

SB0201S01 compared with SB0201

~~deleted text~~ shows text that was in SB0201 but was deleted in SB0201S01.

inserted text shows text that was not in SB0201 but was inserted into SB0201S01.

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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: _____

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;

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- ▶ 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 claim.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

13-51-201, Utah Code Annotated 1953

13-51-202, Utah Code Annotated 1953

13-51-203, Utah Code Annotated 1953

13-51-204, Utah Code Annotated 1953

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

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

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

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

(+) (a) a motor carrier, under Title 72, Chapter 9, Motor Carrier Safety Act;

(-) (b) a common carrier, under Title 59, Chapter 12, Sales and Use Tax Act; or

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

(2) A transportation network driver is:

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

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

Section ~~(1)~~2. Section **13-51-108** is amended to read:

13-51-108. Insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(a) an acknowledgment that the transportation network driver is using the vehicle in connection with a transportation network company during a prearranged ride or waiting period, or that the transportation network driver is otherwise using the vehicle for a commercial purpose; and]~~

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

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

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

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

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

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

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

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

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

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

~~[(8)]~~ (7) An insurance policy that a transportation network company or a transportation

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network driver maintains under Subsection (1) or (2):

- (a) satisfies the security requirements of Section 41-12a-301; and
- (b) may ~~[, along with insurance maintained under Subsection (3),]~~ be placed with:
 - (i) an insurer that is certified under Section 31A-4-103; or
 - (ii) a surplus lines insurer licensed under Section 31A-23a-104.

~~[(9)]~~ (8) An insurer that provides coverage for a transportation network driver explicitly for the transportation network driver's transportation network services under Subsection (1) or (2) shall have the duty to defend a liability claim arising from an occurrence while the transportation network driver is providing transportation network services.

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

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

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

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

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

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

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

Section ~~{2}~~3. Section **13-51-201** is enacted to read:

Part 2. Transportation Network Vehicle Recovery Fund

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

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

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

(3) The fund consists of:

(a) the amount collected by the division under Subsection 13-51-202(1); and

(b) interest earned on the money in the fund.

(4) The division shall deposit the money collected for the fund in an account with the state treasurer and record the money in the fund.

(5) The division may hire employees and allocate resources necessary to administer the fund.

(6) The division shall use money from the fund to cover the division's cost to administer this part.

(7) The ~~division shall report to the Business and Labor Interim Committee, before November 1 of each year, on the amount of:~~

~~— (a) money that the division collected for the fund during the year;~~

~~— (b) disbursements that the division made from the fund during the year;~~

~~— (c) interest earned by the fund; and~~

~~— (d) total money in the fund.~~

~~— (8) On January 1, 2017:~~

~~— (a) the fund shall cease to exist; and~~

~~— (b) the division shall disburse any money remaining in the fund to each transportation network company licensed in the state that contributed to the fund in an amount that is~~

~~proportional to the total amount the transportation network company contributed to the fund.~~

~~— Section 3} fund is not insurance as defined in Section 31A-1-301.~~

Section 4. Section 13-51-202 is enacted to read:

13-51-202. Per-ride payment -- Initial assessment -- Assessment for shortfall.

(1) Subject to Subsection (2), the division shall collect, from each transportation network company licensed under this chapter:

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(a) ~~on June 10, 2016, an initial~~ a one-time assessment in the amount of \$15,000; and

(b) on the first day of each quarter, a payment of \$0.10 for each prearranged ride provided by a transportation network driver in affiliation with the transportation network company during the quarter.

(2) If, on the first day of a given quarter, the amount of money in the fund is greater than or equal to \$50,000, the division may not collect the payment for each prearranged ride described in Subsection (1)(b) for that quarter.

(3) If the division does not collect a payment under Subsection (2) in a given quarter, the division shall resume collecting the prearranged ride payment described in Subsection (1)(b) on the first day of the next quarter on which the amount of money in the fund is less than \$50,000.

(4) If the division grants a claim under Section 13-51-203 in an amount that is greater than the amount of money in the fund, the division shall assess each transportation network company licensed under this chapter an amount equal to the difference between the claim and the amount of money in the fund, divided by the number of transportation network companies licensed under this chapter.

Section ~~{4}~~5. Section **13-51-203** is enacted to read:

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

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

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

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

(b) the lien complies with Section 41-1a-601;

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

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

(i) names the person as the loss payee;

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

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

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

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

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

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

(a) the cost to repair the vehicle; or

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

†

Legislative Review Note

Office of Legislative Research and General Counsel} Section 6. Section 13-51-204 is enacted to read:

13-51-204. State not liable.

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

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

(2) a claim made against the fund; or

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

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

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

Title 13, Chapter 51, Part 2, Transportation Network Vehicle Recovery Fund, is repealed on July 1, 2018.