

SENATE BILL NO. 172

BY SENATOR MORRISH

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

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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 201.13, relative to 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 provide for effectiveness; 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 201.13, 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".

§201.2. Findings and declaration of policy

The Legislature of Louisiana, in the exercise of its police power, hereby finds and declares that the activities of transportation network companies and

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

21 §201.3. Applicability

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

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

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

30 D. Nothing in R.S. 45:201.3 through 45:201.9 shall exempt any

1 transportation network company or participating driver from complying with
2 all applicable laws and municipal and parochial ordinances relating to the
3 ownership, registration, and operation of automobiles in this state.

4 §201.4. Definitions

5 The following terms, as used in this Part, have the meanings ascribed to
6 them in this Section except when a different meaning is expressly stated or
7 clearly indicated by the context:

8 (1) "Bodily injury" means claims for general and special damages for
9 personal injury arising under Civil Code Article 2315.

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

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

19 (4) "Prearranged ride" means the provision of transportation by a
20 driver to a rider that commences when a driver accepts a ride requested by a
21 person through a digital network controlled by a transportation network
22 company, continues during the driver transporting a requesting rider, and ends
23 when the last requesting rider departs from the personal vehicle. A prearranged
24 ride does not include shared expense van pool services, as defined pursuant to
25 R.S. 45:162(18), or shared expense car pool services, as defined pursuant to R.S.
26 45:162(1), transportation provided using a vehicle subject to Part A or B of this
27 Chapter or engaged solely in interstate commerce.

28 (5) "Pre-trip acceptance period" means any period of time during which
29 a driver is logged on to the transportation network company's digital network
30 and is available to receive transportation requests but is not engaged in a

1 prearranged ride as defined in Paragraph (4) of this Section.

2 (6) "Transportation network company" means a person, whether
3 natural or juridical, that uses a digital network to connect transportation
4 network company riders to transportation network company drivers who
5 provide prearranged rides, or a person, whether natural or juridical, that
6 provides a technology platform to a transportation network company rider that
7 enables the transportation network company rider to schedule a prearranged
8 ride.

9 (7) "Transportation network company driver" or "driver" means a
10 person who receives connections to potential passengers and related services
11 from a transportation network company in exchange for payment of a fee to the
12 transportation network company, and who uses a personal vehicle to offer or
13 provide a prearranged ride to persons upon connection through a digital
14 network controlled by a transportation network company in return for
15 compensation or payment of a fee.

16 (8) "Transportation network company rider" or "rider" means a person
17 who uses a transportation network company's digital network to connect with
18 a transportation network driver who provides prearranged rides to the rider in
19 the driver's personal vehicle between points chosen by the rider.

20 §201.5. Agreements; mandatory disclosures; prohibited provision; choice of law
21 and forum

22 A. The transportation network company shall disclose the following in
23 writing to each transportation network company driver before he is initially
24 allowed to accept a request for a prearranged ride on the transportation
25 network company's digital network:

26 (1) The insurance coverage, including the types of coverage and the
27 limits for each coverage, which the transportation network company provides
28 while the transportation network company driver uses a personal vehicle in
29 connection with a transportation network company's digital network.

30 (2) That the transportation network company driver's own automobile

1 insurance policy may or may not provide any coverage while the driver is
2 logged on to the transportation network company's digital network during the
3 pre-trip acceptance period or is engaged in a prearranged ride, depending on
4 its terms.

5 B. To the extent that any agreement between a transportation network
6 company and a driver or rider, or between a driver and a rider addresses
7 liability, any provision that, in advance, excludes or limits the liability of one
8 party for causing bodily injury to the other party is null.

9 C. Jurisdiction for any bodily injury or property damage claims
10 resulting from the negligence or fault of a transportation network driver during
11 a prearranged ride, or the offer or acceptance thereof, shall be exclusively
12 conducted in a court of competent jurisdiction in the state of Louisiana, with all
13 choice of law conflicts resolved in accordance with Louisiana law with respect
14 to bodily injury or property damage claims. Nothing in this Section shall
15 prohibit any transportation network company, transportation network
16 company driver, and transportation network company rider from agreeing, by
17 contract, to submit any contractual or other disputes to arbitration.

18 §201.6. Requirements for insurance

19 A. A transportation network company driver or a transportation
20 network company on the driver's behalf shall maintain primary automobile
21 insurance that meets the requirements of this Section.

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

23 (1) Be in the amount of not less than fifty thousand dollars for death and
24 bodily injury per person, not less than one hundred thousand dollars for death
25 and bodily injury per incident, and not less than twenty-five thousand dollars
26 for property damage.

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

29 C. Automobile insurance during a prearranged ride shall:

30 (1) Be in the amount of not less than one million dollars for death, bodily

1 injury, and property damage.

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

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

6 (a) A transportation network company driver.

7 (b) A transportation network company.

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

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

15 E. Coverage under an automobile insurance policy maintained by a
16 transportation network company shall not be dependent on a personal
17 automobile insurer first denying a claim nor shall a personal automobile insurer
18 be required to first deny a claim.

19 F. If insurance maintained by a transportation network company driver
20 to fulfill the insurance requirements of this Section has lapsed or does not
21 provide the coverage required by this Section, the transportation network
22 company shall provide the coverage required by this Section beginning with the
23 first dollar of a claim and shall have the duty to defend such claim.

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

25 (1) Shall recognize that the driver is a transportation network company
26 driver or otherwise uses a personal vehicle to transport riders for compensation
27 and covers the driver during the pre-trip acceptance period, a prearranged ride,
28 or both.

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

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

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

6 §201.7. Automobile insurance provisions

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

14 (a) Liability coverage for bodily injury.

15 (b) Liability coverage for property damage.

16 (c) Uninsured and underinsured motorist coverage.

17 (d) Medical payments coverage.

18 (e) Comprehensive physical damage coverage.

19 (f) Collision physical damage coverage.

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

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

1 B.(1) Automobile insurers that exclude the coverage described in R.S.
2 45:201.6 shall have no duty to defend or indemnify any claim expressly excluded
3 thereunder. Nothing in this Part shall be deemed to invalidate or limit an
4 exclusion contained in a policy including any policy in use or approved for use
5 in this state prior to the effective date of this Part that excludes coverage for
6 vehicles used to carry persons or property for a charge or available for hire by
7 the public.

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

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

19 §201.8. Cooperation with investigation

20 In a claims coverage investigation, within ten business days of a request
21 for information, a transportation network company and any insurer potentially
22 providing coverage under R.S. 45:201.6 shall cooperate to facilitate the
23 exchange of relevant information with directly involved parties and any insurer
24 of the transportation network company driver if applicable, including the
25 precise times that a transportation network company driver logged on and off
26 the transportation network company's digital network in the twelve-hour period
27 immediately preceding and in the twelve-hour period immediately following the
28 accident and disclose to one another a clear description of the coverage,
29 exclusions, and limits provided under any automobile insurance maintained
30 under R.S. 45:201.6.

1 **§201.9. Proof of insurance**

2 **A transportation network company driver shall carry written or digital**
3 **proof of coverage satisfying R.S. 45:201.6 with him at all times during his use**
4 **of a vehicle in connection with a transportation network company's digital**
5 **network. In the event of an accident, a transportation network company driver**
6 **shall provide this insurance coverage information to the directly interested**
7 **parties, automobile insurers, and investigating police officers, upon request**
8 **pursuant to R.S. 32:863.1. Upon such request, a transportation network**
9 **company driver shall also disclose to directly interested parties, automobile**
10 **insurers, and investigating police officers, whether he was logged on to the**
11 **transportation network company's digital network or on a prearranged ride at**
12 **the time of an accident.**

13 **§201.10. Enforcement**

14 **The provisions of R.S. 45:201.5 through 45:201.9 may be enforced by**
15 **appropriate civil remedy in any court of competent jurisdiction by any**
16 **governmental authority.**

17 **§201.11. Violations**

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

22 **§201.12. Construction**

23 **The legislature hereby declares that R.S. 45:201.3 through 45:201.9 are**
24 **remedial in nature and shall be construed liberally in favor of the public in**
25 **general, and the users of transportation network company services in**
26 **particular, and to exact strict compliance by transportation network companies**
27 **and their participating drivers with the requirements of R.S. 45:201.5 through**
28 **45:201.9.**

29 **§201.13. Appointment of secretary of state as agent to receive service of process**

30 **A. The acceptance by a transportation network company of participating**

1 drivers or customers in this state, shall be deemed an appointment, by the
 2 transportation network company, of the Louisiana Secretary of State, to be its
 3 true and lawful attorney for service of process, upon whom may be served all
 4 lawful process, whether issued out of a court or by other lawful authority, in
 5 any action or proceeding involving the transportation network company by
 6 reason of the transportation network company services it provides in this state;
 7 and acceptance of participating drivers or customers shall constitute agreement
 8 by the transportation network company that any service of process served
 9 against it shall be of the same legal force and validity as if served on it
 10 personally.

11 B. When any process or pleadings are served upon the secretary of state,
 12 it shall be by duplicate copies, one of which shall be filed in the office of the
 13 secretary of state and the other immediately forwarded by the secretary of state
 14 by registered or certified mail or by commercial courier as defined in R.S.
 15 13:3204(D), when the person to be served is located outside of this state to the
 16 address shown on such process or pleadings of the person to whom the process
 17 and pleadings are directed. The secretary of state shall note on the copy
 18 retained by him the date, the manner and other particulars of service, and
 19 disposition of the forwarded copy.

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

25 Section 3. The provisions of R.S. 45:201.5, 201.6, 201.7 and 201.9 as enacted by
 26 Section 1 of this Act shall become effective on January 1, 2016.

27 Section 4. The provisions of R.S. 45:201.1 through 201.4, 201.8, and 201.10 through
 28 201.13 as enacted by Section 1 of this Act and the provisions of Sections 2 and 3 of this Act
 29 shall become effective upon signature by the governor or, if not signed by the governor,
 30 upon expiration of the time for bills to become law without signature by the governor, as

1 provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the
 2 governor and subsequently approved by the legislature, the provisions of R.S. 45:201.1
 3 through 201.4, 201.8, and 201.10 through 201.13 as enacted by Section 1 of this Act and the
 4 provisions of Sections 2 and 3 of this Act shall become effective on the day following such
 5 approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____