

1 STATE OF OKLAHOMA

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

3 SENATE BILL 999

By: Bergstrom

6 AS INTRODUCED

7 An Act relating to transportation; creating the
8 Oklahoma Courier Application Services Act; providing
9 definitions; excluding motor carrier classification
10 for certain entities and people; requiring courier
11 service implement zero tolerance policy for drugs or
12 alcohol; requiring services suspend access and
13 conduct investigation in certain circumstance;
14 requiring applicants submit to courier service;
15 prohibiting courier service from hiring certain
16 persons; requiring updates; requiring certain
17 equipment standards be met by courier application
18 service drivers; requiring certain liability
19 insurance; specifying requirements for insurance
20 policy; requiring insurance coverage by courier
21 application service in certain circumstances;
22 allowing courier application service insurance
23 coverage without driver personal insurer first
24 denying claim; determining insurers eligible for
courier application services; providing insurance
under this act satisfies certain statutory
requirements; requiring possession of proof of
coverage; authorizing electronic proof of coverage;
certain disclosures by driver in accident; 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. On or after November 1, 2021, a courier application service
9 driver or courier application service on the CAS driver's behalf
10 shall maintain liability motor vehicle insurance that recognizes
11 that the driver is a CAS driver or otherwise uses a vehicle to
12 transport property for compensation and covers the driver while the
13 driver is engaged in providing courier services.

14 B. The following motor vehicle insurance requirements shall
15 apply while a CAS driver is engaged in courier services:

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

21 2. Uninsured motorist coverage were not waived pursuant to
22 Section 3636 of Title 36 of the Oklahoma Statutes; and

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

- a. motor vehicle insurance maintained by the CAS driver,
- b. motor vehicle insurance maintained by the CAS, or
- c. any combination of subparagraphs a and b of this paragraph.

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

D. Coverage under a motor vehicle insurance policy maintained by the CAS shall not be dependent on a personal motor vehicle insurer first denying a claim nor shall a personal motor vehicle insurance policy be required to first deny a claim.

E. Insurance required by this section may with an insurer authorized to do business in this state or with a surplus lines insurer eligible under Section 1100 et seq. of Title 36 of the Oklahoma Statutes.

F. Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under Chapter 7 of the Oklahoma Highway Safety Code of Section 7-101 et seq. of Title 47 of the Oklahoma Statutes, while the CAS driver is engaged in providing courier services.

G. A CAS driver shall carry proof of coverage satisfying subsection B of this section with him or her at all times during his

1 or her use of a vehicle in connection with a CAS's digital network.
2 Proof of coverage may be presented in electronic format. In the
3 event of an accident, a CAS driver shall provide this insurance
4 coverage information to the directly interested parties, motor
5 vehicle insurers and investigating police officers, upon request
6 pursuant to Section 7- 102 et seq. of Title 47 of the Oklahoma
7 Statutes. Upon such request, a CAS driver shall also disclose to
8 directly interested parties, motor vehicle insurers, and
9 investigating police officers whether he or she was logged on to the
10 CAS's digital network or on a courier service at the time of an
11 accident.

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

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

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

22 2. That the CAS driver's own motor vehicle insurance policy
23 might not provide any coverage while the driver is engaged in
24 providing courier services depending on its terms.

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

A. Insurers that write motor vehicle insurance in Oklahoma may exclude any coverage afforded under the owner's insurance policy for any loss or injury that occurs while a CAS driver is engaged in providing courier services. This right to exclude all coverage may apply to any coverage included in a motor vehicle 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 Chapter 7 of the Oklahoma Highway Safety Code of Section 7-101 et seq. of Title 47 of the Oklahoma Statutes. Nothing in this section implies or requires that a personal motor vehicle insurance policy provide coverage while the CAS driver is engaged in providing courier services or while the driver otherwise uses a vehicle to transport property for compensation. Nothing in this section shall be construed to preclude an insurer from providing coverage for the CAS driver's vehicle if it chooses to do so by contract or endorsement.

1 C. Motor vehicle 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 article shall be
4 construed 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 effective date of this act that excludes coverage for vehicles used
7 to carry persons or property for a charge or available for hire by
8 the public. A motor vehicle insurer that defends or indemnifies a
9 claim against a CAS driver that is excluded under the terms of its
10 policy shall have a right of contribution against other insurers
11 that provide motor vehicle insurance to the same CAS driver in
12 satisfaction of the coverage requirements of Section 7 of this act
13 at the time of loss.

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

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

4 If a courier application service insurer makes a payment for a
5 claim covered under comprehensive or collision insurance coverage,
6 the CAS shall cause its insurer to issue the payment directly to the
7 business repairing the vehicle or jointly to the owner of the
8 vehicle and the primary lienholder.

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

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