

HOUSE BILL NO. 1144

Introduced by

Representative Keiser

Senator Klein

1 A BILL for an Act to create and enact chapter 26.1-40.1 of the North Dakota Century Code,
2 relating to insurance coverage of motor vehicles participating in transportation network
3 company networks, priority of coverage, and minimum limits; and to provide for application.

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

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

7 **26.1-40.1-01. Definitions.**

8 As used in this chapter, unless the context otherwise requires:

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

1 6. "Transportation network company" means a person operating in this state that
2 provides prearranged transportation services for compensation using an
3 online-enabled application or platform to connect passengers with drivers using a
4 personal vehicle.

5 7. "Transportation network company insurance" means a liability insurance policy that
6 specifically covers liabilities arising from a participating driver's use of a vehicle in
7 connection with a transportation network company's online-enabled application or
8 platform.

9 **26.1-40.1-02. Required disclosures.**

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

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

20 3. A transportation network company shall provide notice of a driver's participation in the
21 transportation network directly to the driver's personal automobile insurer unless that
22 insurer is providing transportation network company insurance to the driver.

23 **26.1-40.1-03. Coverage required when transportation network company application is**
24 **engaged until completion of ride.**

25 1. A transportation network company and any participating driver shall maintain
26 transportation network company insurance and unless otherwise specified, the
27 following requirements apply to transportation network company insurance during the
28 engaged stage and during the passenger on-board stage.

29 a. Transportation network company insurance is primary and in the amount of one
30 million dollars for death, personal injury, and property damage. The requirements

1 for the coverage required by this subdivision may be satisfied by any of the
2 following:

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

5 (2) Transportation network company insurance maintained by a transportation
6 network company.

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

8 b. Transportation network company insurance coverage provided under this section
9 also provides for uninsured motorist coverage and underinsured motorist
10 coverage in the amount of one million dollars anytime the driver has
11 transportation network company passengers on board.

12 c. Transportation network company insurance coverage must provide personal
13 injury protection to drivers, passengers, and pedestrians as provided under
14 chapter 26.1-41.

15 d. The primary insurer, in the case of insurance coverage provided under
16 subdivision a, has the duty to defend and indemnify the insured.

17 e. A transportation network company may meet its obligations under this section
18 through a policy obtained by a participating driver under paragraph 1 or 3 of
19 subdivision a only if the transportation network company verifies that the policy is
20 maintained by the driver and is specifically written to cover the driver's use of a
21 vehicle in connection with a transportation network company's online-enabled
22 application or platform.

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

25 1. The following requirements apply to transportation network company insurance for
26 application on stage:

27 a. Transportation network company insurance shall be primary and in the amount of
28 at least twenty-five thousand dollars for death and personal injury per person, fifty
29 thousand dollars for death and personal injury per incident, and twenty-five
30 thousand dollars for property damage.

31 b. Transportation network company insurance coverage must provide:

- 1 (1) Uninsured motorist coverage under subsection 3 of section 26.1-40-15.1;
- 2 (2) Underinsured motorist coverage under subsection 2 of section 26.1-40-15.1;
- 3 (3) Personal injury protection under chapter 26.1-41; and
- 4 (4) Collision physical damage coverage and comprehensive physical damage
- 5 coverage.
- 6 2. The requirements for the coverage required by this section may be satisfied by any of
- 7 the following:
- 8 a. Transportation network company insurance maintained by a participating driver.
- 9 b. Transportation network company insurance maintained by a transportation
- 10 network company that provides coverage in the event a participating driver's
- 11 insurance policy under subdivision a of subsection 1 has ceased to exist or has
- 12 been canceled, or the participating driver does not otherwise maintain
- 13 transportation network company insurance pursuant to this section.
- 14 c. Any combination of subsections a and b.
- 15 3. A transportation network company shall maintain insurance coverage that provides
- 16 excess coverage insuring the transportation network company and the driver in the
- 17 amount of at least two hundred thousand dollars per occurrence to cover any liability
- 18 arising from a participating driver using a vehicle in connection with a transportation
- 19 network company's online-enabled application or platform within the application on
- 20 stage specified in this section, which liability exceeds the required coverage limits in
- 21 subdivision a of subsection 1.
- 22 4. The insurer providing insurance coverage under this section is the only insurer having
- 23 the duty to defend any liability claim arising from an accident occurring within the time
- 24 periods specified in this section.
- 25 5. A transportation network company may meet its obligations under this section through
- 26 a policy obtained by a participating driver under subdivisions a or c of subsection 2
- 27 only if the transportation network company verifies that the policy is maintained by the
- 28 driver and is specifically written to cover the driver's use of a vehicle in connection with
- 29 a transportation network company's online-enabled application or platform.
- 30 6. Coverage under a transportation network company insurance policy may neither be
- 31 dependent on a driver's personal automobile insurance policy carrier first denying a

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

3 7. In every instance where transportation network company insurance maintained by a
4 participating driver to fulfill the insurance obligations of this section has lapsed or
5 ceased to exist, the transportation network company shall provide the coverage
6 required by this section beginning with the first dollar of a claim.

7 **26.1-40.1-05. Liability of transportation network company beyond required limits.**

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

11 **26.1-40.1-06. Limitations on driver's personal auto policy during passenger on-board**
12 **stage, engaged stage, and application on stage.**

13 1. During the application on stage, engaged stage, or passenger on-board stage, the
14 following apply:

15 a. The participating driver's or the vehicle owner's personal automobile insurance
16 policy does not provide any coverage to the participating driver, vehicle owner, or
17 any third party, unless the policy expressly provides for that coverage during the
18 period of time to which this section is applicable, with or without a separate
19 charge, or the policy contains an amendment or endorsement to provide that
20 coverage, for which a separately stated premium is charged.

21 b. The participating driver's or the vehicle owner's personal automobile insurance
22 company does not have the duty to defend or indemnify for the driver's activities
23 in connection with the transportation network company, unless the policy
24 expressly provides otherwise for the period of time to which this section is
25 applicable, with or without a separate charge, or the policy contains an
26 amendment or endorsement to provide that coverage, for which a separately
27 stated premium is charged.

28 c. Nothing in this chapter may be construed to require a private passenger
29 automobile insurance policy to provide primary or excess coverage during the
30 application on stage, engaged stage, or passenger on-board stage.

1 **26.1-40.1-07. Discretionary personal insurance where offered by personal automobile**
2 **insurer.**

3 Notwithstanding any other law, a personal automobile insurer may offer an automobile
4 liability insurance policy, or an amendment or endorsement to an existing policy that covers a
5 private passenger vehicle or similar type of vehicle with a passenger capacity of eight persons
6 or less, including the driver, while used in connection with a transportation network company's
7 online-enabled application or platform only if the policy expressly provides for the coverage
8 during the time period specified in section 26.1-40.1-03, with or without a separate charge, or
9 the policy contains an amendment or an endorsement to provide that coverage, for which a
10 separately stated premium may be charged.

11 **26.1-40.1-08. Duty to cooperate.**

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

18 **26.1-40.1-09. Confidentiality of passenger personal information.**

19 A transportation network company may not disclose to a third party any personally
20 identifiable information of a transportation network company passenger unless the customer
21 knowingly consents, under a legal obligation, or the disclosure is to the commissioner of
22 insurance in order to investigate a complaint filed with the commissioner against a
23 transportation network company or a participating driver and the commissioner treats the
24 information under confidentiality protections.

25 **26.1-40.1-10. Financial responsibility.**

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

28 **26.1-40.1-11. Proof of insurance.**

29 A participating driver of a transportation network company shall carry proof of transportation
30 network company insurance coverage at all times during the driver's use of a vehicle in
31 connection with a transportation network company's online-enabled application or platform. In

1 the event of an accident, a participating driver shall provide this insurance coverage information
2 to any other party involved in the accident, and to a police officer, upon request.

3 **SECTION 2. APPLICATION.** The insurance commissioner shall expedite review of any
4 application for approval of transportation network company insurance products so that these
5 products become available for purchase on or before the effective date of this Act.