

4108

2015-2016 Regular Sessions

I N S E N A T E

February 27, 2015

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to transportation network companies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The insurance law is amended by adding a new section 3441
2 to read as follows:
3 S 3441. TRANSPORTATION NETWORK COMPANIES. (A) NOTWITHSTANDING ANY
4 OTHER PROVISION OF THIS CHAPTER, THIS SECTION SHALL APPLY TO TRANSPORTA-
5 TION NETWORK COMPANIES.
6 (B) FOR PURPOSES OF THIS SECTION THE FOLLOWING DEFINITIONS SHALL
7 APPLY:
8 (1) "TRANSPORTATION NETWORK COMPANY" MEANS AN ORGANIZATION, INCLUDING,
9 BUT NOT LIMITED TO, A CORPORATION, LIMITED LIABILITY COMPANY, PARTNER-
10 SHIP, SOLE PROPRIETOR, OR ANY OTHER ENTITY, OPERATING IN THIS STATE THAT
11 PROVIDES PREARRANGED TRANSPORTATION SERVICES FOR COMPENSATION USING AN
12 ONLINE-ENABLED APPLICATION OR PLATFORM TO CONNECT PASSENGERS WITH DRIV-
13 ERS USING A PERSONAL VEHICLE.
14 (2) "PARTICIPATING DRIVER" OR "DRIVER" MEANS ANY PERSON WHO USES A
15 VEHICLE IN CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-EN-
16 ABLED APPLICATION OR PLATFORM TO CONNECT WITH PASSENGERS.
17 (3) "TRANSPORTATION NETWORK COMPANY INSURANCE" IS AN INSURANCE POLICY
18 THAT SPECIFICALLY COVERS A DRIVER'S USE OF A VEHICLE IN CONNECTION WITH
19 A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLAT-
20 FORM.
21 (C) A TRANSPORTATION NETWORK COMPANY SHALL DISCLOSE IN WRITING TO
22 PARTICIPATING DRIVERS, AS PART OF ITS AGREEMENT WITH THOSE DRIVERS, THE
23 INSURANCE COVERAGE AND LIMITS OF LIABILITY THAT THE TRANSPORTATION
24 NETWORK COMPANY PROVIDES WHILE THE DRIVER USES A VEHICLE IN CONNECTION
25 WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 PLATFORM, AND SHALL ADVISE A PARTICIPATING DRIVER IN WRITING THAT THE
2 DRIVER'S PERSONAL AUTOMOBILE INSURANCE POLICY MAY NOT PROVIDE ANY
3 REQUIRED OR OPTIONAL COVERAGE BECAUSE THE DRIVER USES A VEHICLE IN
4 CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLI-
5 CATION OR PLATFORM.

6 (D) A TRANSPORTATION NETWORK COMPANY AND ANY PARTICIPATING DRIVER
7 SHALL MAINTAIN TRANSPORTATION NETWORK COMPANY INSURANCE AS PROVIDED IN
8 THIS SECTION.

9 (E) THE FOLLOWING REQUIREMENTS SHALL APPLY TO TRANSPORTATION NETWORK
10 COMPANY INSURANCE FROM THE MOMENT A PARTICIPATING DRIVER ACCEPTS A RIDE
11 REQUEST ON THE TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICA-
12 TION OR PLATFORM UNTIL THE DRIVER COMPLETES THE TRANSACTION ON THE
13 ONLINE-ENABLED APPLICATION OR PLATFORM OR UNTIL THE RIDE IS COMPLETE,
14 WHICHEVER IS LATER.

15 (1) TRANSPORTATION NETWORK COMPANY INSURANCE SHALL PROVIDE PRIMARY
16 LIABILITY COVERAGE IN THE AMOUNT OF ONE MILLION DOLLARS FOR DEATH, BODI-
17 LY INJURY, AND PROPERTY DAMAGE.

18 (2) TRANSPORTATION NETWORK COMPANY INSURANCE COVERAGE PROVIDED UNDER
19 THIS SUBDIVISION SHALL ALSO PROVIDE:

20 (A) COVERAGE IN SATISFACTION OF THE FINANCIAL RESPONSIBILITY REQUIRE-
21 MENTS SET FORTH IN SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS
22 CHAPTER AND ARTICLE FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMUL-
23 GATED THEREUNDER; AND

24 (B) MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AS DESCRIBED IN PARAGRAPH
25 NINETEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN
26 OF THIS CHAPTER IF THE PARTICIPATING DRIVER CARRIES SUCH COVERAGE ON HIS
27 OR HER PERSONAL AUTO POLICY UNLESS THAT INSURER IS PROVIDING TRANSPORTA-
28 TION NETWORK COMPANY INSURANCE TO THE DRIVER.

29 (3) THE REQUIREMENTS FOR THE COVERAGE REQUIRED BY THIS SUBSECTION MAY
30 BE SATISFIED BY ANY OF THE FOLLOWING:

31 (A) TRANSPORTATION NETWORK COMPANY INSURANCE MAINTAINED BY A PARTIC-
32 IPATING DRIVER;

33 (B) TRANSPORTATION NETWORK COMPANY INSURANCE MAINTAINED BY A TRANSPOR-
34 TATION NETWORK COMPANY; OR

35 (C) ANY COMBINATION OF SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH.

36 (D) A TRANSPORTATION NETWORK COMPANY MAY MEET ITS OBLIGATIONS UNDER
37 THIS SECTION THROUGH A POLICY OBTAINED BY A PARTICIPATING DRIVER PURSU-
38 ANT TO SUBPARAGRAPH (A) OR (C) OF THIS PARAGRAPH ONLY IF THE TRANSPORTA-
39 TION NETWORK COMPANY VERIFIES THAT THE POLICY IS MAINTAINED BY THE DRIV-
40 ER AND IS SPECIFICALLY WRITTEN TO COVER THE DRIVER'S USE OF A VEHICLE IN
41 CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLI-
42 CATION OR PLATFORM, AND THE TRANSPORTATION NETWORK COMPANY ALSO MAIN-
43 TAINS INSURANCE THAT PROVIDES COVERAGE IN THE EVENT A PARTICIPATING
44 DRIVER'S INSURANCE POLICY UNDER SUBPARAGRAPH (A) OR (C) OF THIS PARA-
45 GRAPH HAS CEASED TO EXIST OR HAS BEEN CANCELED, OR THE PARTICIPATING
46 DRIVER DOES NOT OTHERWISE MAINTAIN TRANSPORTATION NETWORK COMPANY INSUR-
47 ANCE PURSUANT TO THIS SECTION.

48 (4) THE INSURER PROVIDING TRANSPORTATION NETWORK COMPANY INSURANCE
49 UNDER THIS SUBSECTION SHALL HAVE THE DUTY TO DEFEND AND INDEMNIFY THE
50 INSURED.

51 (F) THE FOLLOWING REQUIREMENTS SHALL APPLY TO TRANSPORTATION NETWORK
52 COMPANY INSURANCE FROM THE MOMENT A PARTICIPATING DRIVER LOGS ON TO THE
53 TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM
54 UNTIL THE DRIVER ACCEPTS A REQUEST TO TRANSPORT A PASSENGER, AND FROM
55 THE MOMENT THE DRIVER COMPLETES THE TRANSACTION ON THE ONLINE-ENABLED
56 APPLICATION OR PLATFORM OR THE RIDE IS COMPLETE, WHICHEVER IS LATER,

1 UNTIL THE DRIVER EITHER ACCEPTS ANOTHER RIDE REQUEST ON THE ONLINE-ENA-
2 BLED APPLICATION OR PLATFORM OR LOGS OFF THE ONLINE-ENABLED APPLICATION
3 OR PLATFORM:

4 (1) TRANSPORTATION NETWORK COMPANY INSURANCE SHALL PROVIDE COVERAGE IN
5 SATISFACTION OF THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN
6 SUBDIVISION FOUR OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND
7 TRAFFIC LAW, SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS ARTICLE
8 AND ARTICLE FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMULGATED THERE-
9 UNDER. TRANSPORTATION NETWORK COMPANY INSURANCE SHALL ALSO PROVIDE
10 MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AS DESCRIBED IN PARAGRAPH NINE-
11 TEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF
12 THIS CHAPTER IF THE PARTICIPATING DRIVER CARRIES SUCH COVERAGE ON HIS OR
13 HER PERSONAL AUTO POLICY UNLESS THAT INSURER IS PROVIDING TRANSPORTATION
14 NETWORK COMPANY INSURANCE TO THE DRIVER.

15 (2) THE REQUIREMENTS FOR THE COVERAGE REQUIRED BY THIS SUBSECTION MAY
16 BE SATISFIED BY ANY OF THE FOLLOWING:

17 (A) TRANSPORTATION NETWORK COMPANY INSURANCE MAINTAINED BY A PARTIC-
18 IPATING DRIVER;

19 (B) TRANSPORTATION NETWORK COMPANY INSURANCE MAINTAINED BY A TRANSPOR-
20 TATION NETWORK COMPANY; OR

21 (C) ANY COMBINATION OF SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH.

22 (D) A TRANSPORTATION NETWORK COMPANY MAY MEET ITS OBLIGATIONS UNDER
23 THIS SECTION THROUGH A POLICY OBTAINED BY A PARTICIPATING DRIVER PURSU-
24 ANT TO SUBPARAGRAPH (A) OR (C) OF THIS PARAGRAPH ONLY IF THE TRANSPORTA-
25 TION NETWORK COMPANY VERIFIES THAT THE POLICY IS MAINTAINED BY THE DRIV-
26 ER AND IS SPECIFICALLY WRITTEN TO COVER THE DRIVER'S USE OF A VEHICLE IN
27 CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLI-
28 CATION OR PLATFORM, AND THE TRANSPORTATION NETWORK COMPANY ALSO MAIN-
29 TAINS INSURANCE THAT PROVIDES COVERAGE IN THE EVENT A PARTICIPATING
30 DRIVER'S INSURANCE POLICY UNDER SUBPARAGRAPH (A) OR (C) OF THIS PARA-
31 GRAPH HAS CEASED TO EXIST OR HAS BEEN CANCELED, OR THE PARTICIPATING
32 DRIVER DOES NOT OTHERWISE MAINTAIN TRANSPORTATION NETWORK COMPANY INSUR-
33 ANCE PURSUANT TO THIS SECTION.

34 (3) THE INSURER PROVIDING TRANSPORTATION NETWORK COMPANY INSURANCE
35 UNDER THIS SUBSECTION SHALL HAVE THE DUTY TO DEFEND AND INDEMNIFY THE
36 INSURED.

37 (G) COVERAGE UNDER A TRANSPORTATION NETWORK COMPANY INSURANCE POLICY
38 SHALL NOT BE DEPENDENT ON A PERSONAL AUTOMOBILE INSURANCE POLICY FIRST
39 DENYING A CLAIM NOR SHALL A PERSONAL AUTOMOBILE INSURANCE POLICY BE
40 REQUIRED TO FIRST DENY A CLAIM.

41 (H) IN EVERY INSTANCE WHERE TRANSPORTATION NETWORK COMPANY INSURANCE
42 MAINTAINED BY A PARTICIPATING DRIVER TO FULFILL THE INSURANCE OBLI-
43 GATIONS OF THIS SECTION HAS LAPSED OR CEASED TO EXIST, THE TRANSPORTA-
44 TION NETWORK COMPANY SHALL PROVIDE THE COVERAGE REQUIRED BY THIS SECTION
45 BEGINNING WITH THE FIRST DOLLAR OF A CLAIM.

46 (I) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE A PRIVATE
47 PASSENGER AUTOMOBILE INSURANCE POLICY TO PROVIDE PRIMARY OR EXCESS
48 COVERAGE DURING THE PERIOD OF TIME FROM THE MOMENT A PARTICIPATING DRIV-
49 ER IN A TRANSPORTATION NETWORK COMPANY LOGS ON TO THE TRANSPORTATION
50 NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM UNTIL THE DRIV-
51 ER LOGS OFF THE ONLINE-ENABLED APPLICATION OR PLATFORM OR THE PASSENGER
52 EXITS THE VEHICLE, WHICHEVER IS LATER.

53 (J) DURING THE PERIOD OF TIME FROM THE MOMENT A PARTICIPATING DRIVER
54 IN A TRANSPORTATION NETWORK COMPANY LOGS ON TO THE TRANSPORTATION
55 NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM UNTIL THE DRIV-

ER LOGS OFF THE ONLINE-ENABLED APPLICATION OR PLATFORM OR UNTIL THE RIDE IS COMPLETE, WHICHEVER IS LATER, ALL OF THE FOLLOWING SHALL APPLY:

(1) THE PARTICIPATING DRIVER'S OR THE VEHICLE OWNER'S PERSONAL AUTOMOBILE INSURANCE POLICY SHALL NOT PROVIDE ANY COVERAGE TO THE PARTICIPATING DRIVER, VEHICLE OWNER, OR ANY THIRD PARTY, UNLESS THE POLICY EXPRESSLY PROVIDES FOR THAT COVERAGE DURING THE PERIOD OF TIME TO WHICH THIS SUBDIVISION IS APPLICABLE, WITH OR WITHOUT A SEPARATE CHARGE, OR THE POLICY CONTAINS AN AMENDMENT OR ENDORSEMENT TO PROVIDE THAT COVERAGE, FOR WHICH A SEPARATELY STATED PREMIUM IS CHARGED.

(2) THE PARTICIPATING DRIVER'S OR THE VEHICLE OWNER'S PERSONAL AUTOMOBILE INSURANCE POLICY SHALL NOT HAVE THE DUTY TO DEFEND OR INDEMNIFY FOR THE DRIVER'S ACTIVITIES IN CONNECTION WITH THE TRANSPORTATION NETWORK COMPANY, UNLESS THE POLICY EXPRESSLY PROVIDES OTHERWISE FOR THE PERIOD OF TIME TO WHICH THIS SUBDIVISION IS APPLICABLE, WITH OR WITHOUT A SEPARATE CHARGE, OR THE POLICY CONTAINS AN AMENDMENT OR ENDORSEMENT TO PROVIDE THAT COVERAGE, FOR WHICH A SEPARATELY STATED PREMIUM IS CHARGED.

(K) NOTWITHSTANDING ANY OTHER LAW, A PERSONAL AUTOMOBILE INSURER MAY, AT ITS DISCRETION, OFFER AN AUTOMOBILE LIABILITY INSURANCE POLICY, OR AN AMENDMENT OR ENDORSEMENT TO AN EXISTING POLICY THAT COVERS A PRIVATE PASSENGER VEHICLE, STATION WAGON TYPE VEHICLE, SPORT UTILITY VEHICLE, OR SIMILAR TYPE OF VEHICLE WITH A PASSENGER CAPACITY OF EIGHT PERSONS OR LESS, INCLUDING THE DRIVER, WHILE USED IN CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM ONLY IF THE POLICY EXPRESSLY PROVIDES FOR THE COVERAGE DURING THE TIME PERIOD SPECIFIED IN SUBSECTION (B) OF THIS SECTION, WITH OR WITHOUT A SEPARATE CHARGE, OR THE POLICY CONTAINS AN AMENDMENT OR AN ENDORSEMENT TO PROVIDE THAT COVERAGE, FOR WHICH A SEPARATELY STATED PREMIUM MAY BE CHARGED.

(L) IN A CLAIMS COVERAGE INVESTIGATION, A TRANSPORTATION NETWORK COMPANY OR ITS INSURER SHALL COOPERATE WITH INSURERS THAT ARE INVOLVED IN ANY CLAIMS COVERAGE INVESTIGATION TO FACILITATE THE EXCHANGE OF INFORMATION, INCLUDING THE PROVISION OF DATES AND TIMES AT WHICH AN ACCIDENT OCCURRED THAT INVOLVED A PARTICIPATING DRIVER AND THE PRECISE TIMES THAT THE PARTICIPATING DRIVER LOGGED ON AND OFF THE TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM.

(M) A PARTICIPATING DRIVER OF A TRANSPORTATION NETWORK COMPANY SHALL CARRY PROOF OF TRANSPORTATION NETWORK COMPANY INSURANCE COVERAGE WITH HIM OR HER AT ALL TIMES DURING HIS OR HER USE OF A VEHICLE IN CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM. IN THE EVENT OF AN ACCIDENT, A PARTICIPATING DRIVER SHALL PROVIDE THIS INSURANCE COVERAGE INFORMATION TO ANY OTHER PARTY INVOLVED IN THE ACCIDENT, AND TO A POLICE OFFICER, UPON REQUEST.

(N) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY AFFECTING WHETHER ONE OR MORE POLICIES OF INSURANCE THAT MAY APPLY WITH RESPECT TO AN OCCURRENCE IS PRIMARY OR EXCESS, THIS SECTION DETERMINES THE OBLIGATIONS UNDER INSURANCE POLICIES ISSUED TO TRANSPORTATION NETWORK COMPANIES AND, IF APPLICABLE, DRIVERS USING A VEHICLE IN CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S ONLINE-ENABLED APPLICATION OR PLATFORM.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.