

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)

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AN ACT

To enact Part C of Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 45:201.1 through 201.14, relative transportation network companies; to provide for definitions; to provide insurance requirements; to require proof of insurance; to provide for enforcement and penalties for violations; to designate the provisions of R.S. 45:161 through 200 contained in Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950 as "Part A. Motor Carriers" and to designate the provisions of R.S. 45:200.1 through 200.17 contained in Chapter 4 of Title 45 of the Louisiana Revised Statutes of 1950 as "Part B. Public Passenger Motor Vehicle Responsibility"; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

Part C. Transportation Network Company Motor Vehicle Responsibility

§201.1. Short title

The provisions of this Part shall be known and may be cited as "The 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) "Connection method" means an online application or platform, a
13 digital network, or another electronic means used to connect customers with
14 participating drivers.

15 (2) "Participating driver" or "driver" means a person who uses a
16 personal vehicle in combination with a transportation network company's
17 connection method to connect with customers to transport passengers or items.

18 (3) "Personal vehicle" means a motor vehicle used by a participating
19 driver in connection with providing transportation network company services
20 and owned, leased, or otherwise authorized for use by a participating driver.

21 (4) "Pre-trip acceptance period" means any period of time during which
22 a participating driver is logged into a transportation network company's
23 connection method other than the trip acceptance period as defined in
24 Paragraph (8) of this Section.

25 (5) "Transportation network company" means a person, whether
26 natural or juridical, who provides prearranged transportation services for
27 compensation using a connection method to connect customers with drivers
28 using their personal vehicles.

29 (6) "Transportation network company insurance" means a liability

1 insurance policy that specifically covers liabilities arising from a driver's use of
2 a personal vehicle during the pre-trip acceptance and trip acceptance periods
3 defined in this Section, whether procured by a transportation network company
4 or a participating driver.

5 (7) "Transportation network company services" means the conduct of
6 the business of a transportation network company or of a participating driver.

7 (8) "Trip acceptance period" means any period of time from the moment
8 a participating driver accepts a ride request on the transportation network
9 company's connection method until the driver completes the transaction on the
10 connection method or until the ride is complete, whichever is later.

11 §201.5. Agreements with drivers; mandatory disclosures; prohibited provisions

12 A. A transportation network company shall disclose the following items
13 in writing to participating drivers, as part of its agreement with those drivers:

14 (1) The insurance coverage and limits of liability that the transportation
15 network company provides while the participating driver uses a personal
16 vehicle in conjunction with a transportation network company's connection
17 method.

18 (2) That the participating driver's personal automobile insurance policy
19 may not provide coverage while the driver uses a personal vehicle in
20 conjunction with a transportation network company's connection method,
21 depending on its terms.

22 B. A transportation network company shall neither require nor include
23 a hold harmless or indemnification clause in the terms of any agreement with
24 a participating driver. Any hold harmless or indemnification clause contained
25 in the agreement shall be an absolute nullity.

26 §201.6. Requirements for insurance

27 A. A transportation network company and its participating drivers shall
28 maintain transportation network company insurance as provided in this
29 Section.

1 B. Transportation network company insurance during the pre-trip
2 acceptance period shall be primary and in the amount of not less than twenty-
3 five thousand dollars to satisfy all claims for damages by reason of bodily injury
4 to, or death of, any one person resulting from any one accident, and, subject to
5 the limit for one person, for payment of a sum not less than fifty thousand
6 dollars to satisfy all claims for damages by reason of bodily injury to, or death
7 of, two or more persons, resulting from any one accident, and for payment of
8 a sum not less than twenty-five thousand dollars to satisfy all claims for damage
9 to property resulting from any one accident. The insurer providing insurance
10 coverage under this Section shall be the only insurer having the duty to defend
11 and indemnify the insured for any liability claim arising from an accident
12 occurring during the pre-trip acceptance period.

13 C. Transportation network company insurance during the trip
14 acceptance period shall be primary and in the amount of one million dollars for
15 death, personal injury, and property damage and shall also provide for
16 uninsured motorist coverage and underinsured motorist coverage in the amount
17 of one million dollars. The insurer providing insurance coverage under this
18 Subsection shall be the only insurer having the duty to defend and indemnify
19 the insured for any liability claim arising from an accident occurring during the
20 trip acceptance period.

21 D.(1) The obligation to maintain the insurance coverage required by this
22 Section may be satisfied by a transportation network company insurance
23 procured by:

24 (a) A participating driver.

25 (b) A transportation network company.

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

27 (2) A transportation network company may satisfy its obligations under
28 this Section through a policy obtained by a participating driver pursuant to
29 Subparagraph (D)(1)(a) or (D)(1)(c) of this Section only if the transportation

1 network company verifies that the policy is maintained by the driver and is
2 specifically written to cover the driver's use of a vehicle related to a
3 transportation network company's connection method.

4 E. If a transportation network company's connection method becomes
5 inaccessible due to failure or malfunction while a participating driver is in the
6 trip acceptance period, transportation network company insurance coverage
7 shall be presumed to be that required in Subsection C of this Section until the
8 passengers or items being transported exit the vehicle.

9 F. Coverage under a transportation network company insurance policy
10 shall not be dependent on a personal automobile insurance policy first denying
11 a claim nor shall a personal automobile insurance policy be required to first
12 deny a claim.

13 G. In every instance where transportation network company insurance
14 maintained by a participating driver to fulfill the insurance obligations of this
15 Section has lapsed or ceased to exist, the transportation network company shall
16 provide the coverage required by this Section beginning with the first dollar of
17 a claim.

18 H. The transportation network company shall file proof of its compliance
19 with the insurance requirements of this Section with the Public Service
20 Commission.

21 §201.7. Construction of other policies

22 A. Nothing in this Section shall be construed to require a private
23 passenger automobile insurance policy to provide primary or excess coverage
24 during the pre-trip acceptance period or the trip acceptance period.

25 B. During the pre-trip acceptance period and the trip acceptance period
26 the following shall apply:

27 (1) The participating driver's or the vehicle owner's personal automobile
28 insurance policy shall not provide coverage to the participating driver, vehicle
29 owner, or any third party, unless the policy expressly provides for that coverage

1 during the periods of time to which this Subsection is applicable, with or
2 without a separate charge, or the policy contains an amendment or endorsement
3 to provide that coverage, for which a separately stated premium is charged.

4 (2) The participating driver's or the vehicle owner's personal automobile
5 insurance policy shall not be required to defend or indemnify for injury or
6 damages caused by the driver's activities in connection with the transportation
7 network company, unless the policy expressly provides otherwise for the periods
8 of time to which this Subsection is applicable, with or without a separate charge,
9 or the policy contains an amendment or endorsement to provide that coverage,
10 for which a separately stated premium is charged.

11 C. Notwithstanding any other law, a personal automobile insurer may
12 offer an automobile liability insurance policy, or an amendment or endorsement
13 to an existing policy, that covers a private passenger vehicle while used to
14 provide transportation network company services only if the policy expressly
15 provides for the coverage during either the pre-trip acceptance period, the trip
16 acceptance period, or both, with or without a separate charge, or the policy
17 contains an amendment or an endorsement to provide that coverage, for which
18 a separately stated premium may be charged.

19 §201.8. Cooperation with investigation

20 In a claim investigation, a transportation network company and its
21 insurer shall cooperate with insurers that are involved in the claim investigation
22 to facilitate the exchange of information, including the provision of dates and
23 times at which an accident occurred that involved a participating driver and the
24 precise times that the participating driver logged on and off the transportation
25 network company's connection method.

26 §201.9. Proof of insurance

27 A. A participating driver of a transportation network company shall
28 carry proof of transportation network company insurance coverage at all times
29 while providing transportation network company services. If an accident

1 occurs, a participating driver shall provide his insurance coverage information
2 to any party involved in the accident, a police officer, or both upon request.

3 B. A transportation network company shall provide its participating
4 drivers with proof of transportation network company insurance when it
5 obtains and maintains insurance coverage that meets the requirements of R.S.
6 45:201.6, regardless of any insurance procured by its participating drivers.

7 §201.10. Enforcement

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

12 §201.11. Violations

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

17 §201.12. Construction

18 The legislature hereby declares that R.S. 45:201.3 through 45:201.9 are
19 remedial in nature and shall be construed liberally in favor of the public in
20 general, and the users of transportation network company services in
21 particular, and to exact strict compliance by transportation network companies
22 and their participating drivers with the requirements of R.S. 45:201.5 through
23 45:201.9.

24 §201.13. Appointment of secretary of state as agent to receive service of process

25 A. The acceptance by a transportation network company of participating
26 drivers or customers in this state, shall be deemed an appointment, by the
27 transportation network company, of the Louisiana Secretary of State, to be its
28 true and lawful attorney for service of process, upon whom may be served all
29 lawful process, whether issued out of a court or by other lawful authority, in

1 any action or proceeding involving the transportation network company by
 2 reason of the transportation network company services it provides in this state;
 3 and acceptance of participating drivers or customers shall constitute agreement
 4 by the transportation network company that any service of process served
 5 against shall be of the same legal force and validity as if served on it personally.

6 B. When any process or pleadings are served upon the secretary of state,
 7 it shall be by duplicate copies, one of which shall be filed in the office of the
 8 secretary of state and the other immediately forwarded by the secretary of state
 9 by registered or certified mail or by commercial courier as defined in R.S.
 10 13:3204(D), when the person to be served is located outside of this state to the
 11 address shown on such process or pleadings of the person to whom the process
 12 and pleadings are directed. The secretary of state shall note on the copy
 13 retained the date, the manner and other particulars of service, and disposition
 14 of the forwarded copy.

15 §201.14. Effective Date

16 The requirements of R.S. 45:201.5, 201.6, 201.7 and 201.9 shall become
 17 effective on January 1, 2016.

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

23 Section 3. This Act shall become effective upon signature by the governor or, if not
 24 signed by the governor, upon expiration of the time for bills to become law without signature
 25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 27 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 Original

2015 Regular Session

Morrish

Proposed law enacts The Transportation Network Company Motor Vehicle Responsibility Law and provides for legislative findings and policy related to transportation network companies.

Proposed law does not exempt any transportation network company or participating driver from complying with all applicable laws and municipal and parochial ordinances relating to the ownership, registration, and operation of automobiles in this state.

Proposed law defines "transportation network company" as a person, whether natural or juridical, who provides prearranged transportation services for compensation using a connection method to connect customers with drivers using their personal vehicles.

Proposed law defines "participating driver" or "driver" as any person who uses a personal vehicle in connection with a transportation network company's connection method to connect with customers.

Proposed law defines "personal vehicle" as a motor vehicle used by a participating driver in connection with providing transportation network company services. A personal vehicle may be owned, leased, or borrowed.

Proposed law defines "connection method" means an online application or platform, a digital network, or another electronic means used to connect customers with participating drivers.

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 connection method and available to receive requests for transportation network company services and is not otherwise engaged in the activities of the trip acceptance period.

Proposed law defines "trip acceptance period" as any period of time from the moment a participating driver accepts a ride request on the transportation network company's connection method until the driver completes the transaction on the connection method or until the ride is complete, whichever is later.

Proposed law defines "transportation network company insurance" as a liability insurance policy that specifically covers liabilities arising from a driver's use of a vehicle in connection with a transportation network company's connection method.

Proposed law defines "transportation network company services" as the conduct of the business of a transportation network company or of a participating driver.

Proposed law provides for the disclosure by the transportation network company to its drivers of the transportation network company insurance that it maintains and that the participating 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 participating driver. Any such clause shall be an absolute nullity.

Proposed law provides for transportation network company insurance to be maintained by transportation network companies and their participating drivers as follows:

Transportation network company insurance during the pre-trip acceptance period shall be primary and in the amount of at least \$25,000 for death and personal injury per person, \$50,000 for death and personal injury per occurrence, and \$25,000 for property damage. The insurer providing insurance coverage under this Subsection shall be the only insurer having the duty to defend and indemnify the insured for any liability claim arising from an accident occurring during the pre-trip acceptance period.

Transportation network company insurance during the trip acceptance period shall be primary and in the amount of \$1,000,000 for death, personal injury, and property damage and shall also provide for uninsured motorist coverage and underinsured motorist coverage in the amount of \$1,000,000. The insurer providing insurance coverage under this Subsection shall be the only insurer having the duty to defend and indemnify the insured for any liability claim arising from an accident occurring during the trip acceptance period.

The obligation to maintain insurance coverage may be satisfied by transportation network company insurance procured by a participating driver, a transportation network company or a combination of the two.

A transportation network company may satisfy its obligations through a policy obtained in whole or in part by a participating driver only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's connection method.

In the event that a transportation network company's connection method becomes inaccessible due to failure or malfunction while a participating driver is in the trip acceptance period, transportation network company insurance coverage shall be presumed to be that required for the trip acceptance period until the passenger exits the vehicle.

Proposed law provides that coverage under a transportation network company insurance policy shall not depend upon denial of a claim on a personal automobile insurance policy.

Proposed law provides that in every instance where transportation network company insurance maintained by a participating driver has lapsed or ceased to exist, the transportation network company shall provide the coverage required beginning with the first dollar of a claim.

Proposed law provides a private passenger automobile insurance policy shall not be construed to provide primary or excess coverage during either the pre-trip acceptance period or the trip acceptance period.

Proposed law provides that the transportation network company shall file proof of its compliance with insurance requirements with the Public Service Commission.

Proposed law provides that during either the pre-trip acceptance period or the trip acceptance period, all of the following shall apply:

The participating driver's or the vehicle owner's personal automobile insurance policy shall not provide any coverage to the participating driver, vehicle owner, or any third party, unless the policy expressly provides for that coverage during the pre-trip acceptance period, the trip acceptance period, or both, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

The participating driver's or the vehicle owner's personal automobile insurance

policy shall not have the duty to defend or indemnify for the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise for that coverage during the pre-trip acceptance period, the trip acceptance period, or both, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

Proposed law provides that notwithstanding any other law, a personal automobile insurer may, at its discretion, offer an automobile liability insurance policy, or an amendment or endorsement to an existing policy, that covers a private passenger vehicle used to provide transportation network company services only if the policy expressly provides for the coverage during either the pre-trip acceptance period, the trip acceptance period, or both, with or without a separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged.

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.

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

Proposed law provides for enforcement of the proposed law by appropriate civil remedy in any court of competent jurisdiction by governmental authority or by any person having an interest affected, directly or indirectly, by any violation.

Proposed law provides that any participating driver who shall operate a vehicle upon any street without complying with, or in violation of, any provision of R.S. 45:201.6 shall be guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned for not less than sixty days nor more than one year, or both.

Declares that the proposed law is remedial in nature and shall be construed liberally.

Proposed law provides for the transportation network company appointing the secretary of state as its agent for the service of process upon the acceptance of participating drivers or customers.

Proposed law provides that the requirements of R.S. 45:201.5, 201.6, 201.7, and 201.9 shall become effective on January 1, 2016.

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

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