

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2014 to July 16, 2015

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 15, 2015

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2015

routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 279

H.P. 934 - L.D. 1379

An Act To Establish Transportation Network Company Insurance

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,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA c. 93 is enacted to read:

CHAPTER 93

TRANSPORTATION NETWORK COMPANY INSURANCE

§7301. Short title

This chapter may be known and cited as "the Transportation Network Company Insurance Act."

§7302. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Digital network. "Digital network" means any online-enabled application, software, website or system offered or used by a transportation network company that enables the provision of prearranged rides by transportation network company drivers.

2. Personal vehicle. "Personal vehicle" means a vehicle that:

A. Is used by a transportation network company driver;

B. Is owned, leased or otherwise authorized for use by the transportation network company driver; and

C. Is not a taxicab, as defined in Title 29-A, section 101, subsection 79, a limousine, as defined in Title 29-A, section 101, subsection 32 or for-hire transportation as defined in Title 29-A, section 101, subsection 25.

3. Prearranged ride. "Prearranged ride" means transportation provided by a transportation network company driver to a transportation network company rider, beginning when the driver accepts a transportation request through a digital network and ending when the rider departs from the driver's personal vehicle. "Prearranged ride" does not include transportation provided using a taxi, limousine or other for-hire vehicle 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.

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 company" does not include a transportation broker arranging non-emergency medical transportation for Medicaid or Medicare members pursuant to a contract with the State or a managed care organization.

5. Transportation network company driver; driver. "Transportation network company driver" or "driver" means an individual who:

A. Receives information regarding potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

B. Uses a personal vehicle to offer or provide prearranged rides to a transportation network company rider in return for compensation or payment of a fee.

6. Transportation network company rider; rider. "Transportation network company rider" or "rider" means an individual or person who uses a transportation network company's digital network to connect with a transportation network company driver for a ride between locations chosen by the rider.

§7303. Financial responsibility

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

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

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

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

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

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

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

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

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

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

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

4. Lapse of coverage; duty to defend. When automobile insurance maintained by a transportation network company driver to fulfill the insurance obliga-

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

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

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

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

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

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

§7304. Disclosure

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

1. Coverage provided. The insurance coverage, including the types of coverage and the limits for each

coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network;

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

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

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

§7305. Automobile insurance provisions

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

- A. Liability coverage for bodily injury and property damage;
- B. Uninsured vehicle and underinsured motor vehicle coverage;
- C. Medical payments coverage;
- D. Comprehensive physical damage coverage; and
- E. Collision physical damage coverage.

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

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

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

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

4. Cooperation. In a claims coverage investigation, a transportation network company and any insurer potentially providing coverage under section 7303 shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver if applicable, including but not limited to:

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

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

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

SUBCHAPTER 4

TRANSPORTATION NETWORK COMPANIES

§1671. Definitions

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

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

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

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

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

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

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

§1672. Transportation network company permit

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

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

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

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

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

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

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

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

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

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

§1673. Insurance requirements

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

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

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

A. The name and address of the insured;

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

C. The policy period;

D. The limits of liability; and

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

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

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

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

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

8. Records. A transportation network company shall maintain individual prearranged ride records for

at least one year from the date each prearranged ride was provided and transportation network company driver records for at least one year from the date on which a transportation network company driver's activation on the transportation network company's digital network has ended.

§1675. Driver requirements

A transportation network company must meet the following requirements with respect to drivers.

1. Driver qualifications. Before allowing a driver to accept prearranged ride requests through a digital network, a transportation network company shall:

A. Require the individual to submit an application, which includes information regarding the individual's address, age, driver's license, driving history, registration of the personal vehicle, automobile liability insurance and any other information required by the transportation network company;

B. Conduct, or have a 3rd party conduct, a local and national criminal background check for each applicant that must include a review of:

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

(2) The United States Department of Justice national sex offender registry database and the state sex offender registry database in the state that issued the individual's driver's license; and

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

2. Grounds for disqualification. A transportation network company may not permit an individual to act as a driver if the individual:

A. Is not at least 19 years of age;

B. Has had more than 3 moving violations in the prior 3-year period or one major violation in the prior 3-year period, including, but not limited to, attempting to evade the police, reckless driving or driving on a suspended or revoked license;

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

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

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

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

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

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

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

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

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

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

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

§1676. No application to workers' compensation

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

§1677. Municipal action

Notwithstanding any other provision of law, a municipality or other political subdivision may not adopt an ordinance, regulation or procedure governing the operations of a transportation network company, driver or motor vehicle used by a transportation network company driver to provide a prearranged ride or impose a tax or fee on or require a license for a transportation network company, driver or motor vehicle used by a transportation network company driver to provide a prearranged ride.

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

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

Effective June 30, 2015.

CHAPTER 280

H.P. 773 - L.D. 1112

An Act to Make Technical Changes to the Sex Offender Registration and Notification Acts of 1999 and 2013

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 34-A MRSA §11202-A, sub-§1, ¶¶A, E and F, as amended by PL 2009, c. 570, §1, are further amended to read:

A. The person was sentenced in the State on or after January 1, 1982 and prior to June 30, 1992 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in the State on or after June 30, 1992 and prior to September 18, 1999 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section; the person was sentenced in another jurisdiction prior to September 18, 1999, was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section and has been in compliance with the registration duties as a resident required under subchapter 2 since September 12, 2009; or the person was sentenced in the State on or after September 18, 1999 and prior to July 30, 2004 for a violation of former Title 17-A, section 252 and was finally discharged from the correctional system at least 10 years prior to submitting documentation to the bureau under this section. For purposes of this paragraph, "finally discharged from the correctional system" includes completion of probation;

E. Subsequent to the conviction for the sex offense or sexually violent offense, the person has not been convicted of and sentenced for a crime under Title 17 or Title 17-A in this State that is