

By Senator Fain

ESHB 2131 - S COMM AMD

By Committee on Transportation

Strike everything after the enacting clause and insert the following:

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing services for a transportation network company that meets the vehicle criteria in this chapter and that is authorized by the transportation network company.

(2) "Prearranged ride" means a route of travel between points chosen by the passenger and arranged with a driver through the use of a transportation network company's digital network or software application. The ride begins when a driver accepts a requested ride through a digital network or software application, continues while the driver transports the passenger in a personal vehicle, and ends when the passenger departs from the personal vehicle.

(3) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity, operating in Washington, that uses a digital network or software application to connect passengers to drivers for the purpose of providing a prearranged ride. A transportation network company is neither a taxicab company, passenger charter carrier, or auto transportation company, as described in Title 81 RCW, nor a limousine or for hire operator, as defined in Title 46 RCW. A transportation network company is not deemed to own, control, operate, or manage the personal vehicles used by transportation network company drivers. A transportation network company does not include a political subdivision or other entity exempt from federal income tax under 26 U.S.C. Sec. 115 of the federal internal revenue code.

(4) "Transportation network company driver" or "driver" means an individual who uses a personal vehicle to provide services for passengers matched through a transportation network company's digital

1 network or software application. A driver is not a for hire operator
2 as that term is used in Title 46 RCW.

3 (5) "Transportation network company passenger" or "passenger"
4 means a passenger in a personal vehicle for whom transport is
5 provided, including:

6 (a) An individual who uses a transportation network company's
7 digital network or software application to connect with a driver to
8 obtain services in the driver's vehicle for the individual and anyone
9 in the individual's party; or

10 (b) Anyone for whom another individual uses a transportation
11 network company's digital network or software application to connect
12 with a driver to obtain services in the driver's vehicle.

13 (6) "Transportation network company services" or "services" means
14 all times the driver is logged in to a transportation network
15 company's digital network or software application or until the
16 passenger has left the personal vehicle, whichever is later. The term
17 does not include services provided either directly or under contract
18 with a political subdivision or other entity exempt from federal
19 income tax under 26 U.S.C. Sec. 115 of the federal internal revenue
20 code.

21 NEW SECTION. **Sec. 2.** (1)(a) Before being used to provide
22 transportation network company services, every personal vehicle must
23 be covered by a primary automobile insurance policy that specifically
24 covers transportation network company services. However, the
25 insurance coverage requirements of this section are alternatively
26 satisfied by securing coverage pursuant to chapter 46.72 or 46.72A
27 RCW that covers the personal vehicle being used to provide
28 transportation network company services and that is in effect twenty-
29 four hours per day, seven days per week. Except as provided in
30 subsection (2) of this section, a transportation network company must
31 secure this policy for every personal vehicle used to provide
32 transportation network company services. For purposes of this
33 section, a "primary automobile insurance policy" is not a private
34 passenger automobile insurance policy.

35 (b) The primary automobile insurance policy required under this
36 section must provide coverage, as specified in this subsection
37 (1)(b), at all times the driver is logged in to a transportation
38 network company's digital network or software application and at all
39 times a passenger is in the vehicle as part of a prearranged ride.

1 (i) The primary automobile insurance policy required under this
2 subsection must provide liability coverage, during transportation
3 network company services applicable during the period before a driver
4 accepts a requested ride through a digital network or software
5 application, in an amount no less than fifty thousand dollars per
6 person for bodily injury, one hundred thousand dollars per accident
7 for bodily injury of all persons, and thirty thousand dollars for
8 damage to property.

9 (ii) The primary automobile insurance policy required under this
10 subsection must provide the following coverages, applicable during
11 the period of a prearranged ride:

12 (A) Combined single limit liability coverage in the amount of one
13 million dollars for death, personal injury, and property damage; and

14 (B) Uninsured motorist coverage and underinsured motorist
15 coverage in the amount of one million dollars.

16 (2)(a) As an alternative to the provisions of subsection (1) of
17 this section, if the office of the insurance commissioner approves
18 the offering of an insurance policy that recognizes that a person is
19 acting as a transportation network company driver and using a
20 personal vehicle to provide transportation network company services,
21 a driver may secure a primary automobile insurance policy covering a
22 personal vehicle and providing the same coverage as required in
23 subsection (1) of this section. The policy coverage may be in the
24 form of a rider to, or endorsement of, the driver's private passenger
25 automobile insurance policy only if approved as such by the office of
26 the insurance commissioner.

27 (b) If the primary automobile insurance policy maintained by a
28 driver to meet the obligation of this section does not provide
29 coverage for any reason, including that the policy lapsed or did not
30 exist, the transportation network company must provide the coverage
31 required under this section beginning with the first dollar of a
32 claim.

33 (c) The primary automobile insurance policy required under this
34 subsection and subsection (1) of this section may be secured by any
35 of the following:

36 (i) The transportation network company as provided under
37 subsection (1) of this section;

38 (ii) The driver as provided under (a) of this subsection; or

39 (iii) A combination of both the transportation network company
40 and the driver.

1 (3) The insurer or insurers providing coverage under subsections
2 (1) and (2) of this section are the only insurers having the duty to
3 defend any liability claim from an accident occurring while
4 transportation network company services are being provided.

5 (4) In addition to the requirements in subsections (1) and (2) of
6 this section, before allowing a person to provide transportation
7 network company services as a driver, a transportation network
8 company must provide written proof to the driver that the
9 transportation network company driver is covered by a primary
10 automobile insurance policy that meets the requirements of this
11 section. Alternatively, if a driver purchases a primary automobile
12 insurance policy as allowed under subsection (2) of this section, the
13 transportation network company must verify that the driver has done
14 so.

15 (5) A primary automobile insurance policy required under
16 subsection (1) or (2) of this section may be placed with an insurer
17 licensed under this title to provide insurance in the state of
18 Washington or as an eligible surplus line insurance policy as
19 described in RCW 48.15.040.

20 (6) Nothing in this section shall be construed to require a
21 private passenger automobile insurance policy to provide primary or
22 excess coverage or a duty to defend for the period of time in which a
23 driver is logged in to a transportation network company's digital
24 network or software application or while a passenger is in the
25 vehicle.

26 (7) If more than one insurance policy provides valid and
27 collectible coverage for a loss arising out of an occurrence
28 involving a motor vehicle operated by a driver, the responsibility
29 for the claim must be divided as follows:

30 (a) Except as provided otherwise under subsection (2)(c) of this
31 section, if the driver has been matched with a passenger and is
32 traveling to pick up the passenger, or the driver is providing
33 services to a passenger, the transportation network company that
34 matched the driver and passenger must provide insurance coverage; or

35 (b) If the driver is logged in to more than one transportation
36 network company digital network or software application but has not
37 been matched with a passenger, the liability must be divided equally
38 among all of the applicable insurance policies that specifically
39 provide coverage for transportation network company services.

(8) In an accident or claims coverage investigation, a transportation network company or its insurer must cooperate with a private passenger automobile insurance policy insurer and other insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of (a) dates and times at which an accident occurred that involved a participating driver and (b) within ten business days after receiving a request, a copy of the company's electronic record showing the precise times that the participating driver logged on and off the transportation network company's digital network or software application on the day the accident or other loss occurred. The transportation network company or its insurer must retain all data, communications, or documents related to insurance coverage or accident details for a period of not less than the applicable statutes of limitation, plus two years from the date of an accident to which those records pertain.

(9) This section does not modify or abrogate any otherwise applicable insurance requirement set forth in this title.

(10) After July 1, 2016, an insurance company regulated under this title may not deny an otherwise covered claim arising exclusively out of the personal use of the private passenger automobile solely on the basis that the insured, at other times, used the private passenger automobile covered by the policy to provide transportation network company services.

NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a new chapter in Title 48 RCW."

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On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "and adding a new chapter to Title 48 RCW."

EFFECT: (1) Changes the names in the defined terms from "commercial transportation services provider" to "transportation network company," and "commercial transportation services" to "transportation network company services."

(2) Removes the requirement to have uninsured and underinsured motorist coverage during the period before a driver accepts a requested ride.

(3) Removes the requirement to have personal injury protection coverage and comprehensive and collision coverage at any time.

(4) Requires a transportation network company to provide written proof to the driver that the driver is covered by an insurance policy meeting the applicable requirements.

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