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SENATE BILL NO. 1219

Offered January 11, 2017

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A *BILL to amend and reenact §§ 46.2-2100, 46.2-2101, and 46.2-2143 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-2143.2, relating to regulation of property transportation network companies.*

Patrons—Stanley and Norment

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2100, 46.2-2101, and 46.2-2143 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-2143.2 as follows:

§ 46.2-2100. Definitions.

Whenever used in this chapter, unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Bulk commodity" means any non-liquid, non-gaseous commodity shipped loose or in mass/aggregate and which in the loading and unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed or which is not in containers or in units of such size to permit piece by piece loading and unloading.

"Bulk property carrier" means any person, not herein exempted, who undertakes either directly or by lease, to transport exclusively bulk commodities, as defined, for compensation including for purposes of this section for-hire tow truck operations.

"Certificate of fitness" means a certificate issued by the Department to certain "household goods carriers" under this chapter *or to property transportation network companies.*

"Constructive weight" means a measurement of seven pounds per cubic foot of properly loaded van space.

"Courier service" means a motor carrier that engages, directly or by lease, exclusively in the transportation of letters, envelopes, negotiable or nonnegotiable instruments, or other documents or papers for compensation.

"Department" means the Department of Motor Vehicles.

"Digital platform" means any online-enabled application, software, website, or system offered or utilized by a property transportation network company that enables the transportation of property with PTNC partners.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Gross weight" means the weight of a truck after a shipment has been loaded.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicle travel in this Commonwealth, excluding the streets and alleys in towns and cities.

"Household goods" means personal effects and property used or to be used in a dwelling, when a part of the equipment or supplies of such dwelling, and similar property if the transportation of such effects or property is (i) arranged and paid for by the householder, including transportation of the property from a factory or store when the property is purchased by the householder with intent to use it in his dwelling or (ii) arranged and paid for by another party transported or arranged to be transported (i) between residences or (ii) between a residence and a storage facility with the intent to later transport to a residence. Transportation of such goods must be arranged and paid for by, or on behalf of, the householder.

"Household goods carrier" means a ~~restricted common~~ carrier who undertakes, whether directly or by a lease or other arrangement, to transport "household goods," as herein defined, by motor vehicle for compensation, on any highway in this Commonwealth, between two or more points in this Commonwealth, whether over regular or irregular routes.

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SB1219

59 "Identification marker" means a decal or other visible identification issued by the Department to
60 show (i) that the operator of the vehicle has registered with the Department for the payment of the road
61 tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii) proof of the possession of a
62 certificate or permit issued pursuant to Chapter 21 (§ 46.2-2100 et seq.) of this title, and/or (iii) proof of
63 compliance with the insurance requirements of this chapter.

64 "Interstate" means the transportation of property between states.

65 "Intrastate" means the transportation of property solely within a state.

66 "License" means a license issued by the Department to a broker.

67 "Motor carrier" means any person who undertakes whether directly or by a lease, to transport
68 property, including household goods, as defined by this chapter, for compensation over the highways of
69 the Commonwealth.

70 "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by
71 mechanical power and used upon the highways in the transportation of property, but does not include
72 any vehicle, locomotive or car operated exclusively on a rail or rails.

73 "Net weight" means the tare weight subtracted from the gross weight.

74 "Operation of a PTNC partner vehicle" means (i) any time a PTNC partner is logged into a digital
75 platform and is available to pick up the personal property of a PTNC customer; (ii) any time the
76 personal property of a PTNC customer is in the PTNC partner vehicle; and (iii) any time the PTNC
77 partner has accepted a prearranged delivery request through a digital platform and is en route to pick
78 up such personal property.

79 "Permit" means a permit issued by the Department authorizing the transportation of property,
80 excluding household goods transported for a distance greater than 30 road miles.

81 "Person" means any individual, firm, copartnership, corporation, company, association or joint-stock
82 association, and includes any trustee, receiver, assignee, or personal representative thereof.

83 "Prearranged transport" means personal property delivery service for compensation in a PTNC
84 partner vehicle arranged through a digital platform. "Prearranged transport" includes the period of time
85 that begins when a PTNC partner accepts a delivery requested through a digital platform and the PTNC
86 partner vehicle is en route to pick up the property, continues while the PTNC partner transports the
87 personal property of a PTNC customer in a PTNC partner vehicle, and ends when the property has
88 been removed from the PTNC partner vehicle and delivered to its final destination.

89 "Property carrier" means any person, not herein exempted, who undertakes either directly or by a
90 lease, to transport property for compensation.

91 "Property transportation network company" or "PTNC" means a person who transports property for
92 compensation on an intrastate basis using a digital platform that connects persons seeking a property
93 transportation service with persons authorized by the property transportation network company to
94 transport property.

95 "PTNC insurance" means a motor vehicle liability insurance policy that specifically covers liabilities
96 arising from a PTNC partner's operation of a PTNC partner vehicle.

97 "PTNC partner" means a person authorized by a property transportation network company to use a
98 PTNC partner vehicle to provide prearranged transport service on an intrastate basis in the
99 Commonwealth.

100 "PTNC partner vehicle" means a personal vehicle authorized by a property transportation network
101 company and used by a PTNC partner to provide prearranged transport of personal property on an
102 intrastate basis.

103 "Restricted common carrier" means any person who undertakes, whether directly or by a lease or
104 other arrangement, to transport household goods by motor vehicle for compensation whether over regular
105 or irregular routes.

106 "Services" and "transportation" includes the services of, and all transportation by, all vehicles
107 operated by, for, or in the interest of any motor carrier, irrespective of ownership or contract, express or
108 implied, together with all facilities and property operated or controlled by any such carrier or carriers
109 and used in the transportation of property or in the performance of any service in connection therewith.

110 "Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing
111 that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other
112 qualified jurisdictions.

113 "Tare weight" means the weight of a truck before being loaded at a shipper's residence or place of
114 business, including the pads, dollies, hand-trucks, ramps and other equipment normally used in the
115 transportation of household goods shipments.

116 "Trade dress" means a logo, insignia, or emblem attached to or visible from the exterior of a PTNC
117 partner vehicle that identifies a property transportation network company or digital platform with which
118 the PTNC partner vehicle is affiliated.

119 **§ 46.2-2101. Exemptions from chapter.**

120 The following are exempt from this chapter:

1. Motor vehicles owned and operated by the United States, District of Columbia, any state, municipality, or any other political subdivision of the Commonwealth.

2. Transportation of property between any point in this Commonwealth and any point outside this Commonwealth or between any points wholly within the limits of any city or town in the Commonwealth. This exemption shall not apply to the insurance requirement imposed on motor carriers pursuant to § 46.2-2143.1.

3. Motor vehicles controlled and operated by a bona fide cooperative association as defined in the Federal Marketing Act, approved June 15, 1929, as amended, or organized or existing under Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, while used exclusively in the conduct of the business of such association.

4. Motor vehicles while used exclusively in (i) carrying newspapers, water, livestock, poultry, poultry products, buttermilk, fresh milk and cream, meats, butter and cheese produced on a farm, fish (including shellfish), slate, horticultural or agricultural commodities (not including manufactured products thereof), and forest products, including lumber and staves (but not including manufactured products thereof), (ii) transporting farm supplies to a farm or farms, (iii) hauling for the Department of Transportation, (iv) carrying fertilizer to any warehouse or warehouses for subsequent distribution to a local area farm or farms, or (v) collecting and disposing of trash, garbage and other refuse.

5. Motor vehicles used for transporting property by an air carrier or carrier affiliated with a direct air carrier whether or not such property has had or will have a prior or subsequent air movement.

6. Motor carriers exclusively operating vehicles with a registered gross weight of 7,500 pounds or less for the sole purpose of providing courier service. *This exemption shall not apply to the insurance requirement imposed on motor carriers pursuant to § 46.2-2143.1.*

§ 46.2-2143. Surety bonds, insurance, letter of credit or securities required prior to issuance of registration.

No certificate of fitness, permit, identification marker, registration card, or license plate shall be issued by the Department to any vehicle operated by a motor carrier until the motor carrier certifies to the Department that the vehicle is covered by one or more of the following, in the amount or amounts set forth in § 46.2-2143.1:

1. An insurance policy or bond;

2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued by an authorized insurer, or in the case of bonds, is in an amount approved by the Department. The bonds may be issued by the Commonwealth of Virginia, the United States of America, or any municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the surety shall not be reduced except in accordance with an order of the Department;

3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates motor vehicles in the Commonwealth; or

4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and can make available said proof of insurance coverage upon demand.

Vehicles belonging to carriers who have filed proof of financial responsibility in accordance with the single state registration system authorized by 49 U.S.C. § 14504 or the unified carrier registration system authorized by 49 U.S.C. § 14504a are deemed to have fulfilled the requirements of this article for insurance purposes; provided there is on board the vehicle a copy of an insurance receipt issued pursuant to the federal regulations promulgated pursuant to 49 U.S.C. § 14504 or 14504a. The Department is further authorized to issue single state registration system or unified carrier registration system receipts to register any qualified carrier under the unified carrier registration system as well as to collect and disperse the fees for and to qualified jurisdictions registration under that system.

§ 46.2-2143.2. Special insurance provisions for property transportation network companies.

A. At all times during the operation of a PTNC partner vehicle, a property transportation network company or PTNC partner shall keep in force PTNC insurance as provided in this section.

B. The following requirements shall apply to PTNC insurance from the moment a PTNC partner accepts a prearranged transport request on a property transportation network company's digital platform until the PTNC partner completes the transaction on the digital platform or until the prearranged transport is complete, whichever is later:

1. PTNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and the minimum amount of liability coverage for death, bodily injury, and property damage shall be \$1 million.

2. PTNC insurance shall provide uninsured motorist coverage and underinsured motorist coverage in

an amount equal to the motor vehicle liability coverage.

3. The requirements of this subsection may be satisfied by any of the following:

- a. PTNC insurance maintained by a PTNC partner;
- b. PTNC insurance maintained by a property transportation network company; or
- c. Any combination of subdivisions a and b.

A property transportation network company may meet its obligations under this subsection through a policy obtained by a PTNC partner under subdivision a or c only if the property transportation network company verifies that the policy is maintained by the PTNC partner and that it specifically covers liabilities arising from PTNC operations.

4. Insurers providing insurance coverage under this subsection shall have the exclusive duty to defend any liability claim, including any claim against a PTNC partner, arising from an accident occurring within the time periods specified in this subsection. Neither the PTNC partner's nor the vehicle owner's personal automobile insurance policy shall have the duty to defend or indemnify the PTNC partner's activities in connection with the property transportation network company, unless the policy expressly provides otherwise for the period of time to which this subsection is applicable or the policy contains an amendment or endorsement to provide that coverage.

5. Coverage under a PTNC insurance policy shall not be dependent on a personal automobile insurance policy's first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

6. Nothing in this subsection shall be construed to require a personal automobile insurance policy to provide primary or excess coverage. Neither the PTNC partner's nor the vehicle owner's personal automobile insurance policy shall provide any coverage to the PTNC partner, the vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this subsection is applicable or the policy contains an amendment or endorsement to provide that coverage.

C. The following requirements shall apply to PTNC insurance (i) from the moment a PTNC partner logs on to a property transportation network company's associated digital platform until the PTNC partner accepts a prearranged transport request and (ii) from the moment the PTNC partner completes the transaction on the digital platform or the prearranged ride is complete, whichever is later, until the PTNC partner either accepts another prearranged transport request on the digital platform or logs off the digital platform:

1. PTNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and shall provide liability coverage of at least \$50,000 per person and \$100,000 per incident for death and bodily injury and at least \$25,000 for property damage.

2. The requirements for the coverage required by this subsection may be satisfied by any of the following:

- a. PTNC insurance maintained by a PTNC partner;
- b. PTNC insurance maintained by a property transportation network company that provides coverage in the event that a PTNC partner's insurance policy under subdivision a has ceased to exist or has been canceled or in the event that the PTNC partner does not otherwise maintain PTNC insurance; or
- c. Any combination of subdivisions a and b.

A property transportation network company may meet its obligations under this subsection through a policy obtained by a PTNC partner under subdivision a or c only if the property transportation network company verifies that the policy is maintained by the PTNC partner and is specifically written to cover the PTNC partner's use of a vehicle in connection with a property transportation network company's digital platform.

D. In the event that the digital platform becomes inaccessible due to failure or malfunction while a PTNC partner is en route to or transporting property during a prearranged transport described in subsection B, PTNC insurance coverage shall be presumed to be that required in subdivision B 1 until the property has been delivered to its final destination.

E. In every instance where PTNC insurance maintained by a PTNC partner to fulfill the insurance obligations of this section has lapsed or ceased to exist, or been denied by the PTNC partner's personal insurance, the property transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

F. This section shall not limit the liability of a property transportation network company arising out of an accident involving a PTNC partner in any action for damages against a property transportation network company for an amount above the required insurance coverage.

G. Any person, or an attorney acting on his behalf, who suffers a loss in an automobile accident with a reasonable belief that the accident involves a PTNC partner vehicle driven by a PTNC partner in connection with a property transportation network company and who provides the property transportation network company with the date, approximate time, and location of the accident and, if available, the name of the PTNC partner and, if available, the accident report may request in writing

from the property transportation network company information relating to the insurance coverage and the company providing the coverage. The property transportation network company shall respond electronically or in writing within 30 days. The property transportation network company's response shall contain the following information: (i) whether, at the approximate time of the accident, the PTNC partner was logged into the property transportation network company's digital platform and, if so logged in, whether a transport request had been accepted or a customer's personal property was in the PTNC partner vehicle; (ii) the name of the insurance carrier providing primary coverage; and (iii) the identity and last known address of the PTNC partner.

H. No contract, receipt, rule, or regulation shall exempt any property transportation network company from the liability that would exist had no contract been made or entered into, and no such contract, receipt, rule, or regulation for exemption from liability for injury or loss occasioned by the neglect or misconduct of such property transportation network company shall be valid. The liability referred to in this subsection shall mean the liability imposed by law upon a property transportation network company for any loss or damage to property in its custody and care as a property transportation network company.

I. Any insurance required by this section may be placed with an insurer that has been admitted in Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

J. Any insurance policy required by this section shall satisfy the financial responsibility requirement for a motor vehicle under § 46.2-706 for the period during which such vehicle is being operated as a PTNC partner vehicle.

K. The Department shall not issue the certificate of fitness required under § 46.2-2108.2 to any property transportation network company that has not certified to the Department that every PTNC partner vehicle it has authorized to operate on its digital platform is covered by an insurance policy that meets the requirements of this section.

L. Each property transportation network company shall keep on file with the Department proof of an insurance policy maintained by the property transportation network company in accordance with this section. Such proof shall be in a form acceptable to the Commissioner. A record of the policy shall remain in the files of the Department for six months after the certificate is revoked or suspended for any cause.

M. The Department may suspend a certificate if the certificate holder fails to comply with the requirements of this section. Any person whose certificate has been suspended pursuant to this subsection may request a hearing as provided in subsection D of § 46.2-2011.26.

N. In a claims coverage investigation, a property transportation network company and its insurer shall cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of information, including the dates and times of any accident involving a PTNC partner and the precise times that the PTNC partner logged in and was logged out of the property transportation network company's digital platform.