

29-LS0616\N
Wallace
4/8/15

CS FOR SENATE BILL NO. 58(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE STATE AFFAIRS COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

"An Act relating to transportation network companies and drivers; relating to transportation network company and driver automobile insurance; relating to workers' compensation for horse carriage services and transportation network company drivers; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 21.96 is amended by adding a new section to read:

Sec. 21.96.018. Transportation network company insurance provisions. (a)

Insurers that write automobile insurance in the state may exclude any and all coverage offered under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged onto the digital network of a transportation network company or while a driver provides a prearranged ride. The right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including

(1) liability coverage for bodily injury and property damage;

- (2) personal injury protection coverage;
- (3) uninsured and underinsured motorist coverage;
- (4) medical payments coverage;
- (5) comprehensive physical damage coverage; and
- (6) collision physical damage coverage.

(b) Exclusions under (a) of this section apply notwithstanding any requirement under AS 28.20. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged onto the digital network of a transportation network company, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a personal vehicle to transport passengers for compensation.

(c) Nothing in this section precludes an insurer from providing coverage for the personal vehicle of a transportation network company driver if the insurer chooses to provide coverage by contract or endorsement.

(d) Automobile insurers that exclude coverage under (a) of this section do not have a duty to defend or indemnify any claim expressly excluded under (a) of this section. Nothing in this section may be considered to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in this state before the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(e) An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of AS 28.23.010 at the time of loss.

(f) In a claims coverage investigation, a transportation network company and any insurer potentially providing coverage under AS 28.23.010 shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver, if applicable, including the precise times that a transportation network company driver logged onto and off of the digital network of a transportation network company in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident

and disclose to one another a clear description of the coverage, exclusions, and limits provided under any automobile insurance maintained under AS 28.23.010.

* **Sec. 2.** AS 21.96 is amended by adding a new section to read:

Sec. 21.96.200. Definitions. In this chapter,

(1) "digital network" means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers;

(2) "personal vehicle" means a motor vehicle that is used by a transportation network company driver and is owned, leased, or otherwise authorized for use by the transportation network company driver; "personal vehicle" does not include a taxi, limousine, or other commercial motor vehicle for hire;

(3) "prearranged ride" means transportation provided by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle; "prearranged ride" does not include shared expense carpool or vanpool arrangements or transportation provided using a taxi, limousine, or other commercial motor vehicle for hire;

(4) "transportation network company" means a corporation, partnership, sole proprietorship, or other entity operating in the state that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides; a transportation network company may not be considered to control, direct, or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract;

(5) "transportation network company driver" or "driver" means an individual who

(A) receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(B) uses a personal vehicle to offer or provide a prearranged

ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee;

(6) "transportation network company rider" or "rider" means an individual or person who uses a digital network of a transportation network company to connect with a transportation network company driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

* **Sec. 3.** AS 23.30.230(a) is amended to read:

(a) The following persons are not covered by this chapter:

(1) a part-time baby-sitter;

(2) a cleaning person;

(3) harvest help and similar part-time or transient help;

(4) a person employed as a sports official on a contractual basis and who officiates only at sports events in which the players are not compensated; in this paragraph, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper, organizer, or other person who is a neutral participant in a sports event;

(5) a person employed as an entertainer on a contractual basis;

(6) a commercial fisherman, as defined in AS 16.05.940;

(7) an individual who drives a taxicab whose compensation and written contractual arrangement is as described in AS 23.10.055(a)(13), unless the hours worked by the individual or the areas in which the individual may work are restricted except to comply with local ordinances;

(8) a participant in the Alaska temporary assistance program (AS 47.27) who is engaged in work activities required under AS 47.27.035 other than subsidized or unsubsidized work or on-the-job training;

(9) a person employed as a player or coach by a professional hockey team if the person is covered under a health care insurance plan provided by the professional hockey team, the coverage is applicable to both work related and nonwork related injuries, and the coverage provides medical and related benefits as required under this chapter, except that coverage may not be limited to two years from the date of injury as described under AS 23.30.095(a); in this paragraph, "health care

insurance" has the meaning given in AS 21.12.050; [AND]

(10) a person working as a qualified real estate licensee who performs services under a written contract that provides that the person will not be treated as an employee for federal income tax or workers' compensation purposes; in this paragraph, "qualified real estate licensee" means a person who is required to be licensed under AS 08.88.161 and whose payment for services is directly related to sales or other output rather than the number of hours worked;

(11) a person who operates a horse carriage service; and

(12) a transportation network company driver who provides a prearranged ride or is otherwise logged onto the digital network of a transportation network company as a driver.

* **Sec. 4.** AS 23.30.230(c) is amended by adding new paragraphs to read:

(4) "digital network" means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers;

(5) "personal vehicle" means a motor vehicle that is used by a transportation network company driver and is owned, leased, or otherwise authorized for use by the transportation network company driver; "personal vehicle" does not include a taxi, limousine, or other commercial motor vehicle for hire;

(6) "prearranged ride" means transportation provided by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle; "prearranged ride" does not include shared expense carpool or vanpool arrangements or transportation provided using a taxi, limousine, or other commercial motor vehicle for hire;

(7) "transportation network company" means a corporation, partnership, sole proprietorship, or other entity operating in the state that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides; a transportation network company may not be considered to control, direct, or manage the personal vehicles or

1 transportation network company drivers that connect to its digital network, except
2 where agreed to by written contract;

3 (8) "transportation network company driver" or "driver" means an
4 individual who

5 (A) receives connections to potential passengers and related
6 services from a transportation network company in exchange for payment of a
7 fee to the transportation network company; and

8 (B) uses a personal vehicle to offer or provide a prearranged
9 ride to riders upon connection through a digital network controlled by a
10 transportation network company in return for compensation or payment of a
11 fee;

12 (9) "transportation network company rider" or "rider" means an
13 individual or person who uses a digital network of a transportation network company
14 to connect with a transportation network company driver who provides prearranged
15 rides to the rider in the driver's personal vehicle between points chosen by the rider.

16 * **Sec. 5.** AS 28 is amended by adding a new chapter to read:

17 **Chapter 23. Transportation Network Companies and Drivers.**

18 **Sec. 28.23.010. Financial responsibility of transportation network**
19 **companies.** (a) A transportation network company driver or transportation network
20 company on behalf of the driver shall maintain primary automobile insurance that
21 recognizes that the driver is a transportation network company driver or otherwise
22 uses a vehicle to transport passengers for compensation and that covers the driver
23 while the driver is logged onto the digital network of a transportation network
24 company or while the driver is engaged in a prearranged ride.

25 (b) The following automobile insurance requirements shall apply while a
26 participating transportation network company driver is logged onto the digital network
27 of a transportation network company and is available to receive transportation requests
28 but is not engaged in a prearranged ride:

29 (1) primary automobile liability insurance in the amount of at least
30 \$50,000 for death and bodily injury for each person, \$100,000 for death and bodily
31 injury for each incident, and \$25,000 for property damage;

(2) the coverage requirements of this subsection may be satisfied by any of the following:

(A) automobile insurance maintained by the transportation network company driver;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of (A) and (B) of this paragraph.

(c) The following automobile insurance requirements shall apply while a transportation network company driver is engaged in a prearranged ride:

(1) primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury, and property damage;

(2) the coverage requirements of this subsection may be satisfied by any of the following:

(A) automobile insurance maintained by the transportation network company driver;

(B) automobile insurance maintained by the transportation network company; or

(C) any combination of (A) and (B) of this paragraph.

(d) If insurance maintained by a driver under (b) or (c) of this section has lapsed or does not provide the required coverage, insurance maintained by a transportation network company must provide the coverage required by this section beginning with the first dollar of a claim, and the transportation network company has the duty to defend that claim.

(e) Coverage under an automobile insurance policy maintained by the transportation network company may not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required first to deny a claim.

(f) Insurance required by this section may be placed with an insurer licensed under AS 21.09.010 or with a surplus lines insurer eligible under AS 21.34.

(g) Insurance satisfying the requirements of this section shall be considered to satisfy the financial responsibility requirement for a motor vehicle under AS 28.20.

(h) A transportation network company driver shall carry proof of coverage under (b) and (c) of this section with the driver at all times during the driver's use of a vehicle in connection with a digital network of a transportation network company. In the event of an accident, a transportation network company driver shall provide the insurance coverage information to the directly interested parties, automobile insurers, and investigating police officers upon request under AS 28.22.019. Upon that request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers whether the driver was logged onto the digital network of a transportation network company or on a prearranged ride at the time of an accident.

Sec. 28.23.015. Transportation network company automobile insurance disclosures. A transportation network company shall disclose in writing to transportation network company drivers the following before the drivers are allowed to accept a request for a prearranged ride on the digital network of the transportation network company:

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

(2) that the automobile insurance policy of the transportation network company driver might not provide any coverage while the driver is logged onto the digital network of a transportation network company and is available to receive transportation requests or is engaged in a prearranged ride, depending on the terms of the automobile insurance policy of the driver.

Sec. 28.23.200. Definitions. In this chapter,

(1) "digital network" means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers;

(2) "personal vehicle" means a motor vehicle that is used by a transportation network company driver and is owned, leased, or otherwise authorized for use by the transportation network company driver; "personal vehicle" does not

1 include a taxi, limousine, or other commercial motor vehicle for hire;

2 (3) "prearranged ride" means transportation provided by a driver to a
3 rider, beginning when a driver accepts a ride requested by a rider through a digital
4 network controlled by a transportation network company, continuing while the driver
5 transports a requesting rider, and ending when the last requesting rider departs from
6 the personal vehicle; "prearranged ride" does not include shared expense carpool or
7 vanpool arrangements or transportation provided using a taxi, limousine, or other
8 commercial motor vehicle for hire;

9 (4) "transportation network company" means a corporation,
10 partnership, sole proprietorship, or other entity operating in the state that uses a digital
11 network to connect transportation network company riders to transportation network
12 company drivers who provide prearranged rides; a transportation network company
13 may not be considered to control, direct, or manage the personal vehicles or
14 transportation network company drivers that connect to its digital network, except
15 where agreed to by written contract;

16 (5) "transportation network company driver" or "driver" means an
17 individual who

18 (A) receives connections to potential passengers and related
19 services from a transportation network company in exchange for payment of a
20 fee to the transportation network company; and

21 (B) uses a personal vehicle to offer or provide a prearranged
22 ride to riders upon connection through a digital network controlled by a
23 transportation network company in return for compensation or payment of a
24 fee;

25 (6) "transportation network company rider" or "rider" means an
26 individual or person who uses a digital network of a transportation network company
27 to connect with a transportation network company driver who provides prearranged
28 rides to the rider in the driver's personal vehicle between points chosen by the rider.

29 * **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY.** Sections 3 and 4 of this Act apply to all claims or proceedings

1 pending on or after the effective date of secs. 3 and 4 this Act relating to acts or injuries
2 occurring before, on, or after the effective date of secs. 3 and 4 this Act.

3 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 **RETROACTIVITY.** Sections 3, 4, and 6 of this Act are retroactive to January 1, 2014.

6 * **Sec. 8.** Section 5 of this Act takes effect July 1, 2015.

7 * **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect immediately under
8 AS 01.10.070(c).