

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 436

By: Quinn and Sharp of the
Senate

3
4 and

Mulready of the House

5
6
7
8 [motor vehicles - Transportation Network Act of 2015
- certain limits of liability - ride requests -
9 coverage requirements - lapse of coverage - personal
automobile coverage - claims coverage investigation -
10 proof of insurance - noncodification - codification -
effective date]

11
12
13 NOTE: Emergency not considered

14 AUTHOR: Remove Mulready as principal House author and substitute
Echols as principal House author

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
16 entire bill and insert

17
18 "[motor vehicle - Oklahoma Transportation Network
19 Company Services Act - insurance - liability -
20 codification - ~~effective date~~ -

21 emergency]

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
- 24

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
24

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.

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:

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.
24

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.

