

SENATE BILL NO. 14

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATORS COSTELLO, MacKinnon

Introduced: 1/18/17

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to transportation network companies and transportation network**
2 **company drivers."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE INTENT. It is the intent of the legislature to clarify the Alaska
7 Workers' Compensation Act, ensure the safety, reliability, and cost-effectiveness of rides
8 provided by transportation network company drivers in the state, and preserve and enhance
9 access to these important transportation options for residents of and visitors to the state.

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

11 **Sec. 21.96.018. Transportation network company insurance provisions.** (a)
12 Insurers that write automobile insurance in the state may exclude any and all coverage
13 offered under the policy issued to an owner or operator of a personal vehicle for any
14 loss or injury that occurs while a driver is logged onto the digital network of a

1 transportation network company or while a driver provides a prearranged ride. The
 2 right to exclude all coverage may apply to any coverage included in an automobile
 3 insurance policy, including

- 4 (1) liability coverage for bodily injury and property damage;
- 5 (2) uninsured and underinsured motorist coverage;
- 6 (3) medical payments coverage;
- 7 (4) comprehensive physical damage coverage; and
- 8 (5) collision physical damage coverage.

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

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

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

24 (e) An automobile insurer that defends or indemnifies a claim against a driver
 25 that is excluded under the terms of its policy shall have a right of contribution against
 26 other insurers that provide automobile insurance to the same driver in satisfaction of
 27 the coverage requirements of AS 28.23.060 at the time of loss.

28 (f) In a claims coverage investigation, a transportation network company and
 29 any insurer potentially providing coverage under AS 28.23.060 shall cooperate to
 30 facilitate the exchange of relevant information with directly involved parties and any
 31 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 28.23.060.

(g) In this section, "digital network," "personal vehicle," "prearranged ride," "transportation network company," "transportation network company driver," and "driver" have the meanings given in AS 28.23.180.

*** 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; and

(11) 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" has the meaning given in AS 28.23.180;

(5) "prearranged ride" has the meaning given in AS 28.23.180;

(6) "transportation network company" has the meaning given in AS 28.23.180;

(7) "transportation network company driver" has the meaning given in AS 28.23.180.

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

Chapter 23. Transportation Network Companies and Drivers.

Sec. 28.23.010. Not other carriers. A transportation network company or driver is not a common carrier, contract carrier, or motor carrier, and may not provide taxicab or for-hire vehicle service. The state or a municipality may not require a transportation network company driver to register the personal vehicle the driver uses to provide prearranged rides as a commercial or for-hire vehicle.

Sec. 28.23.020. Business license required; agent. A transportation network company shall comply with the provisions of AS 43.70 (Alaska Business License Act). A transportation network company shall maintain an agent for service of process in the state.

Sec. 28.23.030. Fare collected for services. A transportation network company may charge a fare on behalf of a transportation network company driver for

1 a service provided to a transportation network company rider. Before a fare is
 2 collected from a rider, the transportation network company shall disclose to the rider,
 3 on the company's Internet website or in the company's software application, the
 4 transportation network company's fare or fare calculation method. The transportation
 5 network company shall provide riders the option of receiving an estimated fare before
 6 the rider enters the vehicle of a transportation network company driver.

7 **Sec. 28.23.040. Identification of transportation network company vehicles**
 8 **and drivers.** Before a rider enters the personal vehicle of a transportation network
 9 company driver, the transportation network company shall display on the company's
 10 Internet website or in the company's software application a picture of the
 11 transportation network company driver and the license plate number of the personal
 12 vehicle providing the prearranged ride.

13 **Sec. 28.23.050. Electronic receipt.** Within a reasonable period following the
 14 completion of a trip, the transportation network company shall transmit to the rider, on
 15 behalf of the transportation network company driver, an electronic receipt showing the
 16 origin and destination of the trip and itemizing the fare paid, if any.

17 **Sec. 28.23.060. Financial responsibility of transportation network**
 18 **companies.** (a) A transportation network company driver, or transportation network
 19 company on behalf of the driver, shall maintain primary automobile insurance that
 20 recognizes that the driver is a transportation network company driver or otherwise
 21 uses a vehicle to transport passengers for compensation and that covers the driver
 22 while the driver is logged onto the digital network of a transportation network
 23 company or while the driver is engaged in a prearranged ride.

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

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

31 (2) the coverage requirements of this subsection may be satisfied by

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

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

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

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

8 (1) primary automobile liability insurance that provides at least
9 \$1,000,000 for death, bodily injury, and property damage;

10 (2) the coverage requirements of this subsection may be satisfied by

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

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

15 (C) a combination of (A) and (B) of this paragraph.

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

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

25 (f) Insurance required by this section may be placed with an insurer licensed
26 under AS 21.09.060 or with a surplus lines insurer eligible under AS 21.34 that has a
27 credit rating not lower than A- from A.M. Best or a similar rating from another rating
28 agency recognized by the division of insurance.

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

31 (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.

(i) In the event of a loss involving a personal vehicle used in connection with a transportation network company and if the personal vehicle is subject to a lien, the insurance carrier for the transportation network company shall pay a claim covered under collision physical damage coverage or comprehensive physical damage coverage directly to the business repairing the personal vehicle or jointly to the owner of the personal vehicle and the primary lienholder on the covered personal vehicle.

Sec. 28.23.070. 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;

(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; and

(3) that, if the personal vehicle the transportation network company driver uses to provide transportation network services has a lien against it, using the

1 motor vehicle for transportation network services without physical damage coverage
2 may violate the terms of the contract with the lienholder.

3 **Sec. 28.23.080. Limitations on transportation network companies.** A
4 transportation network company is not an employer under AS 23.20.520. A
5 transportation network company driver is an independent contractor and not an
6 employee of the transportation network company if the transportation network
7 company

8 (1) does not unilaterally prescribe specific hours during which a driver
9 shall be logged onto the digital network of the transportation network company;

10 (2) does not impose restrictions on the ability of the driver to use the
11 digital network of other transportation network companies;

12 (3) does not restrict a driver from engaging in any other occupation or
13 business; and

14 (4) enters into a written agreement with the driver stating that the
15 driver is an independent contractor for the transportation network company.

16 **Sec. 28.23.090. Zero tolerance for drug or alcohol use.** The transportation
17 network company shall implement a zero-tolerance policy prohibiting drug and
18 alcohol use while a driver is providing a prearranged ride or is logged onto the digital
19 network of the transportation network company but not providing a prearranged ride.
20 The transportation network company shall post the company's zero-tolerance policy
21 prohibiting drug and alcohol use on the company's Internet website.

22 **Sec. 28.23.100. Transportation network company driver requirements.**
23 Before a transportation network company allows an individual to accept trip requests
24 through its digital network, the transportation network company shall

25 (1) require the individual to submit to the transportation network
26 company an application that includes the individual's address, age, and driver's license
27 number, the motor vehicle registration and automobile liability insurance information
28 for the individual's personal vehicle, and other information required by the
29 transportation network company;

30 (2) conduct a local and national criminal background check for each
31 applicant that reviews

(A) a multi-state or multi-jurisdiction criminal records locator or a similar commercial nationwide database with validation; and

(B) the United States Department of Justice National Sex Offender Public Website; and

(3) obtain and review a driving history research report for the individual.

Sec. 28.23.110. Nondiscrimination and accessibility. (a) The transportation network company shall adopt a policy prohibiting discrimination based on destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to a rider or potential rider. The company shall inform drivers of the policy.

(b) A transportation network company driver shall comply with all applicable laws relating to accommodation of service animals.

(c) A transportation network company may not impose additional charges for providing services to riders with physical disabilities because of those disabilities.

Sec. 28.23.120. Records. A transportation network company shall keep records

(1) maintained by the transportation network company for an individual prearranged ride for at least one year from the date of the prearranged ride; and

(2) maintained by individual transportation network company drivers for one year after the agreement between the transportation network company and driver entered into under AS 28.23.080(4) ends.

Sec. 28.23.180. 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 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. 28.23.190. Short title. This chapter may be cited as the Transportation Network Companies Act.