

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 999

By: Bergstrom of the Senate

and

6 Frix of the House

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to transportation; creating the
10 Oklahoma Courier Application Services Act; providing
11 definitions; excluding motor carrier classification
12 for certain entities and people; requiring courier
13 service implement zero tolerance policy for drugs or
14 alcohol; requiring services suspend access and
15 conduct investigation in certain circumstance;
16 requiring applicants submit certain information to
17 courier service; prohibiting courier service from
18 hiring certain persons; requiring updates; requiring
19 certain equipment standards be met by courier
20 application service drivers; requiring certain entity
21 maintain commercial auto insurance in certain amount;
22 specifying time period that driver is responsible for
23 maintaining personal insurance; authorizing courier
24 application service insurance to provide coverage
without certain requirement; specifying insurers
eligible to provide insurance for courier application
services; requiring courier application service
disclose information to driver prior to driver
accepting courier request; authorizing insurers to
exclude certain insurance coverage; construing
provision; providing that insurer not have certain
duty; providing that certain insurer have right of
contribution; requiring insurer cooperation with
certain persons in certain investigation; requiring
direct payment from insurer to certain people under
certain circumstances; providing for codification;
and providing an effective date.

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 Courier Application 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 Courier Application Services Act:

11 A. "Digital network" means any online-enabled application,
12 software, website or system offered or utilized by a courier
13 application service (CAS) that enables the prearrangement of courier
14 services with CAS drivers.

15 B. "Personal vehicle" means a vehicle that is used by a CAS
16 driver in connection with providing courier services and is:

17 1. Owned, leased or otherwise authorized for use by the CAS
18 driver; and

19 2. Has an actual weight of less than eight thousand (8,000)
20 pounds; and

21 3. Has no more than two axles or axle combination.

22 C. "Courier application services (CAS)" means a business entity
23 operating in Oklahoma that uses a digital network to connect
24 business entities including itself, its affiliates or people to CAS

1 drivers for the purpose of providing courier services on an on-
2 demand basis. Courier services are provided on an on-demand basis
3 if the CAS drivers are free to accept or reject courier requests and
4 the CAS does not require the CAS driver to accept any specific
5 delivery request as a condition of maintaining access to the CAS
6 digital network. A CAS does not provide other for-hire motor
7 carrier services. A CAS shall not be deemed to control, direct or
8 manage the personal vehicles or participating drivers that connect
9 to its digital network, except where agreed to by written contract.

10 D. "Courier application service driver (CAS driver)" means an
11 individual who uses a personal vehicle to provide courier services
12 for business or people upon connection through a digital network
13 controlled by a CAS in return for compensation or payment of a fee.

14 E. "Courier service" means the for-hire transportation of
15 property in a personal vehicle, with each individual piece of
16 property weighing less than one hundred (100) pounds, beginning
17 either when

18 1. A CAS driver accepts a courier request through a digital
19 network controlled by a CAS; or

20 2. If a CAS driver accepts such courier request for delivery
21 during a fixed block of time, when the CAS driver picks up the
22 property for delivery.

23 The courier service continues while the CAS driver is actively
24 transporting the requested property to the recipient and ends when

1 the property has been delivered. A courier service does not include
2 shared expense or transporting property not for profit, or other
3 for-hire motor carrier operations authorized by the laws of this
4 state.

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

8 Courier application service companies or courier application
9 service drivers shall not be considered motor carriers of property,
10 nor shall CAS or CAS drivers be considered for-hire motor carrier,
11 as defined in Section 230.23 of Title 47 of the Oklahoma Statutes.

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

15 Courier application service companies shall implement a zero-
16 tolerance policy against CAS drivers operating under the influence
17 of drugs or alcohol while providing courier services and shall
18 provide notice of this policy on its digital network. Upon receipt
19 of a credible complaint alleging a violation of the zero-tolerance
20 policy, the CAS shall suspend the CAS driver's access to the CAS's
21 digital network and shall conduct an investigation into the reported
22 incident. The suspension shall last the duration of the
23 investigation.

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

4 A. Prior to permitting an individual to act as a courier
5 application service driver on its digital network, the courier
6 application service shall require the individual to submit to the
7 CAS information regarding his or her address, age, driver license
8 and other information required by the CAS.

9 B. A CAS shall not knowingly permit an individual to act as a
10 CAS driver on its digital network who:

11 1. Does not possess a valid driver license;

12 2. Does not possess current proof of motor vehicle registration
13 for the motor vehicles used to provide courier services;

14 3. Does not possess proof of the motor vehicle liability
15 insurance required by law or rule for the motor vehicles used to
16 provide courier services; and

17 4. Is not at least eighteen (18) years of age.

18 C. Every CAS operating in this state shall implement a
19 procedure for periodic information updates to ensure continued
20 compliance by each driver with the requirements of this section.

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

1 Every courier application service shall require that any motor
2 vehicles that a CAS driver will use to provide courier services
3 meets the equipment standards required of private motor vehicles
4 under Section 12-101 et seq. of Title 47 of the Oklahoma Statutes.

5 SECTION 7. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1056 of Title 47, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A courier application service (CAS) shall maintain
9 commercial auto coverage, as defined in Section 7-600 of Title 47 of
10 the Oklahoma Statutes, with a combined single limit of at least One
11 Million Dollars (\$1,000,000.00) that provides coverage to the CAS
12 for its liability arising out of the use of a hired, owned, or non-
13 owned vehicle used to transport property for compensation.

14 B. When a CAS driver is not engaged in courier services, as
15 defined in this Act, the CAS driver shall be solely responsible for
16 maintaining state compliant automobile insurance coverage pursuant
17 to Section 7-601 of Title 47 of the Oklahoma Statutes.

18 C. Coverage under an insurance policy maintained by the CAS
19 shall not be dependent on a personal automobile insurer first
20 denying a claim nor shall a personal automobile insurance policy be
21 required to first deny a claim.

22 D. Insurance required by this section may be placed with an
23 insurer authorized to do business in this state or with a surplus
24

1 lines insurer eligible under Section 1100 et seq. of Title 36 of the
2 Oklahoma Statutes.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1057 of Title 47, unless there
5 is created a duplication in numbering, reads as follows:

6 The Courier application services shall disclose in writing to
7 CAS drivers the following before they are allowed to accept a
8 request for a courier service on the CAS's digital network:

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

13 2. That the CAS driver's own motor vehicle insurance policy may
14 not provide any coverage while the driver is engaged in providing
15 courier services depending on its terms.

16 SECTION 9. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1058 of Title 47, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Insurers that write motor vehicle insurance in Oklahoma may
20 exclude any coverage afforded under the owner's insurance policy for
21 any loss or injury that occurs while a CAS driver is engaged in
22 providing courier services. This right to exclude all coverage may
23 apply to any coverage included in a motor vehicle insurance policy
24 including, but not limited to:

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

6 B. Such exclusions shall apply notwithstanding any requirement
7 under Chapter 7 of the Oklahoma Highway Safety Code of Section 7-101
8 et seq. of Title 47 of the Oklahoma Statutes. Nothing in this
9 section implies or requires that a personal motor vehicle insurance
10 policy provide coverage while the CAS driver is engaged in providing
11 courier services or while the driver otherwise uses a vehicle to
12 transport property for compensation. Nothing in this section shall
13 be construed to preclude an insurer from providing coverage for the
14 CAS driver's vehicle if it chooses to do so by contract or
15 endorsement.

16 C. Motor vehicle insurers that exclude coverage as permitted in
17 this section shall have no duty to defend or indemnify any claim
18 expressly excluded thereunder. Nothing in this article shall be
19 construed to invalidate or limit an exclusion contained in a policy
20 already in use or approved for use in this state prior to the
21 effective date of this act that excludes coverage for vehicles used
22 to carry persons or property for a charge or available for hire by
23 the public. A motor vehicle insurer that defends or indemnifies a
24 claim against a CAS driver that is excluded under the terms of its

1 policy shall have a right of contribution against other insurers
2 that provide motor vehicle insurance to the same CAS driver in
3 satisfaction of the coverage requirements of Section 7 of this act
4 at the time of loss.

5 D. In a claims coverage investigation, a CAS and any insurer
6 potentially providing coverage under Section 7 of this act shall
7 cooperate to facilitate the exchange of relevant information with
8 directly involved parties, law enforcement and any insurer of the
9 CAS driver if applicable, including the precise times that a CAS
10 driver logged on and off of the CAS's digital network in the twelve-
11 hour period immediately preceding and in the twelve-hour period
12 immediately following the accident and disclose to one another a
13 clear description of the coverage, exclusions and limits provided
14 under any motor vehicle insurance maintained under Section 7 of this
15 act.

16 SECTION 10. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1059 of Title 47, unless there
18 is created a duplication in numbering, reads as follows:

19 If a courier application service insurer makes a payment for a
20 claim covered under comprehensive or collision insurance coverage,
21 the CAS shall cause its insurer to issue the payment directly to the
22 business repairing the vehicle or jointly to the owner of the
23 vehicle and the primary lienholder.

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SECTION 11. This act shall become effective November 1, 2021.

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