

AMENDED IN SENATE AUGUST 26, 2014
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

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 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 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 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 while the driver uses a
29 vehicle in connection with a transportation network company’s
30 online-enabled application or platform, and shall advise a
31 participating driver in writing that the driver’s personal automobile
32 insurance policy will not provide coverage because the driver uses
33 a vehicle in connection with a transportation network company’s
34 online-enabled application or 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 *maintained by the driver and is* specifically written to cover
6 ~~transportation network company services and is maintained by the~~
7 ~~driver.~~ *the driver's use of a vehicle in connection with a*
8 *transportation network company's online-enabled application or*
9 *platform.*

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

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

26 (A) Transportation network company insurance maintained by
27 a participating driver.

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

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

35 (2) A transportation network company shall also maintain
36 insurance coverage that provides excess coverage *insuring the*
37 *transportation network company and the driver in the amount of*
38 ~~five hundred thousand dollars (\$500,000)~~ *at least two hundred*
39 *thousand dollars (\$200,000)* per occurrence to cover any liability
40 arising from a participating driver using a vehicle in connection

1 with a transportation network company’s online-enabled
2 application or platform within the time periods specified in this
3 subdivision, which liability exceeds the required coverage limits
4 in paragraph (1).

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

9 (4) A transportation network company may meet its obligations
10 under this subdivision through a policy obtained by a participating
11 driver pursuant to subparagraph (A) or (C) of paragraph (1) only
12 if the transportation network company verifies that the policy is
13 *maintained by the driver and is specifically written to cover*
14 ~~transportation network company services and is maintained by the~~
15 ~~driver.~~ *the driver’s use of a vehicle in connection with a*
16 *transportation network company’s online-enabled application or*
17 *platform.*

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

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

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

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

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

1 (b) During the period of time from the moment a participating
2 driver in a transportation network company logs on to the
3 transportation network company's online-enabled application or
4 platform until the driver logs off the online-enabled application or
5 platform or the passenger exits the vehicle, whichever is later, all
6 of the following shall apply:

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

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

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

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
40 times at which an accident occurred that involved a participating

1 ~~driver.~~ *driver and the precise times that the participating driver*
2 *logged on and off the transportation network company's*
3 *online-enabled application or platform.*

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

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

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

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

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

29 5440. The Legislature makes the following findings:

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

39 5441. The Legislature does not intend, and nothing in this
40 article shall be construed, to prohibit the commission from

1 exercising its rulemaking authority in a manner consistent with
2 this article, or to prohibit enforcement activities related to
3 transportation network companies.

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

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

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

O