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DIGEST

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SB 172 Reengrossed

2015 Regular Session

Morrish

Proposed law creates the Transportation Network Company Motor Vehicle Responsibility Law which shall apply to transportation network companies and their participating drivers.

Proposed law defines "bodily injury" to include but not be limited to claims for wrongful death, loss of services, loss of consortium, bystander injury, mental anguish, and emotional distress suffered by others.

Proposed law defines "digital network" as 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.

Proposed law defines "personal vehicle" as a vehicle that is used by a transportation network company driver and is owned, leased, or otherwise authorized for use by the transportation network company driver. A personal vehicle is not a vehicle subject to certain provisions of present law or engaged solely in interstate commerce.

Proposed law defines "prearranged ride" as the provision of transportation by a driver to a rider that commences when a driver accepts a ride requested by a person through a digital network controlled by a transportation network company, continues during the driver transporting a requesting rider and ends when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a vehicle subject to proposed law.

Proposed law defines "pre-trip acceptance period" as any period of time during which a participating driver is logged into a transportation network company's digital network and available to receive requests for transportation network company services and is not otherwise engaged in a prearranged ride.

Proposed law defines "transportation network company" as a person, whether natural or juridical, that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct, or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

Proposed law defines "transportation network company driver" or "driver" as a person who 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 uses a personal vehicle to offer or provide a prearranged ride to persons upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

Proposed law defines "transportation network company rider" or "rider" as a person who uses a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

Proposed law provides for the disclosure by the transportation network company to its drivers of the insurance that it maintains and that the drivers' personal automobile insurance may not provide coverage while logged onto the transportation network company's network.

Proposed law provides that all legal issues and disputes relating to a transportation network company's operation pursuant to proposed law or to the provision of transportation network company services pursuant to proposed law, by and among a transportation network company, a transportation network company driver, and a person requesting a ride through a digital network, or other third parties must be exclusively conducted in a court of competent jurisdiction in the state of Louisiana. All choice of law conflicts will be resolved in accordance with Louisiana law. Proposed law will not affect the validity of an agreement by the parties to submit disputes to arbitration pursuant to the Louisiana Binding Arbitration Act (R.S. 9:4201 et. seq.).

Proposed law provides that a transportation network company driver or a transportation network company on the driver's behalf, shall maintain primary automobile insurance that meets the following requirements:

Automobile insurance during the pre-trip acceptance period shall:

- (1) Be in the amount of not less than \$50,000 for death and bodily injury per person, not less than \$100,000 for death and bodily injury per incident, and not less than \$25,000 for property damage.
- (2) Include uninsured and underinsured motorist coverage in the same amount as the limits for death and bodily injury.

Automobile insurance during a prearranged ride shall:

- (1) Be in the amount of not less than \$1 million for death, bodily injury, and property damage.
- (2) Include uninsured and underinsured motorist coverage in the same amount as the limits for death and bodily injury.

Proposed law provides that insurers that write automobile insurance in this state may exclude any or all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network during the pre-trip acceptance period or while a driver is engaged in a prearranged ride. This right to exclude coverage shall apply to any or all coverage in an automobile insurance policy including but not limited to:

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

The exclusions permitted in proposed law shall apply notwithstanding any requirement under the Motor Vehicle Safety Responsibility Law, R.S. 32:851 et seq. or other laws. Nothing in proposed law implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network during the pre-trip acceptance period, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

Proposed law provides that automobile insurers that exclude the coverage described in present law shall have no duty to defend or indemnify any claim expressly excluded thereunder and that nothing in proposed law shall be deemed to invalidate or limit an exclusion contained in a policy including any policy in use or approved for use in this state

prior to the effective date of proposed law that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

Proposed law provides that an automobile insurer that defends or indemnifies a claim against a 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 driver in satisfaction of the coverage requirements of present law at the time of loss.

Proposed law provides that if a transportation network company's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the transportation network company shall cause its insurer to issue the payment directly to the repair facility or jointly to the owner of the vehicle and the primary holder of any security interest, privilege, or lien on the covered vehicle. Provides that no fine shall result for a violation of this proposed law.

Proposed law provides that the transportation network company shall file proof of its compliance with insurance requirements with any parish or municipality that requires or requests such a filing.

Proposed law provides that in a claims coverage investigation, a transportation network company and its insurer shall cooperate with insurers that are involved in the claims coverage investigation and shall respond within 10 business days of a request for information from the parties or another insurer.

Proposed law provides a transportation network company driver shall carry written or digital proof of coverage pursuant to present law with him at all times during his use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and investigating police officers, upon request pursuant to present law. Upon such request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 45:201.1 through 201.13)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the original bill

1. Adds definitions.
2. Provides for agreements with drivers and mandatory disclosures.
3. Creates automobile insurance requirements during the pre-trip acceptance period and the prearranged ride period.
4. Allows insurers to exclude any or all coverage while a driver is logged on to a transportation network company's digital network.
5. Requires cooperation by a transportation network company and any insurer during a claims investigation.

Senate Floor Amendments to engrossed bill

1. Removes all references to "items" being transported from the provisions of proposed law.

2. Changes the definition of a "transportation network company".
3. Removes the definition of "rider".
4. Removes the provision that prohibits a transportation network company from either requiring or including a hold-harmless or indemnification clause in the terms of any agreement with a driver.
5. Requires that all legal issues and disputes relating to a transportation network company's operation be conducted in Louisiana and according to Louisiana law.
6. Reduces from 14 to 10 business days the length of time for the exchange of relevant information in a claims coverage investigation.
7. Changes the provisions requiring a transportation network company driver to carry written or digital proof of coverage and when to disclose this information.
8. Technical amendments.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the reengrossed bill:

1. Change the definition of a "transportation network company".
2. Clarify that the validity of an agreement by the parties to submit disputes to arbitration under the Louisiana Binding Arbitration Law will not be affected by proposed law.
3. Changes the requirement that a transportation network company or its driver maintain uninsured and underinsured motorist coverage to the extent required by present law (R.S. 22:1295) to a requirement that a transportation network company or its driver maintain uninsured and underinsured motorist coverage in the same amount as the bodily injury liability limits.