

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 488

Introduced by Scheer, 19.

Read first time January 20, 2015

Committee:

- 1 A BILL FOR AN ACT relating to insurance; to adopt the Transportation
- 2 Network Insurance Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known and may be
2 cited as the Transportation Network Insurance Act.

3 Sec. 2. For purposes of the Transportation Network Insurance Act:

4 (1) Application open stage means the time period from the moment
5 participating driver logs on to the transportation network company's
6 online-enabled application or platform until the driver accepts a request
7 to transport a passenger and from the moment the driver completes the
8 transaction on the online-enabled application or platform or the
9 passenger exits the vehicle, whichever is later, until the driver either
10 accepts another ride request on the online-enabled application or
11 platform or logs off the online-enabled application or platform;

12 (2) Engaged stage means the time period from the moment a
13 participating driver accepts a ride request on the transportation network
14 company online-enabled application or platform until the driver completes
15 the transaction on the online-enabled application or platform or until
16 the passenger exits the vehicle, whichever is later;

17 (3) Insurance policy means a policy placed with an authorized
18 Nebraska insurer or with a surplus lines insurer pursuant to Chapter 44;

19 (4) Participating driver or driver means any person who uses a
20 vehicle in connection with a transportation network company's online-
21 enabled application or platform to connect with passengers;

22 (5) Passengers on board stage means the time period when there are
23 passengers in the vehicle pursuant to the driver's participation in a
24 transportation network company;

25 (6) Transportation network company means an organization, including
26 a corporation, limited liability company, partnership, sole proprietor,
27 or any other entity, operating in this state that provides prearranged
28 transportation services for compensation using an online-enabled
29 application or platform to connect passengers with participating drivers
30 using a personal vehicle; and

31 (7) Transportation network company insurance means an insurance

1 policy that expressly covers loss arising from a participating driver's
2 use of a personal vehicle in connection with a transportation network
3 company's online-enabled application or platform, including the following
4 coverages: Liability; uninsured motorist; underinsured motorist;
5 collision; and comprehensive.

6 Sec. 3. (1) A transportation network company shall disclose in
7 writing to participating drivers the insurance coverage and limits of
8 liability that the transportation network company provides while the
9 driver uses a motor vehicle in connection with a transportation network
10 company's online-enabled application or platform.

11 (2) A transportation network company shall disclose in writing to
12 participating drivers, as part of its agreement with the drivers, that
13 the driver's personal automobile insurance policy may not provide
14 coverage for damage to the motor vehicle used by the driver, uninsured
15 and underinsured motorist coverage, and other first-party claims from the
16 moment the driver logs on to the transportation network company's online-
17 enabled application or platform to the moment the driver logs off the
18 transportation network company's online-enabled application or platform.

19 Sec. 4. (1) A transportation network company and a participating
20 driver shall maintain transportation network company insurance as
21 provided in this section, and unless otherwise specified, the following
22 requirements shall apply to transportation network company insurance
23 during the engaged stage and during the passenger on board stage:

24 (a) Primary liability coverage in the amount of at least five
25 hundred thousand dollars for death, personal injury, and property damage;

26 (b) Uninsured and underinsured motorist coverage for both the driver
27 and passengers in the amounts required by section 44-6408; and

28 (c) Collision physical damage coverage and comprehensive physical
29 damage coverage if the participating driver carries those coverages on
30 their personal auto policy unless that insurer is providing
31 transportation network company insurance to the driver.

1 (2) The requirements for the coverage required by this section may
2 be satisfied by any of the following:

3 (a) Transportation network company insurance maintained by a
4 participating driver;

5 (b) Transportation network company insurance maintained by a
6 transportation network company; or

7 (c) Any combination of subdivisions (2)(a) and (b) of this section.

8 (3) The insurer providing transportation network company insurance
9 under this section shall have the duty to defend and indemnify the
10 insured.

11 Sec. 5. (1) The following requirements shall apply to
12 transportation network company insurance during the application open
13 stage:

14 (a) Transportation network company insurance shall be primary and in
15 the amount of at least twenty-five thousand dollars for death and
16 personal injury per person, fifty thousand dollars for death and personal
17 injury per incident, and twenty-five thousand dollars for property
18 damage;

19 (b) Uninsured motorist coverage pursuant to the Uninsured and
20 Underinsured Motorist Insurance Coverage Act; and

21 (c) Collision physical damage coverage and comprehensive physical
22 damage coverage if the participating driver carries those coverages on
23 his or her personal auto policy.

24 (2) The requirements for the coverage required by this section may
25 be satisfied by any of the following:

26 (a) Transportation network company insurance maintained by a
27 participating driver;

28 (b) Transportation network company insurance maintained by a
29 transportation network company that provides coverage in the event a
30 participating driver's insurance policy under subdivision (2)(a) of this
31 section has ceased to exist or has been canceled or the participating

1 driver does not otherwise maintain transportation network company
2 insurance pursuant to subdivision (2)(a) of this section; or

3 (c) Any combination of subdivisions (2)(a) and (b) of this section.

4 (3) The insurer providing transportation network company insurance
5 under this section shall be the only insurer having the duty to defend
6 any liability claim arising from an accident occurring within the time
7 periods specified in this section.

8 (4) A transportation network company may meet its obligations under
9 this section through a policy obtained by a participating driver pursuant
10 to subsection (1) of this section only if the transportation network
11 company verifies that the policy is maintained by the driver and is
12 specifically written to cover the driver's use of a personal motor
13 vehicle in connection with a transportation network company's online-
14 enabled application or platform.

15 Sec. 6. (1) A transportation network company may meet its
16 obligations under Transportation Network Insurance Act through an
17 insurance policy obtained by a participating driver only if the
18 transportation network company verifies that the insurance policy is
19 maintained by the driver and is specifically written to cover the
20 driver's use of a personal motor vehicle in connection with a
21 transportation network company's online-enabled application or platform;

22 (2) Coverage under a transportation network company insurance policy
23 shall not be dependent on a personal automobile insurance policy first
24 denying a claim nor shall a personal automobile insurance policy,
25 including a personal liability umbrella policy, be required to first deny
26 a claim; and

27 (3) When transportation network company insurance maintained by a
28 participating driver to fulfill the insurance obligations of the act has
29 lapsed or ceased to exist, the transportation network company shall
30 provide the coverage required by this section beginning with the first
31 dollar of a claim.

1 Sec. 7. The Transportation Network Insurance Act shall not limit
2 the liability of a transportation network company arising out of an
3 automobile accident involving a participating driver in any action for
4 damages against a transportation network company for an amount above the
5 required insurance coverage.

6 Sec. 8. Nothing in the Transportation Network Insurance Act shall
7 be construed to require a private passenger automobile insurance policy
8 to provide primary or excess coverage during the period of time from the
9 moment a participating driver in a transportation network company logs on
10 to the transportation network company's online-enabled application or
11 platform until the driver logs off the online-enabled application or
12 platform or the passenger exits the motor vehicle, whichever is later.

13 Sec. 9. During the period of time from the moment a participating
14 driver in a transportation network company logs on to the transportation
15 network company's online-enabled application or platform until the driver
16 logs off the online-enabled application or platform or the passenger
17 exits the motor vehicle, whichever is later, all of the following shall
18 apply:

19 (1) The participating driver's or the motor vehicle owner's personal
20 automobile insurance policy shall not provide any coverage to the
21 participating driver, motor vehicle owner, or any third party unless the
22 policy expressly provides for that coverage during the period of time to
23 which this section is applicable, with or without a separate charge, or
24 the policy contains an amendment or endorsement to provide that coverage,
25 for which a separately stated premium is charged; and

26 (2) The participating driver's or the motor vehicle owner's personal
27 automobile insurance policy shall not have the duty to defend or
28 indemnify for the driver's activities in connection with the
29 transportation network company unless the policy expressly provides
30 otherwise for the period of time to which this section is applicable,
31 with or without a separate charge, or the policy contains an amendment or

1 endorsement to provide that coverage, for which a separately stated
2 premium is charged.

3 Sec. 10. Notwithstanding any other law, a personal automobile
4 insurer may, at its discretion, offer an automobile liability insurance
5 policy, or an amendment or endorsement to an existing policy, that covers
6 a private passenger motor vehicle, station wagon type vehicle, sport
7 utility vehicle, or similar type of motor vehicle with a passenger
8 capacity of eight persons or less, including the driver, while used in
9 connection with a transportation network company's online-enabled
10 application or platform only if the policy expressly provides for the
11 coverage during all or the defined portion of the time period specified
12 in section 4 of this act, with or without a separate charge, or the
13 policy contains an amendment or an endorsement to provide that coverage,
14 for which a separately stated premium may be charged.

15 Sec. 11. (1) In a claims coverage investigation, a transportation
16 network company or its insurer shall cooperate with insurers that are
17 involved in the claims coverage investigation to facilitate the exchange
18 of information, including the provision of dates and times at which an
19 accident occurred that involved a participating driver and the precise
20 times that the participating driver logged on and off the transportation
21 network company's online-enabled application or platform.

22 (2) All records, including electronic records, showing time when a
23 driver has logged in as active or logged out as inactive on the
24 transportation network company's online-enabled application or platform,
25 and any data or reports with information about the motor vehicle's
26 involvement in a motor vehicle accident, that are maintained by the
27 transportation network company shall be maintained for a minimum of five
28 years after the date the loss is reported to the transportation network
29 company.

30 Sec. 12. A participating driver shall carry proof of transportation
31 network company insurance coverage with him or her at all times during

1 his or her use of a vehicle in connection with a transportation network
2 company's online-enabled application or platform. In the event of an
3 accident, a participating driver shall provide this insurance coverage
4 information to any other party involved in the accident and to a law
5 enforcement officer, upon request.