

ARKANSAS SENATE
90th General Assembly - Regular Session, 2015
Amendment Form

Subtitle of Senate Bill No. 800

TO ENSURE THE SAFETY, RELIABILITY, AND COST-EFFECTIVENESS OF TRANSPORTATION
NETWORK COMPANY SERVICES; AND TO PRESERVE AND ENHANCE ACCESS TO
TRANSPORTATION OPTIONS FOR THE STATE'S RESIDENTS AND VISITORS.

Amendment No. 1 to Senate Bill No. 800

Amend Senate Bill No. 800 as originally introduced:

Page 2, delete lines 22 through 26, and substitute:

"(3)(A) "Transportation network company services" means transporting a passenger between points chosen by the passenger and prearranged with a transportation network company driver through the use of a transportation network company website, digital network, or software application that:

(i) Begins when a transportation network company driver accepts a request for transportation received through the transportation network company's website, digital network, or software application;

(ii) Continues while:

(a) En route to the requesting passenger; and

(b) The transportation network company driver transports the passenger in the transportation network company driver's motor vehicle; and

(iii) Ends when the passenger exits the transportation network company driver's motor vehicle.

(B) "Transportation network company services" does not mean:

(i) Taxicab service as defined in § 14-57-301 et seq.;

(ii) Motor carrier service under § 23-13-201 et seq.; or

(iii) Street hail service."

AND

Page 2, delete lines 29 through 31, and substitute the following:

"A transportation network company driver:

(1) Is not required to register the motor vehicle used for



transportation network company services as a commercial or for-hire motor vehicle; and

(2) May conduct transportation network company services with a standard, noncommercial driver's license and is not required to obtain a P endorsement or any other endorsement on the transportation network company driver's license."

AND

Page 3, delete lines 8 and 9, and substitute the following:

"(B) Pays an annual permit fee of fifteen thousand dollars (\$15,000) to the commission."

AND

Page 3, delete lines 28 through 36

AND

Page 4, delete line 1

AND

Page 4, line 3, delete "23-13-708" and substitute "23-13-707"

AND

Page 4, line 14, delete "23-13-709" and substitute "23-13-708"

AND

Page 4, line 22, delete "23-13-710" and substitute "23-13-709"

AND

Page 4, delete lines 27 through 36, and substitute the following:

"(b)(1) While a transportation network company driver is logged into the transportation network company's website, digital network, or software application and available to receive requests for transportation but is not providing transportation network company services, motor vehicle liability insurance coverage that meets the minimum coverage requirements under § 27-22-104(b) shall be maintained by the transportation network company that provides coverage beginning with the first dollar of a claim in the event a transportation network company driver's own motor vehicle liability insurance policy:

(A) Excludes coverage under the terms of the policy; or

(B) Does not provide the minimum coverage required by §

27-22-104(b).

(2) With the exception of a factual dispute regarding when a transportation network company driver is logged into the transportation network company's website, digital network, or software application, a transportation network company and its insurer shall not:

(A) Challenge a private passenger motor vehicle liability insurer's denial of a claim based on a proper exclusion pursuant to § 23-13-711(b); or

(B) Seek reimbursement or contribution from a private passenger motor vehicle liability insurer.

(c)(1) While a transportation network company driver is providing transportation network company services, the transportation network company shall:

(A) Provide primary motor vehicle liability insurance that expressly recognizes the transportation network company driver's provision of transportation network company services or other for-hire motor vehicle services; and

(B) Provide primary motor vehicle liability insurance of at least one million dollars (\$1,000,000) for death, personal injury, and property damage.

(2) The motor vehicle liability insurance coverage required by subdivision (c)(1) of this section may be satisfied by any combination of:

(A) Motor vehicle liability insurance coverage maintained by the transportation network company driver; or

(B) Motor vehicle liability insurance coverage maintained by the transportation network company."

AND

Page 5, delete lines 1 through 13

AND

Page 5, line 28, delete "23-13-711" and substitute "23-13-710"

AND

Page 5, line 29, delete "(a) Before" and substitute "Before"

AND

Page 6, delete lines 6 through 36, and substitute the following:
"network company services.

23-13-711. Exclusions—Claim investigations.

(a)(1) A private passenger motor vehicle liability insurance policy may exclude coverage against all loss from liability imposed by law for damages arising out of the ownership, maintenance, or use of a motor vehicle:

(A) While the motor vehicle is being used to provide transportation network company services; and

(B) While a transportation network company driver is logged on to the transportation network company's website, digital network, or software application.

(2) An exclusion of coverage under subdivision (a)(1) of this section may apply to any coverage included in a private passenger motor vehicle liability insurance policy, including without limitation:

(A) Liability coverage for bodily injury and property

damage;

- (B) Uninsured and underinsured motorist coverage;
- (C) Medical payments coverage;
- (D) Comprehensive physical damage coverage;
- (E) Collision physical damage coverage; and
- (F) Coverage under § 23-89-202.

(b) A private passenger motor vehicle liability insurer that properly excludes coverage under subsection (a) of this section does not have a duty to defend or indemnify a loss.

(c) The failure to pay or receive a suggested donation set by a transportation network company does not constitute the charitable carrying or transportation of persons.

(d) In a claims coverage investigation, a transportation network company and its insurer shall:

(1) Cooperate with the private passenger motor vehicle liability insurer that insures the motor vehicle that the transportation company network driver uses to provide transportation network company services; and

(2) Within ten (10) business days of receiving a request for information from a private passenger motor vehicle liability insurer, provide to the private passenger motor vehicle liability insurer information, including the precise times that a transportation network company driver logged on and off of the transportation network company's website, digital network, or software application within the twenty-four (24) hours immediately preceding the accident being investigated."

AND

Page 7, delete lines 1 through 11

AND

Page 9, line 5, delete "A transportation" and substitute "(a) A transportation"

AND

Page 9, delete line 12, and substitute the following:

"which the motor vehicle is registered.

(b)(1) A transportation network company shall verify that an initial safety inspection of a motor vehicle used as a transportation network company motor vehicle is conducted by a mechanic within ninety (90) days of beginning service.

(2) The inspection shall be performed or supervised by a mechanic certified by the National Institute for Automotive Service Excellence.

(3) A safety inspection conducted under this subsection shall include a check of the following motor vehicle equipment to ensure that the equipment is safe and in proper operating condition:

- (A) Foot brakes;
- (B) Emergency parking brake;
- (C) Suspension and steering mechanisms;
- (D) Windshield;

- (E) Rear window and other glass;
- (F) Windshield wipers;
- (G) Headlights;
- (H) Taillights;
- (I) Turn indicator lights;
- (J) Brake lights;
- (K) Front seat adjustment mechanism;
- (L) Doors, including the opening, closing, and locking

mechanisms;

- (M) Horn;
- (N) Speedometer;
- (O) Bumpers;
- (P) Muffler and exhaust system;
- (Q) Tires, including their condition and tread depth;
- (R) Interior and exterior rear view mirrors; and
- (S) Safety belts for driver and passengers."

AND

Page 10, delete lines 13 through 35, and substitute the following:

"23-13-718. Records – Inspection.

(a) A transportation network company shall maintain:

(1) Individual trip records for at least one (1) year from the date each trip was provided;

(2) Transportation network company driver records for at least one (1) year from the date a transportation network company driver was active on the transportation network company's website, digital network, or software application; and

(3) Any other records required by this subchapter.

(b) In response to a specific complaint, the Arkansas Public Service Commission or its employees or duly authorized agents may inspect records held by a transportation network company that are needed to investigate or resolve the complaint.

(c)(1) No more than annually as determined by regulation of the commission, the commission or its employees or duly authorized agents may in a mutually agreed upon setting inspect or, if inspection is not feasible, be provided copies of records required to be maintained by a transportation network company under this subchapter that are necessary to ensure public safety.

(2) The inspection of records under subdivision (c)(1) of this section shall be on an audit rather than a comprehensive basis.

(d)(1) Records obtained by the commission under this subchapter pertaining to transportation network company services, transportation network company drivers, or transportation network company drivers' motor vehicles:

(A) Are not subject to disclosure to a third party by the commission; and

(B) Are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) Nothing in this subsection shall be construed as limiting the applicability of any other exemptions under the Freedom of Information Act of 1967, § 25-19-101 et seq., to any other records obtained by the commission under this subchapter.

23-13-719. Status of transportation network company drivers – Workers’ compensation coverage.

(a) Notwithstanding any provision of law to the contrary, a transportation network company driver is an independent contractor and not the employee of the transportation network company if:

(1) The transportation network company does not prescribe specific hours during which a transportation network company driver must be logged into the transportation network company’s website, digital platform, or software application;

(2) The transportation network company imposes no restrictions on the transportation network company driver’s ability to utilize a website, digital network, or software application of other transportation network companies;

(3) The transportation network company does not assign a transportation network company driver a particular territory in which transportation network company services may be provided;

(4) The transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

(5) The transportation network company and transportation network company driver agree in writing that the transportation network company driver is an independent contractor of the transportation network company.

(b) A transportation network company that complies with subsection (a) of this section is not required to provide workers’ compensation coverage for a transportation network company driver that is classified as an independent contractor under this section.

23-13-720. Exclusive authority.

(a)(1) Transportation network companies and transportation network company drivers are governed exclusively by this subchapter and any rules promulgated by the Arkansas Public Service Commission consistent with this subchapter.

(2) This subchapter does not limit the Arkansas State Highway and Transportation Department, the Department of Arkansas State Police, the Attorney General, other state agencies, law enforcement, and local governments within this state from enforcing state and federal laws or regulations of general applicability that apply to transportation network companies and transportation network company drivers.

(b) A county, municipality, or other local entity shall not tax or license a transportation network company, a transportation network company driver, or a motor vehicle used by a transportation network company driver if the tax or license relates to providing transportation network company services or subjects a transportation network company to any type of rate, entry, operational, or other requirement of the county, municipality, or other local entity.

23-13-721. Penalties.

(a) The Arkansas Public Service Commission may levy a fine not to exceed:

(1) One thousand dollars (\$1,000) for a violation of this

subchapter; and

(2) Five thousand dollars (\$5,000) for a knowing violation of this subchapter.

(b) To determine the amount of the fine, the commission shall consider relevant factors, including without limitation:

(1) The appropriateness of the penalty to the size of the business of the transportation network company charged with the violation;

(2) The severity of the violation;

(3) The good faith of the transportation network company charged with the violation in attempting to achieve compliance with this subchapter after being notified of the violation; and

(4) Any history of previous violations of this subchapter by the transportation network company charged with the violation.

23-13-722. Rules."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Rapert

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Secretary