

TESTIMONY ON H.B. 5523
BEFORE THE INSURANCE AND REAL ESTATE COMMITTEE
March 15, 2016

Good morning, Co-Chairmen Megna and Crisco, Ranking Members Sampson and Kelly, and distinguished members of the Insurance and Real Estate Committee. My name is Nicole Benincasa; I am Uber's Northeast Counsel for Regulatory and Public Policy. I am also joined here today by Matt Powers, General Manager of Uber's Connecticut operations, and Brad Nall, Uber's Insurance Policy Manager. We thank the Committee for taking an interest in Transportation Network Companies (or TNCs).

We support the proposed framework establishing the insurance requirements for TNCs before you today, with some modest technical edits. Twenty nine other states have already taken a similar step in putting in place a uniform, statewide regulatory framework for TNC insurance that works for these exciting and emerging technologies. If passed, this legislation would confirm many of the insurance standards that have attracted riders and drivers to ridesharing and ensure the safety of prearranged rides provided by TNC drivers within Connecticut.

Each month, Uber riders take hundreds of thousands of safe and affordable trips in cities and towns throughout Connecticut, while more than seven thousand driver-partners—perhaps your neighbors or friends—use the Uber app and their personal vehicles as an opportunity to earn income through Uber's low-cost ridesharing option, uberX. uberX's affordability increases access to safe, budget-friendly, and reliable transportation for almost two hundred thousand Connecticut riders each month. For both riders and drivers, ridesharing can have an important impact on their lives. We thank the many local businesses and organizations that represent Connecticut who have voiced their support of ridesharing's positive impacts on their communities over the past two years.

Today, you will hear from members of the insurance industry who can attest firsthand about how this insurance framework will preserve ridesharing safety by mandating minimum levels of insurance coverage while also creating a vibrant TNC insurance marketplace by allowing for insurance policy flexibility. Specifically, this legislation mandates primary insurance of \$1 million in liability coverage for the period when a driver has accepted a ride request and the period when a driver is engaged in the provision of a prearranged ride. It also mandates primary insurance coverage of \$50,000 per person for bodily injury, \$100,000 per accident for bodily injury, and \$25,000 for property damage for the period during which a driver is logged on to the TNC's digital network and is available to receive ride requests for prearranged rides but is not engaged in the provision of a prearranged ride. Further, it mandates uninsured and underinsured motorist coverage, in accordance with Connecticut general statutes, during those times. On the other hand, when a driver is using his or her vehicle exclusively for personal use, his or her personal automobile liability insurance policy applies.

The proposed regulatory framework enumerated in H.B. 5523 follows the TNC regulatory model recently adopted by other states such as Indiana, Wisconsin, and Maine, which adopted statewide regulations for ridesharing this past year. This legislation will allow ridesharing services to flourish in Connecticut while keeping the public safe.

Supplemental to my testimony here today, we are submitting a short summary of the legislation and a description of technical conforming changes for your review. Those changes will only serve to strengthen the legislation by bringing it in line with the proposed model act to regulate insurance requirements for TNCs published by the National Conference of Insurance Legislators last July.

Thank you for your consideration and your work towards creating a permanent home for TNCs in Connecticut. We look forward to continuing our work with the Connecticut legislature, and answering additional questions you may have.



General Assembly

February Session, 2016

Raised Bill No. 5523

LCO No. 2141

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Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:

(INS)

AN ACT CONCERNING INSURANCE REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANIES.

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

Section 1. (NEW) (Effective July 1, 2016) (a) As used in this section:

(1) "Transportation network company" means a company, including a corporation, a partnership, a trust, an association, a sole proprietorship or a similar organization, that uses a digital network to connect transportation network company riders with transportation network company drivers who provide prearranged rides;

(2) "Transportation network company driver" or "driver" means an individual who is not an employee of a transportation network company and who (A) receives connections, in exchange for payment of a fee to such company, to potential transportation network company riders and related services [A1] through the transportation network company's digital network, and (B) uses a personal vehicle to offer or provide prearranged rides to transportation network company riders upon connecting with such riders through the transportation network company's digital network, in exchange for compensation ~~or a fee~~ [A2] from such riders;

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

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

(5) "Prearranged ride" means the transport by a transportation network company driver of a transportation network company rider (A) beginning when the driver accepts, through the transportation network company's digital network, the rider's request for a ride, (B) continuing while the driver transports the rider, and (C) ending when the last requesting rider departs from the driver's personal vehicle. "Prearranged ride" does not include (i) shared expense carpool or vanpool arrangements; (ii) use of a taxicab, livery service, or other for hire vehicle; (iii) a regional transportation provider, or (iv)[A3] the transport of an individual, which transport has not been arranged with a transportation network company driver through the use of a transportation network company's digital network; and

(6) "Personal vehicle" means a private passenger motor vehicle that is (A) owned, leased or otherwise authorized for use [A4]~~the provision of prearranged rides~~ by a transportation network company driver, and (B) used by such driver to provide a prearranged ride, and (C) not a taxicab, livery service, or other for hire vehicle[A5].

(b) (1) Not later than July 1, 2016, a transportation network company driver or a transportation network company on such driver's behalf shall procure and maintain a primary [A6] motor vehicle insurance policy that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport riders for compensation and covers the driver while the driver is logged on to the transportation network company's digital network or while the driver is engaged in a prearranged ride [A7] and provides coverage for such driver as follows:

(A) For the period during which the driver is logged on to the transportation network company's digital network and is available to receive requests for prearranged rides but is not engaged in the provision of a prearranged ride:

(i) Automobile liability insurance coverage of at least (I) fifty thousand dollars for damages by reason of bodily injury to, or the death of, any one person, (II) one hundred thousand dollars for damages by reason of bodily injury or death per accident, and (III) twenty-five thousand dollars for property damage; and

(ii) uninsured and underinsured motorist coverage in accordance with the provisions of section 38a-336 of the general statutes; and

(B) For the period during which the driver is engaged in the provision of a prearranged ride:

(i) Automobile liability insurance coverage of at least one million dollars for damages by reason of bodily injury, death or property damage; and

(ii) uninsured and underinsured motorist coverage in accordance with the provisions of section 38a-336 of the general statutes.

(2) (A) The coverage required under subdivision (1) of this subsection may be satisfied by an automobile insurance policy maintained by a transportation network company driver or the

transportation network company or a combination of both. Nothing in this section shall be construed to ~~(i) require that a personal automobile liability insurance policy provide coverage while a transportation network company driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport riders for compensation~~[A8] require an insurance company that issues automobile insurance policies in this state to issue automobile insurance policies that provide the coverage specified under subdivision (1) of this subsection, or (ii) preclude an insurance company from providing primary or excess coverage by contract or endorsement for a transportation network company driver's personal vehicle.

(B) If an automobile insurance policy maintained by a transportation network company driver has lapsed or does not provide the coverage required under subdivision (1) of this subsection, the transportation network company's automobile insurance policy shall provide such coverage, beginning with the first dollar of a claim, and the insurance company issuing such policy shall have the duty to defend a claim that arises while such driver is logged on to the transportation network company's digital network to receive requests for prearranged rides or is engaged in the provision of a prearranged ride.

~~(C) The insurance required by this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle pursuant to section 14-112 of the general statutes.~~[A9]

~~(D) Coverage under an automobile insurance policy maintained by a transportation network company shall not be dependent on a personal automobile insurer~~[A10] another insurance company first denying a claim, nor shall such other insurance company be required to first deny a claim.

(3) A transportation network company may procure the coverage required under subdivision (1) of this subsection from (A) an insurance company authorized to do business in this state, or (B) a surplus lines insurer eligible pursuant to section 38a-741 of the general statutes [A11] that has at least an A minus credit rating by A.M. Best or an A or similar credit rating by another similar[A12] rating agency approved by the Insurance Commissioner. ~~Any such insurance company or surplus lines insurer shall comply with the provisions of subsection (a) of section 38a-318a of the general statutes.~~[A13]

(c) (1) A transportation network company driver shall carry proof of insurance satisfying the coverage required under subdivision (1) of subsection (b) of this section at all times during such driver's use of a personal vehicle while logged on to a transportation network company's digital network to receive requests for prearranged rides or engaged in the provision of a prearranged ride. ~~The transportation network company shall ensure it provides such proof of insurance to all of its drivers to whom such transportation network company is providing such coverage.~~[A14]

(2) In the event of an accident, a transportation network company driver shall provide such proof of insurance coverage to the directly interested parties, insurance companies and investigating police officers. A transportation network company driver shall disclose, upon request, to directly interested parties, insurance companies and investigating police officers whether such driver

was logged on to the transportation network company's digital network or was engaged in the provision of a prearranged ride at the time of the accident.

(3) In any claims investigation, a transportation network company shall immediately provide, upon request from a directly involved party or the transportation network company driver's insurance company, the precise times such driver was logged on and logged off the transportation network company's digital network in the twelve-hour periods immediately preceding and immediately following the accident. An insurance company providing ~~any~~ [A15] coverage required under subdivision (1) of subsection (b) of this section shall disclose, upon request by any other insurance company involved in the particular claim [A16] ~~providing any coverage required under subdivision (1) of subsection (b) of this section~~, the applicable coverages, exclusions and limits under the automobile insurance policy issued to satisfy the coverage requirements under said subdivision.

(4) If a lender or a secured party has a secured interest in a driver's vehicle and a transportation network company's insurer makes a payment for a claim for damage to the driver's vehicle that is covered under comprehensive or collision damage coverage held by the transportation network company, then the transportation network company shall cause its insurer to issue the payment either directly to the vehicle repair shop or jointly to the owner of the vehicle and the primary lender or secured party on the covered vehicle. [A17]

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

(d) Notwithstanding the provisions of sections 14-112, 38a-334, 38a-335 and 38a-336, and chapters 246 and 700 of the general statutes, an insurance company that offers automobile insurance coverage in this state may offer automobile insurance policies to individuals that exclude any or all coverage afforded under such policies issued to an owner or operator of a personal vehicle [A18] for any loss or injury that occurs during the period an insured is logged on to a transportation network company's digital network and available to receive requests for prearranged rides or engaged in the provision of a prearranged ride. Such exclusions may include, but are not limited to,

- (1) liability coverage for bodily injury and [A19], ~~death or property damage~~,
- (2) personal injury protection coverage,
- (3) uninsured and underinsured motorist coverage,
- (4) medical payments coverage,
- (5) collision physical damage coverage, or
- (6) comprehensive physical damage coverage.

Nothing in this subsection shall be construed to require an insurance company that clearly and conspicuously discloses such exclusions to use any particular policy language or reference to this subsection to exclude any or all coverage for any loss or injury that occurs while a driver is

logged on to a transportation network company's digital network or while a driver provides a prearranged ride[A20] pursuant to this subsection.

(e) (1) An insurance company that excludes coverage pursuant to subsection (d) of this section shall have no duty to defend or indemnify any claim against a transportation network company driver for which coverage is expressly excluded in such driver's automobile insurance policy. If an insurance company defends or indemnifies a claim against a transportation network company driver for which coverage is expressly excluded in such driver's automobile insurance policy, the insurance company shall have a right of contribution[A21] subrogation against other insurance companies that provide automobile insurance coverage to such driver to satisfy the requirements of subdivision (1) of subsection (b) of this section.

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

~~(3) In the event of a claim against a transportation network company driver in which there is disagreement between such driver's insurance company and the transportation network company's insurance company as to which insurance company has the duty to defend, the insurance company issuing the transportation network company's automobile insurance policy shall have the duty to defend such claim.~~[A22]

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

(1) The insurance coverage, including the types of coverage and the limits for each type of coverage, that the transportation network company provides during the period such driver is using his or her personal vehicle while logged on to the transportation network company's digital network and available to receive requests for prearranged rides or engaged in the provision of a prearranged ride;

(2) A statement that such driver's own [A23] automobile insurance policy might not provide coverage while such driver is logged on to the transportation network company's digital network and available to receive requests for prearranged rides or engaged in the provision of a prearranged ride, depending on its terms[A24]; and

(3) A statement that if such driver's personal vehicle used to provide transportation network services [A25] has a lien on it, the use of such vehicle for such purposes without physical damage coverage may violate the terms of the contract with the lienholder.

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

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

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

The term "motor vehicle in livery service" includes every motor vehicle used by any person, association, limited liability company or corporation which represents itself to be in the business of transporting passengers for hire, except (1) any motor bus and any taxicab operated under a certificate of public convenience and necessity issued by the Department of Transportation, (2) any school bus, as defined in section 14-275, or student transportation vehicle, as defined in section 14-212, when used for the transportation of children under the age of twenty-one years, (3) any school bus, as defined in section 14-275, when used for the transportation of passengers (A) by virtue of a contract with any public or private institution of higher education, (B) pursuant to a contract for service to a special event held at a location or facility which is not open for business on a daily basis throughout the year, not to exceed a period of ten days, or (C) pursuant to a contract with a municipality for which the carrier provides school transportation service, (4) any motor vehicle operated by or through a community-based regional transportation system for the elderly established pursuant to section 55 of public act 05-280, [and] (5) any motor vehicle operated by or through a community-based regional transportation system for the visually impaired, and (6) any personal vehicle operated by a transportation network company driver, as both terms are defined in section 1 of this act.

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this Chapter.

[A26]

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| 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 Purpose:

To establish insurance requirements for transportation network company drivers while such drivers are logged on to a transportation network company's digital network to receive requests for prearranged rides or engaged in the provision of prearranged rides.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

LEGISLATIVE SUMMARY // H.B. 5523

THIS BILL ESTABLISHES THE INSURANCE REQUIREMENTS FOR TRANSPORTATION NETWORK COMPANIES (TNCs) IN CONNECTICUT. SPECIFICALLY, THIS BILL:

INSURANCE COVERAGE MINIMUM LEVELS

- Mandates primary insurance of \$1 million in liability coverage for the period when a driver has accepted a ride request (Period 2) and for the period when a driver is engaged in the provision of a prearranged ride (Period 3)
- Mandates primary insurance coverage of \$50,000 per person for personal injury, \$100,000 per accident for personal injury, and \$25,000 for property damage (50/100/25) for the period during which a driver is logged on to the TNC's digital network and is available to receive ride requests for prearranged rides but is not engaged in the provision of a prearranged ride (Period 1)
- Mandates uninsured and underinsured motorist coverage in accordance with Connecticut general statutes for Periods 1, 2, and 3

INSURANCE POLICY FLEXIBILITY

- Allows for these coverage mandates to be satisfied by either a policy maintained by the TNC driver, by the TNC itself, or a combination of both, which will help create a vibrant TNC insurance marketplace

PERSONAL AUTO POLICIES AND DISCLOSURES

- Allows for the development of TNC coverage that will be endorsed onto a personal auto policy
- Expressly permits personal auto policies to exclude coverage for TNC related driving
- States that the primary TNC coverage shall not be dependent upon a personal auto policy denying a claim before coverage is triggered
- Requires that TNCs disclose to TNC drivers that their current personal auto policy may not provide any coverage for TNC-related driving

PROOF OF INSURANCE AND ACCIDENTS

- Requires TNC drivers to carry proof of TNC insurance coverage
- Requires TNC drivers to disclose, after an accident, whether they were logged into the TNC system
- Requires cooperation between TNCs and insurers involved in a coverage investigation
- Grants a statutory right of contribution against TNCs for claims insurers may have erroneously paid
- Requires an insurance company to make payment on any claim covered under the collision or comprehensive coverage of a TNC's insurance policy directly to the business repairing the vehicle and (if applicable) to the owner of the vehicle and the primary lienholder of the vehicle

DIFFERENTIATION BETWEEN TNCs AND TAXICABS/LIVERIES

- Establishes that vehicles operated by TNC drivers are not taxicabs or motor vehicles in livery service
- Requires rides to be arranged with a TNC driver through the use of a TNC's digital network