

2015 Regular Session

SENATE BILL NO. 172

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LIABILITY INSURANCE. Provide with respect to the Transportation Network Company Motor Vehicle Responsibility Law. (gov sig)

1 AN ACT

2 To enact Part C of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950, to be

3 comprised of R.S. 45:201.1 through 201.14, relative transportation network

4 companies; to provide for definitions; to provide insurance requirements; to require

5 proof of insurance; to provide for enforcement and penalties for violations; to

6 designate the provisions of R.S. 45:161 through 200 contained in Chapter 4 of Title

7 45 of the Louisiana Revised Statutes of 1950 as "Part A. Motor Carriers" and to

8 designate the provisions of R.S. 45:200.1 through 200.17 contained in Chapter 4 of

9 Title 45 of the Louisiana Revised Statutes of 1950 as "Part B. Public Passenger

10 Motor Vehicle Responsibility"; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Part C of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950,
13 comprised of R.S. 45:201.1 through 201.14, is hereby enacted to read as follows:

14 **Part C. Transportation Network Company Motor Vehicle Responsibility**

15 **§201.1. Short title**

16 **The provisions of this Part shall be known and may be cited as "The**
17 **Transportation Network Company Motor Vehicle Responsibility Law".**

1 §201.2. Findings and declaration of policy

2 The Legislature of Louisiana, in the exercise of its police power, hereby
3 finds and declares that the activities of transportation network companies and
4 their participating drivers within this state is a business affected with the public
5 interest; that there has been within this state a marked increase in
6 transportation network company services with a consequent increase in hazards
7 to the general public; that transportation network companies and their
8 participating drivers regularly operate across municipal and parish boundaries;
9 that the public in general, and the users of transportation network company
10 services in particular, are not adequately protected against risks resulting from
11 the provision of transportation network company services; that uniform
12 remedial legislation is required to correct and eliminate the conditions adversely
13 affecting the public interest, to insure as far as practicable that the public will
14 receive the benefits of more responsible provision of transportation network
15 company services; that the health, safety, morals, and welfare of the public
16 make it imperative that effective, uniform, reasonable and just supervision,
17 regulation and control be exercised over the operation of transportation
18 network companies and their participating drivers to ensure their responsibility
19 in order that the paramount interest of the public be protected and conserved,
20 that irresponsible provision of transportation network company services
21 detrimental to the public interest be prevented, and that this remedial
22 legislation should be construed liberally and enforced strictly in favor of the
23 public; and that penalties for violations should be prescribed.

24 §201.3. Applicability

25 A. Notwithstanding any other provision of this Title to the contrary, this
26 Part shall apply to transportation network companies and their participating
27 drivers as defined in R.S. 45:201.4.

28 B. The provisions of this Part shall not apply to any person or vehicle
29 subject to the provisions of Part B of this Chapter.

1 C. Nothing herein shall be construed to include carriers by motor vehicle
2 subject to the jurisdiction of the Public Service Commission under the
3 provisions of Part A of this Chapter or engaged solely in interstate commerce.

4 D. Nothing in R.S. 45:201.3 through 45:201.9 shall exempt any
5 transportation network company or participating driver from complying with
6 all applicable laws and municipal and parochial ordinances relating to the
7 ownership, registration, and operation of automobiles in this state.

8 §201.4. Definitions

9 The following words, as used in this Part, shall have the meanings
10 ascribed to them in this Section except when a different meaning is expressly
11 stated or clearly indicated by the context.

12 (1) "Bodily injury" includes but is not limited to claims for wrongful
13 death, loss of services, loss of consortium, bystander injury, mental anguish and
14 emotional distress suffered by others.

15 (2) "Digital network" means any online-enabled application, software,
16 website or system offered or utilized by a transportation network company that
17 enables the prearrangement of rides with transportation network company
18 drivers.

19 (3) "Personal vehicle" means a vehicle that is used by a transportation
20 network company driver and is owned, leased or otherwise authorized for use
21 by the transportation network company driver. A personal vehicle is not a
22 vehicle subject to Parts A and B of this Chapter or engaged solely in interstate
23 commerce.

24 (4) "Prearranged ride" means the provision of transportation by a
25 driver to a rider or a person providing items to be transported, beginning when
26 a driver accepts a ride requested by a person through a digital network
27 controlled by a transportation network company, continuing while the driver
28 transports a requesting rider or items to be transported, and ending when the
29 last requesting rider departs or the item to be transported is removed from the

1 personal vehicle. A prearranged ride does not include transportation provided
2 using a vehicle subject to Parts A and B of this Chapter or engaged solely in
3 interstate commerce.

4 (5) "Pre-trip acceptance period" means any period of time during which
5 a driver is logged on to the transportation network company's digital network
6 and is available to receive transportation requests but is not engaged in a
7 prearranged ride as defined in Paragraph (3) of this Section.

8 (6) "Transportation network company" means a person, whether
9 natural or juridical, that uses a digital network to connect transportation
10 network company riders or persons providing items for transport to
11 transportation network company drivers who provide prearranged rides. A
12 transportation network company shall not be deemed to control, direct or
13 manage the personal vehicles or transportation network company drivers that
14 connect to its digital network, except where agreed to by written contract.

15 (7) "Transportation network company driver" or "driver" means a
16 person who receives connections to potential passengers or providers of items
17 to be transported and related services from a transportation network company
18 in exchange for payment of a fee to the transportation network company, and
19 who uses a personal vehicle to offer or provide a prearranged ride to persons
20 upon connection through a digital network controlled by a transportation
21 network company in return for compensation or payment of a fee.

22 (8) "Transportation network company rider" or "rider" means a person
23 who uses a transportation network company's digital network to connect with
24 a transportation network driver who provides prearranged rides to the rider in
25 the driver's personal vehicle between points chosen by the rider. "Rider" also
26 means a person who uses a transportation network company's digital network
27 to connect with a transportation network driver who provides prearranged
28 rides for items provided by the rider and to be transported in the driver's
29 personal vehicle between points chosen by the rider.

1 **§201.5. Agreements with drivers; mandatory disclosures; prohibited provision**

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

6 **(1) The insurance coverage, including the types of coverage and the**
7 **limits for each coverage, which the transportation network company provides**
8 **while the transportation network company driver uses a personal vehicle in**
9 **connection with a transportation network company's digital network.**

10 **(2) That the transportation network company driver's own automobile**
11 **insurance policy may or may not provide any coverage while the driver is**
12 **logged on to the transportation network company's digital network during the**
13 **pre-trip acceptance period or is engaged in a prearranged ride, depending on**
14 **its terms.**

15 **B. A transportation network company shall neither require nor include**
16 **a hold harmless or indemnification clause in the terms of any agreement with**
17 **a participating driver. Any hold harmless or indemnification clause contained**
18 **in the agreement shall be an absolute nullity.**

19 **C. To the extent that any agreement between a transportation network**
20 **company and a driver or rider, or between a driver and a rider addresses**
21 **liability, any clause is null that, in advance, excludes or limits the liability of one**
22 **party for causing bodily injury to the other party.**

23 **§201.6. Requirements for insurance**

24 **A. A transportation network company driver or a transportation**
25 **network company on the driver's behalf shall maintain primary automobile**
26 **insurance that meets the requirements of this Section.**

27 **B. Automobile insurance during the pre-trip acceptance period shall:**

28 **(1) Be in the amount of not less than fifty thousand dollars for death and**
29 **bodily injury per person, not less than one hundred thousand dollars for death**

1 and bodily injury per incident, and not less than twenty-five thousand dollars
2 for property damage.

3 (2) Include uninsured and underinsured motorist coverage to the extent
4 required by R.S. 22:1295.

5 C. Automobile insurance during a prearranged ride shall:

6 (1) Be in the amount of not less than one million dollars for death, bodily
7 injury, and property damage.

8 (2) Include uninsured and underinsured motorist coverage in the amount
9 of not less than one million dollars.

10 D.(1) The obligation to maintain the insurance coverage required by this
11 Section may be satisfied by a policy of insurance procured by:

12 (a) A transportation network company driver.

13 (b) A transportation network company.

14 (c) A combination of Subparagraphs (a) and (b) of this Paragraph.

15 (2) A transportation network company may satisfy its obligations under
16 this Section through a policy of insurance obtained by a participating driver
17 pursuant to Subparagraph (D)(1)(a) or (D)(1)(c) of this Section only if the
18 transportation network company verifies that the policy is maintained by the
19 driver and is specifically written to cover the driver's use of a vehicle related to
20 a transportation network company's digital network.

21 E. Coverage under an automobile insurance policy maintained by a
22 transportation network company shall not be dependent on a personal
23 automobile insurer first denying a claim nor shall a personal automobile insurer
24 be required to first deny a claim.

25 F. If insurance maintained by a transportation network company driver
26 to fulfill the insurance requirements of this Section has lapsed or does not
27 provide the coverage required by this Section, the transportation network
28 company shall provide the coverage required by this Section beginning with the
29 first dollar of a claim and shall have the duty to defend such claim.

1 **G. A policy of insurance procured pursuant to this Section:**

2 **(1) Shall recognize that the driver is a transportation network company**
3 **driver or otherwise uses a personal vehicle to transport riders or items for**
4 **compensation and covers the driver during the pre-trip acceptance period, a**
5 **prearranged ride, or both.**

6 **(2) May be placed with an authorized insurer or with a surplus lines**
7 **insurer pursuant to R.S. 22:432.**

8 **(3) Shall be deemed to satisfy the Motor Vehicle Safety Responsibility**
9 **Law, R.S. 32:851 et seq.**

10 **H. The transportation network company shall file proof of its compliance**
11 **with the insurance requirements of this Section with any parish or municipality**
12 **that requires or requests such a filing.**

13 **§201.7. Automobile insurance provisions**

14 **A.(1) Insurers that write automobile insurance in this state may exclude**
15 **any or all coverage afforded under the policy issued to an owner or operator of**
16 **a personal vehicle for any loss or injury that occurs while a driver is logged on**
17 **to a transportation network company's digital network during the pre-trip**
18 **acceptance period or while a driver is engaged in a prearranged ride. This right**
19 **to exclude coverage shall apply to any or all coverage in an automobile**
20 **insurance policy including but not limited to:**

21 **(a) Liability coverage for bodily injury.**

22 **(b) Liability coverage for property damage.**

23 **(c) Uninsured and underinsured motorist coverage.**

24 **(d) Medical payments coverage.**

25 **(e) Comprehensive physical damage coverage.**

26 **(f) Collision physical damage coverage.**

27 **(2) The exclusions permitted in Subsection A of this Section shall apply**
28 **notwithstanding any requirement under the Motor Vehicle Safety**
29 **Responsibility Law, R.S. 32:851 et seq. or other laws. Nothing in this Section**

1 implies or requires that a personal automobile insurance policy provide
2 coverage while the driver is logged on to the transportation network company's
3 digital network during the pre-trip acceptance period, while the driver is
4 engaged in a prearranged ride, or while the driver otherwise uses a vehicle to
5 transport passengers or items for compensation.

6 (3) Nothing in this Part shall be deemed to preclude an insurer from
7 providing coverage for the transportation network company driver's vehicle,
8 if it chooses to do so by contract or endorsement.

9 B. (1) Automobile insurers that exclude the coverage described in R.S.
10 45:201.6 shall have no duty to defend or indemnify any claim expressly excluded
11 thereunder. Nothing in R.S. 45:201.1 through 201.14 shall be deemed to
12 invalidate or limit an exclusion contained in a policy including any policy in use
13 or approved for use in this state prior to the effective date of this Part that
14 excludes coverage for vehicles used to carry persons or property for a charge
15 or available for hire by the public.

16 (2) An automobile insurer that defends or indemnifies a claim against a
17 driver that is excluded under the terms of its policy shall have a right of
18 contribution against other insurers that provide automobile insurance to the
19 same driver in satisfaction of the coverage requirements of R.S. 45:201.6 at the
20 time of loss.

21 C. If a transportation network company's insurer makes a payment for
22 a claim covered under comprehensive coverage or collision coverage, the
23 transportation network company shall cause its insurer to issue the payment
24 directly to the repair facility or jointly to the owner of the vehicle and the
25 primary holder of any security interest, privilege, or lien on the covered vehicle.
26 No fine shall result for a violation of this Subsection.

27 §201.8. Cooperation with investigation

28 In a claims coverage investigation, within fourteen days of a request for
29 information, a transportation network company and any insurer potentially

1 providing coverage under R.S. 45:201.6 shall cooperate to facilitate the
2 exchange of relevant information with directly involved parties and any insurer
3 of the transportation network company driver if applicable, including the
4 precise times that a transportation network company driver logged on and off
5 of the transportation network company's digital network in the twelve-hour
6 period immediately preceding and in the twelve-hour period immediately
7 following the accident and disclose to one another a clear description of the
8 coverage, exclusions, and limits provided under any automobile insurance
9 maintained under R.S. 45:201.6.

10 §201.9. Proof of insurance

11 A. A participating driver of a transportation network company shall
12 carry proof of transportation network company insurance coverage at all times
13 while providing transportation network company services. If an accident
14 occurs, a participating driver shall provide his insurance coverage information
15 to any party involved in the accident, a police officer, or both upon request.

16 B. A transportation network company shall provide its participating
17 drivers with proof of transportation network company insurance when it
18 obtains and maintains insurance coverage that meets the requirements of R.S.
19 45:201.6, regardless of any insurance procured by its participating drivers.

20 §201.10. Enforcement

21 The provisions of R.S. 45:201.5 through 45:201.9 may be enforced by
22 appropriate civil remedy in any court of competent jurisdiction by any
23 governmental authority or by any person having an interest affected, directly
24 or indirectly, by any violation.

25 §201.11. Violations

26 Any person who shall operate a vehicle upon any street in violation of
27 R.S. 45:201.6 shall be guilty of a misdemeanor, and shall be fined not less than
28 one hundred dollars nor more than one thousand dollars, or imprisoned for not
29 less than sixty days nor more than one year, or both.

1 **§201.12. Construction**

2 The legislature hereby declares that R.S. 45:201.3 through 45:201.9 are
3 remedial in nature and shall be construed liberally in favor of the public in
4 general, and the users of transportation network company services in
5 particular, and to exact strict compliance by transportation network companies
6 and their participating drivers with the requirements of R.S. 45:201.5 through
7 45:201.9.

8 **§201.13. Appointment of secretary of state as agent to receive service of process**

9 A. The acceptance by a transportation network company of participating
10 drivers or customers in this state, shall be deemed an appointment, by the
11 transportation network company, of the Louisiana Secretary of State, to be its
12 true and lawful attorney for service of process, upon whom may be served all
13 lawful process, whether issued out of a court or by other lawful authority, in
14 any action or proceeding involving the transportation network company by
15 reason of the transportation network company services it provides in this state;
16 and acceptance of participating drivers or customers shall constitute agreement
17 by the transportation network company that any service of process served
18 against shall be of the same legal force and validity as if served on it personally.

19 B. When any process or pleadings are served upon the secretary of state,
20 it shall be by duplicate copies, one of which shall be filed in the office of the
21 secretary of state and the other immediately forwarded by the secretary of state
22 by registered or certified mail or by commercial courier as defined in R.S.
23 13:3204(D), when the person to be served is located outside of this state to the
24 address shown on such process or pleadings of the person to whom the process
25 and pleadings are directed. The secretary of state shall note on the copy
26 retained the date, the manner and other particulars of service, and disposition
27 of the forwarded copy.

28 **§201.14. Effective Date**

29 The requirements of R.S. 45:201.5, 201.6, 201.7 and 201.9 shall become

1 **effective on January 1, 2016.**

2 Section 2. The provisions of R.S. 45:161 through 200 are hereby designated as "Part
3 A. Motor Carriers" of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950 and
4 the provisions of R.S. 45:200.1 through 200.17 are hereby designated as "Part B. Public
5 Passenger Motor Vehicle Responsibility" of Chapter 4 of Title 45 of the Louisiana Revised
6 Statutes of 1950.

7 Section 3. This Act shall become effective upon signature by the governor or, if not
8 signed by the governor, upon expiration of the time for bills to become law without signature
9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
11 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Cheryl Horne.

DIGEST

SB 172 Engrossed

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 "transportation network company" as a person, whether natural or juridical, that uses a digital network to connect transportation network company riders or persons providing items for transport 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 or providers of items to be transported 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 "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 "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 "prearranged ride" as the provision of transportation by a driver to a rider or a person providing items to be transported, beginning when a driver accepts a ride requested by a person through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider or items to be transported, and ending when the last requesting rider departs or the item to be transported is removed from the personal vehicle. A prearranged ride does not include transportation provided using a vehicle subject to proposed law.

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. "Rider" also means a person who uses a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides for items provided by the rider and to be transported 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 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. Provides that any such clause shall be an absolute nullity.

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 to the extent required by present law.

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 amount of not less than \$1 million.

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 or items 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 14 days of a request for information from the parties or another insurer.

Proposed law provides that a driver of a transportation network company shall carry proof of transportation network company insurance and shall provide it to any party involved in an accident, a police officer, or both, upon request. A transportation network company that obtains insurance shall provide its drivers with proof of insurance.

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

(Adds R.S. 45:201.1 through 201.14)

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.