

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1585

By: Representatives Maddox, Perry

By: Senators Hill, Irvin

For An Act To Be Entitled

AN ACT TO CREATE THE DELIVERY NETWORK COMPANY
INSURANCE ACT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE DELIVERY NETWORK COMPANY
INSURANCE ACT.

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

SECTION 1. Arkansas Code Title 23, Chapter 13, is amended to add an additional subchapter to read as follows:

Subchapter 9 – Delivery Network Company Insurance Act

23-13-901. Title.

This subchapter shall be known and may be cited as the "Delivery Network Company Insurance Act".

23-13-902. Definitions.

As used in this subchapter:

(1) "Delivery availability period" means the period when a delivery network company driver:

(A) Has logged on to a digital network and is available to receive immediate requests to provide delivery services from a delivery network company;

(B) Is operating a personal vehicle; and



(C) Is not providing delivery services or operating in the delivery service period;

(2) "Delivery network company" means an entity that:

(A) Is a corporation, partnership, sole proprietorship, or other entity;

(B) Operates in this state; and

(C) Uses a digital network to connect a delivery network company customer to a delivery network company driver to provide delivery services;

(3) "Delivery network company customer" means a person:

(A) Who orders the delivery of goods; and

(B) Who directs the delivery network company driver as to the delivery location for the goods;

(4) "Delivery network company driver" means an individual who provides delivery services through a delivery network company's digital network using a personal vehicle;

(5) "Delivery service period" means the period that:

(A) Begins when a delivery network company driver starts operating a personal vehicle en route to pick up goods for a delivery or series of deliveries as documented through a digital network controlled by a delivery network company;

(B) Continues while the delivery network company driver transports the requested delivery or deliveries; and

(C) Ends upon delivery of the requested goods to:

(i) The location designated by delivery network company customer or the location designated by the last delivery network company customer in a series of deliveries; or

(ii) A location designated by the delivery network company, including for purposes of returning the goods;

(6)(A) "Delivery services" means the fulfillment of delivery requests made by a delivery network company customer through a digital network, including the pickup of any goods by the delivery network company driver and the delivery of the goods to the location designated by the delivery network company customer.

(B) "Delivery services" may include a series of deliveries to the designated locations of different delivery network company customers;

(7) "Digital network" means any online application, software, website, or system offered or utilized by a delivery network company that enables deliveries with delivery network company drivers; and

(8) "Personal vehicle" means a motor vehicle that is:

(A) Used by a delivery network company driver to provide delivery services through a digital network; or

(B) Owned, leased, or otherwise authorized for use by the delivery network company driver.

23-13-903. Interaction with other law.

(a) This subchapter does not limit the scope of federal or state law regarding delivery or transport of goods.

(b) A delivery made under this subchapter that is subject to any other law shall comply with the requirements of that law.

(c) If a conflict between this subchapter and another law dealing with the delivery or transport of goods arises, then the other law prevails.

23-13-904. Insurance requirements.

(a) A delivery network company shall ensure that, during the delivery availability period, if applicable, and during the delivery service period, primary motor vehicle liability insurance is in effect that:

(1) Recognizes that the operator of the motor vehicle is a delivery network company driver; or

(2) Does not exclude coverage for use of a personal vehicle to provide deliveries.

(b) During the delivery service period and the delivery availability period, the delivery network company driver or delivery network company, or any combination of the two (2), shall maintain motor vehicle liability insurance coverage that insures the delivery network company driver for liability to third parties of not less than:

(1) Fifty thousand dollars (\$50,000) for damages arising out of bodily injury sustained by any one (1) person in an accident;

(2) One hundred thousand dollars (\$100,000) for damages arising out of bodily injury sustained by all persons injured in an accident; and

(3) Twenty-five thousand dollars (\$25,000) for all damages arising out of damage to or destruction of property in an accident.

(c) If the insurance coverage maintained by a delivery network company driver under subsections (a) and (b) of this section has lapsed or does not provide the required motor vehicle liability insurance coverage, then:

(1) The insurance coverage maintained by the delivery network company shall provide the motor vehicle liability insurance coverage required by subsections (a) and (b) of this section beginning with the first one dollar (\$1.00) of a claim; and

(2) The insurance coverage maintained by the delivery network company shall provide that the motor vehicle liability insurer has the duty to defend the claim.

(d) Coverage under a motor vehicle liability insurance policy maintained by the delivery network company is not dependent upon another motor vehicle liability insurer first denying a claim, nor shall another motor vehicle liability insurance policy be required to first deny a claim.

(e) Insurance coverage required by this section may be obtained from an insurance company licensed to transact business under the insurance laws of this state or by an eligible surplus lines broker under the Surplus Lines Insurance Law, § 23-65-301 et seq.

(f) The coverage required under subsections (a) and (b) of this section shall be deemed to meet the requirements of the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.

(g)(1) A delivery network company driver shall carry proof of insurance required under subsections (a) and (b) of this section at all times while using a personal vehicle in connection with a digital network.

(2) In the event of an accident, a delivery network company driver shall, upon request:

(A) Provide insurance coverage information to the directly interested parties, insurers, and investigating law enforcement officers; and

(B) Disclose to the directly interested parties, insurers, and investigating law enforcement officers whether or not the delivery network company driver was operating during the delivery availability period or the delivery service period at the time of the accident.

(3) The insurance coverage information required in § 23-89-213 may be displayed or provided in either paper or electronic format.

(h)(1) In a claims coverage investigation, a delivery network company or an insurer of the delivery network company shall:

(A) Cooperate with all insurers that are involved in the claims coverage investigation to facilitate the exchange of information; and

(B) Upon request by directly involved parties or an insurer of directly involved parties, immediately provide the times that a delivery network company driver began and ended the delivery availability period and the delivery service period on the delivery network company's digital network in:

(i) The twelve-hour period immediately preceding the accident; and

(ii) The twelve-hour period immediately following the accident.

(2) An insurer potentially providing the coverage required in this section shall disclose upon request by any other insurer involved in the particular claim a clear description of the applicable coverage, exclusions, and limits provided under any motor vehicle liability insurance policies maintained in order to satisfy the requirements of this section.

(i) An insurer of a delivery network company providing coverage under subsections (a) and (b) of this section shall assume primary liability for a claim when:

(1) A dispute exists as to when the delivery availability period or the delivery service period began or ended; and

(2) The delivery network company does not have available, did not retain, or fails to provide the information required in subsection (h) of this section.

(j) A delivery network company shall not be deemed to control, direct, or manage a personal vehicle or delivery network company driver that connects to the delivery network company's digital network except if agreed to by written contract.

23-13-905. Disclosures to delivery network company drivers.

A delivery network company shall not permit a delivery network company driver to engage in delivery services on the delivery network company's digital network until the delivery network company discloses in writing to the delivery network company driver:

(1) The insurance coverage, including without limitation the types of coverage and the limits for each coverage, that the delivery network

company provides while the delivery network company driver uses a personal vehicle in connection with a delivery network company's digital network; and

(2) That the delivery network company driver's own motor vehicle liability insurance policy may not provide any insurance coverage during the delivery availability period, if applicable, or the delivery service period.

23-13-906. Exclusions in motor vehicle liability insurance policies.

(a) An insurer that is licensed to write motor vehicle liability insurance in this state may exclude coverage and deny the duty to defend or indemnify for a claim of injury or loss that occurs during the delivery availability period and the delivery service period.

(b) The right to exclude all coverage under subsection (a) of this section may apply to any coverage included in the motor vehicle liability insurance policy, including without limitation:

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

(c) This subchapter does not:

(1) Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles used for delivery or for any business use; or

(2) Invalidate, limit, or restrict an insurer's ability under existing law to:

- (A) Underwrite any insurance policy; or
- (B) Cancel and nonrenew an insurance policy.

(d) A motor vehicle liability insurer that defends or indemnifies a claim against a delivery network company driver that is excluded under the terms of its insurance policy may seek recovery against the insurer providing insurance coverage under § 23-13-904(a) and (b) if the claim:

(1) Occurs during the delivery availability period or the delivery service period; and

(2) Is excluded under the terms of its insurance policy.

SECTION 2. EFFECTIVE DATE. This act is effective on and after October 1, 2024.