

TNC Insurance Compromise Model Bill

March 24, 2015 v2

(Stat/Reg #): Transportation Network Vehicle Insurance Requirements

A. Definitions

1. "Personal Vehicle" means a vehicle that is used by a Transportation Network Company Driver in connection with providing a Prearranged Ride and is:
 - i. Owned, leased or otherwise authorized for use by the Transportation Network Company Driver; and
 - ii. Not a [TAXICAB, LIMOUSINE, OR FOR-HIRE VEHICLE].
2. "Digital network" means any online-enabled application, software, website or system offered or utilized by a Transportation Network Company that enables the prearrangement of rides with Transportation Network Company drivers.
3. "Transportation Network Company" means a corporation, partnership, sole proprietorship, or other entity that is licensed pursuant to this [Chapter/Title] and operating in [STATE] that uses a digital network to connect Transportation Network Company Riders to Transportation Network Company Drivers who provide Prearranged Rides. A Transportation Network Company shall not be deemed to control, direct or manage the Personal Vehicles or Transportation Network Company Drivers that connect to its digital network, except where agreed to by written contract.
4. "Transportation Network Company Driver" or "driver" means an individual who:
 - i. Receives connections to potential passengers and related services from a Transportation Network Company in exchange for payment of a fee to the Transportation Network Company; and
 - ii. Uses a Personal Vehicle to provide a Prearranged Ride to riders upon connection through a Digital network controlled by a Transportation Network Company in return for compensation or payment of a fee.
5. "Transportation Network Company Rider" or "rider" means an individual or persons who use a Transportation Network Company's digital network to connect with a Transportation Network Driver who provides Prearranged Rides to the rider in the driver's Personal Vehicle between points chosen by the rider.
6. "Prearranged Ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a Transportation Network Company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the Personal Vehicle. A Prearranged Ride does not include transportation provided using a Taxi, Limousine, or other for-hire vehicle pursuant to [CITE DEFINITION IN STATE LAW OR MOTOR CARRIER ACT].

B. Financial Responsibility of Transportation Network Companies

On or before [MONTH, DAY, YEAR] and thereafter, a Transportation Network Company Driver or Transportation Network Company on the driver's behalf shall maintain primary automobile insurance that:

1. Recognizes that the driver is a Transportation Network Company Driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:
 - i. while the driver is logged on to the Transportation Network Company's digital network; or
 - ii. while the driver is engaged in a Prearranged Ride.

2. The following automobile insurance requirements shall apply while a participating Transportation Network Company Driver is logged on to the Transportation Network Company's digital network and is available to receive transportation requests but is not engaged in a Prearranged Ride:
 - i. Primary automobile liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage.
 - ii. *[Scriveners notes: Reference by statute all other state mandated coverage's for motor vehicles by state financial responsibility law, UM/ UIM, Med Pay, NF and/or PIP.]*
 - iii. The coverage requirements of this subsection 2 may be satisfied by any of the following:
 - a. Automobile insurance maintained by the Transportation Network Company Driver; or
 - b. Automobile insurance maintained by the Transportation Network Company; or
 - c. Any combination of subparagraphs (a) and (b).

3. The following automobile insurance requirements shall apply while a Transportation Network Company Driver is engaged in a Prearranged Ride:
 - i. Primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury and property damage;
 - ii. *[Scriveners notes: Reference by statute all other state mandated coverage's for motor vehicles by state financial responsibility law, UM/ UIM, Med Pay, NF and/or PIP.]*
 - iii. The coverage requirements of this subsection 3 may be satisfied by any of the following:
 - a. Automobile insurance maintained by the Transportation Network Company Driver; or
 - b. Automobile insurance maintained by the Transportation Network Company; or
 - c. Any combination of subparagraphs (a) and (b).

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4. If insurance maintained by driver in subsections 2 or 3 has lapsed or does not provide the required coverage, insurance maintained by a Transportation Network Company shall provide the coverage required by Section B beginning with the first dollar of a claim and have the duty to defend such claim.
5. Coverage under an automobile insurance policy maintained by the Transportation Network Company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.
6. Insurance required by this Section B may be placed with an insurer licensed under [CITE STATUTE] or with a surplus lines insurer eligible under [CITE STATUTE].
7. Insurance satisfying the requirements of this Section B shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under [STATE FINANCIAL RESPONSIBILITY STATUTE].
8. A Transportation Network Company Driver shall carry proof of coverage satisfying sections B.2 and B.3 with him or her at all times during his or her use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a Transportation Network Company Driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers, upon request pursuant to [INSERT ELECTRONIC ID CARD LAW OR CREATE SUCH LAW]. Upon such request, a Transportation Network Company Driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the Transportation Network Company's digital network or on a Prearranged Ride at the time of an accident.

C. Disclosures

1. The Transportation Network Company shall disclose in writing to Transportation Network Company Drivers the following before they are allowed to accept a request for a Prearranged Ride on the Transportation Network Company's digital network:
 - i. The insurance coverage, including the types of coverage and the limits for each coverage, that the Transportation Network Company provides while the Transportation Network Company Driver uses a Personal Vehicle in connection with a Transportation Network Company's digital network; and
 - ii. That the Transportation Network Company Driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the Transportation Network Company's digital network and is available to receive transportation requests or is engaged in a Prearranged Ride depending on its terms.

D. Automobile Insurance Provisions

1. Insurers that write automobile insurance in [INSERT STATE] may exclude any and all coverage afforded under the owner's insurance policy for any loss or injury that occurs while a Driver is logged on to a Transportation Network Company's digital network or while a Driver provides a Prearranged Ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:
 - i. Liability coverage for bodily injury and property damage;
 - ii. Personal injury protection coverage as defined in [CITE STATUTE];
 - iii. Uninsured and underinsured motorist coverage;
 - iv. . . Medical payments coverage;
 - v. Comprehensive physical damage coverage; and
 - vi. Collision physical damage coverage.

Such exclusions shall apply notwithstanding any requirement under [STATE FINANCIAL RESPONSIBILITY STATUTE]. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the Transportation Network Company's digital network, while the driver is engaged in a Prearranged Ride or while the driver otherwise uses a vehicle to transport passengers for compensation.

Nothing shall be deemed to preclude an insurer from providing coverage for the Transportation Network Company Driver's vehicle, if it so chose to do so by contract or endorsement.

2. Automobile insurers that exclude the coverage described in Section B shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this Article shall be deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in [STATE] prior to the enactment of this Article.

An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy, shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of Section B at the time of loss.

3. In a claims coverage investigation, Transportation Network Companies and any insurer potentially providing coverage under Section B shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the Transportation Network Company Driver if applicable, including the precise times that a Transportation Network Company Driver logged on and off of the Transportation Network Company's digital network in the twelve hour period immediately preceding and in the twelve hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under Section B.

Which organizations support the TNC Insurance Compromise Model Bill?

As of March 24, 2015, the American Insurance Association (AIA), **the Property and Casualty Insurance Association of America (PCIAA)**, the National Association of Mutual Insurance Companies (NAMIC), State Farm, USAA, Farmers Insurance and Uber support the TNC Insurance Compromise Model Bill.

Why have Uber and some of the Leading Insurers Compromised on Legislation?

State legislatures across the country are considering TNC insurance legislation to help protect their citizens and encourage innovation. Several states have enacted TNC insurance laws and others are close.

After several conversations, we found that Uber’s “essential elements” were not too far from those articulated in the Industry Toolkit.

The supporting insurance organizations and Uber concluded that if we could reach a compromise on the differences, we would ensure the proper insurance protection for consumers, and achieve more consistent legislative outcomes that allow both industries to innovate.

What are the main provisions of the TNC Insurance Compromise Model Bill?

- The model is similar to bill passed in Colorado and the pending compromise bill in New Mexico.
- In summary the legislation accomplishes the following:
 1. Expressly permits personal auto policies to exclude coverage for TNC related driving.
 2. During Period 1, this bill would mandate primary insurance coverage of **50/100/25** and includes all state mandated coverages (e.g., UM or PIP). The mandate does not include comprehensive or collision coverages.
 - Each of the six states that have passed TNC laws have enacted similar period 1 limits
 - CA, CO, UT = 50/100/30
 - IL, DC, VA = 50/100/25
 3. During Periods 2 and 3 when a driver has accepted a ride request and/or while the fare paying passenger is in the vehicle, the bill would mandate primary insurance of \$1 million in liability coverage (up to \$1.5 in a minority of states that mandate such coverage for limos) as well as any other coverage mandated for limos by the state’s financial responsibility laws. The mandate does not include comprehensive or collision.
 4. These coverage mandates can be satisfied by either a policy maintained by the TNC driver, by the TNC itself or a combination of both.
 5. The primary TNC coverage shall not be dependent upon a personal auto policy denying a claim before coverage is triggered.
 6. TNC drivers will be required to carry proof of TNC insurance coverage.
 7. TNCs must disclose to their drivers that their current personal auto policy may not provide any coverage for TNC related driving.
 8. After an accident, TNC drivers must disclose whether they were logged into the TNC system.
 9. Requires cooperation between TNCs and insurers involved in a coverage investigation.
 10. Grants a statutory right of contribution against TNCs for claims insurers may have erroneously paid.

What is the main difference between the Industry Toolkit Model and this Compromise Model?

The biggest difference is the absence of the “firewall” language that appears in the California law. The Compromise Model creates neither a presumption of coverage nor a presumption against coverage for TNC related activities.

This bill also does not contain any mandate that TNCs or their drivers maintain comprehensive or collision coverage. This was only an “optional” provision in the Industry Toolkit Model.