HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 436

By: Quinn and Sharp of the Senate

and

Mulready of the House

COMMITTEE SUBSTITUTE

[motor vehicle – Oklahoma Transportation Network Company Services Act - insurance – liability – codification - effective date - emergency]

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

As used in the Oklahoma Transportation Network Company Services Act:

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

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

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

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

3. "Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a taxi, limousine or other for-hire vehicle pursuant to state law;

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

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

a. receives connections to potential passengers and related services from a TNC in exchange for payment of a fee to the TNC, and

b. uses a personal vehicle to provide TNC services to passengers upon connection through a digital network controlled by a TNC in return for compensation or payment of a fee; and

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

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

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

1. While the driver is logged on to the TNC's digital network; and

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

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

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

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

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

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a. automobile insurance maintained by the TNC driver, or

b. automobile insurance maintained by the TNC, or

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

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

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

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

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

a. automobile insurance maintained by the TNC driver, or

b. automobile insurance maintained by the TNC, or

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

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

E. Coverage under an automobile insurance policy maintained by the TNC shall not be dependent on a personal automobile insurer first

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denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

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

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

H. A TNC driver shall carry proof of coverage satisfying subsections B and C of this section with the driver at all times during the driver's use of a vehicle in connection with a transportation network company's digital network. Proof of coverage may be presented in electronic format. In the event of an accident, a TNC driver shall provide this insurance coverage information, upon request, to the directly interested parties, automobile insurers and investigating police officers. Upon such request, a TNC driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether the driver was logged on to the TNC's digital network or on a prearranged ride at the time of an accident.

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

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

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

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

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

A. Insurers that write automobile insurance in Oklahoma may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a transportation network company driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage

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included in an automobile insurance policy including, but not limited to:

1. Liability coverage for bodily injury and property damage;

2. Uninsured and underinsured motorist coverage;

3. Medical payments coverage;

4. Comprehensive physical damage coverage; and

5. Collision physical damage coverage.

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

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

C. Automobile insurers that exclude coverage as permitted in this section shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this section shall be deemed to invalidate or limit an exclusion contained in a policy already in use or approved for use in this state prior to the enactment of this act that excludes coverage for vehicles used to

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carry persons or property for a charge or available for hire by the public.

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

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

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

If a transportation network company's insurer makes a payment for a claim covered under comprehensive or collision insurance coverage, the TNC shall cause its insurer to issue the payment

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directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder.

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

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

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/07/2015 - DO PASS, As Amended.

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