

AMENDED IN SENATE AUGUST 20, 2014
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 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. *These requirements would become operative on July 1, 2015.* The bill would ~~define 3~~ describe 2 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 uninsured and underinsured motorist coverage to be provided for specified time periods.* 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, *would*, in the event a driver's insurance policy ceases to exist, ~~would require the~~ *or has been canceled, or under certain other circumstances, require a* 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, beginning on July 1, 2015, would provide that a participating driver's or vehicle owner's personal automobile insurance policy does not provide coverage to the participating driver, vehicle owner, or any 3rd party unless the policy so provides.* The bill, beginning on July 1, 2015, would require certain written disclosures by transportation network companies to their participating drivers on the insurance coverage provided by the company and to advise that the driver's personal automobile insurance policy will not provide coverage. *The bill would require participating drivers to carry proof of insurance coverage, as specified.* 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. (a) As used in this article, a “transportation network
10 company” is an organization, including, but not limited to, a
11 corporation, *limited liability company*, partnership, sole proprietor,
12 or any other entity, operating in California that ~~provides~~ *enables*
13 prearranged transportation services for compensation using an
14 online-enabled application or platform to connect passengers with
15 drivers using ~~their personal vehicles~~ *a vehicle*.

16 (b) As used in this article, “participating driver” or “driver”
17 is any person who uses a vehicle in connection with a
18 transportation network company’s online-enabled application or
19 platform to connect with passengers.

20 (c) As used in this article, “transportation network company
21 insurance” is a liability insurance policy that specifically covers
22 liabilities arising from a driver’s use of a vehicle in connection
23 with a transportation network company’s online-enabled
24 application or platform.

25 ~~5432. (a) As used in this article, “transportation network
26 company services” refers to the period of time that commences
27 when a participating driver in a transportation network company
28 logs onto the transportation network company’s application
29 program and ceases when the driver logs off the application
30 program.~~

1 (b) ~~For purposes of this article, transportation network company~~
2 ~~services have three distinct time periods, as follows:~~

3 (1) ~~Period One runs from the time a participating driver logs~~
4 ~~onto the transportation network company's application program~~
5 ~~and continues as long as the driver has not yet accepted a match~~
6 ~~with a passenger on the application program. Period One also runs~~
7 ~~from the time a matched passenger exits the private passenger~~
8 ~~vehicle of the participating driver until the time the driver accepts~~
9 ~~another match with a passenger or logs off the application program.~~

10 (2) ~~Period Two runs from the time a participating driver accepts~~
11 ~~a match with a passenger on the transportation network company's~~
12 ~~application program until the time the driver picks up the matched~~
13 ~~passenger.~~

14 (3) ~~Period Three runs from the time a passenger enters the~~
15 ~~private passenger vehicle of the participating driver until the~~
16 ~~passenger exits the vehicle.~~

17 ~~5433.~~

18 5432. (a) A transportation network company shall disclose in
19 writing to participating drivers, as part of its agreement with those
20 drivers, the insurance coverage and limits of liability that the
21 transportation network company provides ~~while a~~ *because the*
22 ~~driver makes himself or herself available for transportation network~~
23 ~~company services; uses a vehicle in connection with a~~
24 ~~transportation network company's online-enabled application or~~
25 ~~platform, and shall advise a participating driver in writing that the~~
26 ~~driver's personal automobile insurance policy may will not provide~~
27 ~~coverage while the driver makes himself or herself available for~~
28 ~~transportation network company services. uses a vehicle in~~
29 ~~connection with a transportation network company's~~
30 ~~online-enabled application or platform.~~

31 (b) (1) ~~A transportation network company shall maintain~~
32 ~~insurance coverage that assumes all liability and provides other~~
33 ~~coverages for transportation network company services during~~
34 ~~Periods Two and Three, as described in subdivision (b) of Section~~
35 ~~5432. The insurance limits and coverages shall include, but need~~
36 ~~not be limited to, the requirements imposed by the commission~~
37 ~~for transportation network companies relative to liability, medical~~
38 ~~payments, comprehensive, collision, and uninsured and~~
39 ~~underinsured motorist.~~

1 ~~(2) The requirement for a transportation network company to~~
2 ~~maintain insurance coverage pursuant to this subdivision may be~~
3 ~~satisfied by any of the following:~~

4 ~~(A) An insurance policy obtained by a participating driver that~~
5 ~~is specifically written to cover transportation network company~~
6 ~~services during Periods Two and Three.~~

7 ~~(B) Any combination of an insurance policy obtained by the~~
8 ~~transportation network company and an insurance policy obtained~~
9 ~~by a participating driver that is specifically written to cover~~
10 ~~transportation network company services, or portion thereof.~~

11 ~~(C) An insurance policy obtained by a transportation network~~
12 ~~company.~~

13 ~~(3) A transportation network company may meet its obligations~~
14 ~~to maintain insurance coverage under this subdivision with a policy~~
15 ~~obtained by the participating driver pursuant to subparagraph (A)~~
16 ~~of paragraph (2), or with a combination of policies pursuant to~~
17 ~~subparagraph (B) of paragraph (2), only if the transportation~~
18 ~~network company verifies that the policy or policies in question~~
19 ~~are specifically written to cover transportation network company~~
20 ~~services and that any policy obtained by a participating driver in~~
21 ~~that regard is maintained.~~

22 ~~(4) If an insurance policy obtained by a participating driver to~~
23 ~~meet the requirements of this subdivision ceases to exist at any~~
24 ~~time for any reason, including, but not limited to, lapse or~~
25 ~~cancellation, the transportation network company's insurance~~
26 ~~policy shall provide all required coverage under this subdivision~~
27 ~~beginning with the first dollar of a claim.~~

28 ~~(e) (1) A transportation network company shall ensure that a~~
29 ~~participating driver is covered by insurance coverage during Period~~
30 ~~One, including liability, medical payments, comprehensive,~~
31 ~~collision, and uninsured and underinsured motorist coverage, as~~
32 ~~required by the commission, subject to coverage requirements as~~
33 ~~specified in this subdivision, through one of the following:~~

34 ~~(A) A policy obtained by a transportation network company~~
35 ~~with limits of liability coverage of seven hundred fifty thousand~~
36 ~~dollars (\$750,000) for death, personal injury, and property damage,~~
37 ~~and with limits for other required coverages as determined by the~~
38 ~~commission.~~

39 ~~(B) A policy obtained by a participating driver of a~~
40 ~~transportation network company that is specifically written to cover~~

1 ~~Period One with limits of liability coverage of seven hundred fifty~~
 2 ~~thousand dollars (\$750,000) for death, personal injury, and property~~
 3 ~~damage, and with limits for other required coverages as determined~~
 4 ~~by the commission.~~

5 ~~(C) Any combination of policies obtained by a transportation~~
 6 ~~network company and a participating driver, where each policy is~~
 7 ~~specifically written to cover Period One, as long as the combined~~
 8 ~~policies together provide liability coverage of seven hundred fifty~~
 9 ~~thousand dollars (\$750,000) for death, personal injury, and property~~
 10 ~~damage, and with limits for other required coverages as determined~~
 11 ~~by the commission.~~

12 ~~(2) A transportation network company may meet its obligations~~
 13 ~~under this subdivision through a policy obtained by a participating~~
 14 ~~driver pursuant to subparagraph (B) or (C) of paragraph (1) only~~
 15 ~~if the transportation network company verifies that the policy is~~
 16 ~~specifically written to cover transportation network company~~
 17 ~~services and is maintained by the driver.~~

18 ~~(3) If an insurance policy obtained by a participating driver to~~
 19 ~~meet the requirements of this subdivision pursuant to subparagraph~~
 20 ~~(B) or (C) of paragraph (1) ceases to exist at any time for any~~
 21 ~~reason, including, but not limited to, lapse or cancellation, the~~
 22 ~~transportation network company's insurance policy shall provide~~
 23 ~~all required coverage under this subdivision beginning with the~~
 24 ~~first dollar of a claim.~~

25 ~~(4) Notwithstanding any other law, in the event of a loss or~~
 26 ~~injury during the provision of transportation network company~~
 27 ~~services, where the loss or injury exceeds the policy coverage~~
 28 ~~requirements of this subdivision, the transportation network~~
 29 ~~company, or any affiliated parent or subsidiary of the transportation~~
 30 ~~network company, shall assume all liability of the participating~~
 31 ~~driver under this subdivision above the amounts of those policy~~
 32 ~~coverage limits. This paragraph shall apply regardless of whether~~
 33 ~~the affiliate is organized as a limited liability company.~~

34 ~~(d) This section shall not limit the liability of a transportation~~
 35 ~~network company arising out of an automobile accident involving~~
 36 ~~a participating driver in any action for damages against a~~
 37 ~~transportation network company for an amount above the required~~
 38 ~~insurance coverage.~~

39 ~~(b) A transportation network company shall also disclose in~~
 40 ~~writing to participating drivers, as part of its agreement with those~~

1 *drivers, that the driver’s personal automobile insurance policy*
2 *will not provide collision or comprehensive coverage for damage*
3 *to the vehicle used by the driver from the moment the driver logs*
4 *on to the transportation network company’s online-enabled*
5 *application or platform to the moment the driver logs off the*
6 *transportation network company’s online-enabled application or*
7 *platform.*

8 *(c) This section shall become operative on July 1, 2015.*

9 ~~5434. Notwithstanding the coverage options described in~~
10 ~~Section 5433, during Periods One, Two, and Three, the vehicle~~
11 ~~used by a participating driver in transportation network company~~
12 ~~services shall be considered a public or livery conveyance and~~
13 ~~shall be considered as providing delivery of persons or passengers~~
14 ~~for compensation or a fee. Unless coverage for transportation~~
15 ~~network services is separately and specifically stated in an~~
16 ~~insurance policy and priced pursuant to approval by the Department~~
17 ~~of Insurance, a participating driver’s personal automobile insurance~~
18 ~~policy shall not provide coverage for transportation network~~
19 ~~company services, and the insurer under that policy shall have no~~
20 ~~duty to defend and indemnify for claims resulting from provision~~
21 ~~of those services.~~

22 ~~5435. In a claims coverage investigation during Period One,~~
23 ~~Two, or Three, a transportation network company or its insurer~~
24 ~~shall cooperate with insurers who are involved in the claims~~
25 ~~coverage investigation to facilitate the exchange of information,~~
26 ~~including the provision of dates and times at which an accident~~
27 ~~occurred that involved a participating driver.~~

28 *5433. (a) A transportation network company and any*
29 *participating driver shall maintain transportation network company*
30 *insurance as provided in this section.*

31 *(b) The following requirements shall apply to transportation*
32 *network company insurance from the moment a participating driver*
33 *accepts a ride request on the transportation network company’s*
34 *online-enabled application or platform until the driver completes*
35 *the transaction on the online-enabled application or platform or*
36 *until the ride is complete, whichever is later:*

37 *(1) Transportation network company insurance shall be primary*
38 *and in the amount of one million dollars (\$1,000,000) for death,*
39 *personal injury, and property damage. The requirements for the*

1 coverage required by this subdivision may be satisfied by any of
 2 the following:

3 (A) Transportation network company insurance maintained by
 4 a participating driver.

5 (B) Transportation network company insurance maintained by
 6 a transportation network company.

7 (C) Any combination of subparagraphs (A) and (B).

8 (2) Transportation network company insurance coverage
 9 provided under this subdivision shall also provide for uninsured
 10 motorist coverage and underinsured motorist coverage in the
 11 amount of one million dollars (\$1,000,000) from the moment a
 12 passenger enters the vehicle of a participating driver until the
 13 passenger exits the vehicle. The policy may also provide this
 14 coverage during any other time period, if requested by a
 15 participating driver relative to insurance maintained by the driver.

16 (3) The insurer, in the case of insurance coverage provided
 17 under this subdivision, shall have the duty to defend and indemnify
 18 the insured.

19 (c) The following requirements shall apply to transportation
 20 network company insurance from the moment a participating driver
 21 logs on to the transportation network company’s online-enabled
 22 application or platform until the driver accepts a request to
 23 transport a passenger, and from the moment the driver completes
 24 the transaction on the online-enabled application or platform or
 25 until the ride is complete, whichever is later, until the driver either
 26 accepts another ride request on the online-enabled application or
 27 platform or logs off the online-enabled application or platform:

28 (1) Transportation network company insurance shall, be primary
 29 and in the amount of at least one hundred thousand dollars
 30 (\$100,000) for death and personal injury per person, three hundred
 31 thousand dollars (\$300,000) for death and personal injury per
 32 incident, and fifty thousand dollars (\$50,000) for property damage.
 33 The requirements for the coverage required by this paragraph
 34 may be satisfied by any of the following:

35 (A) Transportation network company insurance maintained by
 36 a participating driver.

37 (B) Transportation network company insurance maintained by
 38 a transportation network company that provides coverage in the
 39 event a participating driver’s insurance policy under subparagraph

40 (A) has ceased to exist or has been canceled, the participating

1 driver does not otherwise maintain transportation network
2 company insurance pursuant to this subdivision.

3 (C) Any combination of subparagraphs (A) and (B).

4 (2) A transportation network company shall also maintain
5 insurance coverage that provides excess coverage of one million
6 dollars (\$1,000,000) in total per occurrence to cover any liability
7 arising from a participating driver using a vehicle in connection
8 with a transportation network company's online-enabled
9 application or platform within the time periods specified in this
10 subdivision, which liability exceeds the required coverage limits
11 in paragraph (1).

12 (3) The insurer providing insurance coverage under this
13 subdivision shall be the only insurer having the duty to defend any
14 liability claim arising from an accident occurring within the time
15 periods specified in this subdivision.

16 (d) Coverage under a transportation network company
17 insurance policy shall not be dependent on a personal automobile
18 insurance policy first denying a claim nor shall a personal
19 automobile insurance policy be required to first deny a claim.

20 (e) In every instance where transportation network company
21 insurance maintained by a participating driver to fulfill the
22 insurance obligations of this section has lapsed or ceased to exist,
23 the transportation network company shall provide the coverage
24 required by this section beginning with the first dollar of a claim.

25 (f) This article shall not limit the liability of a transportation
26 network company arising out of an automobile accident involving
27 a participating driver in any action for damages against a
28 transportation network company for an amount above the required
29 insurance coverage.

30 (g) This section shall become operative on July 1, 2015.

31 5434. (a) Nothing in this section shall be construed to require
32 a private passenger automobile insurance policy to provide
33 primary or excess coverage during the period of time from the
34 moment a participating driver in a transportation network company
35 logs on to the transportation network company's online-enabled
36 application or platform until the driver logs off the online-enabled
37 application or platform or the passenger exits the vehicle,
38 whichever is later.

39 (b) During the period of time from the moment a participating
40 driver in a transportation network company logs on to the

1 transportation network company's online-enabled application or
2 platform until the driver logs off the online-enabled application
3 or platform or the passenger exits the vehicle, whichever is later,
4 all of the following shall apply:

5 (1) The participating driver's or the vehicle owner's personal
6 automobile insurance policy shall not provide any coverage to the
7 participating driver, vehicle owner, or any third party, unless the
8 policy expressly provides for that coverage during the period of
9 time to which this subdivision is applicable, with or without a
10 separate charge, or the policy contains an amendment or
11 endorsement to provide that coverage, for which a separately
12 stated premium is charged.

13 (2) For the purposes of this article only, the vehicle used by the
14 participating driver shall be considered a public or livery
15 conveyance and shall be considered as providing delivery of
16 persons or passengers for compensation or a fee.

17 (3) The participating driver's or the vehicle owner's personal
18 automobile insurance policy shall not have the duty to defend or
19 indemnify for the driver's activities in connection with the
20 transportation network company, unless the policy expressly
21 provides otherwise for the period of time to which this subdivision
22 is applicable, with or without a separate charge, or the policy
23 contains an amendment or endorsement to provide that coverage,
24 for which a separately stated premium is charged.

25 (c) This section shall become operative on July 1, 2015.

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

31 5436. The commission and the Department of Insurance shall
32 collaborate on a study of transportation network company insurance
33 to assess whether coverage requirements are appropriate to the
34 risk of transportation network company services in order to
35 promote data-driven decisions on insurance—requirements.
36 requirements, and shall report the findings of this study to the
37 Legislature no later than December 31, 2017.

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~~: *applies*:

- 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 5438. It is the intent of the Legislature that the Department of
10 Insurance expedite review of any application for approval of
11 transportation network company insurance products, *and that these*
12 *products become available for purchase on or before July 1, 2015.*

13 5439. *Transportation network company insurance that meets*
14 *the requirements of Section 5433 shall be deemed to satisfy the*
15 *financial responsibility requirements of Sections 16054 and 16056*
16 *of the Vehicle Code.*

17 ~~5439.~~

18 5440. The Legislature makes the following findings:

19 (a) The commission has initiated regulation of transportation
20 network companies as a new category of charter-party carriers and
21 continues to develop appropriate regulations for this new service.

22 (b) Given the rapidly evolving transportation network company
23 service, it is the intent of the Legislature to continue ongoing
24 oversight of the commission's regulation of these services in order
25 to enact legislation to adjust commission authority and impose
26 specific requirements or prohibitions as deemed necessary as these
27 services evolve.

28 ~~5440.~~

29 5441. The Legislature does not intend, and nothing in this
30 article shall be construed, to prohibit the commission from
31 exercising its rulemaking authority in a manner consistent with
32 this article, or to prohibit enforcement activities related to
33 transportation network companies.

34 ~~5441. Participating drivers~~

35 5442. *A participating driver of a transportation network*
36 ~~*companies company*~~ *shall carry proof of transportation network*
37 ~~*company insurance coverage with them*~~ *him or her at all times*
38 ~~*during the provision of transportation network company services*~~
39 ~~*proof of insurance coverage, including any coverage from the*~~
40 ~~*driver's own policy that is specifically written to cover the*~~

1 ~~provision of transportation network company services, or coverage~~
 2 ~~from a policy obtained by the transportation network company, or~~
 3 ~~both, as applicable~~ *his or her use of a vehicle in connection with*
 4 *a transportation network company’s online-enabled application*
 5 *or platform.* In the event of an accident, a participating driver shall
 6 provide this insurance coverage information to any other party
 7 involved in the accident, and to a police officer, upon request.

8 ~~5442.~~

9 ~~5443.~~ Notwithstanding Section 11580.9 of the Insurance Code,
 10 or any other law affecting whether one or more policies of
 11 insurance that may apply with respect to an occurrence is primary
 12 or excess, this article determines the obligations under insurance
 13 policies issued to transportation network companies and, if
 14 applicable, drivers ~~providing transportation network services for~~
 15 ~~transportation network companies.~~ *using a vehicle in connection*
 16 *with a transportation network company’s online-enabled*
 17 *application or platform.*

18 SEC. 2. No reimbursement is required by this act pursuant to
 19 Section 6 of Article XIII B of the California Constitution because
 20 the only costs that may be incurred by a local agency or school
 21 district will be incurred because this act creates a new crime or
 22 infraction, eliminates a crime or infraction, or changes the penalty
 23 for a crime or infraction, within the meaning of Section 17556 of
 24 the Government Code, or changes the definition of a crime within
 25 the meaning of Section 6 of Article XIII B of the California
 26 Constitution.