

H. B. 2546

(By Delegates Ashley, Pasdon, Storch, B. White and Westfall)

[Introduced February 2, 2015; referred to the

Committee on Banking and Insurance then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §24A-9-1, §24A-9-2, §24A-9-3, §24A-9-4, §24A-9-5, §24A-9-6 and §24A-9-7, all relating to insurance requirements for transportation network companies and drivers operating in West Virginia.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §24A-9-1, §24A-9-2, §24A-9-3, §24A-9-4, §24A-9-5, §24A-9-6 and §24A-9-7, all to read as follows:

ARTICLE 9. TRANSPORTATION NETWORK COMPANIES.

§24A-9-1. Purpose.

It is the purpose of the Legislature in enacting this article to ensure that the rapidly evolving transportation network industry is properly developed in a responsible manner with adequate insurance regulations for transportation network companies, drivers, and passengers.

1 **§24A-9-2. Definitions.**

2 (a) "Transportation network company" means an organization, including, but not limited to,
3 a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating
4 in West Virginia that provides prearranged transportation services for compensation using an
5 online-enabled application or platform to connect passengers with drivers using a personal vehicle.

6 (b) "Participating driver" or "driver" means any person who uses a vehicle in connection with
7 a transportation network company's online-enabled application or platform to connect with
8 passengers.

9 (c) "Transportation network company insurance" means a liability insurance policy that
10 specifically covers liabilities arising from a driver's use of a vehicle in connection with a
11 transportation network company's online-enabled application or platform.

12 **§24A-9-3. Required disclosures by transportation network company.**

13 (a) A transportation network company shall disclose in writing to participating drivers, as part
14 of its agreement with those drivers, the insurance coverage and limits of liability that the
15 transportation network company provides while the driver uses a vehicle in connection with a
16 transportation network company's online-enabled application or platform, and shall advise a
17 participating driver in writing that the driver's personal automobile insurance policy may not provide
18 coverage when the driver uses a vehicle in connection with a transportation network company's
19 online-enabled application or platform.

20 (b) A transportation network company shall also disclose in writing to participating drivers,
21 as part of its agreement with those drivers, that the driver's personal automobile insurance policy may
22 not provide collision or comprehensive coverage for damage to the vehicle used by the driver from

1 the moment the driver logs on to the transportation network company's online-enabled application
2 or platform to the moment the driver logs off the transportation network company's online-enabled
3 application or platform.

4 (c) A transportation network company shall provide direct notice of participation in the
5 transportation network to the driver's personal auto insurer unless that insurer is providing
6 transportation network company insurance to the driver.

7 **§24A-9-4. Required insurance coverages for transportation network companies and drivers.**

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

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

14 (1) Transportation network company insurance shall be primary and in the amount of \$1
15 million for death, bodily injury, and property damage. The requirements for the coverage required
16 by this subsection may be satisfied by any of the following:

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

18 (B) Transportation network company insurance maintained by a transportation network
19 company;

20 (C) Any combination of paragraphs (A) and (B).

21 (2) A transportation network company may meet its obligations under this subsection through
22 a policy obtained by a participating driver pursuant to paragraph (A) or (C) of subdivision (1) of this

1 subsection only if the transportation network company verifies that the policy is maintained by the
2 driver and is specifically written to cover the driver's use of a vehicle in connection with a
3 transportation network company's online-enabled application or platform.

4 (3) Transportation network company insurance coverage provided under this subsection shall
5 also provide for uninsured motorist coverage and underinsured motorist coverage in the amount of
6 \$1 million from the moment a passenger enters the vehicle of a participating driver until the
7 passenger exits the vehicle. The policy may also provide this coverage during any other time period,
8 if requested by a participating driver relative to insurance maintained by the driver.

9 (4) Transportation network company insurance coverage for bodily injury pursuant to section
10 two, article four, chapter seventeen-d of this code;

11 (5) The insurer, in the case of insurance coverage provided under this article, shall have the
12 duty to defend and indemnify the insured.

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

19 (1) Transportation network company insurance shall be primary and in amounts not less than
20 the requirements of section two, article four, chapter seventeen-d of this code.

21 (2) Transportation network company insurance coverage shall also provide:

22 (A) Uninsured motorist coverage under section thirty-one, article six, chapter thirty-three of

1 this code unless affirmatively waived under subsection (d), section thirty-one-d, article 6, chapter
2 thirty-three of this code;

3 (B) Underinsured motorist coverage under section thirty-one, article six, chapter thirty-three,
4 unless affirmatively waived under subsection (d), section thirty-one-d, article six, chapter thirty-three
5 of this code; and

6 (C) Coverage for bodily injury under section two, article four, chapter seventeen-d of this
7 code;

8 (3) Transportation network company insurance shall provide collision physical damage
9 coverage and comprehensive physical damage coverage from the moment a participating driver logs
10 on to the transportation network company's online-enabled application or platform until the driver
11 logs off the online-enabled application or platform if the participating driver carries those coverages
12 on their personal auto policy unless that insurer is providing transportation network company
13 insurance to the driver.

14 (A) The requirements for the coverage required by this paragraph may be satisfied by any of
15 the following:

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

17 (ii) Transportation network company insurance maintained by a transportation network
18 company that provides coverage in the event a participating driver's insurance policy under
19 subparagraph (i) has ceased to exist or has been canceled, or the participating driver does not
20 otherwise maintain transportation network company insurance pursuant to this subsection.

21 (iii) Any combination of subparagraphs (i) and (ii).

22 (B) A transportation network company shall also maintain insurance coverage that provides

1 excess coverage insuring the transportation network company and the driver in the amount of at least
2 \$200,000 per occurrence to cover any liability arising from a participating driver using a vehicle in
3 connection with a transportation network company's online-enabled application or platform within
4 the time periods specified in this subsection, which liability exceeds the required coverage limits in
5 paragraph (1) of this subsection.

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

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

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

17 (e) In every instance where transportation network company insurance maintained by a
18 participating driver to fulfill the insurance obligations of this section has lapsed or ceased to exist,
19 the transportation network company shall provide the coverage required by this section beginning
20 with the first dollar of a claim.

21 (f) This article shall not limit the liability of a transportation network company arising out
22 of an automobile accident involving a participating driver in any action for damages against a

1 transportation network company for an amount above the required insurance coverage.

2 **§24A-9-5. Time in effect; optional endorsements; personal insurance.**

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

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

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

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

1 (c) Notwithstanding any other law, a personal automobile insurer may, at its discretion, offer
2 an automobile liability insurance policy, or an amendment or endorsement to an existing policy that
3 covers a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type
4 of vehicle with a passenger capacity of eight persons or less, including the driver, while used in
5 connection with a transportation network company's online-enabled application or platform only if
6 the policy expressly provides for the coverage during the time period specified in subsection (b),
7 with or without a separate charge, or the policy contains an amendment or an endorsement to provide
8 that coverage, for which a separately stated premium may be charged.

9 **§24A-9-6. Required proof for drivers; claims investigation by insurer; study of sufficiency.**

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

15 (b) In a claims coverage investigation, a transportation network company or its insurer shall
16 cooperate with insurers that are involved in the claims coverage investigation to facilitate the
17 exchange of information, including the provision of dates and times at which an accident occurred
18 that involved a participating driver and the precise times that the participating driver logged on and
19 off the transportation network company's online-enabled application or platform.

20 (c) The Insurance Commissioner shall develop a study of transportation network company
21 insurance to assess whether coverage requirements are appropriate to the risk of transportation
22 network company services in order to promote data-driven decisions on insurance requirements, and

1 shall report the findings of this study to the Legislature no later than December 31, 2015.

2 **§24A-9-7. Privacy.**

3 A transportation network company may not disclose to a third party any personally
4 identifiable information of a transportation network company passenger unless one of the following
5 applies:

6 (1) The customer knowingly consents.

7 (2) Pursuant to a legal obligation.

8 (3) The disclosure is to the Insurance Commissioner in order to investigate a complaint filed
9 with the Insurance Commissioner against a transportation network company or a participating driver
10 and the Insurance Commissioner treats the information under confidentiality protections.

11

NOTE: The purpose of this bill is to provide insurance requirements for transportation network companies and their drivers.

This article is completely new; therefore, it has been completely underscored.