

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 436

 By: Quinn and Sharp of the
 Senate

 and

 Mulready of the House

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11 COMMITTEE SUBSTITUTE

12 [motor vehicle - Oklahoma Transportation Network
13 Company Services Act - insurance - liability -
14 codification - effective date -
15 emergency]

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18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1050 of Title 47, unless there
21 is created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Oklahoma
23 Transportation Network Company Services Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1051 of Title 47, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Transportation Network Company Services
5 Act:

6 1. "Digital network" means any online-enabled application,
7 software, website or system offered or utilized by a transportation
8 network company that enables the prearrangement of rides with
9 transportation network company drivers;

10 2. "Personal vehicle" means a vehicle that is used by a TNC
11 driver in connection with providing prearranged rides and is:

- 12 a. owned, leased or otherwise authorized for use by the
13 TNC driver, and
- 14 b. not a taxicab, limousine or other similar for-hire
15 motor carrier service;

16 3. "Prearranged ride" means the provision of transportation by
17 a driver to a rider, beginning when a driver accepts a ride
18 requested by a rider through a digital network controlled by a
19 transportation network company, continuing while the driver
20 transports a requesting rider, and ending when the last requesting
21 rider departs from the personal vehicle. A prearranged ride does
22 not include transportation provided using a taxi, limousine or other
23 for-hire vehicle pursuant to state law;

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1 4. "Transportation network company" (TNC) means a business
2 entity operating in Oklahoma that uses a digital network or software
3 application service to connect passengers to transportation network
4 company services provided by transportation network company drivers.
5 A TNC does not provide taxicab, limousine or other similar for-hire
6 motor carrier service. A TNC shall not be deemed to control, direct
7 or manage the personal vehicles or participating drivers that
8 connect to its digital network, except where agreed to by written
9 contract;

10 5. "Transportation network company driver" (TNC driver) means
11 an individual who:

- 12 a. receives connections to potential passengers and
13 related services from a TNC in exchange for payment of
14 a fee to the TNC, and
- 15 b. uses a personal vehicle to provide TNC services to
16 passengers upon connection through a digital network
17 controlled by a TNC in return for compensation or
18 payment of a fee; and

19 6. "Transportation network company passenger" (TNC passenger)
20 means an individual or persons who use a prearranged-rides digital
21 network to connect with a TNC driver who provides prearranged rides
22 to the passenger in the driver's personal vehicle between points
23 chosen by the passenger.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1052 of Title 47, unless there
3 is created duplication in numbering, reads as follows:

4 A. Beginning July 1, 2015, a transportation network company
5 driver or transportation network company on the TNC driver's behalf
6 shall maintain primary automobile insurance that recognizes that the
7 driver is a TNC driver or otherwise uses a vehicle to transport
8 passengers for compensation and covers the driver:

9 1. While the driver is logged on to the TNC's digital network;
10 and

11 2. While the driver is engaged in providing prearranged rides.

12 B. The following automobile insurance requirements shall apply
13 while a TNC driver is logged on to the TNC's digital network and is
14 available to receive transportation requests but is not engaged in
15 prearranged rides:

16 1. Primary automobile liability insurance in the amount of at
17 least Fifty Thousand Dollars (\$50,000.00) for death and bodily injury
18 per person, One Hundred Thousand Dollars (\$100,000.00) for death and
19 bodily injury per incident, and Twenty-five Thousand Dollars
20 (\$25,000.00) for property damage;

21 2. Uninsured motorist coverage unless waived pursuant to
22 Section 3636 of Title 36 of the Oklahoma Statutes; and

23 3. The coverage requirements of this subsection may be satisfied
24 by any of the following:

- 1 a. automobile insurance maintained by the TNC driver, or
- 2 b. automobile insurance maintained by the TNC, or
- 3 c. any combination of subparagraphs a and b of this
- 4 paragraph.

5 C. The following automobile insurance requirements shall apply
6 while a TNC driver is engaged in a prearranged ride:

7 1. Primary automobile liability insurance that provides at
8 least One Million Dollars (\$1,000,000.00) for death, bodily injury,
9 and property damage;

10 2. Uninsured motorist coverage unless waived pursuant to
11 Section 3636 of Title 36 of the Oklahoma Statutes; and

12 3. The coverage requirements of this subsection may be satisfied
13 by any of the following:

- 14 a. automobile insurance maintained by the TNC driver, or
- 15 b. automobile insurance maintained by the TNC, or
- 16 c. any combination of subparagraphs a and b of this
- 17 paragraph.

18 D. If insurance maintained by a TNC driver in subsection B or C
19 of this section has lapsed or does not provide the required coverage,
20 insurance maintained by a TNC shall provide the coverage required by
21 this section beginning with the first dollar of a claim and have the
22 duty to defend such claim.

23 E. Coverage under an automobile insurance policy maintained by
24 the TNC shall not be dependent on a personal automobile insurer first

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

3 F. Insurance required by this section may be placed with an
4 insurer authorized to do business in this state or with a surplus
5 lines insurer eligible under the Unauthorized Insurers and Surplus
6 Lines Insurance Act.

7 G. Insurance satisfying the requirements of this section shall
8 be deemed to satisfy the financial responsibility requirement for a
9 motor vehicle under Section 7-601 of Title 47 of the Oklahoma
10 Statutes during the driver's use of the vehicle in connection with a
11 TNC's digital network.

12 H. A TNC driver shall carry proof of coverage satisfying
13 subsections B and C of this section with the driver at all times
14 during the driver's use of a vehicle in connection with a
15 transportation network company's digital network. Proof of coverage
16 may be presented in electronic format. In the event of an accident,
17 a TNC driver shall provide this insurance coverage information, upon
18 request, to the directly interested parties, automobile insurers and
19 investigating police officers. Upon such request, a TNC driver
20 shall also disclose to directly interested parties, automobile
21 insurers, and investigating police officers, whether the driver was
22 logged on to the TNC's digital network or on a prearranged ride at
23 the time of an accident.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1053 of Title 47, unless there
3 is created duplication in numbering, reads as follows:

4 The transportation network company shall disclose in writing to
5 TNC drivers the following before they are allowed to accept a request
6 for a prearranged ride on the TNC's digital network:

7 1. The insurance coverage, including the types of coverage and
8 the limits for each coverage, that the TNC provides while the TNC
9 driver uses a personal vehicle in connection with a TNC's digital
10 network; and

11 2. That the TNC driver's own automobile insurance policy might
12 not provide any coverage while the driver is logged on to the TNC's
13 digital network and is available to receive transportation requests
14 or is engaged in prearranged rides depending on its terms.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1054 of Title 47, unless there
17 is created duplication in numbering, reads as follows:

18 A. Insurers that write automobile insurance in Oklahoma may
19 exclude any and all coverage afforded under the owner's insurance
20 policy for any loss or injury that occurs while a transportation
21 network company driver is logged on to a transportation network
22 company's digital network or while a driver provides a prearranged
23 ride. This right to exclude all coverage may apply to any coverage
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 included in an automobile insurance policy including, but not limited
2 to:

- 3 1. Liability coverage for bodily injury and property damage;
- 4 2. Uninsured and underinsured motorist coverage;
- 5 3. Medical payments coverage;
- 6 4. Comprehensive physical damage coverage; and
- 7 5. Collision physical damage coverage.

8 B. Such exclusions shall apply notwithstanding any requirement
9 under Section 7-324 of Title 47 of the Oklahoma Statutes. Nothing
10 in this section implies or requires that a personal automobile
11 insurance policy provide coverage while the TNC driver is logged on
12 to the TNC's digital network, while the TNC driver is engaged in a
13 prearranged ride or while the driver otherwise uses a vehicle to
14 transport passengers for compensation.

15 Nothing shall be deemed to preclude an insurer from providing
16 coverage for the TNC driver's vehicle, if it chooses to do so by
17 contract or endorsement.

18 C. Automobile insurers that exclude coverage as permitted in
19 this section shall have no duty to defend or indemnify any claim
20 expressly excluded thereunder. Nothing in this section shall be
21 deemed to invalidate or limit an exclusion contained in a policy
22 already in use or approved for use in this state prior to the
23 enactment of this act that excludes coverage for vehicles used to
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1 carry persons or property for a charge or available for hire by the
2 public.

3 An automobile insurer that defends or indemnifies a claim against
4 a TNC driver that is excluded under the terms of its policy shall
5 have a right of contribution against other insurers that provide
6 automobile insurance to the same TNC driver in satisfaction of the
7 coverage requirements of Section 3 of this act at the time of loss.

8 D. In a claims coverage investigation, transportation network
9 companies and any insurer potentially providing coverage under
10 Section 3 of this act shall cooperate to facilitate the exchange of
11 relevant information with directly involved parties and any insurer
12 of the TNC driver if applicable, including the precise times that a
13 TNC driver logged on and off of the TNC's digital network in the
14 twelve-hour period immediately preceding and in the twelve-hour
15 period immediately following the accident and disclose to one
16 another a clear description of the coverage, exclusions and limits
17 provided under any automobile insurance maintained under Section 3
18 of this act.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1055 of Title 47, unless there
21 is created a duplication in numbering, reads as follows:

22 If a transportation network company's insurer makes a payment
23 for a claim covered under comprehensive or collision insurance
24 coverage, the TNC shall cause its insurer to issue the payment

1 directly to the business repairing the vehicle or jointly to the
2 owner of the vehicle and the primary lienholder.

3 SECTION 7. This act shall become effective July 1, 2015.

4 SECTION 8. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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9 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/07/2015 - DO
10 PASS, As Amended.

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