



House of Representatives

General Assembly

File No. 411

February Session, 2016

Substitute House Bill No. 5523

House of Representatives, April 4, 2016

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING INSURANCE REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective July 1, 2016*) (a) As used in this section:
- 2 (1) "Transportation network company" means a company, including
3 a corporation, a partnership, a trust, an association, a sole
4 proprietorship or a similar organization, that uses a digital network to
5 connect transportation network company riders with transportation
6 network company drivers who provide prearranged rides;
- 7 (2) "Transportation network company driver" or "driver" means an
8 individual who is not an employee of a transportation network
9 company and who (A) receives connections, in exchange for payment
10 of a fee to such company, to potential transportation network company
11 riders through the transportation network company's digital network,
12 and (B) uses a personal vehicle to offer or provide prearranged rides to
13 transportation network company riders upon connecting with such

14 riders through the transportation network company's digital network,
15 in exchange for compensation or a fee;

16 (3) "Transportation network company rider" or "rider" means an
17 individual who uses a digital network to connect with a transportation
18 network company driver to provide a prearranged ride to the rider
19 between points chosen by the rider;

20 (4) "Digital network" means any online-enabled technology
21 application service, Internet web site or system that is used by a
22 transportation network company and enables prearranged rides with
23 transportation network company drivers;

24 (5) "Prearranged ride" means the transport by a transportation
25 network company driver of a transportation network company rider
26 (A) beginning when the driver accepts, through the transportation
27 network company's digital network, the rider's request for a ride, (B)
28 continuing while the driver transports the rider, and (C) ending when
29 the last requesting rider departs from the driver's personal vehicle.
30 "Prearranged ride" does not include the transport of an individual,
31 which transport has not been arranged with a transportation network
32 company driver through the use of a transportation network
33 company's digital network; and

34 (6) "Personal vehicle" means a private passenger motor vehicle that
35 is (A) owned, leased or otherwise authorized for the provision of
36 prearranged rides by a transportation network company driver, and
37 (B) used by such driver to provide a prearranged ride.

38 (b) (1) Not later than July 1, 2016, a transportation network company
39 driver or a transportation network company on such driver's behalf
40 shall procure and maintain a motor vehicle insurance policy that
41 recognizes that the driver is a transportation network company driver
42 and provides coverage for such driver as follows:

43 (A) For the period during which the driver is logged on to the
44 transportation network company's digital network and is available to

45 receive requests for prearranged rides but is not engaged in the
46 provision of a prearranged ride: (i) Automobile liability insurance
47 coverage of at least (I) fifty thousand dollars for damages by reason of
48 bodily injury to, or the death of, any one person, (II) one hundred
49 thousand dollars for damages by reason of bodily injury or death per
50 accident, and (III) twenty-five thousand dollars for property damage;
51 and (ii) uninsured and underinsured motorist coverage in accordance
52 with the provisions of section 38a-336 of the general statutes; and

53 (B) For the period during which the driver is engaged in the
54 provision of a prearranged ride: (i) Automobile liability insurance
55 coverage of at least one million dollars for damages by reason of
56 bodily injury, death or property damage; and (ii) uninsured and
57 underinsured motorist coverage in accordance with the provisions of
58 section 38a-336 of the general statutes.

59 (2) (A) The coverage required under subdivision (1) of this
60 subsection may be satisfied by an automobile insurance policy
61 maintained by a transportation network company driver or the
62 transportation network company or a combination of both. Nothing in
63 this section shall be construed to (i) require an insurance company that
64 issues automobile insurance policies in this state to issue automobile
65 insurance policies that provide the coverage specified under
66 subdivision (1) of this subsection, or (ii) preclude an insurance
67 company from providing primary or excess coverage by contract or
68 endorsement for a transportation network company driver's personal
69 vehicle.

70 (B) If an automobile insurance policy maintained by a
71 transportation network company driver has lapsed or does not
72 provide the coverage required under subdivision (1) of this subsection,
73 the transportation network company's automobile insurance policy
74 shall provide such coverage, beginning with the first dollar of a claim,
75 and the insurance company issuing such policy shall have the duty to
76 defend a claim that arises while such driver is logged on to the
77 transportation network company's digital network to receive requests

78 for prearranged rides or is engaged in the provision of a prearranged
79 ride.

80 (C) Coverage under an automobile insurance policy maintained by
81 a transportation network company shall not be dependent on another
82 insurance company first denying a claim, nor shall such other
83 insurance company be required to first deny a claim.

84 (3) A transportation network company may procure the coverage
85 required under subdivision (1) of this subsection from (A) an insurance
86 company authorized to do business in this state, or (B) a surplus lines
87 insurer that has at least an A minus credit rating by A.M. Best or an A
88 or similar credit rating by another rating agency approved by the
89 Insurance Commissioner. Any such insurance company or surplus
90 lines insurer shall comply with the provisions of subsection (a) of
91 section 38a-318a of the general statutes.

92 (c) (1) A transportation network company driver shall carry proof of
93 insurance satisfying the coverage required under subdivision (1) of
94 subsection (b) of this section at all times during such driver's use of a
95 personal vehicle while logged on to a transportation network
96 company's digital network to receive requests for prearranged rides or
97 engaged in the provision of a prearranged ride. The transportation
98 network company shall ensure it provides such proof of insurance to
99 all of its drivers to whom such transportation network company is
100 providing such coverage.

101 (2) In the event of an accident, a transportation network company
102 driver shall provide such proof of insurance coverage to the directly
103 interested parties, insurance companies and investigating police
104 officers. A transportation network company driver shall disclose, upon
105 request, to directly interested parties, insurance companies and
106 investigating police officers whether such driver was logged on to the
107 transportation network company's digital network or was engaged in
108 the provision of a prearranged ride at the time of the accident.

109 (3) In any claims investigation, a transportation network company

110 shall immediately provide, upon request from a directly involved
111 party or the transportation network company driver's insurance
112 company, the precise times such driver was logged on and logged off
113 the transportation network company's digital network in the twelve-
114 hour periods immediately preceding and immediately following the
115 accident. An insurance company providing any coverage required
116 under subdivision (1) of subsection (b) of this section shall disclose,
117 upon request by any other insurance company providing any coverage
118 required under subdivision (1) of subsection (b) of this section, the
119 applicable coverages, exclusions and limits under the automobile
120 insurance policy issued to satisfy the coverage requirements under
121 said subdivision.

122 (4) For any claim covered under the collision or comprehensive
123 coverage of a transportation network company's motor vehicle
124 insurance policy, the insurance company shall make payment on such
125 claim directly to the business repairing the motor vehicle or jointly, if
126 applicable, to the owner of the motor vehicle and the primary
127 lienholder of such vehicle.

128 (d) Notwithstanding the provisions of sections 14-112, 38a-334, 38a-
129 335 and 38a-336 of the general statutes, an insurance company that
130 offers automobile insurance coverage in this state may offer
131 automobile insurance policies to individuals that exclude any or all
132 coverage afforded under such policies for any loss or injury that occurs
133 during the period an insured is logged on to a transportation network
134 company's digital network and available to receive requests for
135 prearranged rides or engaged in the provision of a prearranged ride.
136 Such exclusions may include, but are not limited to, (1) liability
137 coverage for bodily injury, death or property damage, (2) personal
138 injury protection coverage, (3) uninsured and underinsured motorist
139 coverage, (4) medical payments coverage, (5) collision physical
140 damage coverage, or (6) comprehensive physical damage coverage.
141 Nothing in this subsection shall be construed to require an insurance
142 company that clearly and conspicuously discloses such exclusions to
143 use any particular policy language or reference to this subsection to

144 exclude any or all coverage pursuant to this subsection.

145 (e) (1) An insurance company that excludes coverage pursuant to
146 subsection (d) of this section shall have no duty to defend or indemnify
147 any claim against a transportation network company driver for which
148 coverage is expressly excluded in such driver's automobile insurance
149 policy. If an insurance company defends or indemnifies a claim against
150 a transportation network company driver for which coverage is
151 expressly excluded in such driver's automobile insurance policy, the
152 insurance company shall have a right of subrogation against other
153 insurance companies that provide automobile insurance coverage to
154 such driver to satisfy the requirements of subdivision (1) of subsection
155 (b) of this section.

156 (2) Nothing in this section shall be construed to invalidate or limit
157 an exclusion contained in an automobile insurance policy, including
158 any such policy in use or approved for use in this state prior to July 1,
159 2016, that excludes coverage for vehicles used to transport property or
160 passengers for a fee or available for hire by the public.

161 (3) In the event of a claim against a transportation network company
162 driver in which there is disagreement between such driver's insurance
163 company and the transportation network company's insurance
164 company as to which insurance company has the duty to defend, the
165 insurance company issuing the transportation network company's
166 automobile insurance policy shall have the duty to defend such claim.

167 (f) Prior to initially permitting a transportation network company
168 driver to accept a rider request for a prearranged ride through the
169 transportation network company's digital network, a transportation
170 network company shall disclose, in writing, to such driver the
171 following:

172 (1) The insurance coverage, including the types of coverage and the
173 limits for each type of coverage, that the transportation network
174 company provides during the period such driver is using his or her
175 personal vehicle while logged on to the transportation network

176 company's digital network and available to receive requests for
177 prearranged rides or engaged in the provision of a prearranged ride;

178 (2) A statement that such driver's automobile insurance policy
179 might not provide coverage while such driver is logged on to the
180 transportation network company's digital network and available to
181 receive requests for prearranged rides or engaged in the provision of a
182 prearranged ride; and

183 (3) A statement that if such driver's personal vehicle has a lien on it,
184 the use of such vehicle for such purposes without physical damage
185 coverage may violate the terms of the contract with the lienholder.

186 Sec. 2. Section 13b-95 of the general statutes is repealed and the
187 following is substituted in lieu thereof (*Effective July 1, 2016*):

188 The term "taxicab" includes any motor vehicle operated upon any
189 street or highway or on call or demand accepting or soliciting
190 passengers indiscriminately for transportation for hire between such
191 points along streets or highways as may be directed by the passenger
192 or passengers being transported, provided nothing in this chapter shall
193 be construed to include, as a taxicab, a motor bus, as defined in section
194 14-1, [or] a motor vehicle in livery service when such motor vehicle is
195 hired for a specific trip or trips and is subject to the direction of the
196 person hiring the same, or a personal vehicle operated by a
197 transportation network company driver, as both terms are defined in
198 section 1 of this act.

199 Sec. 3. Section 13b-101 of the general statutes is repealed and the
200 following is substituted in lieu thereof (*Effective July 1, 2016*):

201 The term "motor vehicle in livery service" includes every motor
202 vehicle used by any person, association, limited liability company or
203 corporation which represents itself to be in the business of transporting
204 passengers for hire, except (1) any motor bus and any taxicab operated
205 under a certificate of public convenience and necessity issued by the
206 Department of Transportation, (2) any school bus, as defined in section

207 14-275, or student transportation vehicle, as defined in section 14-212,
 208 when used for the transportation of children under the age of twenty-
 209 one years, (3) any school bus, as defined in section 14-275, when used
 210 for the transportation of passengers (A) by virtue of a contract with
 211 any public or private institution of higher education, (B) pursuant to a
 212 contract for service to a special event held at a location or facility
 213 which is not open for business on a daily basis throughout the year,
 214 not to exceed a period of ten days, or (C) pursuant to a contract with a
 215 municipality for which the carrier provides school transportation
 216 service, (4) any motor vehicle operated by or through a community-
 217 based regional transportation system for the elderly established
 218 pursuant to section 55 of public act 05-280, [and] (5) any motor vehicle
 219 operated by or through a community-based regional transportation
 220 system for the visually impaired, and (6) any personal vehicle operated
 221 by a transportation network company driver, as both terms are defined
 222 in section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2016	New section
Sec. 2	July 1, 2016	13b-95
Sec. 3	July 1, 2016	13b-101

Statement of Legislative Commissioners:

In Section 1(a)(2)(B), "from such riders" was deleted for accuracy.

INS *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill, which establishes certain requirements of transportation network companies, does not result in a fiscal impact to the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 5523*****AN ACT CONCERNING INSURANCE REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANIES.*****SUMMARY:**

This bill (1) establishes minimum motor vehicle insurance requirements for transportation network companies (TNCs) (e.g., Uber or Lyft) and their drivers, which they must meet by July 1, 2016 (which is also the bill's effective date), and (2) exempts TNC drivers from state taxicab and livery laws.

Under the bill, a TNC must disclose to its drivers and other interested parties certain information in the event of an accident, including when the TNC driver was using the digital network and any applicable insurance coverage. The TNCs must also disclose certain coverage information to drivers before a driver accepts a ride request through the digital network.

The bill requires a TNC to defend its drivers against covered claims when certain disagreements arise between the driver's insurer and the TNC's insurer over the duty to defend.

Under the bill, insurers (1) are not required to offer policies meeting the minimum requirements and (2) may provide primary or excess coverage, through a contract or endorsement, for a TNC driver's personal vehicle. Insurers may also specifically exclude coverage for TNC drivers.

EFFECTIVE DATE: July 1, 2016

DEFINITIONS***TNCs***

Under the bill, a TNC is a company, corporation, partnership, trust, association, sole proprietorship, or similar organization that uses a digital network to connect TNC drivers to TNC riders for prearranged rides. A “digital network” is any online application, software, website, or system offered or used by a TNC to enable TNC service provision.

TNC Drivers and Riders

Under the bill, a TNC driver is an individual who receives connections to potential TNC riders through a TNC’s digital network. TNC drivers (1) use personal vehicles to offer prearranged rides, (2) pay the TNC a fee to use the digital network, and (3) receive compensation from the TNC for providing rides. TNC drivers are not TNC employees.

A TNC rider is an individual who uses a digital network to accept prearranged rides, from and to locations he or she chooses, from TNC drivers.

Prearranged Rides in Personal Vehicles

Under the bill, a “prearranged ride” is the transportation of a TNC rider by a TNC driver that (1) begins when the driver accepts the rider’s ride request through the TNC’s digital network, (2) continues while the driver transports the rider, and (3) ends when the last requesting rider exits the driver’s personal vehicle. It does not include transportation arranged outside of the TNC’s digital network. (The bill defines a “personal vehicle” as a private passenger motor vehicle owned, leased, or otherwise authorized and used by a TNC driver to provide prearranged rides.)

TNC INSURANCE REQUIREMENTS

The bill requires a TNC driver, or the TNC on his or her behalf, to maintain motor vehicle insurance that recognizes that he or she is a TNC driver and provides minimum coverage in the amount the bill requires. The bill requires different minimum coverage amounts for the periods during which the TNC driver is (1) logged onto the digital network and is available to receive ride requests (“Time Period 1”) and

(2) providing a prearranged ride to a TNC rider (“Time Period 2”).

The minimum coverage requirements may be satisfied by the TNC, TNC driver, or a combination of both of their policies.

TNCs must provide proof of insurance, to drivers they cover, and TNC drivers must carry proof of the bills required coverage during both time periods.

Minimum Insurance Coverage for Time Period 1

When a TNC driver is logged onto the digital network and is available for rides but has not yet picked up a rider, the insurance policy must cover at least (1) \$50,000 per person; up to \$100,000 per accident, for bodily injury or death; (2) \$25,000 for property damage; and (3) \$20,000 per person, up to \$40,000 per accident, for uninsured and underinsured motorists.

Minimum Insurance Coverage for Time Period 2

When a TNC driver is providing a prearranged ride, the insurance policy must cover at least (1) \$1,000,000 for bodily injury, death, or property damage and (2) \$20,000 per person, up to \$40,000 per accident, for uninsured and underinsured motorists.

Required Disclosures

Before allowing a TNC driver to accept a ride request through its digital network, the TNC must disclose in writing to the driver:

1. his or her insurance coverage, including the types and limits of coverage for each time period;
2. a statement that the driver’s motor vehicle insurance policy might not provide coverage during either time period; and
3. a statement that, without physical damage coverage, the use of a personal vehicle that has a lien on it may violate the contract between the driver and lienholder.

Obtaining Insurance

The bill allows TNCs to obtain the required coverage from a Connecticut-authorized insurer or a surplus lines insurer that has an A- or greater credit rating by A.M. Best or an A or similar credit rating by another rating agency approved by the insurance commissioner. The bill requires these insurers to comply with certain laws requiring insurers to notify the administrative services commissioner of any potential state liability arising from claims.

ACCIDENTS AND CLAIMS

Under the bill, if an accident occurs, the TNC driver must provide proof of insurance to all directly interested parties, insurance companies, and investigating police officers on request. A TNC driver must also disclose to these parties whether, when the accident occurred, he or she was logged onto the TNC's digital network or was providing a prearranged ride.

TNC and Insurer Disclosures During Accident Investigations

The bill requires TNCs to provide, upon request from a directly involved party or the TNC driver's insurer, the precise times the driver was logged on and off the digital network in the 12 hours immediately before and after the accident.

Insurers providing coverage for TNCs or TNC drivers must disclose, to any other insurers providing such coverage, the applicable coverage, exclusions, and limits under the insurance policy.

Paying Claims

For any covered collision or comprehensive coverage claim, the bill requires a TNC's insurer to pay the business repairing the motor vehicle directly. The insurer must also jointly pay, if applicable, the motor vehicle's owner and primary lienholder.

Duty to Defend Insured

The bill requires the TNC's insurer to defend the insured against a covered claim if it and the TNC driver's insurer disagree over which insurer must do so.

Under the bill, if a TNC driver's insurance lapses or does not provide the required minimum coverage, the TNC must provide the coverage beginning with the first dollar of a claim. In such a case, the TNC's insurer must defend any claim that arises during either time period. Presumably, the duty to defend applies to the TNC's insurer, although it is unclear to which insurer it applies when the TNC driver is underinsured.

The bill prohibits a TNC's coverage from depending on another insurer first denying the claim and the other insurer from being required to first deny a claim.

Subrogation

Under the bill, insurers excluding coverage for TNC services (see below) have no duty to defend or indemnify an excluded claim against a TNC driver, but an insurer that does so has subrogation rights against any other insurer providing coverage to the TNC driver as the bill requires.

INSURANCE COVERAGE EXCLUSIONS

The bill allows automobile insurers to offer insurance policies that exclude any and all coverage for losses and injuries that occur during either time period. Coverage exclusions may include (1) bodily injury, death, or property liability; (2) personal injury protection; (3) uninsured and underinsured motorist; (4) medical payments; (5) collision physical damage; and (6) comprehensive physical damage.

Insurers are not required to use specific policy language for these exclusions but must clearly and conspicuously disclose such exclusions.

The bill specifies that nothing may be construed to invalidate or limit policies, including those issued prior to the bill's effective date, that exclude coverage for transporting property or passengers for a fee or available for hire by the public (e.g., taxicabs and liveries)

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 17 Nay 1 (03/17/2016)