

Senator Curtis S. Bramble proposes the following substitute bill:

TRANSPORTATION NETWORK COMPANY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions related to a transportation network company.

Highlighted Provisions:

This bill:

- ▶ repeals a requirement that a transportation network company or transportation network driver maintain comprehensive and collision coverage for a vehicle used by a transportation network driver to provide transportation network services;
- ▶ creates the Transportation Network Vehicle Recovery Fund;
- ▶ requires a transportation network company to pay into the fund:
 - an initial assessment; and
 - a payment per each prearranged ride;
- ▶ provides a repeal date;
- ▶ allows a person who holds a lien on a vehicle that a transportation network driver uses to provide transportation network services to make a claim to the Division of Consumer Protection for payment from the fund for physical damage to the vehicle;
- ▶ provides that a transportation network driver is an independent contractor of a transportation network company; and
- ▶ provides criteria under which the Division of Consumer Protection may grant a



26 claim.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **13-51-103**, as enacted by Laws of Utah 2015, Chapter 461

34 **13-51-108**, as enacted by Laws of Utah 2015, Chapter 244 and last amended by
35 Coordination Clause, Laws of Utah 2015, Chapter 244

36 **63I-1-213**, as last amended by Laws of Utah 2015, Chapter 258

37 ENACTS:

38 **13-51-201**, Utah Code Annotated 1953

39 **13-51-202**, Utah Code Annotated 1953

40 **13-51-203**, Utah Code Annotated 1953

41 **13-51-204**, Utah Code Annotated 1953



43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **13-51-103** is amended to read:

45 **13-51-103. Exemptions -- Transportation network company and transportation**
46 **network driver.**

47 (1) A transportation network company or a transportation network driver is not subject
48 to the requirements applicable to:

49 ~~[(1)]~~ (a) a motor carrier, under Title 72, Chapter 9, Motor Carrier Safety Act;

50 ~~[(2)]~~ (b) a common carrier, under Title 59, Chapter 12, Sales and Use Tax Act; or

51 ~~[(3)]~~ (c) a taxicab, under Title 53, Chapter 3, Uniform Driver License Act.

52 (2) A transportation network driver is:

53 (a) an independent contractor of a transportation network company; and

54 (b) not an employee of a transportation network company.

55 Section 2. Section **13-51-108** is amended to read:

56 **13-51-108. Insurance.**

57 (1) A transportation network company or a transportation network driver shall maintain
58 insurance that covers, on a primary basis, a transportation network driver's use of a vehicle
59 during a prearranged ride and that includes:

60 (a) an acknowledgment that the transportation network driver is using the vehicle in
61 connection with a transportation network company during a prearranged ride or that the
62 transportation network driver is otherwise using the vehicle for a commercial purpose;

63 (b) liability coverage for a minimum amount of \$1,000,000 per occurrence;

64 (c) personal injury protection to the extent required under Sections 31A-22-306
65 through 31A-22-309;

66 (d) uninsured motorist coverage where required by Section 31A-22-305; and

67 (e) underinsured motorist coverage where required by Section 31A-22-305.3.

68 (2) A transportation network company or a transportation network driver shall maintain
69 insurance that covers, on a primary basis, a transportation network driver's use of a vehicle
70 during a waiting period and that includes:

71 (a) an acknowledgment that the transportation network driver is using the vehicle in
72 connection with a transportation network company during a waiting period or that the
73 transportation network driver is otherwise using the vehicle for a commercial purpose;

74 (b) liability coverage in a minimum amount, per occurrence, of:

75 (i) \$50,000 to any one individual;

76 (ii) \$100,000 to all individuals; and

77 (iii) \$30,000 for property damage;

78 (c) personal injury protection to the extent required under Sections 31A-22-306
79 through 31A-22-309;

80 (d) uninsured motorist coverage where required by Section 31A-22-305; and

81 (e) underinsured motorist coverage where required by Section 31A-22-305.3.

82 ~~[(3) A transportation network company or a transportation network driver shall~~
83 ~~maintain comprehensive and collision insurance that covers, on a primary or contingent basis, a~~
84 ~~transportation network driver's use of a vehicle while providing transportation network~~
85 ~~services, and that includes:]~~

86 ~~[(a) an acknowledgment that the transportation network driver is using the vehicle in~~
87 ~~connection with a transportation network company during a prearranged ride or waiting period,~~

88 or that the transportation network driver is otherwise using the vehicle for a commercial
89 purpose; and]

90 [~~(b)~~ coverage limits that are at least equal to such coverage limits, if any, for the
91 personal automobile insurance maintained by the vehicle's owner and reported to the
92 transportation network company.]

93 [~~(4)~~] (3) A transportation network company and a transportation network driver may
94 satisfy the requirements of Subsections (1)[~~;~~(2);] and [~~(3)~~] (2) by:

95 (a) the transportation network driver purchasing coverage that complies with
96 Subsections (1)[~~;~~(2);] and [~~(3)~~] (2);

97 (b) the transportation network company purchasing, on the transportation network
98 driver's behalf, coverage that complies with Subsections (1)[~~;~~(2);] and [~~(3)~~] (2); or

99 (c) a combination of Subsections [~~(4)~~] (3)(a) and (b).

100 [~~(5)~~] (4) An insurer may offer to a transportation network driver a personal automobile
101 liability insurance policy, or an amendment or endorsement to a personal automobile liability
102 policy, that:

103 (a) covers a private passenger motor vehicle while used to provide transportation
104 network services; and

105 (b) satisfies the coverage requirements described in Subsection (1)[~~;~~(2);] or [~~(3)~~] (2).

106 [~~(6)~~] (5) Nothing in this section requires a personal automobile insurance policy to
107 provide coverage while a driver is providing transportation network services.

108 [~~(7)~~] (6) If a transportation network company does not purchase a policy that complies
109 with Subsections (1)[~~;~~(2);] and [~~(3)~~] (2) on behalf of a transportation network driver, the
110 transportation network company shall verify that the driver has purchased a policy that
111 complies with Subsections (1)[~~;~~(2);] and [~~(3)~~] (2).

112 [~~(8)~~] (7) An insurance policy that a transportation network company or a transportation
113 network driver maintains under Subsection (1) or (2):

114 (a) satisfies the security requirements of Section 41-12a-301; and

115 (b) may[~~;~~ along with insurance maintained under Subsection (3);] be placed with:

116 (i) an insurer that is certified under Section 31A-4-103; or

117 (ii) a surplus lines insurer licensed under Section 31A-23a-104.

118 [~~(9)~~] (8) An insurer that provides coverage for a transportation network driver

119 explicitly for the transportation network driver's transportation network services under
120 Subsection (1) or (2) shall have the duty to defend a liability claim arising from an occurrence
121 while the transportation network driver is providing transportation network services.

122 ~~[(10)(a)]~~ (9) If insurance a transportation network driver maintains under Subsection
123 (1)~~[(2)]~~ or ~~[(3)]~~ (2) lapses or ceases to exist, a transportation network company shall provide
124 coverage complying with Subsection (1)~~[(2)]~~ or ~~[(3)]~~ (2) beginning with the first dollar of a
125 claim.

126 ~~[(b) Subsection (10)(a) does not apply to comprehensive or collision insurance~~
127 ~~otherwise required under Subsection (3) if, at the time of a claim for damage to a vehicle being~~
128 ~~used to provide transportation network services, there is no outstanding lien on the vehicle.]~~

129 ~~[(11)]~~ (10) (a) An insurance policy that a transportation network company or
130 transportation network driver maintains under Subsection (1) or (2) may not provide that
131 coverage is dependent on a transportation network driver's personal automobile insurance
132 policy first denying a claim.

133 (b) Subsection ~~[(11)]~~ (10)(a) does not apply to coverage a transportation network
134 company provides under Subsection (9) in the event a transportation network driver's coverage
135 under Subsection (1) or (2) lapses or ceases to exist.

136 ~~[(12)]~~ (11) A personal automobile insurer:

137 (a) notwithstanding Section [31A-22-302](#), may offer a personal automobile liability
138 policy that excludes coverage for a loss that arises from the use of the insured vehicle to
139 provide transportation network services; and

140 (b) does not have the duty to defend or indemnify a loss if an exclusion described in
141 Subsection (12)(a) excludes coverage according to the policy's terms.

142 Section 3. Section **13-51-201** is enacted to read:

143 **Part 2. Transportation Network Vehicle Recovery Fund**

144 **13-51-201. Transportation Network Vehicle Recovery Fund -- Creation -- Report**
145 **to the Legislature.**

146 (1) As used in this part, "fund" means the Transportation Network Vehicle Recovery
147 Fund created in Subsection (2).

148 (2) There is created an expendable special revenue fund called the "Transportation
149 Network Vehicle Recovery Fund."

- 150 (3) The fund consists of:
- 151 (a) the amount collected by the division under Subsection 13-51-202(1); and
- 152 (b) interest earned on the money in the fund.
- 153 (4) The division shall deposit the money collected for the fund in an account with the
- 154 state treasurer and record the money in the fund.
- 155 (5) The division may hire employees and allocate resources necessary to administer the
- 156 fund.
- 157 (6) The division shall use money from the fund to cover the division's cost to
- 158 administer this part.
- 159 (7) The fund is not insurance as defined in Section 31A-1-301.
- 160 Section 4. Section **13-51-202** is enacted to read:
- 161 **13-51-202. Per-ride payment -- Initial assessment -- Assessment for shortfall.**
- 162 (1) Subject to Subsection (2), the division shall collect, from each transportation
- 163 network company licensed under this chapter:
- 164 (a) a one-time assessment in the amount of \$15,000; and
- 165 (b) on the first day of each quarter, a payment of \$0.10 for each prearranged ride
- 166 provided by a transportation network driver in affiliation with the transportation network
- 167 company during the quarter.
- 168 (2) If, on the first day of a given quarter, the amount of money in the fund is greater
- 169 than or equal to \$50,000, the division may not collect the payment for each prearranged ride
- 170 described in Subsection (1)(b) for that quarter.
- 171 (3) If the division does not collect a payment under Subsection (2) in a given quarter,
- 172 the division shall resume collecting the prearranged ride payment described in Subsection
- 173 (1)(b) on the first day of the next quarter on which the amount of money in the fund is less than
- 174 \$50,000.
- 175 (4) If the division grants a claim under Section 13-51-203 in an amount that is greater
- 176 than the amount of money in the fund, the division shall assess each transportation network
- 177 company licensed under this chapter an amount equal to the difference between the claim and
- 178 the amount of money in the fund, divided by the number of transportation network companies
- 179 licensed under this chapter.

180 Section 5. Section **13-51-203** is enacted to read:

181 **13-51-203. Payment of a claim from the fund.**

182 (1) A person that holds a lien on a vehicle used by a transportation network driver to
183 provide transportation network services may submit a claim to the division for payment from
184 the fund for physical damage to the vehicle.

185 (2) The division shall pay a claim for payment from the fund to a person that holds a
186 lien on a vehicle described in Subsection (1) for physical damage to the vehicle if:

187 (a) the physical damage to the vehicle occurred during a waiting period or a
188 prearranged ride;

189 (b) the lien complies with Section [41-1a-601](#);

190 (c) the person required the transportation network driver, by contract, to maintain
191 insurance coverage for physical damage to the vehicle;

192 (d) the insurance coverage described in Subsection (2)(c):

193 (i) names the person as the loss payee;

194 (ii) was in effect at the time the physical damage occurred; and

195 (iii) denied coverage to the person as the loss payee on the sole basis that the
196 transportation network driver used the vehicle to provide transportation network services in the
197 state; and

198 (e) the division determines, no earlier than ten days after the day on which the person
199 makes the claim, that:

200 (i) no other insurance is available from the relevant transportation network company;

201 and

202 (ii) the fund has enough money to cover the cost of the claim.

203 (3) If the division grants a claim to a person for a lien on a transportation network
204 driver's vehicle under Subsection (2), the fund shall pay the person the lesser of, as estimated
205 by the division:

206 (a) the cost to repair the vehicle; or

207 (b) the actual cash value of the vehicle less any salvage costs.

208 Section 6. Section **13-51-204** is enacted to read:

209 **13-51-204. State not liable.**

210 The state, a state agency, or a political subdivision is not liable for:

211 (1) the granting or denial of a claim under Section [13-51-203](#);

212 (2) a claim made against the fund; or

213 (3) a failure of the fund to pay an amount that the division orders paid from the fund.

214 Section 7. Section **63I-1-213** is amended to read:

215 **63I-1-213. Repeal dates, Title 13.**

216 Title 13, Chapter 51, Part 2, Transportation Network Vehicle Recovery Fund, is

217 repealed on July 1, 2018.