

Assembly Bill No. 2293

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

Passed the Senate August 27, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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 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.

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

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

Article 7. Transportation Network Companies

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

5431. (a) As used in this article, a “transportation network company” is an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in California that provides prearranged transportation services for compensation using an

online-enabled application or platform to connect passengers with drivers using a personal vehicle.

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

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

5432. (a) A transportation network company shall disclose in writing to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company’s online-enabled application or platform, and shall advise a participating driver in writing that the driver’s personal automobile insurance policy will not provide coverage because the driver uses a vehicle in connection with a transportation network company’s online-enabled application or platform.

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

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

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

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

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

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

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

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

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

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

(4) A transportation network company may meet its obligations under this subdivision through a policy obtained by a participating driver pursuant to subparagraph (A) or (C) of paragraph (1) only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

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

(1) Transportation network company insurance shall be primary and in the amount of at least fifty thousand dollars (\$50,000) for death and personal injury per person, one hundred thousand dollars

(\$100,000) for death and personal injury per incident, and thirty thousand dollars (\$30,000) for property damage. The requirements for the coverage required by this paragraph may be satisfied by any of the following:

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

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

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

(2) A transportation network company shall also maintain insurance coverage that provides excess coverage insuring the transportation network company and the driver in the amount of at least two hundred thousand dollars (\$200,000) per occurrence to cover any liability arising from a participating driver using a vehicle in connection with a transportation network company's online-enabled application or platform within the time periods specified in this subdivision, which liability exceeds the required coverage limits in paragraph (1).

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

(4) A transportation network company may meet its obligations under this subdivision through a policy obtained by a participating driver pursuant to subparagraph (A) or (C) of paragraph (1) only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

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

(e) In every instance where transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has lapsed or ceased to exist,

the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

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

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

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

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

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

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

(c) Notwithstanding any other law, a personal automobile insurer may, at its discretion, offer an automobile liability insurance policy, or an amendment or endorsement to an existing policy, that covers

a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform only if the policy expressly provides for the coverage during the time period specified in subdivision (b), with or without a separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged.

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

5435. In a claims coverage investigation, a transportation network company or 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 involved a participating driver and the precise times that the participating driver logged on and off the transportation network company's online-enabled application or platform.

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

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

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

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

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

5440. The Legislature makes the following findings:

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

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

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

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

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty

for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor