

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1144**

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact chapters 26.1-40.1 and 39-34 of the North Dakota Century
2 Code, relating to insurance coverage of motor vehicles participating in transportation network
3 company networks and services, priority of coverage, and minimum limits; and to declare an
4 emergency.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** Chapter 26.1-40.1 of the North Dakota Century Code is created and enacted
7 as follows:

8 **26.1-40.1-01. Definitions.**

9 As used in this chapter and chapter 39-34, unless the context otherwise requires:

- 10 1. "Application off stage" of operation means the time period when the driver is operating
11 the vehicle for personal noncommercial reasons and not engaged in any manner or
12 operation for the transportation network company.
- 13 2. "Application on stage" means the time period the driver is logged onto the
14 online-enabled application of a transportation network company and available for hire
15 but not engaged and there is no passenger on board.
- 16 3. "Engaged stage" means the time period from the moment a participating driver
17 accepts a ride request on the transportation network company online-enabled
18 application or platform until the driver completes the transaction on the online-enabled
19 application or platform or until the ride is complete, whichever is later.
- 20 4. "Participating driver" or "driver" means an individual who:
21 a. Receives connections to potential passengers and related services from a
22 transportation network company in exchange for payment or a fee to the
23 transportation network company; and

1 b. Uses a personal vehicle to offer or provide prearranged transportation services to
2 a passenger upon connection through an online-enabled application or platform
3 controlled by a transportation network company in return for compensation or
4 payment of a fee.

5 5. "Passengers on-board stage" means the time period when there are passengers in the
6 vehicle pursuant to the driver's participation in a transportation network company.

7 6. "Personal injury protection" means basic no-fault benefits as defined under
8 subsection 2 of section 26.1-41-01.

9 7. "Transportation network company" means a person operating in this state which uses
10 an online-enabled application or platform to connect a passenger with an independent
11 participating driver who provides prearranged transportation services using a personal
12 vehicle. A transportation network company may not be deemed to control, direct, or
13 manage the personal vehicles or participating drivers that connect to the transportation
14 network company online-enabled application or platform, unless agreed to by written
15 contract.

16 8. "Transportation network company insurance" means an insurance policy that covers a
17 driver's use of a vehicle in connection with a transportation network company's
18 online-enabled application or platform.

19 **26.1-40.1-02. Required disclosures.**

20 1. A transportation network company shall disclose in writing or electronic form to
21 participating drivers, as part of its agreement with those drivers, the insurance
22 coverage and limits of liability that the transportation network company provides while
23 the driver uses a vehicle in connection with a transportation network company's
24 online-enabled application or platform and shall advise a participating driver that the
25 driver's personal automobile insurance policy may not provide coverage under the
26 agreement.

27 2. A transportation network company shall disclose in writing or electronic form to
28 participating drivers, as part of its agreement with those drivers, of when the driver's
29 personal automobile insurance policy may not provide collision or comprehensive
30 coverage, under the agreement.

1 3. A transportation network company shall provide notice in writing or electronically to the
2 driver instructing the driver to notify the driver's personal automobile insurer of the
3 driver's participation in the transportation network.

4 **26.1-40.1-03. Coverage required when transportation network company application is**
5 **engaged until completion of ride when the passenger has exited the vehicle.**

6 1. A transportation network company and any participating driver shall maintain
7 transportation network company insurance that provides for the following requirements
8 that apply to transportation network company insurance during the engaged stage and
9 during the passenger on-board stage.

10 a. Transportation network company liability insurance is primary and in the amount
11 of one million dollars for death, bodily injury, and property damage. The
12 requirements for the coverage required by this subdivision may be satisfied by
13 any of the following:

14 (1) Transportation network company insurance maintained by a participating
15 driver.

16 (2) Transportation network company insurance maintained by a transportation
17 network company.

18 (3) Any combination of paragraphs 1 and 2.

19 b. Transportation network company insurance coverage provided under this section
20 for uninsured motorist coverage must meet the requirements under section
21 26.1-40-15.2, which is primary coverage.

22 c. Transportation network company insurance coverage provided under this section
23 for underinsured motorist coverage must meet the requirements under section
24 26.1-40-15.3, which is primary coverage.

25 d. Transportation network company insurance coverage must provide primary
26 personal injury protection to drivers, passengers, and pedestrians under chapter
27 26.1-41.

28 e. The primary insurer, in the case of insurance coverage provided under
29 subdivision a, has the sole duty to defend and indemnify the insured.

30 f. Coverage under a transportation network company insurance policy may neither
31 be dependent on a driver's personal automobile insurance policy carrier first

1 denying a claim nor a personal automobile insurance policy carrier being required
2 to first deny a claim.

3 g. If transportation network company insurance maintained by a participating driver
4 to fulfill the insurance obligations of this section has excluded coverage according
5 to its policy or ceased to exist, the transportation network company shall provide
6 the coverage required by this section beginning with the first dollar of a claim.

7 **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**
8 **in vehicle.**

9 1. During the application on stage, the transportation network company insurance must
10 include:

11 a. Motor vehicle liability coverage that is primary coverage. The coverage must
12 include at least fifty thousand dollars per person and one hundred thousand
13 dollars per incident for death and bodily injury and at least twenty-five thousand
14 dollars for property damage.

15 b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary
16 coverage.

17 c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary
18 coverage.

19 d. Personal injury protection under chapter 26.1-41 which is primary coverage.

20 2. The requirements for coverage under this section may be satisfied by:

21 a. Transportation network company insurance maintained by a participating driver;

22 b. Transportation network company insurance maintained by a transportation
23 network company; or

24 c. Any combination of subsections a and b.

25 3. The following apply to insurance requirements under this section:

26 a. The primary insurer, in the case of insurance coverage provided under
27 subdivision a of subsection 1, has the sole duty to defend and indemnify the
28 insured.

29 b. Coverage under a transportation network company insurance policy may neither
30 be dependent on a driver's personal automobile insurance policy carrier first

1 denying a claim nor a personal automobile insurance policy carrier being required
2 to first deny a claim.

3 c. If transportation network company insurance maintained by a participating driver
4 to fulfill the insurance obligations of this section has excluded coverage according
5 to its policy or ceased to exist, the transportation network company shall provide
6 the coverage required by this section beginning with the first dollar of a claim.

7 **26.1-40.1-05. Automobile insurers.**

8 Insurers that write personal automobile insurance may allow no-fault insurance coverage to
9 be conditional on transportation network company no-fault insurance coverage under sections
10 26.1-40.1-03 and 26.1-40.1-04.

11 **26.1-40.1-06. Liability of transportation network company beyond required limits.**

12 This chapter does not limit the liability of a transportation network company arising out of an
13 automobile accident involving a participating driver in any action for damages against a
14 transportation network company for an amount above the required insurance coverage.

15 **26.1-40.1-07. Discretionary personal insurance where offered by personal automobile**
16 **insurer.**

17 A personal automobile insurer may offer an automobile liability insurance policy, or an
18 amendment or endorsement to an existing policy that covers a private passenger vehicle or
19 similar type of vehicle with a passenger capacity of less than eight persons, including the driver,
20 while used in connection with a transportation network company's online-enabled application or
21 platform.

22 **26.1-40.1-08. Duty to cooperate.**

23 In a claims coverage investigation involving a participating driver, a transportation network
24 company or its insurer shall cooperate with insurers that are involved in the claims coverage
25 investigation to facilitate the exchange of information, including the provision of dates and times
26 at which an accident occurred involving a participating driver and the precise times that the
27 participating driver logged on and off the transportation network company's online-enabled
28 application or platform.

29 **26.1-40.1-09. Financial responsibility.**

30 Transportation network company insurance that meets the requirements of this chapter is
31 deemed to satisfy the financial responsibility requirements of chapter 39-16.

1 **26.1-40.1-10. Proof of insurance.**

2 A participating driver of a transportation network company shall carry proof of transportation
3 network company insurance coverage at all times during the driver's use of a vehicle in
4 connection with a transportation network company's online-enabled application or platform. In
5 the event of an accident, a participating driver shall provide this insurance coverage information
6 to any other party involved in the accident and to a police officer, upon request.

7 **26.1-40.1-11. Authorized or eligible carrier.**

8 Transportation network company insurance required by this chapter may be placed with an
9 insurer authorized to do business in the state or with a surplus lines insurer eligible under
10 section 26.1-44-03.

11 **SECTION 2.** Chapter 39-34 of the North Dakota Century Code is created and enacted as
12 follows:

13 **39-34-01. Agent.**

14 The transportation network company must maintain a registered agent with the secretary of
15 state for service of process in this state.

16 **39-34-02. Fare charged for services.**

17 The transportation network company shall provide passengers with the applicable rates
18 being charged and the option to receive an estimated fare before the passenger enters the
19 transportation network company driver's vehicle.

20 **39-34-03. Transportation driver requirements.**

21 1. Before permitting an individual to act as a transportation network company driver on its
22 digital platform, the transportation network company shall:

23 a. Require the individual to submit an application to the transportation network
24 company, which includes information regarding the individual's address, age,
25 driver's license, driving history, motor vehicle registration, automobile liability
26 insurance, and other information required by the transportation network
27 company;

28 b. Conduct, or have a third party conduct, a local and national criminal background
29 check for each applicant that must include:

30 (1) Multistate and multijurisdiction criminal records locator or other similar
31 commercial nationwide database with validation; and

- 1 (2) National sex offender registry database; and
- 2 c. Obtain and review a driving history research report for the individual.
- 3 2. The transportation network company may not permit an individual to act as a
- 4 transportation network company driver on its digital platform who:
- 5 a. Has had more than three moving violations in the prior three-year period, or one
- 6 major violation in the prior three-year period, including attempting to evade the
- 7 police, reckless driving, or driving on a suspended or revoked license;
- 8 b. Has been convicted, within the past seven years, of driving under the influence of
- 9 drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a
- 10 felony, a crime involving property damage, theft, an act of violence, or an act of
- 11 terror;
- 12 c. Is a match in the national sex offender registry database;
- 13 d. Does not possess a valid driver's license;
- 14 e. Does not possess proof of registration for the motor vehicle used to provide
- 15 transportation network company services;
- 16 f. Does not possess proof of automobile liability insurance for the motor vehicle
- 17 used to provide transportation network company services; or
- 18 g. Is not at least twenty-one years of age.

19 **39-34-04. Personally identifiable information.**

20 A transportation network company may not disclose any personally identifiable information

21 of a transportation network company passenger, except pursuant to the publicly disclosed terms

22 of the transportation network company's privacy policy. For any other disclosure not governed

23 by the privacy policy, the transportation network company must obtain the passenger's consent

24 before the company may disclose the passenger's personally identifiable information.

25 **39-34-05. Audit.**

- 26 1. The department may audit the records of a transportation network company by means
- 27 of random sample of the transportation network company's records related to
- 28 transportation network drivers:
- 29 a. No more than twice in a year's time.
- 30 b. At an agreed upon location.

1 c. Notwithstanding subdivision a, in a reasonable timeframe to investigate a
2 complaint related to public safety or a violation of this Act, if the department
3 provides details on the nature of the complaint.

4 2. The department may impose a civil penalty of up to five hundred dollars for each
5 violation of this chapter.

6 **39-34-06. Controlling authority.**

7 Notwithstanding any other provision of law, transportation network companies and
8 transportation network company drivers are governed exclusively by this chapter and chapter
9 26.1-40.1 and any rules adopted by the department of transportation consistent with this
10 chapter and by the insurance commissioner under section 1 of this Act. A political subdivision
11 may not impose a tax on, or require a license for, a transportation network company or a
12 transportation network company driver or subject a transportation network company to the
13 political subdivision's rate, entry, operational, or other requirements. A political subdivision may
14 prohibit a transportation network company from operating without a state permit within the
15 jurisdiction of the political subdivision.

16 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.