

AN ACT relating to insurance requirements for transportation network companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Driver" means any person who uses a motor vehicle in connection with a TNC's mobile application to connect with passengers or other items to be transported;*
- (b) *"Mobile application" means an application or a computer program designed to run on a smartphone, tablet computer, or other mobile device that is used by a TNC to connect drivers with potential passengers or other items to be transported;*
- (c) *"Prearranged ride" means the period of time that begins at the time a driver accepts a requested ride or other items to be transported through a TNC's digital network or mobile application, continues while the driver transports the passenger or other items to be transported in a personal vehicle, and ends at the time the passenger departs from the vehicle or delivery of other items to be transported;*
- (d) *"Pre-trip acceptance liability policy" means the TNC insurance liability coverage that may apply if a TNC driver is logged into a TNC mobile application and available to receive requests for TNC services if the driver has not accepted a request, is not en route to pick up a passenger or other items to be transported, or is not transporting a passenger or other items to be transported;*
- (e) *"Transportation network company" or "TNC" means an entity that uses a digital network or mobile application service to connect passengers or other items to be transported to drivers providing transportation services; and*

- (f) "Transportation services" means the transportation of a passenger or other items to be transported between points chosen by the passenger or requestor and prearranged with a driver through the use of a TNC's digital network or mobile application.
- (2) While engaged in a prearranged ride, a TNC shall have:
- (a) Primary liability insurance coverage for drivers of no less than one million dollars (\$1,000,000) per occurrence for damages arising out of claims for bodily injury, death, or destruction of property;
 - (b) Basic reparation benefits as defined in KRS 304.39-020;
 - (c) Uninsured vehicle coverage as established in KRS 304.20-020;
 - (d) Underinsured vehicle coverage as established in KRS 304.39-320; and
 - (e) Collision physical damage coverage and comprehensive physical damage coverage if the participating driver carries those coverages on his or her auto policy, unless that insurer is providing transportation network company insurance to the driver.
- (3) While a driver is logged into a mobile application, but prior to accepting a prearranged ride, a TNC shall maintain pre-trip acceptance liability insurance coverage for the driver in accordance with subsection (4) of this section if a driver:
- (a) Is logged into a mobile application and is available to receive requests for transportation services through the mobile application;
 - (b) Has not accepted a request for transportation services through the mobile application;
 - (c) Is not en route to pick up a passenger or other items to be transported; and
 - (d) Is not transporting a passenger or other items to be transported to the requested destination.
- (4) A TNC shall maintain a pre-trip acceptance primary liability insurance policy for

drivers that provides:

- (a) Coverage of not less than fifty thousand dollars (\$50,000) for all damages arising out of bodily injury and death sustained by any one (1) person, and not less than one hundred thousand (\$100,000) dollars for all damages arising out of bodily injury or death sustained by all persons injured as a result of any one (1) accident, plus liability coverage of not less than twenty-five thousand dollars (\$25,000) for all damages arising out of damage to or destruction of property during the periods of time established in subsection (3) of this section;
- (b) Basic reparation benefits as defined in KRS 304.39-020;
- (c) Uninsured vehicle coverage as established in KRS 304.20-020;
- (d) Underinsured vehicle coverage as established in KRS 304.39-320; and
- (e) Collision physical damage coverage and comprehensive physical damage coverage if the participating driver carries those coverages on his or her personal auto policy, unless that insurer is providing transportation network company insurance to the driver.
- (5) The requirements for insurance coverage required by this section may be satisfied by any of the following:
- (a) Transportation network company insurance maintained by a driver if the TNC verifies that the policy:
1. Is maintained by the driver;
 2. Meets the requirements of this section; and
 3. Is specifically written to cover the driver's use of a vehicle in connection with providing transportation services;
- (b) Transportation network company insurance maintained by a TNC which meets the requirements of this section; or
- (c) Any combination of paragraphs (a) and (b) of this subsection.

- (6) The insurance coverage required by this section shall be provided either by an insurer licensed pursuant to KRS 304.3-070 or with a surplus lines insurer eligible under KRS 304.10-010 to 304.10-070.
- (7) A TNC shall assume liability, including the costs of defense and indemnification, for a claim in which a dispute exists as to whether the loss or injury giving rise to the claim occurred while the driver was logged in to a mobile application. The TNC shall notify the driver and driver's personal automobile vehicle liability insurer of any such dispute within twenty-five (25) business days of receiving notice of the incident that gives rise to the claim.
- (8) A certificate of liability insurance that meets the required insurance coverage shall be filed with the department for each policy maintained by the TNC pursuant to this section.
- (9) Notwithstanding any other law to the contrary:
- (a) The driver's personal automobile motor vehicle liability policy shall not provide coverage to the participating driver, vehicle owner, or any third party, unless the policy:
1. Expressly provides for coverage meeting the requirements of subsection (4) of this section during the period of time to which subsection (3) of this section is applicable, with or without a separate charge; or
 2. Contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.
- (b) The driver's personal automobile motor vehicle liability policy shall not have the duty to defend or indemnify for the driver's activities in connection with the TNC, unless the policy:
1. Expressly provides otherwise for the period of time to which the subsection is applicable, with or without a separate charge; or

2. Contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

(10) Notwithstanding any other law to the contrary, a personal automobile insurer may, at its discretion, offer an automobile liability insurance policy meeting the requirements of subsection (4) of this section, or an amendment or endorsement to an existing policy meeting the requirements of subsection (4) of this section, that covers a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight (8) persons or less, including the driver, while used in connection with a TNC's online enabled application or platform only if the policy:

(a) Expressly provides for the coverage during the time period specified in subsection (3) of this section, with or without a separate charge; or

(b) Contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged.

(11) A TNC shall not require a hold harmless or indemnification clause in the terms of any agreement for transportation services with a driver or passenger that may be used to evade the requirements of this section.

(12) Prior to the first use of a personal vehicle in providing transportation services, or upon the termination of the personal vehicle's participation in providing transportation services, the TNC, with written consent of the driver, shall:

(a) Provide direct notice to the driver's personal automobile motor liability insurer that the TNC is providing primary insurance coverage in accordance with this section; and

(b) Provide, upon request of the driver's personal automobile motor liability insurer, all data and records associated with the driver's vehicle while available to provide transportation services.

(13) A driver shall carry proof of insurance meeting the requirements of this section

during the periods of time addressed in subsections (2) and (3) of this section and shall provide this proof of insurance to any other party involved in any accident in which the driver is involved and to any public safety officer upon request.

(14) In the event of a claims coverage investigation, a TNC and its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involves a driver and the precise times that the driver logged on and off of the TNC's mobile application.