

AMENDED IN SENATE AUGUST 22, 2014  
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**

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**Introduced by Assembly Member Bonilla**

February 21, 2014

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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 insurance coverage for transportation network companies, as defined, and their participating drivers. These requirements would become operative on July 1, 2015. The bill would describe 2 distinct time periods 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, in the event a driver's insurance policy ceases to exist or has been canceled, or under certain other circumstances, require a transportation network company's insurance policy to provide the required coverage. ~~The~~

*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 authorize a personal automobile insurer to offer such coverage at its discretion to cover private vehicles, as specified.* 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 ~~enables~~ *provides*  
13 prearranged transportation services for compensation using an  
14 online-enabled application or platform to connect passengers with  
15 drivers using a *personal* vehicle.

16 (b) As used in this article, “participating driver” or “driver” is  
17 any person who uses a vehicle in connection with a transportation  
18 network company’s online-enabled application or platform to  
19 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) A transportation network company shall disclose in  
26 writing to participating drivers, as part of its agreement with those  
27 drivers, the insurance coverage and limits of liability that the  
28 transportation network company provides ~~because~~ *while* the driver  
29 uses a vehicle in connection with a transportation network  
30 company’s online-enabled application or platform, and shall advise  
31 a participating driver in writing that the driver’s personal  
32 automobile insurance policy will not provide coverage ~~while~~  
33 *because* the driver uses a vehicle in connection with a  
34 transportation network company’s online-enabled application or  
35 platform.

1 (b) A transportation network company shall also disclose in  
2 writing to participating drivers, as part of its agreement with those  
3 drivers, that the driver's personal automobile insurance policy will  
4 not provide collision or comprehensive coverage for damage to  
5 the vehicle used by the driver from the moment the driver logs on  
6 to the transportation network company's online-enabled application  
7 or platform to the moment the driver logs off the transportation  
8 network company's online-enabled application or platform.

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

10 5433. (a) A transportation network company and any  
11 participating driver shall maintain transportation network company  
12 insurance as provided in this section.

13 (b) The following requirements shall apply to transportation  
14 network company insurance from the moment a participating driver  
15 accepts a ride request on the transportation network company's  
16 online-enabled application or platform until the driver completes  
17 the transaction on the online-enabled application or platform or  
18 until the ride is complete, whichever is later:

19 (1) Transportation network company insurance shall be primary  
20 and in the amount of one million dollars (\$1,000,000) for death,  
21 personal injury, and property damage. The requirements for the  
22 coverage required by this subdivision may be satisfied by any of  
23 the following:

24 (A) Transportation network company insurance maintained by  
25 a participating driver.

26 (B) Transportation network company insurance maintained by  
27 a transportation network company.

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

29 (2) Transportation network company insurance coverage  
30 provided under this subdivision shall also provide for uninsured  
31 motorist coverage and underinsured motorist coverage in the  
32 amount of one million dollars (\$1,000,000) from the moment a  
33 passenger enters the vehicle of a participating driver until the  
34 passenger exits the vehicle. The policy may also provide this  
35 coverage during any other time period, if requested by a  
36 participating driver relative to insurance maintained by the driver.

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

1 (4) A transportation network company may meet its obligations  
2 under this subdivision through a policy obtained by a participating  
3 driver pursuant to subparagraph (A) or (C) of paragraph (1) only  
4 if the transportation network company verifies that the policy is  
5 specifically written to cover transportation network company  
6 services and is maintained by the driver.

7 (c) The following requirements shall apply to transportation  
8 network company insurance from the moment a participating driver  
9 logs on to the transportation network company's online-enabled  
10 application or platform until the driver accepts a request to transport  
11 a passenger, and from the moment the driver completes the  
12 transaction on the online-enabled application or platform or until  
13 the ride is complete, whichever is later, until the driver either  
14 accepts another ride request on the online-enabled application or  
15 platform or logs off the online-enabled application or platform:

16 (1) Transportation network company insurance shall, be primary  
17 and in the amount of at least ~~one hundred fifty thousand dollars~~  
18 ~~(\$100,000)~~ *(\$50,000)* for death and personal injury per person,  
19 ~~three one hundred thousand dollars~~ ~~(\$300,000)~~ *(\$100,000)* for  
20 death and personal injury per incident, and ~~fifty thousand dollars~~  
21 ~~(\$50,000)~~ *thirty thousand dollars (\$30,000)* for property damage.  
22 The requirements for the coverage required by this paragraph may  
23 be satisfied by any of the following:

24 (A) Transportation network company insurance maintained by  
25 a participating driver.

26 (B) Transportation network company insurance maintained by  
27 a transportation network company that provides coverage in the  
28 event a participating driver's insurance policy under subparagraph  
29 (A) has ceased to exist or has been canceled, *or* the participating  
30 driver does not otherwise maintain transportation network company  
31 insurance pursuant to this subdivision.

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

33 (2) A transportation network company shall also maintain  
34 insurance coverage that provides excess coverage of ~~one million~~  
35 ~~dollars~~ ~~(\$1,000,000)~~ *in total five hundred thousand dollars*  
36 *(\$500,000)* per occurrence to cover any liability arising from a  
37 participating driver using a vehicle in connection with a  
38 transportation network company's online-enabled application or  
39 platform within the time periods specified in this subdivision,

1 which liability exceeds the required coverage limits in paragraph  
2 (1).

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

7 (4) *A transportation network company may meet its obligations*  
8 *under this subdivision through a policy obtained by a participating*  
9 *driver pursuant to subparagraph (A) or (C) of paragraph (1) only*  
10 *if the transportation network company verifies that the policy is*  
11 *specifically written to cover transportation network company*  
12 *services and is maintained by the driver.*

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

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

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

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

28 5434. (a) Nothing in this section shall be construed to require  
29 a private passenger automobile insurance policy to provide primary  
30 or excess coverage during the period of time from the moment a  
31 participating driver in a transportation network company logs on  
32 to the transportation network company’s online-enabled application  
33 or platform until the driver logs off the online-enabled application  
34 or platform or the passenger exits the vehicle, whichever is later.

35 (b) During the period of time from the moment a participating  
36 driver in a transportation network company logs on to the  
37 transportation network company’s online-enabled application or  
38 platform until the driver logs off the online-enabled application or  
39 platform or the passenger exits the vehicle, whichever is later, all  
40 of the following shall apply:

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

9 ~~(2) For the purposes of this article only, the vehicle used by the~~  
10 ~~participating driver shall be considered a public or livery~~  
11 ~~conveyance and shall be considered as providing delivery of~~  
12 ~~persons or passengers for compensation or a fee.~~

13 ~~(3)~~

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

22 *(c) Notwithstanding any other law, a personal automobile*  
23 *insurer may, at its discretion, offer an automobile liability*  
24 *insurance policy, or an amendment or endorsement to an existing*  
25 *policy, that covers a private passenger vehicle, station wagon type*  
26 *vehicle, sport utility vehicle, or similar type of vehicle with a*  
27 *passenger capacity of eight persons or less, including the driver,*  
28 *while used in connection with a transportation network company's*  
29 *on-line enabled application or platform only if the policy expressly*  
30 *provides for the coverage during the time period specified in*  
31 *subdivision (b), with or without a separate charge, or the policy*  
32 *contains an amendment or an endorsement to provide that*  
33 *coverage, for which a separately stated premium may be charged.*

34 ~~(e)~~

35 *(d) This section shall become operative on July 1, 2015.*

36 5435. In a claims coverage investigation, a transportation  
37 network company or its insurer shall cooperate with insurers that  
38 are involved in the claims coverage investigation to facilitate the  
39 exchange of information, including the provision of dates and

1 times at which an accident occurred that involved a participating  
2 driver.

3 5436. The commission and the Department of Insurance shall  
4 collaborate on a study of transportation network company insurance  
5 to assess whether coverage requirements are appropriate to the  
6 risk of transportation network company services in order to  
7 promote data-driven decisions on insurance requirements, and  
8 shall report the findings of this study to the Legislature no later  
9 than December 31, 2017.

10 5437. A transportation network company shall not disclose to  
11 a third party any personally identifiable information of a  
12 transportation network company passenger unless one of the  
13 following applies:

- 14 (1) The customer knowingly consents.
- 15 (2) Pursuant to a legal obligation.
- 16 (3) The disclosure is to the commission in order to investigate  
17 a complaint filed with the commission against a transportation  
18 network company or a participating driver and the commission  
19 treats the information under confidentiality protections.

20 5438. It is the intent of the Legislature that the Department of  
21 Insurance expedite review of any application for approval of  
22 transportation network company insurance products, and that these  
23 products become available for purchase on or before July 1, 2015.

24 5439. Transportation network company insurance that meets  
25 the requirements of Section 5433 shall be deemed to satisfy the  
26 financial responsibility requirements of Sections 16054 and 16056  
27 of the Vehicle Code.

28 5440. The Legislature makes the following findings:

- 29 (a) The commission has initiated regulation of transportation  
30 network companies as a new category of charter-party carriers and  
31 continues to develop appropriate regulations for this new service.
- 32 (b) Given the rapidly evolving transportation network company  
33 service, it is the intent of the Legislature to continue ongoing  
34 oversight of the commission’s regulation of these services in order  
35 to enact legislation to adjust commission authority and impose  
36 specific requirements or prohibitions as deemed necessary as these  
37 services evolve.

38 5441. The Legislature does not intend, and nothing in this  
39 article shall be construed, to prohibit the commission from  
40 exercising its rulemaking authority in a manner consistent with

1 this article, or to prohibit enforcement activities related to  
2 transportation network companies.

3 5442. A participating driver of a transportation network  
4 company shall carry proof of transportation network company  
5 insurance coverage with him or her at all times during his or her  
6 use of a vehicle in connection with a transportation network  
7 company's online-enabled application or platform. In the event of  
8 an accident, a participating driver shall provide this insurance  
9 coverage information to any other party involved in the accident,  
10 and to a police officer, upon request.

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

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

O