

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 90**

**Representatives Hackett, Bishoff**

**Cosponsors: Representatives Grossman, O'Brien, S., Slesnick, Thompson,  
Stinziano, Leland**

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**A BILL**

To enact sections 3938.01, 3938.02, 3938.03,  
3938.04, 3938.05, 3938.06, 3938.07, and 3938.99  
of the Revised Code to regulate insurance  
requirements for transportation network  
companies and transportation network company  
drivers.

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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3938.01, 3938.02, 3938.03,  
3938.04, 3938.05, 3938.06, 3938.07, and 3938.99 of the Revised  
Code be enacted to read as follows:

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**Sec. 3938.01.** As used in this chapter:

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(A) "Owner" means the person whose name appears on the  
personal vehicle's registration.

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(B) "Personal vehicle" means a vehicle that is used by a  
transportation network company driver in connection with  
providing transportation network company services.

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(C) "Rider" means an individual who, through the use of a  
transportation network company, is connected with a

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transportation network company driver to obtain transportation 18  
network company services in a personal vehicle. "Rider" includes 19  
goods that an individual has arranged to be transported by a 20  
transportation network company driver in a personal vehicle, 21  
regardless of whether that individual is occupying that personal 22  
vehicle at the same time as the goods being transported. 23

(D) "Transportation network company" includes a 24  
corporation, partnership, association, limited liability 25  
company, proprietorship, or other entity operating in this state 26  
that uses an online application or platform, digital network, or 27  
similar means to connect riders to transportation network 28  
company drivers for the purpose of providing transportation for 29  
compensation, other than for the reimbursement of expenses in a 30  
ridesharing arrangement as defined in section 4921.01 of Revised 31  
Code. 32

(E) "Transportation network company driver" or "driver" 33  
means an individual who uses a personal vehicle to provide 34  
transportation network company services. A transportation 35  
network company driver is not required to be an employee of a 36  
transportation network company. 37

(F)(1) "Transportation network company services" means 38  
services provided by a transportation network company driver in 39  
connection with the transportation network company and includes 40  
both of the following: 41

(a) The period of time during which the transportation 42  
network company driver is available to provide transportation 43  
network company services by logging on to the transportation 44  
network company's online application or platform, digital 45  
network, or other system, including the time period before the 46  
transportation network company driver has been matched with a 47

rider and after the driver has been matched with a rider; 48

(b) The time period during which a rider and any other 49  
passengers are occupying the personal vehicle. 50

(2) "Transportation network company services" end when the 51  
transportation network company driver logs off or disconnects 52  
from the online application or platform, digital network, or 53  
other system or when the rider and any other passengers 54  
completely exit the personal vehicle, whichever is later. 55

(3) "Transportation network company services" do not 56  
include services provided by any of the following: 57

(a) A taxicab; 58

(b) A chauffeured limousine as defined in section 4501.01 59  
of the Revised Code; 60

(c) Any commercially registered vehicle and commercially 61  
licensed driver; 62

(d) A ridesharing arrangement as defined in section 63  
4921.01 of the Revised Code when any fee charged each individual 64  
transported in such an arrangement is in such an amount as to 65  
recover only the individual's share of the costs of operating 66  
the vehicle for that purpose. 67

**Sec. 3938.02. (A) Each transportation network company** 68  
**driver, or a transportation network company on behalf of the** 69  
**driver or personal vehicle owner, shall maintain an automobile** 70  
**liability insurance policy that does all of the following:** 71

(1) Provides primary coverage for liability arising from 72  
the transportation network company driver's use of a personal 73  
vehicle during the period of time the driver is providing 74  
transportation network company services; 75

(2) Meets, at minimum, the proof of financial 76  
responsibility requirements as described in division (B) of 77  
section 4509.80 of the Revised Code and is one of the following: 78

(a) A commercial automobile liability insurance policy 79  
that provides primary coverage for transportation network 80  
company services similar in all material respects to coverage 81  
for chauffeured limousines; 82

(b) An insurance rider to, or an endorsement of, the 83  
transportation network company driver's personal automobile 84  
liability insurance obtained to satisfy the proof of financial 85  
responsibility required by Chapter 4509. of the Revised Code. 86  
The rider or endorsement may be combined with an excess policy 87  
provided by the transportation network company such that the 88  
combined limits of the policies meet those required in division 89  
(B) of section 4509.80 of the Revised Code; 90

(c) A commercial automobile liability insurance policy 91  
purchased by the transportation network company that provides 92  
primary coverage for the period of time when a transportation 93  
network company driver is providing transportation network 94  
company services. The policy shall also provide first party 95  
coverage to the personal vehicle's owner at the same limits, 96  
deductibles, and coverage options purchased by the owner on the 97  
owner's personal automobile policy. 98

(3) The policies described in division (A) (2) of this 99  
section shall attach and provide coverage regardless of whether 100  
a transportation network company driver has agreed to waive 101  
coverage or has entered into an agreement with the 102  
transportation network company to hold harmless or indemnify the 103  
transportation network company. 104

(B) If a transportation network company purchases a 105  
liability insurance policy as described in division (A) (2) (c) of 106  
this section, it shall provide documentation to the registrar of 107  
motor vehicles evidencing the purchase of the policy within 108  
thirty days after the effective date of the policy. 109

(C) A liability insurance policy required by this section 110  
may be placed with either of the following: 111

(1) A domestic, foreign, or alien insurance company 112  
organized or admitted under Title XXXIX of the Revised Code to 113  
issue such a policy; 114

(2) An insurer not holding a license in this state if the 115  
policy is obtained through an individual holding a surplus lines 116  
broker's license in accordance with sections 3905.30 to 3905.38 117  
of the Revised Code. 118

(D) (1) If the transportation network company requires the 119  
transportation network company driver to purchase an insurance 120  
rider to, or an endorsement of, the driver's personal automobile 121  
liability insurance policy, the company shall verify all of the 122  
following: 123

(a) The driver or the owner of the personal vehicle has 124  
purchased the rider or endorsement before allowing the driver to 125  
provide transportation network company services; 126

(b) The rider or endorsement remains in force continuously 127  
during the time the driver is providing transportation network 128  
company services; 129

(c) The rider or endorsement covers transportation network 130  
company services during the time the driver is providing those 131  
services. 132

(2) A transportation network company that fails to verify 133  
the information required in division (D)(1) of this section is 134  
liable, in the absence of a liability insurance policy meeting 135  
the requirements of division (A) of this section, for any 136  
damages or losses that would have been covered by the required 137  
insurance liability policy had the policy been in force when the 138  
damages or losses were sustained. 139

Sec. 3938.03. (A) Notwithstanding any provision of the 140  
Revised Code or any provision in a personal lines primary or 141  
excess insurance policy to the contrary: 142

(1) A personal lines insurer providing primary or excess 143  
coverage to the owner of a personal vehicle may exclude any and 144  
all coverage and the duty to defend and indemnify afforded under 145  
the personal lines insurance policy for any loss or injury that 146  
occurs while an insured personal vehicle or transportation 147  
network company driver is providing transportation network 148  
company services. The right to exclude coverage and the duty to 149  
defend and indemnify applies to all coverage provided by the 150  
insurer of the driver or owner of the personal vehicle including 151  
all of the following: 152

(a) Liability and physical damage coverage; 153

(b) Uninsured and underinsured motorist coverage described 154  
in section 3937.18 of the Revised Code; 155

(c) Uninsured and underinsured motor vehicle property 156  
damage coverage described in section 3937.181 of the Revised 157  
Code; 158

(d) Medical payments coverage for persons using or 159  
occupying the personal vehicle; 160

(e) Comprehensive physical damage coverage; 161

(f) Collision physical damage coverage.

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(2) A primary or excess insurer of the owner or driver may  
notify an insured that the insurer has no duty to defend or  
indemnify any individual or organization for liability for any  
loss that occurs while that personal vehicle is providing  
transportation network company services.

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(B) Nothing in this section requires a personal lines  
primary or excess automobile insurance policy to provide any  
coverage for a personal vehicle or driver while providing  
transportation network company services.

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(C) As used in this section, "personal lines" means a  
policy of property or casualty insurance issued to a natural  
person primarily for personal or familial protection for  
personal automobile, homeowner's, tenant's, mobile-homeowner's,  
noncommercial dwelling fire, or personal umbrella coverage.

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**Sec. 3938.04.** (A) For each personal vehicle used to  
provide transportation network company services, the company  
shall provide a written disclosure to the personal vehicle's  
owner and to any transportation network company driver before  
the personal vehicle is first used to provide transportation  
network company services and before any change in insurance by  
the company. The disclosure shall contain all of the following:

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(1) A full and clear description of the insurance coverage  
and limits provided under the company's primary insurance policy  
along with the name, address, and telephone number of the  
insurer;

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(2) Notice that the private passenger automobile policy of  
the owner or any driver may exclude all coverage for any loss or  
injury to the driver and to others, including property damage,

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and may exclude the duty to defend or indemnify any person or 191  
organization for liability for any loss or injury that occurs 192  
during the time transportation network company services are 193  
being provided. 194

(3) Notice that the private passenger automobile policy of 195  
the owner or the driver may exclude coverage for damage to the 196  
vehicle, medical payments, uninsured and underinsured motorist 197  
damage, motor vehicle property damage, and other claims. 198

(B) A transportation network company shall prominently 199  
place the disclosures required by division (A)(1) of this 200  
section in the prospective transportation network company 201  
driver's written terms of service and obtain the driver's 202  
acknowledgement of the terms of service by electronic or written 203  
signature. 204

(C) If a transportation network company is providing 205  
primary insurance coverage under division (A)(2)(c) of section 206  
3938.02 of the Revised Code, it shall provide direct notice of 207  
that fact to the transportation network company driver, owner, 208  
and owner's personal lines automobile insurer before the first 209  
use of a personal vehicle for transportation network company 210  
services and upon the termination of the transportation network 211  
company driver's participation in the transportation network 212  
company. 213

(D) Upon request of the owner's personal automobile 214  
insurer, a transportation network company shall provide all data 215  
and records associated with the personal vehicle while the 216  
vehicle is available to provide transportation network company 217  
services. 218

(E) If a transportation network company is providing 219



primary insurance coverage under division (A) (2) (c) of section 220  
3938.02 of the Revised Code both of the following apply: 221

(1) The company shall assume liability, including the 222  
costs of defense and indemnification, for a claim in which a 223  
dispute exists as to whether the loss or injury giving rise to 224  
the claim occurred while transportation network company services 225  
were being provided. The company shall notify the owner and the 226  
owner's insurer of any such dispute within twenty-five business 227  
days after receiving notice of the accident giving rise to that 228  
claim. 229

(2) If a personal vehicle's owner, the owner's insurer, or 230  
a transportation network company driver is named as a defendant 231  
in a civil action for any loss or injury that occurs while 232  
transportation network company services were being provided, the 233  
company shall have the duty to defend and indemnify the personal 234  
vehicle's owner, transportation network company driver, and the 235  
owner's insurer. The company and its insurer shall cooperate 236  
with the insurer of the personal vehicle's owner or 237  
transportation network company driver. 238

**Sec. 3938.05. (A) A transportation network company shall** 239  
**maintain a record of all of the following information:** 240

(1) The name, address, driver's license number, and 241  
telephone number of each transportation network company driver; 242

(2) The license plate number, make, model, year, and color 243  
of the personal vehicle being used by each transportation 244  
network company driver; 245

(3) The number of hours and miles that each transportation 246  
network company driver is providing transportation network 247  
company services. 248

(B) (1) The transportation network company shall maintain 249  
an electronic record of each transportation network company 250  
service provided by a transportation network company driver. The 251  
record shall include all of the following information: 252

(a) The license plate number of the personal vehicle used; 253

(b) The name of the transportation network company driver; 254

(c) The name of the rider; 255

(d) The date the transportation network company service 256  
was provided; 257

(e) The time the transportation network company driver was 258  
matched with the rider; 259

(f) The times the transportation network company service 260  
began and ended; 261

(g) The number of miles of the transportation network 262  
company service; 263

(h) The addresses of the transportation network company 264  
service; 265

(i) The total compensation paid, if any. 266

(2) The transportation network company shall maintain each 267  
record required under division (B) (1) of this section for a 268  
period of three years. 269

(C) A transportation network company shall not disclose to 270  
a third party any personally identifiable information of a rider 271  
unless one of the following applies: 272

(1) The rider knowingly consents to the disclosure. 273

(2) The disclosure is pursuant to a statutory or common 274

law duty, responsibility, or other legal obligation, including 275  
as part of any accreditation, licensing, or registration 276  
requirement. 277

(3) The disclosure is made to the superintendent of 278  
insurance in accordance with section 3901.04 of the Revised 279  
Code. In this situation, the information disclosed is not a 280  
public record under section 149.43 of the Revised Code. 281

(D) As used in this section, "personally identifiable 282  
information" means any individually identifiable information 283  
gathered in connection with providing or receiving 284  
transportation network company services, including a person's 285  
name, address, social security number, date of birth, and 286  
banking and credit card information. 287

**Sec. 3938.06.** No person shall recklessly violate section 288  
3938.02, 3938.04, or 3938.05 of the Revised Code. Failure to 289  
maintain an automobile liability insurance policy in violation 290  
of division (A) of section 3938.02 of the Revised Code 291  
constitutes a violation by both the transportation network 292  
company driver and the transportation network company. 293

**Sec. 3938.07.** The regulation of insurance related to 294  
transportation network company services and the provision of 295  
transportation network company services is a matter of general 296  
statewide interest that requires statewide regulation. Chapter 297  
3938. of the Revised Code constitutes a comprehensive plan with 298  
respect to all aspects of insurance for transportation network 299  
companies and the provision of transportation network company 300  
services, and it is the intent of the general assembly to 301  
preempt any local ordinance, resolution, or other law adopted to 302  
impose, require, or otherwise regulate insurance requirements 303  
for transportation network companies and the provision of 304

transportation network company services. 305

Sec. 3938.99. Whoever violates section 3938.06 of the 306  
Revised Code is guilty of a misdemeanor of the first degree. 307