

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 111

**Senator Bacon
Cosponsors: Senator Beagle**

A BILL

To enact sections 3938.01, 3938.02, 3938.03, 1
3938.04, 3938.05, 3938.06, 3938.07, and 3938.99 2
of the Revised Code to regulate insurance 3
requirements for transportation network 4
companies and transportation network company 5
drivers. 6

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

Section 1. That sections 3938.01, 3938.02, 3938.03, 7
3938.04, 3938.05, 3938.06, 3938.07, and 3938.99 of the Revised 8
Code be enacted to read as follows: 9

Sec. 3938.01. As used in this chapter: 10

(A) "Owner" means the person whose name appears on the 11
personal vehicle's registration. 12

(B) "Personal vehicle" means a vehicle that is used by a 13
transportation network company driver in connection with 14
providing transportation network company services. 15

(C) "Rider" means an individual who, through the use of a 16
transportation network company, is connected with a 17

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 the 31
Revised 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 passengers or goods are occupying the personal vehicle. 49 50

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

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

(a) A taxicab; 58

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

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

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

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

(1) Provides primary coverage for liability arising from the transportation network company driver's use of a personal vehicle during the period of time the driver is providing transportation network company services; 72 73 74 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 liability insurance policy as described in division (A) (2) (c) of this section, it shall provide documentation to the registrar of motor vehicles evidencing the purchase of the policy within thirty days after the effective date of the policy. 105
106
107
108
109

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

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

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

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

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

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

(c) The rider or endorsement covers transportation network company services during the time the driver is providing those services. 130
131
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. 162

(2) A primary or excess insurer of the owner or driver may 163
notify an insured that the insurer has no duty to defend or 164
indemnify any individual or organization for liability for any 165
loss that occurs while that personal vehicle is providing 166
transportation network company services. 167

(B) Nothing in this section requires a personal lines 168
primary or excess automobile insurance policy to provide any 169
coverage for a personal vehicle or driver while providing 170
transportation network company services. 171

(C) As used in this section, "personal lines" means a 172
policy of property or casualty insurance issued to a natural 173
person primarily for personal or familial protection for 174
personal automobile, homeowner's, tenant's, mobile-homeowner's, 175
noncommercial dwelling fire, or personal umbrella coverage. 176

Sec. 3938.04. (A) For each personal vehicle used to 177
provide transportation network company services, the company 178
shall provide a written disclosure to the personal vehicle's 179
owner and to any transportation network company driver before 180
the personal vehicle is first used to provide transportation 181
network company services and before any change in insurance by 182
the company. The disclosure shall contain all of the following: 183

(1) A full and clear description of the insurance coverage 184
and limits provided under the company's primary insurance policy 185
along with the name, address, and telephone number of the 186
insurer; 187

(2) Notice that the private passenger automobile policy of 188
the owner or any driver may exclude all coverage for any loss or 189
injury to the driver and to others, including property damage, 190

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 to provide transportation network company 245
services; 246

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

<u>company services.</u>	249
<u>(B) (1) The transportation network company shall maintain</u>	250
<u>an electronic record of each transportation network company</u>	251
<u>service provided by a transportation network company driver. The</u>	252
<u>record shall include all of the following information:</u>	253
<u>(a) The license plate number of the personal vehicle used;</u>	254
<u>(b) The name of the transportation network company driver;</u>	255
<u>(c) The name of the rider;</u>	256
<u>(d) The date the transportation network company service</u>	257
<u>was provided;</u>	258
<u>(e) The time the transportation network company driver was</u>	259
<u>matched with the rider;</u>	260
<u>(f) The times the transportation network company service</u>	261
<u>began and ended;</u>	262
<u>(g) The number of miles of the transportation network</u>	263
<u>company service;</u>	264
<u>(h) The addresses of the transportation network company</u>	265
<u>service;</u>	266
<u>(i) The total compensation paid, if any.</u>	267
<u>(2) The transportation network company shall maintain each</u>	268
<u>record required under division (B) (1) of this section for a</u>	269
<u>period of three years.</u>	270
<u>(C) A transportation network company shall not disclose to</u>	271
<u>a third party any personally identifiable information of a rider</u>	272
<u>unless one of the following applies:</u>	273
<u>(1) The rider knowingly consents to the disclosure.</u>	274

(2) The disclosure is pursuant to a statutory or common law duty, responsibility, or other legal obligation, including as part of any accreditation, licensing, or registration requirement. 275
276
277
278

(3) The disclosure is made to the superintendent of insurance in accordance with section 3901.04 of the Revised Code. In this situation, the information disclosed is not a public record under section 149.43 of the Revised Code. 279
280
281
282

(D) As used in this section, "personally identifiable information" means any individually identifiable information gathered in connection with providing or receiving transportation network company services, including a person's name, address, social security number, date of birth, and banking and credit card information. 283
284
285
286
287
288

Sec. 3938.06. No person shall recklessly violate section 3938.02, 3938.04, or 3938.05 of the Revised Code. Failure to maintain an automobile liability insurance policy in violation of division (A) of section 3938.02 of the Revised Code constitutes a violation by both the transportation network company driver and the transportation network company. 289
290
291
292
293
294

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

<u>for transportation network companies and the provision of</u>	305
<u>transportation network company services.</u>	306
<u>Sec. 3938.99. Whoever violates section 3938.06 of the</u>	307
<u>Revised Code is guilty of a misdemeanor of the first degree.</u>	308