LAWS OF ALASKA

2017

Source **Chapter No.**
CSHB 132(L&C) _______

AN ACT

Relating to transportation network companies and transportation network company drivers; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

Relating to transportation network companies and transportation network company drivers; and providing for an effective date.

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

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

*** Sec. 2.** AS 09.65 is amended by adding a new section to read:

Sec. 09.65.350. Immunity for certain actions related to transportation network companies. (a) The state or a municipality, and the officers, employees, and agents of the state or a municipality, are not liable in tort for damages for the injury to or death of a person or property damage resulting from an act, omission, or failure of a transportation network company or driver to comply with the requirements of AS 28.23 or other law.

(b) In this section, "transportation network company" and "driver" have the meanings given in AS 28.23.180.

* **Sec. 3.** 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, notwithstanding any requirement under AS 28.20, exclude any and all coverage afforded 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) uninsured and underinsured motorist coverage;

(3) medical payments coverage;

(4) comprehensive physical damage coverage; and

(5) collision physical damage coverage.

(b) Nothing in this section

(1) implies or requires that a personal automobile insurance policy provide coverage while the driver

(A) is logged onto the digital network of a transportation network company;

(B) is engaged in a prearranged ride; or

(C) otherwise uses a personal vehicle to transport passengers for compensation;

(2) may be construed to require an insurer to use specific policy language or to refer to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver

(A) is logged onto the digital network of a transportation network company; or

(B) provides a prearranged ride; or

(3) 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.

(c) 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.

(d) An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of the automobile insurer's 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 28.23.050 at the time of loss.

(e) In a claims coverage investigation, a transportation network company shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, 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. Insurers potentially providing coverage shall disclose, upon request of any insurer involved in the claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained under AS 28.23.050.

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

* **Sec. 4.** 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. 5.** 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" or "driver" has the meaning given in AS 28.23.180.

* **Sec. 6.** 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. Fare collected for services. A transportation network company may charge a fare to a transportation network company rider. Before a fare is collected from a rider, the transportation network company shall disclose to the rider, on the company's Internet website or in the company's software application, the transportation network company's fare or fare calculation method. The transportation network company shall provide riders the option of receiving an estimated fare before the rider enters the personal vehicle of a transportation network company driver.

Sec. 28.23.030. Identification of transportation network company vehicles and drivers. Before a rider enters the personal vehicle of a transportation network company driver, the transportation network company shall display on the company's Internet website or in the company's software application a picture of the transportation network company driver and the license plate number of the personal vehicle providing the prearranged ride.

Sec. 28.23.040. Electronic receipt. Within a reasonable period following the completion of a trip, the transportation network company shall transmit to the rider, on behalf of the transportation network company driver, an electronic receipt showing the origin and destination of the trip and itemizing the fare paid, if any.

Sec. 28.23.050. Financial responsibility of transportation network companies. (a) A transportation network company driver, or transportation network company on behalf of the driver, shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation and that covers the driver while the driver is logged onto the digital network of a transportation network company or while the driver is engaged in a prearranged ride.

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

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

(2) uninsured or underinsured motor vehicle coverage as required under AS 21.96.020 and AS 28.20.440;

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

(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) uninsured or underinsured motor vehicle coverage as required under AS 21.96.020 and AS 28.20.440;

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

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

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

(C) a 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 insurer 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 21.09.060 or with a surplus lines insurer eligible under AS 21.34 that has a credit rating not lower than A- from A.M. Best or a similar rating from another rating agency recognized by the division of insurance.

(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.

(i) If the insurance carrier for the transportation network company makes a payment for a claim for physical damage to a personal vehicle that is subject to a lien, the insurance carrier shall pay the claim jointly to the owner of the personal vehicle and the primary lienholder or directly to the business repairing the personal vehicle.

Sec. 28.23.060. 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 motor vehicle for transportation network services without physical damage coverage may violate the terms of the contract with the lienholder.

Sec. 28.23.070. Certificate of insurance. A transportation network company shall file a written certificate of insurance with the director of the division of insurance demonstrating that the transportation network company has satisfied the requirements of AS 28.23.050. The certificate of insurance must state that the applicable insurance policy may not be cancelled unless written notice is provided to the division of insurance at least 30 days before cancellation.

Sec. 28.23.080. Limitations on transportation network companies. (a) Except as provided in (b) of this section, a transportation network company is not an employer of transportation network company drivers under AS 23.10.699, AS 23.20.520, or AS 23.30.395. A transportation network company driver is an independent contractor for all purposes and is not an employee of the transportation network company if the transportation network company

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

(2) does not impose restrictions on the ability of the driver to use the

digital network of other transportation network companies;

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

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

(b) This section does not apply to AS 23.20 if the transportation network company is owned or operated by the state, a municipality, a federally recognized tribe, or an entity that is exempt from federal taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code).

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

Sec. 28.23.100. Transportation network company driver requirements. (a) Before a transportation network company allows an individual to accept trip requests through the transportation network company's digital network, the transportation network company, or a third party, shall

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

(2) conduct a local and national criminal background check for each 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.

(b) A transportation network company may not allow a driver to accept trip requests through the transportation network company's digital network if the driver

(1) has, in the past three years,

(A) been convicted of or forfeited bail for a third or subsequent moving traffic violation;

(B) been convicted of

(i) driving while license canceled, suspended, revoked, or in violation of a limitation under AS 28.15.291;

(ii) failure to stop at the direction of a peace officer under AS 28.35.182;

(iii) reckless or negligent driving under AS 28.35.400 or 28.35.410; or

(iv) a law or ordinance of another jurisdiction having similar elements to an offense listed in (i) - (iii) of this subparagraph;

(2) has, in the past seven years, been convicted of

(A) any offense that is an unclassified, class A, or class B felony in this or another jurisdiction; or

(B) a felony or misdemeanor involving

(i) a crime under AS 28.33.030, AS 28.35.030, or 28.35.032;

(ii) a crime under AS 28.35.050 or 28.35.060;

(iii) a crime against a person under AS 11.41; or

(iv) a law or ordinance of another jurisdiction having similar elements to an offense listed in (i) - (iii) of this subparagraph;

(3) is listed on the United States Department of Justice National Sex Offender Public Website; or

(4) is under 21 years of age.

(c) A transportation network company driver may not

(1) provide a prearranged ride unless the transportation network company rider has been matched to the driver through the digital network of the

transportation network company;

(2) solicit a ride or accept a street hail request for a ride; or

(3) solicit or accept cash payments for a fare from a rider.

Sec. 28.23.105. Transportation network company vehicles. (a) Before a transportation network company allows an individual to accept trip requests through the transportation network company's digital network and before a personal vehicle may be used to provide transportation network company services, the transportation network company shall conduct, or confirm satisfactory completion of, a safety inspection of the individual's personal vehicle. The safety inspection required under this subsection must include an inspection of the following components of the personal vehicle:

(1) foot brakes;

(2) parking brakes;

(3) steering mechanism;

(4) windshield;

(5) rear window and other glass;

(6) windshield wipers;

(7) headlights;

(8) taillights;

(9) brake lights;

(10) front seat adjustment mechanism;

(11) doors;

(12) turn signal lights;

(13) horn;

(14) speedometer;

(15) bumpers;

(16) muffler and exhaust system;

(17) tires, including tread depth;

(18) interior and exterior mirrors;

(19) safety belts.

(b) A motor vehicle that is used by a transportation network company driver for transportation network company purposes may not be more than 12 years of age.

Sec. 28.23.110. Nondiscrimination and accessibility. (a) The transportation network company shall adopt a policy prohibiting discrimination based on destination or a class or status protected under AS 18.80.210 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 two years from the date of the prearranged ride; and

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

Sec. 28.23.130. International airports. The Department of Transportation and Public Facilities may, under AS 02.15, enter into a contract, lease, or other arrangement with a transportation network company for use of an international airport owned or operated by the state. A contract, lease, or arrangement under AS 02.15 must be consistent with this chapter.

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 the transportation network company's 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 a prearranged ride 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.

*** Sec. 7.** AS 29.10.200 is amended by adding a new paragraph to read:

(66) AS 29.35.148 (regulation of transportation network companies or drivers).

*** Sec. 8.** AS 29.35 is amended by adding a new section to read:

Sec. 29.35.148. Regulation of transportation network companies or drivers. (a) The authority to regulate transportation network companies and transportation network company drivers is reserved to the state, and, except as specifically provided by statute, a municipality may not enact or enforce an ordinance regulating transportation network companies or transportation network company drivers.

(b) The prohibition on regulation under (a) of this section does not include

(1) imposition of a municipal sales tax on a transportation network company driver that taxes a trip originating in the municipality in the same manner that other services are taxed in the municipality;

(2) a municipal traffic ordinance.

(c) Notwithstanding AS 28.01.010 or (a) of this section, a municipality may by ordinance ratified by the voters in a regular municipal election prohibit transportation network companies from conducting activities under AS 28.23 within the municipality.

(d) This section applies to home rule and general law municipalities.

(e) In this section,

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

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

*** Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).