

AMENDED IN SENATE JULY 2, 2014
AMENDED IN SENATE JUNE 19, 2014
AMENDED IN ASSEMBLY MAY 15, 2014
AMENDED IN ASSEMBLY APRIL 10, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2293

Introduced by Assembly Member Bonilla

February 21, 2014

An act to add Article 7 (commencing with Section 5430) to Chapter 8 of Division 2 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2293, as amended, Bonilla. Transportation network companies: insurance coverage.

Existing law, the Passenger Charter-party Carriers' Act, provides for the regulation of charter-party carriers of passengers by the Public Utilities Commission, and makes it unlawful for a charter-party carrier to operate without first obtaining a permit or certificate, from the commission, except as specified. The act requires a charter-party carrier to, among other things, comply with specified vehicle identification and accident liability protection requirements. A violation of the act is generally a misdemeanor, punishable by a specified fine or term of imprisonment, or both, depending on the violation.

This bill would ~~impose specified requirements relating to insurance coverage, indemnity, and liability on transportation network companies,~~

~~as defined, including requiring a transportation network company to disclose to participating drivers the company's insurance coverage and limits of liability. The bill would specify that the transportation network company's insurance is primary, and would impose a duty to defend and indemnify on the transportation network company~~ *amend the Passenger Charter-party Carriers' Act to enact specified requirements for liability and other insurance coverage for transportation network companies, as defined, and their participating drivers. The bill would define 3 distinct time periods that comprise transportation network company services, and would specify the insurance requirements for each of those time periods and alternative methods of compliance with those requirements. The bill would require a transportation network company to verify that a participating driver carries and maintains the appropriate type of insurance coverage, as applicable, and, in the event a driver's insurance policy ceases to exist, would require the transportation network company's insurance policy to provide the required coverage. The bill would require insurance coverage for transportation network company services to be specifically written to cover those services, and would provide that a participating driver's personal automobile insurance policy does not provide coverage for those services unless that coverage is separately and specifically stated and priced.* The bill would require the commission and the Department of Insurance to collaborate on a study of transportation network company insurance, as specified, and would prohibit a transportation network company from disclosing the personally identifiable information of a passenger, except as specified. The bill would specify the Legislature's intent relating to expediting the approval of transportation network company insurance products, and would set forth related legislative findings and declarations.

Because a violation of the bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7 (commencing with Section 5430) is
2 added to Chapter 8 of Division 2 of the Public Utilities Code, to
3 read:

4
5 Article 7. Transportation Network Companies
6

7 5430. Notwithstanding any other provision of this chapter, this
8 article shall apply to transportation network companies.

9 5431. As used in this ~~chapter~~ *article*, a “transportation network
10 company” is an organization, including, but not limited to, a
11 corporation, partnership, ~~or~~ sole proprietor, *or any other entity*,
12 operating in California that provides prearranged transportation
13 services for compensation using an online-enabled application or
14 platform to connect passengers with drivers using their personal
15 vehicles.

16 5432. (a) *As used in this article, “transportation network*
17 *company services” refers to the period of time that commences*
18 *when a participating driver in a transportation network company*
19 *logs onto the transportation network company’s application*
20 *program and ceases when the driver logs off the application*
21 *program.*

22 (b) *For purposes of this article, transportation network company*
23 *services have three distinct time periods, as follows:*

24 (1) *Period One runs from the time a participating driver logs*
25 *onto the transportation network company’s application program*
26 *and continues as long as the driver has not yet accepted a match*
27 *with a passenger on the application program. Period One also*
28 *runs from the time a matched passenger exits the private passenger*
29 *vehicle of the participating driver until the time the driver accepts*
30 *another match with a passenger or logs off the application*
31 *program.*

32 (2) *Period Two runs from the time a participating driver accepts*
33 *a match with a passenger on the transportation network company’s*
34 *application program until the time the driver picks up the matched*
35 *passenger.*

36 (3) *Period Three runs from the time a passenger enters the*
37 *private passenger vehicle of the participating driver until the*
38 *passenger exits the vehicle.*

1 5432.

2 5433. (a) A transportation network company shall disclose in
3 writing to participating drivers, as part of its agreement with those
4 drivers, the insurance coverage and limits of liability that the
5 transportation network company provides while a driver makes
6 himself or herself available for transportation network company
7 services, and shall advise a participating driver in writing that the
8 driver's personal automobile insurance policy may not provide
9 coverage while the driver makes himself or herself available for
10 transportation network company services.

11 (b) (1) *A transportation network company shall maintain*
12 *insurance coverage that assumes all liability and provides other*
13 *coverages for transportation network company services during*
14 *Periods Two and Three, as described in subdivision (b) of Section*
15 *5432. The insurance limits and coverages shall include, but need*
16 *not be limited to, the requirements imposed by the commission for*
17 *transportation network companies relative to liability, medical*
18 *payments, comprehensive, collision, and uninsured and*
19 *underinsured motorist.*

20 (2) *The requirement for a transportation network company to*
21 *maintain insurance coverage pursuant to this subdivision may be*
22 *satisfied by any of the following:*

23 (A) *An insurance policy obtained by a participating driver that*
24 *is specifically written to cover transportation network company*
25 *services during Periods Two and Three.*

26 (B) *Any combination of an insurance policy obtained by the*
27 *transportation network company and an insurance policy obtained*
28 *by a participating driver that is specifically written to cover*
29 *transportation network company services, or portion thereof.*

30 (C) *An insurance policy obtained by a transportation network*
31 *company.*

32 (3) *A transportation network company may meet its obligations*
33 *to maintain insurance coverage under this subdivision with a policy*
34 *obtained by the participating driver pursuant to subparagraph (A)*
35 *of paragraph (2), or with a combination of policies pursuant to*
36 *subparagraph (B) of paragraph (2), only if the transportation*
37 *network company verifies that the policy or policies in question*
38 *are specifically written to cover transportation network company*
39 *services and that any policy obtained by a participating driver in*
40 *that regard is maintained.*

1 (4) *If an insurance policy obtained by a participating driver to*
2 *meet the requirements of this subdivision ceases to exist at any*
3 *time for any reason, including, but not limited to, lapse or*
4 *cancellation, the transportation network company's insurance*
5 *policy shall provide all required coverage under this subdivision*
6 *beginning with the first dollar of a claim.*

7 (c) (1) *A transportation network company shall ensure that a*
8 *participating driver is covered by insurance coverage during*
9 *Period One, including liability, medical payments, comprehensive,*
10 *collision, and uninsured and underinsured motorist coverage, as*
11 *required by the commission, subject to coverage requirements as*
12 *specified in this subdivision, through one of the following:*

13 (A) *A policy obtained by a transportation network company*
14 *with limits of liability coverage of seven hundred fifty thousand*
15 *dollars (\$750,000) for death, personal injury, and property*
16 *damage, and with limits for other required coverages as determined*
17 *by the commission.*

18 (B) *A policy obtained by a participating driver of a*
19 *transportation network company that is specifically written to*
20 *cover Period One with limits of liability coverage of seven hundred*
21 *fifty thousand dollars (\$750,000) for death, personal injury, and*
22 *property damage, and with limits for other required coverages as*
23 *determined by the commission.*

24 (C) *Any combination of policies obtained by a transportation*
25 *network company and a participating driver, where each policy*
26 *is specifically written to cover Period One, as long as the combined*
27 *policies together provide liability coverage of seven hundred fifty*
28 *thousand dollars (\$750,000) for death, personal injury, and*
29 *property damage, and with limits for other required coverages as*
30 *determined by the commission.*

31 (2) *A transportation network company may meet its obligations*
32 *under this subdivision through a policy obtained by a participating*
33 *driver pursuant to subparagraph (B) or (C) of paragraph (1) only*
34 *if the transportation network company verifies that the policy is*
35 *specifically written to cover transportation network company*
36 *services and is maintained by the driver.*

37 (3) *If an insurance policy obtained by a participating driver to*
38 *meet the requirements of this subdivision pursuant to subparagraph*
39 *(B) or (C) of paragraph (1) ceases to exist at any time for any*
40 *reason, including, but not limited to, lapse or cancellation, the*

1 transportation network company's insurance policy shall provide
2 all required coverage under this subdivision beginning with the
3 first dollar of a claim.

4 (4) Notwithstanding any other law, in the event of a loss or
5 injury during the provision of transportation network company
6 services, where the loss or injury exceeds the policy coverage
7 requirements of this subdivision, the transportation network
8 company, or any affiliated parent or subsidiary of the
9 transportation network company, shall assume all liability of the
10 participating driver under this subdivision above the amounts of
11 those policy coverage limits. This paragraph shall apply regardless
12 of whether the affiliate is organized as a limited liability company.

13 (d) This section shall not limit the liability of a transportation
14 network company arising out of an automobile accident involving
15 a participating driver in any action for damages against a
16 transportation network company for an amount above the required
17 insurance coverage.

18 ~~5433. (a) Regarding insurance, both of the following shall~~
19 ~~apply from the moment a participating driver logs on to the~~
20 ~~transportation network company's application program until the~~
21 ~~driver logs off from that application program:~~

22 ~~(1) Transportation network company insurance shall be primary.~~

23 ~~(2) Transportation network company insurance shall have the~~
24 ~~duty to defend and indemnify.~~

25 ~~(b) Transportation network company liability insurance coverage~~
26 ~~shall be required at a lower amount from the moment a~~
27 ~~participating driver logs on to the transportation network company~~
28 ~~application program until that driver has a passenger match~~
29 ~~accepted. This lower amount shall be at least fifty thousand dollars~~
30 ~~(\$50,000) for death and personal injury, at least one hundred~~
31 ~~thousand dollars (\$100,000) for death and personal injury of two~~
32 ~~or more persons, and at least thirty thousand dollars (\$30,000) for~~
33 ~~property damage, all per incident. The requirements for this~~
34 ~~coverage may be satisfied by any of the following:~~

35 ~~(1) A primary personal automobile liability insurance policy~~
36 ~~that recognizes the driver's provision of transportation network~~
37 ~~company services.~~

38 ~~(2) An automobile liability insurance policy maintained by the~~
39 ~~transportation network company that provides primary coverage~~
40 ~~in the event a driver's personal automobile insurance policy does~~

1 not recognize the driver's provision of transportation network
2 company services.

3 ~~(3) A combination of a primary automobile liability insurance
4 policy that recognizes the driver's provision of transportation
5 network company services and an automobile liability insurance
6 policy maintained by the transportation network company.~~

7 ~~(e) This section shall not limit the liability of a transportation
8 network company arising out of an automobile accident involving
9 a participating driver in any action for damages against a
10 transportation network company for an amount above the required
11 insurance coverage.~~

12 *5434. Notwithstanding the coverage options described in
13 Section 5433, during Periods One, Two, and Three, the vehicle
14 used by a participating driver in transportation network company
15 services shall be considered a public or livery conveyance and
16 shall be considered as providing delivery of persons or passengers
17 for compensation or a fee. Unless coverage for transportation
18 network services is separately and specifically stated in an
19 insurance policy and priced pursuant to approval by the
20 Department of Insurance, a participating driver's personal
21 automobile insurance policy shall not provide coverage for
22 transportation network company services, and the insurer under
23 that policy shall have no duty to defend and indemnify for claims
24 resulting from provision of those services.*

25 *5435. In a claims coverage investigation during Period One,
26 Two, or Three, a transportation network company or its insurer
27 shall cooperate with insurers who are involved in the claims
28 coverage investigation to facilitate the exchange of information,
29 including the provision of dates and times at which an accident
30 occurred that involved a participating driver.*

31 ~~5434.~~

32 *5436. The commission and the Department of Insurance shall
33 collaborate on a study of transportation network company insurance
34 to assess whether coverage requirements are appropriate to the
35 risk of transportation network company services in order to
36 promote data-driven decisions on insurance requirements.*

37 ~~5435.~~

38 *5437. A transportation network company shall not disclose to
39 a third party any personally identifiable information of a*

1 transportation network company passenger unless one of the
 2 following apply:

- 3 (1) The customer knowingly consents.
- 4 (2) Pursuant to a legal obligation.
- 5 (3) The disclosure is to the commission in order to investigate
 6 a complaint filed with the commission against a transportation
 7 network company or a participating driver and the commission
 8 treats the information under confidentiality protections.

9 ~~5436.~~

10 5438. It is the intent of the Legislature that the Department of
 11 Insurance expedite review of any application for approval of
 12 transportation network company insurance products.

13 ~~5437.~~

14 5439. The Legislature makes the following findings:

- 15 (a) The commission has initiated regulation of transportation
 16 network companies as a new category of charter-party carriers and
 17 continues to develop appropriate regulations for this new service.
- 18 (b) Given the rapidly evolving transportation network company
 19 service, it is the intent of the Legislature to continue ongoing
 20 oversight of the commission’s regulation of these services in order
 21 to enact legislation to adjust commission authority and impose
 22 specific requirements or prohibitions as deemed necessary as these
 23 services evolve.

24 5440. *The Legislature does not intend, and nothing in this*
 25 *article shall be construed, to prohibit the commission from*
 26 *exercising its rulemaking authority in a manner consistent with*
 27 *this article, or to prohibit enforcement activities related to*
 28 *transportation network companies.*

29 5441. *Participating drivers of transportation network*
 30 *companies shall carry with them at all times during the provision*
 31 *of transportation network company services proof of insurance*
 32 *coverage, including any coverage from the driver’s own policy*
 33 *that is specifically written to cover the provision of transportation*
 34 *network company services, or coverage from a policy obtained by*
 35 *the transportation network company, or both, as applicable. In*
 36 *the event of an accident, a participating driver shall provide this*
 37 *insurance coverage information to any other party involved in the*
 38 *accident, and to a police officer, upon request.*

1 5438.

2 5442. Notwithstanding Section 11580.9 of the Insurance Code,
3 or any other law affecting whether one or more policies of
4 insurance that may apply with respect to an occurrence is primary
5 or excess, this article determines the obligations under insurance
6 policies issued to transportation network companies and, if
7 applicable, drivers providing transportation network services for
8 transportation network companies.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.

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