

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 to 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 beginning when a driver accepts a ride requested by a person
26 through a digital network controlled by a transportation network company,
27 continuing while the driver transports a requesting rider and ending when the
28 last requesting rider departs from the personal vehicle. A prearranged ride does
29 not include transportation provided using a vehicle subject to Parts A and B of

1 this Chapter or engaged solely in interstate commerce.

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

6 (6) "Transportation network company" means a person, whether
7 natural or juridical, that uses a digital network to connect transportation
8 network company riders to transportation network company drivers who
9 provide prearranged rides. A transportation network company shall not be
10 deemed to control, direct or manage the personal vehicles or transportation
11 network company drivers that connect to its digital network, except where
12 agreed to by written contract. "Transportation network company" shall include
13 the person, whether natural or juridical, that contracts with the transportation
14 network company driver and the person, whether natural or juridical, that
15 contracts with the person requesting a ride through the digital network.

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

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

27 §201.5. Agreements; mandatory disclosures; prohibited provision; choice of law
28 and forum

29 A. The transportation network company shall disclose the following in

1 writing to transportation network company drivers before they are allowed to
2 accept a request for a prearranged ride on the transportation network
3 company's digital network:

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

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

13 B. To the extent that any agreement between a transportation network
14 company and a driver or rider, or between a driver and a rider addresses
15 liability, any clause is null that, in advance, excludes or limits the liability of one
16 party for causing bodily injury to the other party.

17 C. All legal issues and disputes relating to a transportation network
18 company's operation pursuant to this Part or the providing of transportation
19 network company services pursuant to this Part, by and among a transportation
20 network company, a transportation network company driver, and a person
21 requesting a ride through a digital network, or other third parties shall be
22 exclusively conducted in a court of competent jurisdiction in the state of
23 Louisiana. All choice of law conflicts shall be resolved in accordance with
24 Louisiana law.

25 §201.6. Requirements for insurance

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

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

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

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

7 C. Automobile insurance during a prearranged ride shall:

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

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

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

14 (a) A transportation network company driver.

15 (b) A transportation network company.

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

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

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

27 F. If insurance maintained by a transportation network company driver
28 to fulfill the insurance requirements of this Section has lapsed or does not
29 provide the coverage required by this Section, the transportation network

1 company shall provide the coverage required by this Section beginning with the
2 first dollar of a claim and shall have the duty to defend such claim.

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

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

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

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

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

15 §201.7. Automobile insurance provisions

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

23 (a) Liability coverage for bodily injury.

24 (b) Liability coverage for property damage.

25 (c) Uninsured and underinsured motorist coverage.

26 (d) Medical payments coverage.

27 (e) Comprehensive physical damage coverage.

28 (f) Collision physical damage coverage.

29 (2) The exclusions permitted in Subsection A of this Section shall apply

1 notwithstanding any requirement under the Motor Vehicle Safety
2 Responsibility Law, R.S. 32:851 et seq. or other laws. Nothing in this Section
3 implies or requires that a personal automobile insurance policy provide
4 coverage while the driver is logged on to the transportation network company's
5 digital network during the pre-trip acceptance period, while the driver is
6 engaged in a prearranged ride, or while the driver otherwise uses a vehicle to
7 transport passengers for compensation.

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

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

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

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

29 §201.8. Cooperation with investigation

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

12 §201.9. Proof of insurance

13 A transportation network company driver shall carry written or digital
14 proof of coverage satisfying R.S. 45:201.6 with him at all times during his use
15 of a vehicle in connection with a transportation network company's digital
16 network. In the event of an accident, a transportation network company driver
17 shall provide this insurance coverage information to the directly interested
18 parties, automobile insurers, and investigating police officers, upon request
19 pursuant to R.S. 32:862. Upon such request, a transportation network company
20 driver shall also disclose to directly interested parties, automobile insurers, and
21 investigating police officers, whether he was logged on to the transportation
22 network company's digital network or on a prearranged ride at the time of an
23 accident.

24 §201.10. Enforcement

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

29 §201.11. Violations

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

5 §201.12. Construction

6 The legislature hereby declares that R.S. 45:201.3 through 45:201.9 are
7 remedial in nature and shall be construed liberally in favor of the public in
8 general, and the users of transportation network company services in
9 particular, and to exact strict compliance by transportation network companies
10 and their participating drivers with the requirements of R.S. 45:201.5 through
11 45:201.9.

12 §201.13. Appointment of secretary of state as agent to receive service of process

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

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

1 retained the date, the manner and other particulars of service, and disposition
 2 of the forwarded copy.

3 §201.14. Effective Date

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

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

11 Section 3. This Act shall become effective upon signature by the governor or, if not
 12 signed by the governor, upon expiration of the time for bills to become law without signature
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 15 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 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 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 and ending 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 provides that a "transportation network company" will include the person, whether natural or juridical, that contracts with the transportation network company driver and the person, whether natural or juridical, that contracts with the person requesting a ride through the digital network.

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 the providing 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 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 to the extent required by present law.

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 201.14)

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.

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.