

MAINE STATE LEGISLATURE

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INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 934, L.D. 1379, Bill, "An Act To Establish Transportation Network Company Insurance"

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, transportation network companies that are currently operating in this State are not subject to state regulation; and

Whereas, this legislation establishes requirements for the operation of transportation network companies in the State; and

Whereas, immediate enactment of this legislation is necessary to ensure that transportation network companies are subject to state regulation as soon as possible for the protection of those individuals who use their services; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill in section 1 in §7302 in subsection 3 in the last line (page 1, line 25 in L.D.) by inserting after the following: "vehicle" the following: 'or transportation through a shared-expense carpool or vanpool arrangement that does not generate income or profit or accept a transportation request through a digital network'

Amend the bill in section 1 in §7302 in by striking out all of subsection 4 and inserting the following: "

4. Transportation network company. "Transportation network company" means a corporation, partnership, sole proprietorship or other entity operating in the State that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. "Transportation network

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1 company" does not include a transportation broker arranging nonemergency medical
2 transportation for Medicaid or Medicare members pursuant to a contract with the State or
3 a managed care organization.'

4 Amend the bill in section 1 by striking out all of §§7303 to 7306 and inserting the
5 following:

6 **'§7303. Financial responsibility**

7 **1. Insurance coverage required.** A transportation network company driver or a
8 transportation network company on the driver's behalf shall maintain primary automobile
9 liability insurance that recognizes that the driver is a transportation network company
10 driver or otherwise uses a vehicle to transport riders for compensation and that covers the
11 driver in accordance with this section.

12 **2. Minimum insurance requirements for driver while on digital network.** While
13 a transportation network company driver is logged into the transportation network
14 company digital network but is not engaged in a prearranged ride, primary automobile
15 liability insurance must be maintained in the following amounts:

16 A. For death and bodily injury, \$50,000 per person; for death and bodily injury per
17 incident, \$100,000; and for property damage, \$25,000;

18 B. The minimum amounts of insurance coverage for medical payments under Title
19 29-A, section 1605-A; and

20 C. Uninsured vehicle and underinsured motor vehicle coverage required pursuant to
21 section 2902.

22 The coverage requirements of this subsection may be satisfied by automobile insurance
23 maintained by the transportation network company driver, automobile insurance
24 maintained by the transportation network company or a combination of automobile
25 insurance maintained by the transportation network company driver and the
26 transportation network company.

27 **3. Minimum insurance requirements while engaged in prearranged ride.** While
28 a transportation network company driver is engaged in a prearranged ride, primary
29 automobile liability insurance must be maintained in the following amounts:

30 A. For death, bodily injury and property damage, \$1,000,000;

31 B. The minimum amounts of insurance coverage for medical payments under Title
32 29-A, section 1605-A; and

33 C. Uninsured vehicle and underinsured motor vehicle coverage required pursuant to
34 section 2902.

35 The coverage requirements of this subsection may be satisfied by automobile insurance
36 maintained by the transportation network company driver, automobile insurance
37 maintained by the transportation network company or a combination of automobile
38 insurance maintained by the transportation network company driver and the
39 transportation network company.

40 **4. Lapse of coverage; duty to defend.** When automobile insurance maintained by a
41 transportation network company driver to fulfill the insurance obligations of this section

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1 has lapsed or does not provide the coverage required by this section, the transportation
2 network company shall provide the coverage required by this section beginning with the
3 first dollar of a claim, and the transportation network company's insurer has a duty to
4 defend the claim.

5 **5. Coverage not dependent on denial of claim.** Coverage under an automobile
6 insurance policy maintained by a transportation network company may not be dependent
7 on the denial of the claim under a personal automobile insurance policy.

8 **6. Insurer.** Insurance required by this section may be placed with an insurer that is
9 licensed under the provisions of this Title or is authorized as a surplus lines insurer
10 pursuant to chapter 19.

11 **7. Satisfaction of financial responsibility requirements.** Insurance satisfying the
12 requirements of this section is deemed to satisfy the financial responsibility requirement
13 for a motor vehicle set forth in section 2902 and Title 29-A, section 1605.

14 **8. Evidence of coverage for transportation network company insurance.** A
15 transportation network company driver shall carry at all times evidence of coverage
16 satisfying this section during the driver's use of a vehicle in connection with a
17 transportation network company's digital network. A transportation network company
18 driver shall provide evidence of insurance coverage to a law enforcement officer upon
19 request and, in the event of an accident, a transportation network company driver shall
20 provide insurance coverage information to the directly interested parties, automobile
21 insurers and investigating police officers, upon request pursuant to Title 29-A, section
22 1601. Upon request, a transportation network company driver shall also disclose to
23 directly interested parties, automobile insurers and investigating police officers whether
24 the driver was logged into the transportation network company's digital network or
25 engaged in a prearranged ride at the time of an accident.

26 **9. Claims payments.** If a transportation network company's insurer makes a
27 payment for a claim covered under comprehensive coverage or collision coverage, the
28 transportation network company shall cause its insurer to issue the payment directly to
29 the business repairing the vehicle or jointly to the owner of the vehicle and the primary
30 lienholder on the covered vehicle.

31 **§7304. Disclosure**

32 Before a transportation network company driver may accept a request for a
33 prearranged ride through the transportation network company's digital network, the
34 transportation network company shall disclose in writing to the driver:

35 **1. Coverage provided.** The insurance coverage, including the types of coverage and
36 the limits for each coverage, that the transportation network company provides while the
37 transportation network company driver uses a personal vehicle in connection with a
38 transportation network company's digital network;

39 **2. Personal policy may not cover.** That the transportation network company
40 driver's own automobile insurance policy, depending on the policy's terms, might not
41 provide any coverage while the driver is logged into the transportation network
42 company's digital network and is available to receive transportation requests or while the
43 driver is engaged in a prearranged ride;

1 3. Contact insurer or agent. That the transportation network company driver must
2 contact the driver's personal automobile insurer or insurance producer to advise the
3 insurer or producer that the driver will be providing transportation network services and
4 to determine the coverage, if any, that may be available from the driver's personal
5 automobile insurance policy; and

6 4. Potential impact on lien. That, if the motor vehicle that the transportation
7 network company driver uses to provide transportation network services has a lien against
8 it, using the motor vehicle for transportation network services without physical damage
9 coverage may violate the terms of the contract with the lienholder.

10 §7305. Automobile insurance provisions

11 1. Exclude coverage. Notwithstanding section 2902 or Title 29-A, section 1605, an
12 insurer that writes automobile insurance in this State may exclude coverage afforded
13 under the policy issued to an owner or operator of a personal vehicle for any loss or
14 injury that occurs while a transportation network company driver is logged into a
15 transportation network company's digital network or while a driver is engaged in a
16 prearranged ride. The authority to exclude coverage applies to any coverage included in
17 an automobile insurance policy, including, but not limited to:

18 A. Liability coverage for bodily injury and property damage;

19 B. Uninsured vehicle and underinsured motor vehicle coverage;

20 C. Medical payments coverage;

21 D. Comprehensive physical damage coverage; and

22 E. Collision physical damage coverage.

23 Nothing in this section requires that a personal automobile insurance policy provide
24 coverage while the driver is logged into the transportation network company's digital
25 network, the driver is engaged in a prearranged ride or the driver otherwise uses a vehicle
26 to transport riders for compensation.

27 Nothing in this section may be construed to preclude an insurer from entering into a
28 contract to provide coverage for a transportation network company driver's personal
29 vehicle.

30 2. No duty to indemnify. If an insurer has excluded coverage described in section
31 7303, the insurer has no duty to defend or indemnify any claim expressly excluded.
32 Nothing in this chapter may be construed to invalidate or limit an exclusion contained in
33 a policy, including any policy in use or approved for use in this State prior to the effective
34 date of this chapter, that excludes coverage for vehicles used to carry persons or property
35 for a charge or available for hire by the public.

36 3. Right of contribution. An automobile insurer that defends or indemnifies a claim
37 against a driver that is excluded under the terms of its policy has a right of contribution
38 against other insurers that provide automobile insurance to the same driver in satisfaction
39 of the coverage requirements of section 7303 at the time of loss.

40 4. Cooperation. In a claims coverage investigation, a transportation network
41 company and any insurer potentially providing coverage under section 7303 shall

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1 cooperate to facilitate the exchange of relevant information with directly involved parties
2 and any insurer of the transportation network company driver if applicable, including but
3 not limited to:

4 A. The precise times that a transportation network company driver logged into and
5 off of the transportation network company's digital network in the 12-hour period
6 immediately preceding and in the 12-hour period immediately following the accident;
7 and

8 B. A clear description of the coverage, exclusions and limits provided under any
9 automobile insurance maintained under this chapter.'

10 Amend the bill by inserting after section 1 the following:

11 'Sec. 2. 29-A MRSA c. 13, sub-c. 4 is enacted to read:

12 **SUBCHAPTER 4**

13 **TRANSPORTATION NETWORK COMPANIES**

14 **§1671. Definitions**

15 As used in this subchapter, unless the context otherwise indicates, the following
16 terms have the following meanings.

17 1. Digital network. "Digital network" has the same meaning as in Title 24-A,
18 section 7302, subsection 1.

19 2. Personal vehicle. "Personal vehicle" has the same meaning as in Title 24-A,
20 section 7302, subsection 2.

21 3. Prearranged ride. "Prearranged ride" has the same meaning as in Title 24-A,
22 section 7302, subsection 3.

23 4. Transportation network company. "Transportation network company" has the
24 same meaning as in Title 24-A, section 7302, subsection 4.

25 5. Transportation network company driver; driver. "Transportation network
26 company driver" or "driver" has the same meaning as in Title 24-A, section 7302,
27 subsection 5.

28 6. Transportation network company rider; rider. "Transportation network
29 company rider" or "rider" has the same meaning as in Title 24-A, section 7302,
30 subsection 6.

31 **§1672. Transportation network company permit**

32 1. Permit required. A person may not operate a transportation network company
33 without a permit issued by the Secretary of State, subject to the following conditions.

34 A. A transportation network company shall pay an annual fee of \$10,000 for a permit
35 under this section.

36 B. A transportation network company shall maintain insurance in accordance with
37 section 1673.

1 2. Application; validity of permit. An application for a permit under this section
2 must be made on a form provided or approved by the Secretary of State. A permit under
3 this section is valid for a period of one year.

4 3. Termination of permit. The Secretary of State shall terminate a permit under
5 this section for failure to maintain insurance required by section 1673 or to otherwise
6 comply with the requirements of this subchapter. The Secretary of State may not reissue
7 a permit terminated under this subsection until:

8 A. A reinstatement fee of \$1,000 is paid to the Secretary of State; and

9 B. Subsequent to the termination, the transportation network company pays the
10 annual permit fee under subsection 1 and demonstrates compliance with the
11 requirements of this subchapter.

12 4. Penalty. The following provisions apply to violations under this section.

13 A. Operation without a permit as required by subsection 1 is a Class D crime.

14 B. Failure to maintain insurance as required by subsection 1, paragraph B is a Class
15 D crime.

16 **§1673. Insurance requirements**

17 1. Insurance required. A transportation network company shall maintain insurance
18 pursuant to this section.

19 2. Proof of insurance. The Secretary of State shall certify proof of insurance prior
20 to issuing a permit under section 1672. The Secretary of State may not certify an
21 insurance policy as proof of insurance unless the policy meets the requirements of
22 subsection 4 and until a copy of the form of policy has been on file with the
23 Superintendent of Insurance for at least 30 days or the Superintendent of Insurance has
24 approved in writing the form of the policy under subsection 3.

25 3. Form. The form of policy under this section must contain:

26 A. The name and address of the insured;

27 B. The conditions of coverage sufficient to identify whether or not a given vehicle is
28 covered at a given time;

29 C. The policy period;

30 D. The limits of liability; and

31 E. An agreement that insurance is provided pursuant to this section.

32 4. Required provisions. An insurance policy under this section must:

33 A. Provide coverage in accordance with the requirements of Title 24-A, section
34 7303; and

35 B. Comply with section 1606, subsections 2 to 6.

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§1674. Other requirements

The following provisions apply to a transportation network company operating in this State.

1. Not a motor carrier, taxicab, limousine or for-hire vehicle. A transportation network company or a transportation network company driver is not a motor carrier, a taxicab, a limousine or a provider of for-hire transportation service.

2. Agent. A transportation network company shall designate an agent for service of process in this State.

3. Fare for services. On behalf of a transportation network company driver, a transportation network company may charge a fare for the services provided to riders; if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare calculation method on its website or through the digital network. The transportation network company shall also provide a rider with the applicable rate being charged and the option to receive an estimated fare before the rider enters the transportation network company driver's vehicle.

4. Identification of transportation network company vehicles and drivers. The transportation network company's digital network or website must display to a rider a picture of the transportation network company driver and the license plate number of the personal vehicle used for providing the prearranged ride before the rider enters the transportation network company driver's vehicle.

5. Electronic receipt. Within a reasonable period of time following the completion of a prearranged ride, a transportation network company shall transmit an electronic receipt to the rider that lists:

- A. The point of origin and destination of the prearranged ride;
- B. The total time and distance of the prearranged ride; and
- C. An itemization of the total fare paid, if any.

6. No cash. A transportation network company shall adopt a policy prohibiting the solicitation or acceptance of a cash payment from a rider and notify transportation network company drivers of that policy. A transportation network company driver may not solicit or accept a cash payment from a rider. Any payment for a prearranged ride may be made only electronically using the transportation network company's digital network.

7. Policy on discrimination; accessibility. A transportation network company shall adopt a policy addressing discrimination and accessibility that:

- A. Prohibits discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity with respect to riders and potential riders;
- B. Requires a transportation network company driver to comply with all applicable laws regarding discrimination against riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity;

11. 4. 3.

- 1 C. Requires a transportation network company driver to comply with all applicable
- 2 laws relating to accommodation of service animals;
- 3 D. Prohibits the imposition of additional charges for providing services to persons
- 4 with physical disabilities because of those disabilities;
- 5 E. Provides a rider an opportunity to indicate whether the rider requires a wheelchair
- 6 accessible vehicle. If a transportation network company cannot arrange for
- 7 wheelchair accessible transportation in any instance, the transportation network
- 8 company driver shall direct the rider to an alternate provider of wheelchair accessible
- 9 service, if available; and
- 10 F. Provides notice of the policy to each driver.

11 **8. Records.** A transportation network company shall maintain individual

12 prearranged ride records for at least one year from the date each prearranged ride was

13 provided and transportation network company driver records for at least one year from

14 the date on which a transportation network company driver's activation on the

15 transportation network company's digital network has ended.

16 **§1675. Driver requirements**

17 A transportation network company must meet the following requirements with

18 respect to drivers.

19 **1. Driver qualifications.** Before allowing a driver to accept prearranged ride

20 requests through a digital network, a transportation network company shall:

21 A. Require the individual to submit an application, which includes information

22 regarding the individual's address, age, driver's license, driving history, registration of

23 the personal vehicle, automobile liability insurance and any other information

24 required by the transportation network company;

25 B. Conduct, or have a 3rd party conduct, a local and national criminal background

26 check for each applicant that must include a review of:

27 (1) A multistate and multijurisdiction criminal records database or a commercial

28 nationwide criminal records database; and

29 (2) The United States Department of Justice national sex offender registry

30 database and the state sex offender registry database in the state that issued the

31 individual's driver's license; and

32 C. Obtain and review a driving history report for the individual.

33 **2. Grounds for disqualification.** A transportation network company may not

34 permit an individual to act as a driver if the individual:

35 A. Is not at least 19 years of age;

36 B. Has had more than 3 moving violations in the prior 3-year period or one major

37 violation in the prior 3-year period, including, but not limited to, attempting to evade

38 the police, reckless driving or driving on a suspended or revoked license;

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1 C. Has been convicted, within the past 7 years, of driving under the influence of
2 drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a felony, a
3 crime involving property damage or theft, an act of violence or an act of terror;

4 D. Is a match in the national sex offender registry database or is required to register
5 in the state that issued the individual's driver's license pursuant to that state's sex
6 offender registration laws;

7 E. Does not possess a valid driver's license;

8 F. Does not possess proof of registration for the motor vehicle to be used to provide
9 a prearranged ride; or

10 G. Does not possess proof of automobile liability insurance for the motor vehicle to
11 be used to provide a prearranged ride.

12 **3. Prohibition of drug or alcohol use.** A transportation network company shall
13 adopt and implement a policy regarding a driver's use of drugs or alcohol while accessing
14 the transportation network company's digital network in accordance with this subsection.

15 A. The policy adopted under this subsection must prohibit the use of drugs or alcohol
16 while a driver is providing a prearranged ride and address such use while a driver is
17 logged into the digital network, but is not providing a prearranged ride. The
18 transportation network company shall provide notice of the policy on its website, as
19 well as procedures to report a complaint about a driver who the rider reasonably
20 suspects was under the influence of drugs or alcohol during the course of the
21 prearranged ride.

22 B. Upon receipt of a rider complaint under paragraph A, the transportation network
23 company shall immediately suspend the driver's access to the digital network and
24 shall conduct an investigation into the reported incident. The suspension must last
25 the duration of the investigation.

26 C. A transportation network company shall maintain records relevant to the
27 enforcement of its policy under this subsection for a period of at least 2 years from
28 the date that a rider complaint is received by the transportation network company.

29 **4. Vehicle safety and emissions.** A transportation network company shall require
30 that any motor vehicle used by a driver to provide a prearranged ride meets any safety
31 and emissions requirements of the state in which the vehicle is registered.

32 **5. No street hails.** A transportation network company driver may not solicit or
33 accept street hails.

34 **§1676. No application to workers' compensation**

35 This subchapter does not apply to claims or proceedings involving workers'
36 compensation.

37 **§1677. Municipal action**

38 Notwithstanding any other provision of law, a municipality or other political
39 subdivision may not adopt an ordinance, regulation or procedure governing the operations
40 of a transportation network company, driver or motor vehicle used by a transportation

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1 network company driver to provide a prearranged ride or impose a tax or fee on or require
2 a license for a transportation network company, driver or motor vehicle used by a
3 transportation network company driver to provide a prearranged ride.

4 **Sec. 3. Issuance of permit.** Notwithstanding the Maine Revised Statutes, Title
5 29-A, section 1673, subsection 2, the Secretary of State shall certify proof of insurance
6 filed by a transportation network company operating in this State on the effective date of
7 this Act upon a determination that the policy meets the requirements of Title 29-A,
8 section 1673, subsection 4.

9 **Emergency clause.** In view of the emergency cited in the preamble, this
10 legislation takes effect when approved.'

11 **SUMMARY**

12 This amendment creates a permitting process for transportation network companies to
13 provide transportation services, establishes requirements for drivers providing
14 transportation services on behalf of transportation network companies, establishes
15 minimum motor vehicle liability insurance requirements for transportation network
16 companies and drivers and prohibits municipalities from regulating transportation
17 network companies and drivers.

18 This amendment adds an emergency preamble and emergency clause to the bill.

19 **FISCAL NOTE REQUIRED**

20 (See attached)



127th MAINE LEGISLATURE

LD 1379

LR 1441(02)

An Act To Establish Transportation Network Company Insurance

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-397)

Committee: Insurance and Financial Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
 Minor revenue increase - General Fund
 Minor cost increase - Other Special Revenue Funds

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
Highway Fund	(\$10,000)	(\$10,000)	(\$10,000)	(\$10,000)
Revenue				
Highway Fund	\$10,000	\$10,000	\$10,000	\$10,000

Correctional and Judicial Impact Statements

Establishes new Class D crimes.

The collection of additional fines may increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This legislation creates a permitting process for transportation network companies to provide transportation services and would increase Highway Fund revenue by \$10,000 beginning in fiscal year 2015-16. Any additional costs to the Department of Secretary of State can be absorbed within existing budgeted resources.

Any additional costs to the Department of Professional and Financial Regulation to adopt the changes in this bill are expected to be minor and can be absorbed within existing budgeted resources.