

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/27/15

A Bill

SENATE BILL 780

5 By: Senator Rapert
6

For An Act To Be Entitled

8 *AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS*
9 *INSURANCE CODE; TO PROVIDE MODERNIZATION OF*
10 *REGULATION BY THE INSURANCE COMMISSIONER; TO REVISE*
11 *THE TRANSPORTATION NETWORK COMPANY SERVICES ACT; AND*
12 *FOR OTHER PURPOSES.*

Subtitle

13
14
15
16 *TO AMEND VARIOUS PROVISIONS OF THE*
17 *ARKANSAS INSURANCE CODE; TO PROVIDE*
18 *MODERNIZATION OF REGULATION BY THE*
19 *INSURANCE COMMISSIONER; AND TO REVISE THE*
20 *TRANSPORTATION NETWORK COMPANY SERVICES*
21 *ACT.*

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 *SECTION 1. Arkansas Code § 23-13-702, as added by Section 1 of Senate*
27 *Bill 800 of 2015, is amended to read as follows if Senate Bill 800 of 2015 is*
28 *enacted:*

29 *23-13-702. Definitions.*

30 *As used in this subchapter:*

31 *(1) "Digital network" means any online-enabled application,*
32 *software, website, or system offered or utilized by a transportation network*
33 *company that enables the prearrangement of rides with transportation network*
34 *company drivers;*

35 *(2) "Personal vehicle" means a vehicle that is used by a*
36 *transportation network company driver in connection with providing a*



1 prearranged ride and is:

2 (A) Owned, leased, or otherwise authorized for use by the
3 transportation network company driver; and

4 (B) Not a taxicab, limousine, or for-hire vehicle;

5 (3)(A) "Prearranged ride" or "transportation network services"
6 means the provision of transportation by a transportation network company
7 driver to a rider, beginning when a transportation network company driver
8 accepts a ride requested by a rider through a digital network controlled by a
9 transportation network company, continuing while the transportation network
10 company driver transports a requesting rider, and ending when the last
11 requesting rider departs from the personal vehicle.

12 (B) A prearranged ride or transportation network services
13 does not include transportation provided using a:

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

16 (ii) Motor carrier service under the Arkansas Motor
17 Carrier Act, 1955, § 23-13-201 et seq.; or

18 (iii) Street hail service;

19 ~~(1)(A)(4)(A)~~ "Transportation network company" means an
20 ~~individual~~ a corporation partnership, sole proprietorship, or other entity
21 licensed under this subchapter ~~that operates~~ and operating in this state and
22 that uses a ~~website, digital network, or software application~~ to connect
23 ~~passengers to transportation network company services provided by riders to~~
24 transportation network company drivers who provide prearranged rides.

25 (B) "Transportation network company" does not ~~mean~~ include
26 a company that controls, directs, or manages the personal vehicles or
27 transportation network company drivers that connect to the company's digital
28 network, except when agreed to by written contract*.

29 ~~(i) A broker, common carrier, contract carrier, or~~
30 ~~motor carrier, as defined in § 23-13-203;~~

31 ~~(ii) A taxicab, taxicab association, for hire~~
32 ~~vehicle owner, or for hire motor vehicle service; or~~

33 ~~(iii) An individual or entity that owns, controls,~~
34 ~~operates, or manages a motor vehicle used by a transportation network company~~
35 ~~driver;~~

36 ~~(2)(5)~~ "Transportation network company driver" means an

1 individual who ~~operates a motor vehicle that is:~~

2 (A) ~~Owned, leased, or otherwise authorized for use by the~~
3 ~~individual; Receives connections to potential passengers and related services~~
4 ~~from a transportation network company in exchange for payment of a fee to the~~
5 ~~transportation network company; and~~

6 (B) ~~Not a taxicab or a for hire motor vehicle; and Uses a~~
7 ~~personal vehicle to provide services for riders matched through a digital~~
8 ~~network controlled by a transportation network company; and~~

9 ~~(C) Used to provide transportation network company~~
10 ~~services; and~~

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

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

20 ~~(ii) Continues while:~~

21 ~~(a) En route to the requesting passenger; and~~

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

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

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

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

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

33 ~~(iii) Street hail service.~~

34 (6) "Transportation network company rider" or "rider" means an
35 individual or a person who uses a transportation network company's digital
36 network to connect with a transportation network company driver who provides

1 a prearranged ride to a rider in the driver's personal vehicle between points
2 chosen by the rider.

3
4 SECTION 2. Arkansas Code § 23-13-709, as added by Section 1 of Senate
5 Bill 800 of 2015, is amended to read as follows if Senate Bill 800 of 2015 is
6 enacted:

7 23-13-709. Insurance requirements.

8 (a)(1) ~~No later than ninety (90) days~~ On and after the effective date
9 of this subchapter, a transportation network company driver and or a
10 transportation network company drivers on the driver's behalf shall comply
11 with the motor vehicle liability maintain primary automobile insurance
12 coverage requirements of this section that:

13 (A) Recognizes that the driver is a transportation network
14 company driver and covers the driver while the driver is logged on to the
15 transportation network company's digital network, while the driver is engaged
16 in a prearranged ride or while the driver otherwise uses a vehicle to provide
17 transportation network services;

18 (B)(i) Provides primary automobile liability insurance in
19 the amount of at least fifty thousand dollars (\$50,000) for death and bodily
20 injury per person, one hundred thousand dollars (\$100,000) for death and
21 bodily injury per incident, and twenty-five thousand dollars (\$25,000) for
22 property damage while a participating transportation network company driver
23 is logged on to the transportation network company's digital network and is
24 available to receive transportation requests but is not engaged in a
25 prearranged ride.

26 (ii) The coverage requirements described in
27 subdivision (a)(1)(B)(i) of this section may be satisfied by any combination
28 of:

29 (a) Automobile insurance maintained by the
30 transportation network company driver; or

31 (b) Automobile insurance maintained by the
32 transportation network company;

33 (C)(i) Provides primary automobile liability insurance
34 coverage of at least one million dollars (\$1,000,000) for death, bodily
35 injury, and property damage while a transportation network company driver is
36 engaged in a prearranged ride.

1 (ii) The coverage requirements described in
2 subdivision (a)(1)(C)(i) of this section may be satisfied by any combination
3 of:

4 (a) Automobile insurance maintained by the
5 transportation network company driver; or

6 (b) Automobile insurance maintained by the
7 transportation network company;

8 (2) If insurance maintained by a driver under subdivision
9 (a)(1)(B) or subdivision (a)(1)(C) of this section has lapsed or does not
10 provide the required coverage, the insurance maintained by a transportation
11 network company shall provide the coverage required under this subsection
12 beginning with the first dollar of a claim and the insurer has the duty to
13 defend the claim.

14 (3) Coverage under an automobile insurance policy maintained by
15 the transportation network company shall not be dependent on a personal
16 automobile insurer's first denial of a claim nor shall a personal automobile
17 insurance policy be required to first deny a claim.

18 (4) Insurance required under this subsection may be placed with
19 an insurer authorized to do business in this state or with a surplus-lines
20 insurer eligible under § 23-65-305.

21 (5) Insurance that satisfies the requirements of this subsection
22 shall be deemed to satisfy the financial responsibility requirement for a
23 motor vehicle under § 27-22-101 et seq. and the Motor Vehicle Safety
24 Responsibility Act 27-19-101 et seq.;

25 (6)(A) A transportation network company driver shall carry proof
26 of coverage satisfying subdivision (a)(1)(B) or subdivision (a)(1)(C) of this
27 section with him or her during his or her use of a motor vehicle in
28 connection with a transportation network company's digital network.

29 (B) In the event of an accident, a transportation network
30 company driver shall provide insurance coverage information required under
31 subdivision (a)(6)(A) of this section to the directly interested parties,
32 automobile insurers, and investigating police officers upon request under the
33 Arkansas Voluntary Enhanced Security Driver's License and Identification Card
34 Act, § 27-16-1201 et seq.

35 (C) Upon a request under subdivision (a)(6)(B) of this
36 section, a transportation network company driver shall also disclose to

1 directly interested parties, automobile insurers, and investigating police
 2 officers whether he or she was logged on to the transportation network
 3 company's digital network or was on a prearranged ride at the time of the
 4 accident.

5 ~~(b)(1) While a transportation network company driver is logged into~~
 6 ~~the transportation network company's website, digital network, or software~~
 7 ~~application and available to receive requests for transportation but is not~~
 8 ~~providing transportation network company services, motor vehicle liability~~
 9 ~~insurance coverage that meets the minimum coverage requirements under § 27-~~
 10 ~~22-104(b) shall be maintained by the transportation network company that~~
 11 ~~provides coverage beginning with the first dollar of a claim in the event a~~
 12 ~~transportation network company driver's own motor vehicle liability insurance~~
 13 ~~policy:~~

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

15 ~~(B) Does not provide the minimum coverage required by §~~
 16 ~~27-22-104(b).~~

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

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

24 ~~(B) Seek reimbursement or contribution from a private~~
 25 ~~passenger motor vehicle liability insurer. A transportation network company~~
 26 ~~shall disclose in writing to transportation network company drivers the~~
 27 ~~following before they are allowed to accept a request for a prearranged ride~~
 28 ~~on the transportation network company's digital network:~~

29 ~~(1) The insurance coverage, including the types of coverage and~~
 30 ~~the limits for each coverage, that the transportation network company~~
 31 ~~provides while the transportation network company driver uses a personal~~
 32 ~~vehicle in connection with a transportation network company's digital~~
 33 ~~network; and~~

34 ~~(2) That the transportation network company driver's own~~
 35 ~~automobile insurance policy might not provide any coverage while the~~
 36 ~~transportation network company driver is logged on to the transportation~~

1 network company's digital network and is available to receive prearranged
2 ride requests or is engaged in a prearranged ride, depending on the terms of
3 the insurance policy.

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

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

11 ~~(B) Provide primary motor vehicle liability insurance of~~
12 ~~at least one million dollars (\$1,000,000) for death, personal injury, and~~
13 ~~property damage Insurers that write automobile insurance in this state may~~
14 ~~exclude any and all coverage afforded under the owner's insurance policy for~~
15 ~~any loss or injury that occurs while a transportation network company driver~~
16 ~~is logged on to a transportation network company's digital network or while a~~
17 ~~transportation network company driver provides a prearranged ride.~~

18 (2) ~~The motor vehicle liability insurance right to exclude all~~
19 ~~coverage required by under subdivision (c)(1) of this section may ~~be~~~~
20 ~~satisfied by any combination of apply to any coverage included in an~~
21 ~~automobile insurance policy, including without limitation:~~

22 (A) ~~Motor vehicle liability insurance Liability coverage~~
23 ~~maintained by the transportation network company driver for bodily injury and~~
24 ~~property damage; or~~

25 (B) ~~Motor vehicle liability insurance Personal injury~~
26 ~~protection coverage maintained by the transportation network company as~~
27 ~~described in § 23-89-202;~~

28 ~~(C) Uninsured and underinsured motorist coverage;~~

29 ~~(D) Medical payments coverage;~~

30 ~~(E) Comprehensive physical damage coverage; and~~

31 ~~(F) Collision physical damage coverage.~~

32 ~~(3) An exclusion permitted under subdivision (c)(2) of this~~
33 ~~section shall apply notwithstanding any requirement under § 27-22-101 et seq.~~
34 ~~and the Motor Vehicle Safety Responsibility Act 27-19-101 et seq.~~

35 ~~(4) An automobile insurer that excludes the coverage described~~
36 ~~in subsection (a) a shall have no duty to defend or indemnify any claim~~

1 expressly excluded thereunder.

2 (5) Nothing in this subchapter shall be deemed to invalidate or
3 limit an exclusion contained in a policy including any policy in use or
4 approved for use in Arkansas prior to the enactment of this subchapter that
5 excludes coverage for vehicles used to carry persons or property for a charge
6 or available for hire by the public.

7 (6) This section does not imply or require that a personal
8 automobile insurance policy provide coverage while a transportation network
9 company driver is logged on to the transportation network company's digital
10 network, while the transportation network company driver is engaged in a
11 prearranged ride, or while the transportation network company driver
12 otherwise uses a motor vehicle to provide transportation network services.

13 (7) This section does not preclude an insurer from providing
14 coverage for the transportation network company driver's motor vehicle, if it
15 so chose to do so by contract or endorsement.

16 (8)(A) An automobile insurer that excludes the coverage
17 described in subdivision (c)(2) of this section shall have no duty to defend
18 or indemnify any claim expressly excluded thereunder.

19 (B) This section does not invalidate or limit an exclusion
20 contained in an insurance policy including any policy in use or approved for
21 use in this state before the effective date of this subchapter that excludes
22 coverage for a vehicle used to carry a person or property for a charge or
23 available for hire by the public.

24 (9) An automobile insurer that defends or indemnifies a claim
25 against a transportation network company driver that is excluded under the
26 terms of its policy shall have a right of contribution against other insurers
27 that provide automobile insurance to the same transportation network company
28 driver in satisfaction of the coverage requirements of subsection (a) of this
29 section at the time of loss.

30 ~~(d) If the motor vehicle liability insurance coverage maintained by a~~
31 ~~transportation network company driver to fulfill the insurance requirements~~
32 ~~of this section has lapsed, is denied, is nonexistent, or the transportation~~
33 ~~network company driver has failed to provide the required coverage, the motor~~
34 ~~vehicle liability insurance coverage maintained by the transportation network~~
35 ~~company shall provide the coverage required by this section, beginning with~~
36 ~~the first dollar of a claim. In a claims coverage investigation, a~~

1 transportation network company and any insurer potentially providing coverage
2 under subsection (a) of this section shall cooperate to facilitate the
3 exchange of relevant information with directly involved parties and any
4 insurer of the transportation network company driver, if applicable,
5 including the precise times that a transportation network company driver
6 logged on and off of the transportation network company's digital network in
7 the twelve-hour period immediately preceding and in the twelve-hour period
8 immediately following the accident and disclose to each other a clear
9 description of the coverage, exclusions, and limits provided under any
10 automobile insurance policy maintained under subsection (a) of this section.

11 ~~(e) The motor vehicle liability insurance coverage required by this~~
12 ~~section may be placed with an insurer authorized to do business in this state~~
13 ~~or with a surplus lines insurer eligible under § 23-65-305.~~

14 ~~(f) Compliance with the motor vehicle liability insurance coverage~~
15 ~~required by this section satisfies all financial responsibility requirements~~
16 ~~for a motor vehicle under § 27-22-101 et seq.~~

17
18 /s/Rapert
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36