

23103953D

HOUSE BILL NO. 1495

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on January 19, 2023)

(Patron Prior to Substitute—Delegate Austin)

A BILL to amend and reenact §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia and to repeal § 46.2-2099.51 of the Code of Virginia, relating to transportation network companies; uninsured and underinsured motorist coverage.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-2099.50. Requirements for TNC partner vehicles; trade dress issued by transportation network company.

A. A TNC partner vehicle shall:

1. Be a personal vehicle;
2. Have a seating capacity of no more than eight persons, including the driver;
3. Be validly titled and registered in the Commonwealth or in another state;
4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;
5. Have a valid Virginia safety inspection or an annual inspection conducted in another state for which the Department of State Police has determined that such motor vehicle safety inspection standards adequately ensure public safety and carry proof of that inspection on or in the vehicle; and

6. Be covered under a TNC insurance policy meeting the requirements of ~~§ 46.2-2099.51 or 46.2-2099.52, as applicable.~~

No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of this subsection.

B. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network company shall confirm that the vehicle meets the requirements of subsection A and shall provide each TNC partner with proof of any TNC insurance policy maintained by the transportation network company.

For each TNC partner vehicle it authorizes, a transportation network company shall issue trade dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the transportation network company or digital platform with which the vehicle is affiliated and shall be displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

Notwithstanding any other provision of this title, a TNC partner vehicle may be equipped with no more than two removable, illuminated, interior, TNC-issued, trade dress devices that assist passengers in identifying and communicating with TNC partners. Such devices may use a single steady-burning color while the TNC partner is logged in to a transportation network company's associated digital platform and may change to a different steady-burning color once the TNC partner accepts a request to transport a passenger and is within 0.4 miles of such passenger. The illuminated display on each such device shall not (i) exceed five candlepower or 62.85 lumens; (ii) exceed 20 square inches; (iii) utilize red, blue, or amber lights; (iv) project a glaring or dazzling light; or (v) attach to the windshield.

The transportation network company shall submit to the Department proof that the transportation network company has established the trade dress required under this subsection by filing with the Department an illustration or photograph of the trade dress. Any TNC that issues an illuminated removable interior trade dress device for use in the Commonwealth shall file with the Department the specifications of such device, including the default color.

A TNC partner shall keep the trade dress issued under this subsection visible at all times while the vehicle is being operated as a TNC partner vehicle.

No person shall operate a vehicle bearing trade dress issued under this subsection without the authorization of the transportation network company issuing the trade dress.

§ 46.2-2099.52. TNC insurance.

~~A. On and after January 1, 2016, at~~ **At all times during the operation of a TNC partner vehicle, a transportation network company or TNC partner shall keep in force TNC insurance as provided in this section.**

60 B. The following requirements shall apply to TNC insurance from the moment a TNC partner
61 accepts a prearranged ride request on a transportation network company's digital platform until the TNC
62 partner completes the transaction on the digital platform or until the prearranged ride is complete,
63 whichever is later:

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

67 2. TNC insurance shall provide uninsured motorist coverage and underinsured motorist coverage as
68 required by § 38.2-2206. ~~Such coverage shall apply~~ *With regard to such underinsured motorist coverage*
69 *that applies solely from the moment a passenger enters a TNC partner vehicle until the passenger exits*
70 *the vehicle. The minimum amount of uninsured motorist coverage and underinsured motorist coverage*
71 *for death, bodily injury, and property damage shall be \$1 million, it shall be paid without any credit for*
72 *the bodily injury and property damage coverage available for payment, and neither the TNC nor the*
73 *TNC partner shall elect to refuse the change in underinsured motorist coverage pursuant to subsection*
74 *C of § 38.2-2202.*

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

- 76 a. TNC insurance maintained by a TNC partner;
77 b. TNC insurance maintained by a transportation network company; or
78 c. Any combination of subdivisions a and b.

79 A transportation network company may meet its obligations under this subsection through a policy
80 obtained by a TNC partner under subdivision a or c only if the transportation network company verifies
81 that the policy is maintained by the TNC partner.

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

89 5. Coverage under a TNC insurance policy shall not be dependent on a personal automobile
90 insurance policy first denying a claim, nor shall a personal automobile insurance policy be required to
91 first deny a claim.

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

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

103 1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and
104 shall provide liability coverage of at least \$50,000 per person and \$100,000 per incident for death and
105 bodily injury and at least \$25,000 for property damage. *TNC insurance shall provide uninsured motorist*
106 *coverage and underinsured motorist coverage as required by § 38.2-2206.*

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

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

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

118 D. In the event that the digital platform becomes inaccessible due to failure or malfunction while a
119 TNC partner is en route to or transporting a passenger during a prearranged ride described in subsection
120 B, TNC insurance coverage shall be presumed to be that required in subdivision B 1 until the passenger
121 exits the vehicle.

E. In every instance where TNC insurance maintained by a TNC partner to fulfill the insurance obligations of this section has lapsed or ceased to exist, the 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 transportation network company arising out of an accident involving a TNC partner in any action for damages against a 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 TNC partner vehicle driven by a TNC partner in connection with a transportation network company and who provides the transportation network company with the date, approximate time, and location of the accident, and if available the name of the TNC partner and if available the accident report, may request in writing from the transportation network company information relating to the insurance coverage and the company providing the coverage. The transportation network company shall respond electronically or in writing within 30 days. The transportation network company's response shall contain the following information: (i) whether, at the approximate time of the accident, the TNC partner was logged into the transportation network company's digital platform and, if so logged in, whether a trip request had been accepted or a passenger was in the TNC partner vehicle; (ii) the name of the insurance carrier providing primary coverage; and (iii) the identity and last known address of the TNC partner.

H. No contract, receipt, rule, or regulation shall exempt any 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 transportation network company shall be valid. The liability referred to in this subsection shall mean the liability imposed by law upon a transportation network company for any loss, damage, or injury to passengers in its custody and care as a 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 during the period such vehicle is being operated as a TNC partner vehicle.

K. The Department shall not issue the certificate of fitness required under § 46.2-2099.45 to any transportation network company that has not certified to the Department that every TNC 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 transportation network company shall keep on file with the Department proof of an insurance policy maintained by the 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 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 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 TNC partner and the precise times that the TNC partner logged in and was logged out of the transportation network company's digital platform.

2. That § 46.2-2099.51 of the Code of Virginia is repealed.