

**FIRST ENGROSSMENT  
with House Amendments  
ENGROSSED SENATE BILL NO. 2368**

Introduced by

Senators Casper, Axness, Oehlke, Sinner

Representatives Beadle, Owens

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 transportation network company services.

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

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

6 **26.1-40.1-01. Definitions.**

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

- 8 1. "Application off stage" of operation means the time period when the driver is operating  
9 the vehicle for personal noncommercial reasons and not engaged in any manner or  
10 operation for the transportation network company.
- 11 2. "Application on stage" means the time period the driver is logged onto the  
12 online-enabled application of a transportation network company and available for hire  
13 but not engaged and there is no passenger on board.
- 14 3. "Engaged stage" means the time period from the moment a participating driver  
15 accepts a ride request on the transportation network company online-enabled  
16 application or platform until the driver completes the transaction on the online-enabled  
17 application or platform or until the ride is complete, whichever is later.
- 18 4. "Participating driver" or "driver" means any individual who uses a vehicle in connection  
19 with a transportation network company's online-enabled application or platform to  
20 transport passengers for compensation.
- 21 5. "Passengers on-board stage" means the time period when there are passengers in the  
22 vehicle pursuant to the driver's participation in a transportation network company.
- 23 6. "Transportation network company" means a person operating in this state which  
24 enables prearranged transportation services for compensation using an

1 online-enabled application or platform to connect passengers with independent  
2 participating drivers using a personal vehicle.

3 7. "Transportation network company insurance" means an insurance policy that  
4 specifically covers a driver's use of a vehicle in connection with a transportation  
5 network company's online-enabled application or platform.

6 **26.1-40.1-02. Required disclosures.**

7 1. A transportation network company shall disclose in writing or electronic form to  
8 participating drivers, as part of its agreement with those drivers, the insurance  
9 coverage and limits of liability that the transportation network company provides while  
10 the driver uses a vehicle in connection with a transportation network company's  
11 online-enabled application or platform and shall advise a participating driver that the  
12 driver's personal automobile insurance policy may not provide coverage under the  
13 agreement.

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

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

21 **26.1-40.1-03. Coverage required when transportation network company application is**  
22 **engaged until completion of ride when the passenger has exited the vehicle.**

23 1. A transportation network company and any participating driver shall maintain  
24 transportation network company insurance that provides for the requirements that  
25 apply to transportation network company insurance during the engaged stage and  
26 during the passenger on-board stage.

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

30 a. Transportation network company insurance maintained by a participating driver.

- 1           b. Transportation network company insurance maintained by a transportation  
2           network company.
- 3           c. Any combination of subdivisions a and b.
- 4        3. Transportation network company insurance coverage provided under this section also  
5        provides for uninsured motorist coverage and underinsured motorist coverage in the  
6        amount under subsection 3 of section 26.1-40-15.2 anytime the driver has  
7        transportation network company passengers on board.
- 8        4. Transportation network company insurance coverage must provide personal injury  
9        protection to drivers, passengers, and pedestrians when required under chapter  
10       26.1-41.
- 11       5. The primary insurer, in the case of insurance coverage provided under subdivision a,  
12       has the sole duty to defend and indemnify the insured.
- 13       6. Coverage under a transportation network company insurance policy may neither be  
14       dependent on a driver's personal automobile insurance policy carrier first denying a  
15       claim nor a personal automobile insurance policy carrier being required to first deny a  
16       claim.
- 17       7. In every instance in which transportation network company insurance maintained by a  
18       participating driver to fulfill the insurance obligations of this section has excluded  
19       coverage according to its policy or ceased to exist, the transportation network  
20       company shall provide the coverage required by this section beginning with the first  
21       dollar of a claim.

22        **26.1-40.1-04. Insurance coverage during the application on stage with no passengers**  
23        **in vehicle.**

- 24        1. During the application on stage, the transportation network company insurance must  
25        include:
- 26        a. Motor vehicle liability coverage and the coverage is secondary. The coverage  
27        must include at least fifty thousand dollars per person and one hundred  
28        thousand dollars per incident for death and bodily injury and at least twenty-five  
29        thousand dollars for property damage.
- 30        b. Uninsured motorist coverage under section 26.1-40-15.2 and the coverage is  
31        secondary.

1           c. Underinsured motorist coverage under section 26.1-40-15.3 and the coverage is  
2           secondary.

3           d. Personal injury protection under chapter 26.1-41 and the coverage is secondary.

4        2. The requirements for coverage required by this section may be satisfied by any of the  
5        following:

6           a. Transportation network company insurance maintained by a participating driver.

7           b. Transportation network company insurance maintained by a transportation  
8           network company that provides coverage in the event that a participating driver's  
9           insurance policy under subdivision a has ceased to exist or has been canceled or  
10          in the event the participating driver does not otherwise maintain transportation  
11          network company insurance.

12          c. Any combination of subdivisions a and b.

13        3. In every instance in which transportation network company insurance maintained by a  
14        participating driver to fulfill the insurance obligations of this section has lapsed or  
15        ceased to exist, the transportation network company shall provide the coverage  
16        required by this section beginning with the first dollar of a claim.

17        **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

21        **26.1-40.1-06. Discretionary personal insurance where offered by personal automobile**  
22        **insurer.**

23        A personal automobile insurer may offer an automobile liability insurance policy, or an  
24        amendment or endorsement to an existing policy that specifically covers a private passenger  
25        vehicle or similar type of vehicle with a passenger capacity of fewer than eight passengers,  
26        including the driver, while used in connection with a transportation network company's online-  
27        enabled application or platform.

28        **26.1-40.1-07. Duty to cooperate.**

29        In a claims coverage investigation involving a participating driver, a transportation network  
30        company or its insurer shall cooperate with insurers that are involved in the claims coverage  
31        investigation to facilitate the exchange of information, including the provision of dates and times

1 at which an accident occurred involving a participating driver and the precise times that the  
2 participating driver logged on and off the transportation network company's online-enabled  
3 application or platform.

4 **26.1-40.1-08. Financial responsibility.**

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

7 **26.1-40.1-09. Proof of insurance.**

8 4- A participating driver of a transportation network company shall carry proof of  
9 transportation network company insurance coverage at all times during the driver's use of a  
10 vehicle in connection with a transportation network company's online-enabled application or  
11 platform. In the event of an accident, a participating driver shall provide this insurance coverage  
12 information to any other party involved in the accident, and to a police officer, upon request.

13 **26.1-40.1-10. Authorized or eligible carrier.**

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

17 **26.1-40.1-11. Conditional no fault insurance coverage**

18 An insurer that writes a personal automobile insurance policy may allow no fault insurance  
19 coverage to be conditional on transportation network company no fault insurance coverage  
20 pursuant to 26.1-40.1-03 and 26.1-40.1-04.