

Stricken language would be deleted from and underlined language would be added to present law.
Act 1267 of the Regular Session

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/27/15
A Bill

SENATE BILL 780

By: Senator Rapert

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS INSURANCE CODE; TO PROVIDE MODERNIZATION OF REGULATION BY THE INSURANCE COMMISSIONER; TO REVISE THE TRANSPORTATION NETWORK COMPANY SERVICES ACT; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS INSURANCE CODE; TO PROVIDE MODERNIZATION OF REGULATION BY THE INSURANCE COMMISSIONER; AND TO REVISE THE TRANSPORTATION NETWORK COMPANY SERVICES ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 23-13-702, as added by Section 1 of Senate Bill 800 of 2015, is amended to read as follows if Senate Bill 800 of 2015 is enacted:

23-13-702. Definitions.

As used in this subchapter:

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

(2) "Personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing a



prearranged ride and is:

(A) Owned, leased, or otherwise authorized for use by the transportation network company driver; and

(B) Not a taxicab, limousine, or for-hire vehicle;

(3)(A) "Prearranged ride" or "transportation network services" means the provision of transportation by a transportation network company driver to a rider, beginning when a transportation network company driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the transportation network company driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle.

(B) A prearranged ride or transportation network services does not include transportation provided using a:

(i) Taxicab service as defined in § 14-57-301 et seq.;

(ii) Motor carrier service under the Arkansas Motor Carrier Act, 1955, § 23-13-201 et seq.; or

(iii) Street hail service;

~~(1)(A)~~(4)(A) "Transportation network company" means an individual a corporation partnership, sole proprietorship, or other entity licensed under this subchapter that operates and operating in this state and that uses a website, digital network, or software application to connect passengers to transportation network company services provided by riders to transportation network company drivers who provide prearranged rides.

(B) "Transportation network company" does not mean include a company that controls, directs, or manages the personal vehicles or transportation network company drivers that connect to the company's digital network, except when agreed to by written contract*.

~~(i) A broker, common carrier, contract carrier, or motor carrier, as defined in § 23-13-203;~~

~~(ii) A taxicab, taxicab association, for hire vehicle owner, or for hire motor vehicle service; or~~

~~(iii) An individual or entity that owns, controls, operates, or manages a motor vehicle used by a transportation network company driver;~~

~~(2)~~(5) "Transportation network company driver" means an

~~individual who operates a motor vehicle that is:~~

~~(A) Owned, leased, or otherwise authorized for use by the individual; Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and~~

~~(B) Not a taxicab or a for hire motor vehicle; and Uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company; and~~

~~(C) Used to provide transportation network company services; and~~

~~(3)(A) "Transportation network company services" means transporting a passenger between points chosen by the passenger and prearranged with a transportation network company driver through the use of a transportation network company website, digital network, or software application that:~~

~~(i) Begins when a transportation network company driver accepts a request for transportation received through the transportation network company's website, digital network, or software application;~~

~~(ii) Continues while:~~

~~(a) En route to the requesting passenger; and~~

~~(b) The transportation network company driver transports the passenger in the transportation network company driver's motor vehicle; and~~

~~(iii) Ends when the passenger exits the transportation network company driver's motor vehicle.~~

~~(B) "Transportation network company services" does not mean:~~

~~(i) Taxicab service as defined in § 14-57-301 et seq.;~~

~~(ii) Motor carrier service under § 23-13-201 et seq.; or~~

~~(iii) Street hail service.~~

~~(6) "Transportation network company rider" or "rider" means an individual or a person who uses a transportation network company's digital network to connect with a transportation network company driver who provides~~

a prearranged ride to a rider in the driver's personal vehicle between points chosen by the rider.

SECTION 2. Arkansas Code § 23-13-709, as added by Section 1 of Senate Bill 800 of 2015, is amended to read as follows if Senate Bill 800 of 2015 is enacted:

23-13-709. Insurance requirements.

~~(a)(1) No later than ninety (90) days On and after the effective date of this subchapter, a transportation network company driver and or a transportation network company drivers on the driver's behalf shall comply with the motor vehicle liability maintain primary automobile insurance coverage requirements of this section that:~~

(A) Recognizes that the driver is a transportation network company driver and covers the driver while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to provide transportation network services;

(B)(i) Provides primary automobile liability insurance in the amount of at least fifty thousand dollars (\$50,000) for death and bodily injury per person, one hundred thousand dollars (\$100,000) for death and bodily injury per incident, and twenty-five thousand dollars (\$25,000) for property damage while a participating transportation network company driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride.

(ii) The coverage requirements described in subdivision (a)(1)(B)(i) of this section may be satisfied by any combination of:

(a) Automobile insurance maintained by the transportation network company driver; or

(b) Automobile insurance maintained by the transportation network company;

(C)(i) Provides primary automobile liability insurance coverage of at least one million dollars (\$1,000,000) for death, bodily injury, and property damage while a transportation network company driver is engaged in a prearranged ride.

(ii) The coverage requirements described in subdivision (a)(1)(C)(i) of this section may be satisfied by any combination of:

(a) Automobile insurance maintained by the transportation network company driver; or

(b) Automobile insurance maintained by the transportation network company;

(2) If insurance maintained by a driver under subdivision (a)(1)(B) or subdivision (a)(1)(C) of this section has lapsed or does not provide the required coverage, the insurance maintained by a transportation network company shall provide the coverage required under this subsection beginning with the first dollar of a claim and the insurer has the duty to defend the claim.

(3) Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer's first denial of a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(4) Insurance required under this subsection may be placed with an insurer authorized to do business in this state or with a surplus-lines insurer eligible under § 23-65-305.

(5) Insurance that satisfies the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under § 27-22-101 et seq. and the Motor Vehicle Safety Responsibility Act 27-19-101 et seq.;

(6)(A) A transportation network company driver shall carry proof of coverage satisfying subdivision (a)(1)(B) or subdivision (a)(1)(C) of this section with him or her during his or her use of a motor vehicle in connection with a transportation network company's digital network.

(B) In the event of an accident, a transportation network company driver shall provide insurance coverage information required under subdivision (a)(6)(A) of this section to the directly interested parties, automobile insurers, and investigating police officers upon request under the Arkansas Voluntary Enhanced Security Driver's License and Identification Card Act, § 27-16-1201 et seq.

(C) Upon a request under subdivision (a)(6)(B) of this section, a transportation network company driver shall also disclose to

directly interested parties, automobile insurers, and investigating police officers whether he or she was logged on to the transportation network company's digital network or was on a prearranged ride at the time of the accident.

~~(b)(1) While a transportation network company driver is logged into the transportation network company's website, digital network, or software application and available to receive requests for transportation but is not providing transportation network company services, motor vehicle liability insurance coverage that meets the minimum coverage requirements under § 27-22-104(b) shall be maintained by the transportation network company that provides coverage beginning with the first dollar of a claim in the event a transportation network company driver's own motor vehicle liability insurance policy:~~

~~(A) Excludes coverage under the terms of the policy; or~~

~~(B) Does not provide the minimum coverage required by § 27-22-104(b).~~

~~(2) With the exception of a factual dispute regarding when a transportation network company driver is logged into the transportation network company's website, digital network, or software application, a transportation network company and its insurer shall not:~~

~~(A) Challenge a private passenger motor vehicle liability insurer's denial of a claim based on a proper exclusion pursuant to § 23-13-711(b); or~~

~~(B) Seek reimbursement or contribution from a private passenger motor vehicle liability insurer. A transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a prearranged ride on the transportation network company's digital network:~~

~~(1) The insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network; and~~

~~(2) That the transportation network company driver's own automobile insurance policy might not provide any coverage while the transportation network company driver is logged on to the transportation~~

network company's digital network and is available to receive prearranged ride requests or is engaged in a prearranged ride, depending on the terms of the insurance policy.

~~(c)(1) While a transportation network company driver is providing transportation network company services, the transportation network company shall:~~

~~(A) Provide primary motor vehicle liability insurance that expressly recognizes the transportation network company driver's provision of transportation network company services or other for hire motor vehicle services; and~~

~~(B) Provide primary motor vehicle liability insurance of at least one million dollars (\$1,000,000) for death, personal injury, and property damage Insurers that write automobile insurance in this state may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a transportation network company driver is logged on to a transportation network company's digital network or while a transportation network company driver provides a prearranged ride.~~

~~(2) The motor vehicle liability insurance right to exclude all coverage required by under subdivision (c)(1) of this section may be satisfied by any combination of apply to any coverage included in an automobile insurance policy, including without limitation:~~

~~(A) Motor vehicle liability insurance Liability coverage maintained by the transportation network company driver for bodily injury and property damage; or~~

~~(B) Motor vehicle liability insurance Personal injury protection coverage maintained by the transportation network company as described in § 23-89-202;~~

~~(C) Uninsured and underinsured motorist coverage;~~

~~(D) Medical payments coverage;~~

~~(E) Comprehensive physical damage coverage; and~~

~~(F) Collision physical damage coverage.~~

~~(3) An exclusion permitted under subdivision (c)(2) of this section shall apply notwithstanding any requirement under § 27-22-101 et seq. and the Motor Vehicle Safety Responsibility Act 27-19-101 et seq.~~

~~(4) An automobile insurer that excludes the coverage described in subsection (a) a shall have no duty to defend or indemnify any claim~~

expressly excluded thereunder.

(5) Nothing in this subchapter shall be deemed to invalidate or limit an exclusion contained in a policy including any policy in use or approved for use in Arkansas prior to the enactment of this subchapter that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(6) This section does not imply or require that a personal automobile insurance policy provide coverage while a transportation network company driver is logged on to the transportation network company's digital network, while the transportation network company driver is engaged in a prearranged ride, or while the transportation network company driver otherwise uses a motor vehicle to provide transportation network services.

(7) This section does not preclude an insurer from providing coverage for the transportation network company driver's motor vehicle, if it so chose to do so by contract or endorsement.

(8)(A) An automobile insurer that excludes the coverage described in subdivision (c)(2) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(B) This section does not invalidate or limit an exclusion contained in an insurance policy including any policy in use or approved for use in this state before the effective date of this subchapter that excludes coverage for a vehicle used to carry a person or property for a charge or available for hire by the public.

(9) An automobile insurer that defends or indemnifies a claim against a transportation network company driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same transportation network company driver in satisfaction of the coverage requirements of subsection (a) of this section at the time of loss.

~~(d) If the motor vehicle liability insurance coverage maintained by a transportation network company driver to fulfill the insurance requirements of this section has lapsed, is denied, is nonexistent, or the transportation network company driver has failed to provide the required coverage, the motor vehicle liability insurance coverage maintained by the transportation network company shall provide the coverage required by this section, beginning with the first dollar of a claim. In a claims coverage investigation, a~~

transportation network company and any insurer potentially providing coverage under subsection (a) of this section shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver, if applicable, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the twelve-hour period immediately preceding and in the twelve-hour period immediately following the accident and disclose to each other a clear description of the coverage, exclusions, and limits provided under any automobile insurance policy maintained under subsection (a) of this section.

~~(e) The motor vehicle liability insurance coverage required by this section may be placed with an insurer authorized to do business in this state or with a surplus lines insurer eligible under § 23-65-305.~~

~~(f) Compliance with the motor vehicle liability insurance coverage required by this section satisfies all financial responsibility requirements for a motor vehicle under § 27-22-101 et seq.~~

/s/Rapert

APPROVED: 04/08/2015