

BILL ANALYSIS

Senate Research Center

H.B. 1733
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties observe that technological advances have driven major innovations in the vehicle-for-hire service sector, which has resulted in new transportation network companies (TNCs) now providing services in many cities across Texas. The rapid growth of this industry has revealed the need for innovation in both the automobile insurance market and insurance regulations in order to ensure public safety. According to the parties, under current law, drivers for TNCs are dependent on their personal automobile insurance policy as their primary insurance when they are driving and using a TNC application to search for riders. There are concerns that most insurers consider this a commercial activity and exclude coverage under a "livery exclusion" that is standard in most private passenger automobile policies. H.B. 1733 seeks to address issues relating to automobile liability insurance coverage for TNC drivers.

H.B. 1733 amends current law relating to automobile liability insurance for transportation network company drivers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 10, Insurance Code, by adding Chapter 1954, as follows:

CHAPTER 1954. INSURANCE FOR TRANSPORTATION NETWORK COMPANY DRIVERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1954.001. DEFINITIONS. Defines "digital network," "personal vehicle," "prearranged ride," "transportation network company," "transportation network company driver," and "transportation network company rider."

Sec. 1954.002. APPLICABILITY OF CHAPTER. Provides that this chapter applies to automobile insurance policies in this state, including policies issued by a Lloyd's plan, a reciprocal or interinsurance exchange, and a county mutual insurance company.

SUBCHAPTER B. INSURANCE REQUIREMENTS

Sec. 1954.051. GENERAL INSURANCE REQUIREMENT. (a) Requires a transportation network company driver or transportation network company on the driver's behalf to maintain primary automobile insurance as required by this subchapter.

(b) Requires that insurance maintained under this subchapter allow a transportation network company driver to use a personal vehicle to transport transportation network company riders for compensation and cover the driver while:

- (1) the driver is logged on to the transportation network company's digital network as provided by Section 1954.052; or
- (2) the driver is engaged in a prearranged ride as provided by Section 1954.053.

(c) Requires that insurance maintained under this subchapter comply with the law applicable to personal automobile insurance in this state, including this subtitle and Chapter 601 (Motor Vehicle Safety Responsibility Act), Transportation Code.

(d) Authorizes the coverage requirements of this subchapter to be satisfied by:

- (1) automobile insurance maintained by the transportation network company driver;
- (2) automobile insurance maintained by the transportation network company; or
- (3) a combination of Subdivisions (1) and (2).

(e) Authorizes insurance required under this subchapter to be placed with an automobile insurer authorized to engage in business in this state or with an eligible surplus lines insurer.

Sec. 1954.052. **INSURANCE REQUIREMENTS: BETWEEN PREARRANGED RIDES.** Requires the automobile insurance policy, at the time a transportation network company driver is logged on to the transportation network company's digital network and is available to receive transportation network requests but is not engaged in a prearranged ride, to provide:

(1) the following minimum amounts of liability insurance coverage:

- (A) \$50,000 for bodily injury to or death for each person in an incident;
- (B) \$100,000 for bodily injury to or death of a person per incident; and
- (C) \$25,000 for damage to or destruction of property of others in an incident;

(2) uninsured or underinsured motorist coverage where required by Section 1952.101 (Uninsured or Underinsured Motorist Coverage Required); and

(3) personal injury protection coverage where required by Section 1952.152 (Personal Injury Protection Coverage Required).

Sec. 1954.053. **INSURANCE REQUIREMENTS: DURING PREARRANGED RIDES.** Requires the automobile insurance policy, at the time a transportation network company driver is engaged in a prearranged ride, to provide, at a minimum:

(1) coverage with a total aggregate limit of liability of \$1 million for death, bodily injury, and property damage for each incident;

(2) uninsured or underinsured motorist coverage where required by Section 1952.101; and

(3) personal injury protection coverage where required by Section 1952.152.

Sec. 1954.054. **LAPSE OF OR INSUFFICIENT COVERAGE.** Requires the transportation network company, if an insurance policy maintained by a transportation network company driver under this subchapter has lapsed or does not provide the

coverage required by this subchapter, to provide the coverage required by this subchapter beginning with the first dollar of a claim against the driver.

Sec. 1954.055. **RELATION TO PERSONAL AUTOMOBILE INSURANCE.** Provides that coverage under an automobile insurance policy maintained by the transportation network company is not contingent on a transportation network company driver's personal automobile insurer initially denying a claim.

Sec. 1954.056. **FINANCIAL RESPONSIBILITY.** (a) Provides that insurance satisfying the requirements of this subchapter satisfies the financial responsibility requirement for an automobile under Chapter 601, Transportation Code.

(b) Requires a transportation network company driver to carry proof of insurance that satisfies Sections 1954.052 and 1954.053 with the driver when the driver uses a vehicle in connection with a transportation network company's digital network. Requires the driver, in the event of an accident, to provide the proof of insurance to a directly interested person, automobile insurer, and investigating peace officer on request under Section 601.053 (Evidence of Financial Responsibility), Transportation Code. Requires the driver, on request, to also disclose to a directly interested person, automobile insurer, and investigating peace officer whether, at the time of the accident, the driver was:

- (1) logged on to the company's digital network; or
- (2) engaged in a prearranged ride.

SUBCHAPTER C. RELATIONSHIP BETWEEN TRANSPORTATION NETWORK COMPANY AND TRANSPORTATION NETWORK COMPANY DRIVER

Sec. 1954.101. **REQUIRED DISCLOSURES.** Requires the company, before a transportation network company driver may accept a request for a prearranged ride on a transportation network company's digital network, to disclose in writing the following:

- (1) the insurance policy, including the types of coverage and the limits for the policy, that the company provides while a driver uses a personal vehicle in connection with the company's digital network; and
- (2) that the driver's personal automobile insurance policy may not provide coverage, depending on the policy's terms, while the driver is logged on to the company's digital network and is available to receive transportation requests or is engaged in a prearranged ride.

Sec. 1954.102. **CONTROL OF TRANSPORTATION NETWORK COMPANY DRIVERS.** Provides that a transportation network company does not control, direct, or manage a personal vehicle or a transportation network company driver who connects to the company's digital network except as agreed by written contract.

SUBCHAPTER D. PERSONAL AUTOMOBILE INSURANCE

Sec. 1954.151. **AUTHORIZED EXCLUSIONS FROM COVERAGE.** (a) Authorizes an insurer to exclude from coverage under a personal automobile insurance policy issued to an owner or operator of a personal vehicle any loss or injury that occurs while a transportation network company driver using the personal vehicle:

- (1) is logged on to a transportation network company's digital network; or
- (2) is engaged in a prearranged ride.

(b) Provides that Subsection (a) applies to any coverage included in a personal automobile insurance policy, including:

- (1) liability coverage for bodily injury and property damage;
- (2) personal injury protection coverage under Subchapter D (Personal Injury Protection Coverage), Chapter 1952;
- (3) uninsured and underinsured motorist coverage;
- (4) medical payment coverage;
- (5) comprehensive physical damage coverage; and
- (6) collision physical damage coverage.

(c) Provides that an exclusion authorized under this section applies notwithstanding a financial responsibility requirement under Chapter 601, Transportation Code.

(d) Prohibits this subchapter from being construed to invalidate or limit an exclusion contained in a policy form, including a policy form in use or approved for use in this state before January 1, 2016, that excludes coverage for automobiles used to carry persons or property for compensation or available for hire by the public.

Sec. 1954.152. **COVERAGE UNDER PERSONAL AUTOMOBILE INSURANCE NOT REQUIRED.** (a) Provides that this subchapter does not require a personal automobile insurance policy to cover a transportation network company driver while:

- (1) the driver is logged on to a transportation network company's digital network;
- (2) the driver is engaged in a prearranged ride; or
- (3) the driver otherwise uses a vehicle to transport passengers for compensation.

(b) Provides that this section does not prevent an insurer from providing coverage that may be excluded under this section if the insurer elects to provide the coverage in the policy or by endorsement.

Sec. 1954.153. **DEFENSE OR INDEMNIFICATION OF CLAIM.** (a) Provides that an automobile insurer that issues a personal automobile insurance policy that includes an exclusion from coverage authorized by Section 1954.151 does not have a duty to defend or indemnify a claim arising from an event subject to the exclusion.

(b) Provides that an automobile insurer that defends or indemnifies a claim against a transportation network company driver for which coverage is excluded under the terms of the policy as authorized by this subchapter has a right of contribution against another insurer that provides automobile insurance to the driver in satisfaction of the coverage requirements under Section 1954.052 or 1954.053, as applicable.

Sec. 1954.154. **ASSISTANCE IN CLAIM INVESTIGATION.** Requires a transportation network company and any insurer providing coverage under Subchapter B, in an insurance claim investigation, to assist each insurer involved in the claim by providing information to directly interested persons and an insurer of the transportation network company driver. Requires that information provided under this section include:

(1) the precise times that a driver logged on and off of the transportation network company's digital network in the 12-hour period immediately preceding and the 12-hour period immediately following the accident; and

(2) a clear description of the coverage, exclusions, and limits provided under an automobile insurance policy maintained under Subchapter B.

Sec. 1954.155. PAYMENT OF CERTAIN CLAIMS. Requires the insurer, if there is a lien on a personal vehicle and the transportation network company's insurer covers a claim arising out of an incident that occurred during a prearranged ride, to issue payment for the claim:

(1) directly to the person who is repairing the vehicle; or

(2) jointly to the owner of the personal vehicle and the primary lienholder.

SECTION 2. Effective date: January 1, 2016.