed to
12 accept a request for a prearranged ride on the TNC's digital network:

13 1. The insurance coverage, including the types of coverage and
14 the limits for each coverage, that the TNC provides while the TNC
15 driver uses a personal vehicle in connection with a TNC's digital
16 network; and

17 2. That the TNC driver's own automobile insurance policy might
18 not provide any coverage while the driver is logged onto the TNC's
19 digital network and is available to receive transportation requests
20 or is engaged in prearranged rides depending on its terms.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1054 of Title 47, unless there
23 is created duplication in numbering, reads as follows:

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1 A. Insurers that write automobile insurance in Oklahoma may
2 exclude any and all coverage afforded under the owner's insurance
3 policy for any loss or injury that occurs while a transportation
4 network company (TNC) driver is logged onto a transportation network
5 company's digital network or while a driver provides a prearranged
6 ride. This right to exclude all coverage may apply to any coverage
7 included in an automobile insurance policy including, but not limited
8 to:

- 9 1. Liability coverage for bodily injury and property damage;
- 10 2. Uninsured and underinsured motorist coverage;
- 11 3. Medical payments coverage;
- 12 4. Comprehensive physical damage coverage; and
- 13 5. Collision physical damage coverage.

14 B. Such exclusions shall apply notwithstanding any requirement
15 under Section 7-324 of Title 47 of the Oklahoma Statutes. Nothing
16 in this section implies or requires that a personal automobile
17 insurance policy provide coverage while the TNC driver is logged onto
18 the TNC's digital network, while the TNC driver is engaged in a
19 prearranged ride or while the driver otherwise uses a vehicle to
20 transport passengers for compensation.

21 Nothing shall be deemed to preclude an insurer from providing
22 coverage for the TNC driver's vehicle, if it chooses to do so by
23 contract or endorsement.

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1 C. Automobile insurers that exclude coverage as permitted in
2 this section shall have no duty to defend or indemnify any claim
3 expressly excluded thereunder. Nothing in this section shall be
4 deemed to invalidate or limit an exclusion contained in a policy
5 already in use or approved for use in this state prior to the
6 enactment of this act that excludes coverage for vehicles used to
7 carry persons or property for a charge or available for hire by the
8 public.

9 An automobile insurer that defends or indemnifies a claim against
10 a TNC driver that is excluded under the terms of its policy shall
11 have a right of contribution against other insurers that provide
12 automobile insurance to the same TNC driver in satisfaction of the
13 coverage requirements of Section 3 of this act at the time of loss.

14 D. In a claims coverage investigation, transportation network
15 companies and any insurer potentially providing coverage under
16 Section 3 of this act shall cooperate to facilitate the exchange of
17 relevant information with directly involved parties and any insurer
18 of the TNC driver if applicable, including the precise times that a
19 TNC driver logged on and off of the TNC's digital network in the
20 twelve-hour period immediately preceding and in the twelve-hour
21 period immediately following the accident and disclose to one
22 another a clear description of the coverage, exclusions and limits
23 provided under any automobile insurance maintained under Section 3
24 of this act.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1055 of Title 47, unless there
3 is created a duplication in numbering, reads as follows:

4 If a transportation network company's (TNC) insurer makes a
5 payment for a claim covered under comprehensive or collision
6 insurance coverage, the TNC shall cause its insurer to issue the
7 payment directly to the business repairing the vehicle or jointly to
8 the owner of the vehicle and the primary lienholder.

9 ~~SECTION 7. This act shall become effective July 1, 2015.~~

10 ~~SECTION 8. It being immediately necessary for the preservation~~
11 ~~of the public peace, health and safety, an emergency is hereby~~
12 ~~declared to exist, by reason whereof this act shall take effect and~~
13 ~~be in full force from and after its passage and approval."~~

14 Passed the House of Representatives the 22nd day of April, 2015.

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Presiding Officer of the House of
Representatives

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19 Passed the Senate the ____ day of _____, 2015.

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Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 436

By: Quinn and Sharp of the
Senate

3 and

4 Mulready of the House
5

6
7 [motor vehicles - Transportation Network Act of 2015
8 - certain limits of liability - ride requests -
9 coverage requirements - lapse of coverage - personal
10 automobile coverage - claims coverage investigation -
11 proof of insurance - noncodification - codification -
12 effective date]

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law not to be
15 codified in the Oklahoma Statutes reads as follows:

16 This act shall be known and may be cited as the "Transportation
17 Network Act of 2015".

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1007 of Title 47, unless there
20 is created a duplication in numbering, reads as follows:

21 A. For the purposes of this section:

22 1. "Transportation network company" means an organization,
23 including, but not limited to, a corporation, limited liability
24 company, partnership, sole proprietor or any other entity, operating
in this state that provides prearranged transportation services for

1 compensation using an online-enabled application or platform to
2 connect passengers with drivers using a personal vehicle;

3 2. "Participating driver" or "driver" is any person who uses a
4 vehicle in connection with a transportation network company's
5 online-enabled application or platform to connect with passengers;
6 and

7 3. "Transportation network company insurance" is an insurance
8 policy that specifically covers a driver's use of a vehicle in
9 connection with a transportation network company's online-enabled
10 application or platform.

11 B. 1. A transportation network company shall disclose in
12 writing to participating drivers, as part of its agreement with
13 those drivers, the insurance coverage, limits of liability, and
14 deductibles that the driver might be responsible for, that the
15 transportation network company provides while the driver uses a
16 vehicle in connection with a transportation network company's
17 online-enabled application or platform, and shall advise a
18 participating driver in writing that the driver's automobile
19 insurance policy may not provide any required or optional coverage
20 because the driver uses a vehicle in connection with a
21 transportation network company's online-enabled application or
22 platform.

23 2. An individual acting or seeking to act as a participating
24 driver for a transportation network company shall provide written or

1 electronic authorization from any lienholder with a security
2 interest in the vehicle to be used in conjunction with the
3 individual's service as such a driver. The authorization shall
4 specify that the lienholder has been notified of the individual's
5 intent to use the vehicle for such purpose and that the lienholder
6 agrees to such use of the vehicle.

7 C. A transportation network company and any participating
8 driver shall maintain transportation network company insurance as
9 provided in this section.

10 D. The following requirements shall apply to transportation
11 network company's insurance from the moment a participating driver
12 accepts a ride request on the transportation network company's
13 online-enabled application or platform until the driver completes
14 the transaction on the online-enabled application or platform or
15 until the ride is complete, whichever is later. Transportation
16 network company insurance shall provide:

17 1. Primary liability coverage in the amount of not less than
18 Twenty-five Thousand Dollars (\$25,000.00) per person and Fifty
19 Thousand Dollars (\$50,000.00) per incident for death, bodily injury,
20 and property damage; and

21 2. Uninsured motorist, collision physical damage coverage, and
22 comprehensive physical damage coverage if the participating driver
23 carries those coverages on their auto policy, unless that insurer is
24 providing transportation network company insurance to the driver.

1 E. The requirements for the coverage required by this section
2 may be satisfied by any of the following:

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

5 2. Transportation network company insurance maintained by a
6 transportation network company; or

7 3. Any combination of paragraphs 1 and 2 of this subsection.

8 F. A transportation network company may meet its obligations
9 under this section through a policy obtained by a participating
10 driver pursuant to paragraph 1 or 2 of subsection E of this section
11 only if the transportation network company verifies that the policy
12 is maintained by the driver and is specifically written to cover the
13 driver's use of a vehicle in connection with a transportation
14 network company's online-enabled application or platform. The
15 insurer providing transportation network company insurance under
16 this section shall have the duty to defend and indemnify the
17 insured.

18 G. From the moment a participating driver logs on to the
19 transportation network company's online-enabled application or
20 platform until the driver accepts a request to transport a
21 passenger, and from the moment the driver completes the transaction
22 on the online-enabled application or platform or the ride is
23 complete, whichever is later, until the driver either accepts
24 another ride request on the online-enabled application or platform

1 or logs off the online-enabled application or platform,
2 transportation network company insurance shall provide primary
3 liability coverage in the amount of not less than Twenty-five
4 Thousand Dollars (\$25,000.00) for death and bodily injury per
5 person, Fifty Thousand Dollars (\$50,000.00) for death and bodily
6 injury per incident, and Twenty-five Thousand Dollars (\$25,000.00)
7 for property damage.

8 1. Transportation network company insurance coverage provided
9 under this section shall also provide uninsured motorist, collision
10 physical damage coverage, and comprehensive physical damage coverage
11 if the participating driver carries those coverages on his or her
12 auto policy unless that insurer is providing transportation network
13 company insurance to the driver.

14 2. The requirements for the coverage required by this
15 subsection may be satisfied by any of the following:

- 16 a. transportation network company insurance maintained by
17 a participating driver,
- 18 b. transportation network company insurance maintained by
19 a transportation network company that provides
20 coverage in the event a participating driver's
21 insurance policy under subparagraph a of this
22 paragraph has ceased to exist or has been canceled, or
23 the participating driver does not otherwise maintain
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1 transportation network company insurance pursuant to
2 this subsection, or

3 c. any combination of subparagraphs a and b of this
4 paragraph.

5 3. The insurer providing transportation network company
6 insurance under this subsection shall have the duty to defend and
7 indemnify the insured.

8 H. Coverage under a transportation network company insurance
9 policy shall not be dependent on an automobile insurance policy
10 first denying a claim nor shall an automobile insurance policy be
11 required to first deny a claim. In every instance where
12 transportation network company insurance maintained by a
13 participating driver to fulfill the insurance obligations of this
14 section has lapsed or ceased to exist, the transportation network
15 company shall provide the coverage required by this section
16 beginning with the first dollar of a claim.

17 I. Nothing in this section shall be construed to require an
18 automobile insurance policy to provide primary or excess coverage
19 during the period of time from the moment a participating driver in
20 a transportation network company logs on to the transportation
21 network company's online-enabled application or platform until the
22 driver logs off the online-enabled application or platform or the
23 passenger exits the vehicle, whichever is later.

1 J. During the period of time from the moment a participating
2 driver in a transportation network company logs on to the
3 transportation network company's online-enabled application or
4 platform until the driver logs off the online-enabled application or
5 platform or until the ride is complete, whichever is later, all of
6 the following shall apply:

7 1. The participating driver's or the vehicle owner's automobile
8 insurance policy shall not provide any coverage to the participating
9 driver, vehicle owner or any third party, unless the policy
10 expressly provides for that coverage during the period of time to
11 which this paragraph is applicable, with or without a separate
12 charge, or the policy contains an amendment or endorsement to
13 provide that coverage, for which a separately stated premium is
14 charged; and

15 2. The participating driver's or the vehicle owner's automobile
16 insurance policy shall not have the duty to defend or indemnify for
17 the driver's activities in connection with the transportation
18 network company, unless the policy expressly provides otherwise for
19 the period of time to which this paragraph is applicable, with or
20 without a separate charge, or the policy contains an amendment or
21 endorsement to provide that coverage, for which a separately stated
22 premium is charged.

23 K. Notwithstanding any other law, an automobile insurer may, at
24 its discretion, offer an automobile liability insurance policy, or

1 an amendment or endorsement to an existing policy that covers a
2 private passenger vehicle, station wagon type vehicle, sport utility
3 vehicle or similar type of vehicle with a passenger capacity of
4 eight persons or less, including the driver, while used in
5 connection with a transportation network company's online-enabled
6 application or platform only if the policy expressly provides for
7 the coverage during the time period specified in subsection J of
8 this section, with or without a separate charge, or the policy
9 contains an amendment or an endorsement to provide that coverage,
10 for which a separately stated premium may be charged.

11 L. If an insurer for a transportation network company makes a
12 payment for a claim covered under comprehensive or collision
13 insurance coverage, the transportation network company shall cause
14 its insurer to issue the payment directly to the business repairing
15 the vehicle or jointly to the owner of the vehicle and the primary
16 lienholder.

17 M. In a claims coverage investigation, a transportation network
18 company or its insurer shall cooperate with insurers that are
19 involved in the claims coverage investigation to facilitate the
20 exchange of information, including the provision of dates and times
21 at which an accident occurred that involved a participating driver
22 and the precise times that the participating driver logged on and
23 off the transportation network company's online-enabled application
24 or platform.

