

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4786**

By Delegates Westfall and Hott

[Introduced January 16, 2024; Referred  
to the Committee on Banking and Insurance then  
Judiciary]

1 A BILL to amend the Code of West Virginia 1931, as amended, by adding thereto a new article,  
 2 designated §33-63-1, §33-63-2, §33-63-3, §33-63-4, §33-63-5, and §33-63-6, all relating to  
 3 the Delivery Network Company Insurance Act; providing for definitions; defining interaction  
 4 with other laws; providing for insurance requirements; providing for disclosures to Delivery  
 5 Network Drivers; providing for exclusions in motor vehicle liability insurance policies; and  
 6 creating an effective date.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 63. DELIVERY NETWORK COMPANY INSURANCE ACT.**

**§33-63-1. Definitions.**

1 (a) "Delivery Network Company" or "DNC" means a corporation, partnership, sole  
 2 proprietorship, or other entity that operates in West Virginia and uses a digital network to connect a  
 3 Delivery Network Company Customer to a Delivery Network Driver to provide Delivery Services. A  
 4 DNC shall not be deemed to control, direct, or manage the Personal Vehicles or Delivery Network  
 5 Drivers that connect to its Digital Network, except where agreed to by written contract.

6 (b) "Delivery Network Company Customer" or "Customer" means a person who orders the  
 7 delivery of goods, where the Delivery Network Driver delivers such goods at the direction of the  
 8 Customer.

9 (c) "Delivery Network Driver" or "Driver" means an individual who provides Delivery Services  
 10 through a DNC's Digital Network using a personal vehicle.

11 (d) "Digital Network" means any online-enabled application, software, website, or system  
 12 offered or utilized by a Delivery Network Company that enables deliveries with Delivery Network  
 13 Drivers.

14 (e) "Personal Vehicle" means a vehicle that is:  
 15 (1) Used by a Delivery Network Driver to provide delivery services via a Digital Network;  
 16 (2) Owned, leased, or otherwise authorized for use by the Delivery Network Driver; and

- 17 (3) Is otherwise classified as a "vehicle" in §17C-1-2 of this code.
- 18 (f) "Delivery Available Period" means the period when a Delivery Network Driver:
- 19 (1) Is operating a Personal Vehicle;
- 20 (2) Has logged on to a Digital Network and is eligible to receive requests to provide Delivery
- 21 Services from a Delivery Network Company, and
- 22 (3) Is not providing Delivery Services or operating in the Delivery Service Period.
- 23 (g) "Delivery Services" means the fulfillment of delivery requests made by a Customer
- 24 through a Digital Network, including the pickup of any goods and the delivery of the goods by a
- 25 Delivery Network Driver. Delivery Services may include a series of deliveries to different Customers,
- 26 or to different locations at the direction of a Customer.
- 27 (h) "Delivery Service Period" means the period beginning when a Driver starts operating a
- 28 Personal Vehicle enroute to pick up goods for a delivery or series of deliveries as documented via a
- 29 Digital Network controlled by a Delivery Network Company, continuing while the Driver transports
- 30 the requested deliveries, and ending upon delivery of the requested goods to:
- 31 (1) The Customer or the last Customer in a series of deliveries;
- 32 (2) A location designated by the Customer, or the last location so designated in a series of
- 33 deliveries; or
- 34 (3) The location designated by the Delivery Network Company, including for purposes of
- 35 returning the goods.

**§33-63-2. Interaction with Other Law.**

1 Nothing in this article limits the scope of federal or state law regarding delivery or transport of  
 2 goods. Deliveries made under this article that are subject to such other law must also comply with  
 3 the requirements of that law. In the event of a conflict between this article and another law dealing  
 4 with the delivery or transport of goods, the other law prevails.

**§33-63-3. Insurance Requirements.**

1           (a) A Delivery Network Company shall ensure that, during the Delivery Available Period, if it  
2 applies, and during the Delivery Service Period, primary automobile liability insurance is in place  
3 that recognizes that the driver is a Delivery Network Driver or that does not exclude coverage for use  
4 of a personal vehicle to provide deliveries.

5           (b) During the Delivery Service Period and Delivery Available Period, the Delivery Network  
6 Driver, Delivery Network Company, or any combination of the two shall maintain insurance that  
7 insures the driver for liability to third parties of not less than \$50,000 for damages arising out of  
8 bodily injury sustained by any one person in an accident, of not less than \$100,000 for damages  
9 arising out of bodily injury sustained by all persons injured in an accident, and of not less than  
10 \$25,000 for all damages arising out of damage to or destruction of property in an accident. The  
11 requirements of §17A-1-1 et seq. and §17D-1-1 et seq. of this code shall also be followed.

12           (c) If the insurance coverage maintained by a Delivery Network Driver pursuant to  
13 subsections (a) and (b) of this section has lapsed or does not provide the required coverage,  
14 insurance maintained by the Delivery Network Company shall provide the coverage required by  
15 subsections (a) and (b) of this section beginning with the first dollar of a claim and the insurance  
16 maintained by the Delivery Network Company shall have the duty to defend the claim.

17           (d) Coverage under an automobile insurance policy maintained by the Delivery Network  
18 Company shall not be dependent upon another motor vehicle liability insurer first denying a claim,  
19 nor shall another motor vehicle liability insurance policy be required to first deny a claim.

20           (e) Insurance coverage required by this section may be obtained from an insurance  
21 company duly licensed to transact business under the insurance laws of this State or by an eligible  
22 surplus lines broker under §33-12C-1 et seq. of this code.

23           (f) The coverage required pursuant to subsections a. and b. of this section shall be deemed  
24 to meet the financial responsibility law of this state.

25           (g) A Delivery Network Driver shall carry proof of insurance required pursuant to subsections  
26 a. and b. of this section at all times while using a Personal Vehicle in connection with a Digital

27 Network. In the event of an accident, a Delivery Network Driver shall, upon request, provide  
28 insurance coverage information to the directly interested parties, automobile insurers, and  
29 investigating law enforcement officers.

30 (h) The insurance coverage information may be displayed or provided in either paper or  
31 electronic form as provided in §17A-1-1 et seq. and §17D-1-1 et seq. of this code. A Delivery  
32 Network Driver shall, upon request, disclose to the directly interested parties, automobile insurers,  
33 and investigating law enforcement officers whether the Driver was operating during the Delivery  
34 Available Period or the Delivery Service Period at the time of the accident.

35 (i) In a claims coverage investigation, a Delivery Network Company or its insurer shall  
36 cooperate with all insurers that are involved in the claims coverage investigation to facilitate the  
37 exchange of information and shall immediately provide upon request by directly involved parties or  
38 any insurer the precise times that a Delivery Network Driver began and ended the Delivery Available  
39 Period and/or the Delivery Service Period on the Delivery Network Company's Digital Network in the  
40 twelve-hour period immediately preceding the accident and in the twelve-hour period immediately  
41 following the accident. Insurers potentially providing the coverage required in section three of this  
42 article shall disclose upon request by any other such insurer involved in the particular claim, the  
43 applicable coverages, exclusions, and limits provided under any automobile insurance maintained  
44 in order to satisfy the requirements of section three of this article.

45 (j) The insurer or insurers of a Delivery Network Company providing coverage under  
46 subsections (a) and (b) shall assume primary liability for a claim when a dispute exists as to when  
47 the Delivery Available Period and/or the Delivery Service Period began or ended and the Delivery  
48 Network Company does not have available, did not retain, or fails to provide the information required  
49 by subsection (h) of this section.

**§33-63-4. Disclosures to Delivery Network Drivers.**

1 A Delivery Network Company shall not permit a Delivery Network Driver to engage in  
2 Delivery Services on the DNC's Digital Network until the DNC discloses in writing to the Driver:

3 (1) The insurance coverage, including the types of coverage and the limits for each  
4 coverage, that the Delivery Network Company provides while the Driver uses a Personal Vehicle  
5 in connection with a Delivery Network Company's Digital Network; and

6 (2) That the Driver's own automobile insurance policy might not provide any coverage  
7 during the Delivery Available Period, if it applies, or the Delivery Service Period.

**§33-63-5. Exclusions in Motor Vehicle Liability Insurance Policies.**

1 (a) An authorized insurer that writes motor vehicle liability insurance in the State may  
2 exclude any and all coverage and the duty to defend or indemnify for any injury or loss that occurs  
3 during the Delivery Available Period and the Delivery Service Period, including but not limited to:

4 (1) Liability coverage for bodily injury and property damage;

5 (2) Personal injury protection coverage as defined in §17A-1-1 et seq. and §17D-1-1 et  
6 seq. of this code;

7 (3) Uninsured and underinsured motorist coverage;

8 (4) Medical payments coverage;

9 (5) Comprehensive physical damage coverage; and

10 (6) Collision physical damage coverage.

11 (b) Nothing in this article invalidates or limits an exclusion contained in a motor vehicle  
12 liability insurance policy, including any insurance policy in use or approved for use that excludes  
13 coverage for motor vehicles used for delivery or for any business use.

14 (c) Nothing in this article invalidates, limits or restricts an insurer's ability under existing law  
15 to underwrite any insurance policy. Nothing in this article invalidates, limits or restricts an insurer's  
16 ability under existing law to cancel and non-renew policies.

17 (d) A motor vehicle liability insurer that defends or indemnifies a claim against a Delivery  
18 Network Driver that is excluded under the terms of its policy shall have the right to seek recovery  
19 against the insurer providing coverage under subsections 3(a) and 3(b) if the claim:

20 (1) Occurs during the Delivery Available Period or the Delivery Service Period; and

21 (2) Is excluded under the terms of its policy.

<b>§33-63-6.</b>	<b>Effective</b>	<b>Date.</b>
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1 This article shall take effect on July 1, 2025.

NOTE: The purpose of this bill is to create the Delivery Network Company Insurance Act. The bill provides for definitions. The bill defines interaction with other laws. The bill provides for insurance requirements. The bill provides for disclosures to Delivery Network Drivers. The bill provides for exclusions in motor vehicle liability insurance policies. Finally, the bill creates an effective date.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.