

CS FOR SENATE BILL NO. 14(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 2/10/17

Referred: Finance

Sponsor(s): SENATORS COSTELLO, MacKinnon

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to transportation network companies and transportation network**
2 **company drivers."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE INTENT. It is the intent of the legislature to clarify the Alaska
7 Workers' Compensation Act, ensure the safety, reliability, and cost-effectiveness of rides
8 provided by transportation network company drivers in the state, and preserve and enhance
9 access to these important transportation options for residents of and visitors to the state.

10 * **Sec. 2.** AS 21.96 is amended by adding a new section to read:

11 **Sec. 21.96.018. Transportation network company insurance provisions.** (a)
12 Insurers that write automobile insurance in the state may exclude, notwithstanding any
13 requirement under AS 28.20, any and all coverage afforded under the policy issued to
14 an owner or operator of a personal vehicle for any loss or injury that occurs while a

1 driver is logged onto the digital network of a transportation network company or while
 2 a driver provides a prearranged ride. The right to exclude all coverage may apply to
 3 any coverage included in an automobile insurance policy, including

- 4 (1) liability coverage for bodily injury and property damage;
- 5 (2) uninsured and underinsured motorist coverage;
- 6 (3) medical payments coverage;
- 7 (4) comprehensive physical damage coverage; and
- 8 (5) collision physical damage coverage.

9 (b) Nothing in this section

10 (1) implies or requires that a personal automobile insurance policy
 11 provide coverage while the driver

12 (A) is logged onto the digital network of a transportation
 13 network company;

14 (B) is engaged in a prearranged ride; or

15 (C) otherwise uses a personal vehicle to transport passengers
 16 for compensation;

17 (2) may be construed to require an insurer to use specific policy
 18 language or to refer to this section in order to exclude any and all coverage for any
 19 loss or injury that occurs while a driver

20 (A) is logged onto the digital network of a transportation
 21 network company; or

22 (B) provides a prearranged ride; or

23 (3) precludes an insurer from providing coverage for the personal
 24 vehicle of a transportation network company driver if the insurer chooses to provide
 25 coverage by contract or endorsement.

26 (c) Automobile insurers that exclude coverage under (a) of this section do not
 27 have a duty to defend or indemnify any claim expressly excluded under (a) of this
 28 section. Nothing in this section may be considered to invalidate or limit an exclusion
 29 contained in a policy, including any policy in use or approved for use in this state
 30 before the enactment of this section, that excludes coverage for vehicles used to carry
 31 persons or property for a charge or available for hire by the public.

1 (d) An automobile insurer that defends or indemnifies a claim against a driver
 2 that is excluded under the terms of its policy shall have a right of contribution against
 3 other insurers that provide automobile insurance to the same driver in satisfaction of
 4 the coverage requirements of AS 28.23.050 at the time of loss.

5 (e) In a claims coverage investigation, a transportation network company shall
 6 immediately provide, upon request by directly involved parties or any insurer of the
 7 transportation network company driver, if applicable, the precise times that a
 8 transportation network company driver logged onto and off of the digital network of a
 9 transportation network company in the 12-hour period immediately preceding and in
 10 the 12-hour period immediately following the accident. Insurers potentially providing
 11 coverage shall disclose, upon request of any insurer involved in the claim, the
 12 applicable coverages, exclusions, and limits provided under any automobile insurance
 13 maintained under AS 28.23.050.

14 (f) In this section, "digital network," "personal vehicle," "prearranged ride,"
 15 "transportation network company," "transportation network company driver," and
 16 "driver" have the meanings given in AS 28.23.180.

17 * **Sec. 3.** AS 23.30.230(a) is amended to read:

18 (a) The following persons are not covered by this chapter:

- 19 (1) a part-time baby-sitter;
 20 (2) a cleaning person;
 21 (3) harvest help and similar part-time or transient help;
 22 (4) a person employed as a sports official on a contractual basis and
 23 who officiates only at sports events in which the players are not compensated; in this
 24 paragraph, "sports official" includes an umpire, referee, judge, scorekeeper,
 25 timekeeper, organizer, or other person who is a neutral participant in a sports event;
 26 (5) a person employed as an entertainer on a contractual basis;
 27 (6) a commercial fisherman, as defined in AS 16.05.940;
 28 (7) an individual who drives a taxicab whose compensation and written
 29 contractual arrangement is as described in AS 23.10.055(a)(13), unless the hours
 30 worked by the individual or the areas in which the individual may work are restricted
 31 except to comply with local ordinances;

1 (8) a participant in the Alaska temporary assistance program
 2 (AS 47.27) who is engaged in work activities required under AS 47.27.035 other than
 3 subsidized or unsubsidized work or on-the-job training;

4 (9) a person employed as a player or coach by a professional hockey
 5 team if the person is covered under a health care insurance plan provided by the
 6 professional hockey team, the coverage is applicable to both work-related and
 7 nonwork-related injuries, and the coverage provides medical and related benefits as
 8 required under this chapter, except that coverage may not be limited to two years from
 9 the date of injury as described under AS 23.30.095(a); in this paragraph, "health care
 10 insurance" has the meaning given in AS 21.12.050; [AND]

11 (10) a person working as a qualified real estate licensee who performs
 12 services under a written contract that provides that the person will not be treated as an
 13 employee for federal income tax or workers' compensation purposes; in this
 14 paragraph, "qualified real estate licensee" means a person who is required to be
 15 licensed under AS 08.88.161 and whose payment for services is directly related to
 16 sales or other output rather than the number of hours worked; **and**

17 **(11) a transportation network company driver who provides a**
 18 **prearranged ride or is otherwise logged onto the digital network of a**
 19 **transportation network company as a driver.**

20 * **Sec. 4.** AS 23.30.230(c) is amended by adding new paragraphs to read:

21 (4) "digital network" has the meaning given in AS 28.23.180;

22 (5) "prearranged ride" has the meaning given in AS 28.23.180;

23 (6) "transportation network company" has the meaning given in
 24 AS 28.23.180;

25 (7) "transportation network company driver" has the meaning given in
 26 AS 28.23.180.

27 * **Sec. 5.** AS 28 is amended by adding a new chapter to read:

28 **Chapter 23. Transportation Network Companies and Drivers.**

29 **Sec. 28.23.005. Administration.** The Department of Commerce, Community,
 30 and Economic Development shall administer this chapter.

31 **Sec. 28.23.010. Not other carriers.** A transportation network company or

1 driver is not a common carrier, contract carrier, or motor carrier, and may not provide
 2 taxicab or for-hire vehicle service. The state or a municipality may not require a
 3 transportation network company driver to register the personal vehicle the driver uses
 4 to provide prearranged rides as a commercial or for-hire vehicle.

5 **Sec. 28.23.020. Fare collected for services.** A transportation network
 6 company may charge a fare to a transportation network company rider. Before a fare is
 7 collected from a rider, the transportation network company shall disclose to the rider,
 8 on the company's Internet website or in the company's software application, the
 9 transportation network company's fare or fare calculation method. The transportation
 10 network company shall provide riders the option of receiving an estimated fare before
 11 the rider enters the vehicle of a transportation network company driver.

12 **Sec. 28.23.030. Identification of transportation network company vehicles**
 13 **and drivers.** Before a rider enters the personal vehicle of a transportation network
 14 company driver, the transportation network company shall display on the company's
 15 Internet website or in the company's software application a picture of the
 16 transportation network company driver and the license plate number of the personal
 17 vehicle providing the prearranged ride.

18 **Sec. 28.23.040. Electronic receipt.** Within a reasonable period following the
 19 completion of a trip, the transportation network company shall transmit to the rider, on
 20 behalf of the transportation network company driver, an electronic receipt showing the
 21 origin and destination of the trip and itemizing the fare paid, if any.

22 **Sec. 28.23.050. Financial responsibility of transportation network**
 23 **companies.** (a) A transportation network company driver, or transportation network
 24 company on behalf of the driver, shall maintain primary automobile insurance that
 25 recognizes that the driver is a transportation network company driver or otherwise
 26 uses a vehicle to transport passengers for compensation and that covers the driver
 27 while the driver is logged onto the digital network of a transportation network
 28 company or while the driver is engaged in a prearranged ride.

29 (b) The following automobile insurance requirements shall apply while a
 30 participating transportation network company driver is logged onto the digital network
 31 of a transportation network company and is available to receive transportation requests

1 but is not engaged in a prearranged ride:

2 (1) primary automobile liability insurance in the amount of at least
3 \$50,000 for death and bodily injury for each person, \$100,000 for death and bodily
4 injury for each incident, and \$25,000 for property damage;

5 (2) uninsured or underinsured motor vehicle coverage as required
6 under AS 21.96.020 and AS 28.20.440;

7 (3) the coverage requirements of this subsection may be satisfied by

8 (A) automobile insurance maintained by the transportation
9 network company driver;

10 (B) automobile insurance maintained by the transportation
11 network company; or

12 (C) any combination of (A) and (B) of this paragraph.

13 (c) The following automobile insurance requirements shall apply while a
14 transportation network company driver is engaged in a prearranged ride:

15 (1) primary automobile liability insurance that provides at least
16 \$1,000,000 for death, bodily injury, and property damage;

17 (2) uninsured or underinsured motor vehicle coverage as required
18 under AS 21.96.020 and AS 28.20.440;

19 (3) the coverage requirements of this subsection may be satisfied by

20 (A) automobile insurance maintained by the transportation
21 network company driver;

22 (B) automobile insurance maintained by the transportation
23 network company; or

24 (C) a combination of (A) and (B) of this paragraph.

25 (d) If insurance maintained by a driver under (b) or (c) of this section has
26 lapsed or does not provide the required coverage, insurance maintained by a
27 transportation network company must provide the coverage required by this section
28 beginning with the first dollar of a claim, and the transportation network company
29 insurer has the duty to defend that claim.

30 (e) Coverage under an automobile insurance policy maintained by the
31 transportation network company may not be dependent on a personal automobile

1 insurer first denying a claim nor shall a personal automobile insurance policy be
2 required first to deny a claim.

3 (f) Insurance required by this section may be placed with an insurer licensed
4 under AS 21.09.060 or with a surplus lines insurer eligible under AS 21.34 that has a
5 credit rating not lower than A- from A.M. Best or a similar rating from another rating
6 agency recognized by the division of insurance.

7 (g) Insurance satisfying the requirements of this section shall be considered to
8 satisfy the financial responsibility requirement for a motor vehicle under AS 28.20.

9 (h) A transportation network company driver shall carry proof of coverage
10 under (b) and (c) of this section with the driver at all times during the driver's use of a
11 vehicle in connection with a digital network of a transportation network company. In
12 the event of an accident, a transportation network company driver shall provide the
13 insurance coverage information to the directly interested parties, automobile insurers,
14 and investigating police officers upon request under AS 28.22.019. Upon that request,
15 a transportation network company driver shall also disclose to directly interested
16 parties, automobile insurers, and investigating police officers whether the driver was
17 logged onto the digital network of a transportation network company or on a
18 prearranged ride at the time of an accident.

19 (i) In the event of a loss involving a personal vehicle used in connection with a
20 transportation network company and if the personal vehicle is subject to a lien, the
21 insurance carrier for the transportation network company shall pay a claim covered
22 under collision physical damage coverage or comprehensive physical damage
23 coverage directly to the business repairing the personal vehicle or jointly to the owner
24 of the personal vehicle and the primary lienholder on the covered personal vehicle.

25 **Sec. 28.23.060. Transportation network company automobile insurance**
26 **disclosures.** A transportation network company shall disclose in writing to
27 transportation network company drivers the following before the drivers are allowed
28 to accept a request for a prearranged ride on the digital network of the transportation
29 network company:

30 (1) the insurance coverage, including the types of coverage and the
31 limits for each coverage, that the transportation network company provides while the

1 transportation network company driver uses a personal vehicle in connection with a
2 transportation network company's digital network;

3 (2) that the automobile insurance policy of the transportation network
4 company driver might not provide any coverage while the driver is logged onto the
5 digital network of a transportation network company and is available to receive
6 transportation requests or is engaged in a prearranged ride, depending on the terms of
7 the automobile insurance policy of the driver; and

8 (3) that, if the personal vehicle the transportation network company
9 driver uses to provide transportation network services has a lien against it, using the
10 motor vehicle for transportation network services without physical damage coverage
11 may violate the terms of the contract with the lienholder.

12 **Sec. 28.23.070. Certificate of Insurance.** A transportation network company
13 shall file a written certificate of insurance with the director of the division of insurance
14 demonstrating that the transportation network company has satisfied the requirements
15 of AS 28.23.050. The certificate of insurance must state that the applicable insurance
16 policy may not be cancelled unless written notice is provided to the division of
17 insurance at least 30 days before cancellation.

18 **Sec. 28.23.080. Limitations on transportation network companies.** A
19 transportation network company is not an employer of transportation network drivers
20 under AS 23.20.520 and a transportation network company driver is an independent
21 contractor for all purposes and is not an employee of the transportation network
22 company if the transportation network company

23 (1) does not unilaterally prescribe specific hours during which a driver
24 shall be logged onto the digital network of the transportation network company;

25 (2) does not impose restrictions on the ability of the driver to use the
26 digital network of other transportation network companies;

27 (3) does not restrict a driver from engaging in any other occupation or
28 business; and

29 (4) enters into a written agreement with the driver stating that the
30 driver is an independent contractor for the transportation network company.

31 **Sec. 28.23.090. Zero tolerance for drug or alcohol use.** The transportation

1 network company shall implement a zero-tolerance policy prohibiting drug and
 2 alcohol use while a driver is providing a prearranged ride or is logged onto the digital
 3 network of the transportation network company but not providing a prearranged ride.
 4 The transportation network company shall post the company's zero-tolerance policy
 5 prohibiting drug and alcohol use on the company's Internet website.

6 **Sec. 28.23.100. Transportation network company driver requirements.**

7 Before a transportation network company allows an individual to accept trip requests
 8 through its digital network, the transportation network company, or a third party, shall

9 (1) require the individual to submit to the transportation network
 10 company an application that includes the individual's address, age, and driver's license
 11 number, the motor vehicle registration and automobile liability insurance information
 12 for the individual's personal vehicle, and other information required by the
 13 transportation network company;

14 (2) conduct a local and national criminal background check for each
 15 applicant that reviews

16 (A) a multi-state or multi-jurisdiction criminal records locator
 17 or a similar commercial nationwide database with validation; and

18 (B) the United States Department of Justice National Sex
 19 Offender Public Website; and

20 (3) obtain and review a driving history research report for the
 21 individual.

22 **Sec. 28.23.110. Nondiscrimination and accessibility.** (a) The transportation
 23 network company shall adopt a policy prohibiting discrimination based on destination,
 24 race, color, national origin, religious belief or affiliation, sex, disability, age, sexual
 25 orientation, or gender identity with respect to a rider or potential rider. The company
 26 shall inform drivers of the policy.

27 (b) A transportation network company driver shall comply with all applicable
 28 laws relating to accommodation of service animals.

29 (c) A transportation network company may not impose additional charges for
 30 providing services to riders with physical disabilities because of those disabilities.

31 **Sec. 28.23.120. Records.** A transportation network company shall keep

1 records

2 (1) maintained by the transportation network company for an
3 individual prearranged ride for at least one year from the date of the prearranged ride;
4 and

5 (2) maintained by individual transportation network company drivers
6 for one year after the agreement between the transportation network company and
7 driver entered into under AS 28.23.080(4) ends.

8 **Sec. 28.23.180. Definitions.** In this chapter,

9 (1) "digital network" means any online-enabled application, software,
10 website, or system offered or used by a transportation network company that enables
11 the prearrangement of rides with transportation network company drivers;

12 (2) "personal vehicle" means a motor vehicle that is used by a
13 transportation network company driver and is owned, leased, or otherwise authorized
14 for use by the transportation network company driver; "personal vehicle" does not
15 include a taxi, limousine, or other commercial motor vehicle for hire;

16 (3) "prearranged ride" means transportation provided by a driver to a
17 rider, beginning when a driver accepts a ride requested by a rider through a digital
18 network controlled by a transportation network company, continuing while the driver
19 transports a requesting rider, and ending when the last requesting rider departs from
20 the personal vehicle; "prearranged ride" does not include shared expense carpool or
21 vanpool arrangements or transportation provided using a taxi, limousine, or other
22 commercial motor vehicle for hire;

23 (4) "transportation network company" means a corporation,
24 partnership, sole proprietorship, or other entity that uses a digital network to connect
25 transportation network company riders to transportation network company drivers who
26 provide prearranged rides; a transportation network company may not be considered to
27 control, direct, or manage the personal vehicles or transportation network company
28 drivers that connect to its digital network, except where agreed to by written contract;

29 (5) "transportation network company driver" or "driver" means an
30 individual who

31 (A) receives connections to potential passengers and related

1 services from a transportation network company in exchange for payment of a
2 fee to the transportation network company; and

3 (B) uses a personal vehicle to offer or provide a prearranged
4 ride to riders upon connection through a digital network controlled by a
5 transportation network company in return for compensation or payment of a
6 fee;

7 (6) "transportation network company rider" or "rider" means an
8 individual or person who uses a digital network of a transportation network company
9 to connect with a transportation network company driver who provides prearranged
10 rides to the rider in the driver's personal vehicle between points chosen by the rider.

11 **Sec. 28.23.190. Short title.** This chapter may be cited as the Transportation
12 Network Companies Act.

13 * **Sec. 6.** AS 29.10.200 is amended by adding a new paragraph to read:

14 (66) AS 29.35.148 (regulation of transportation network companies or
15 drivers).

16 * **Sec. 7.** AS 29.35 is amended by adding a new section to read:

17 **Sec. 29.35.148. Regulation of transportation network companies or**
18 **drivers.** (a) The authority to regulate transportation network companies and
19 transportation network drivers is reserved to the state, and, except as specifically
20 provided by statute, a municipality may not enact or enforce an ordinance regulating
21 transportation network companies or transportation network drivers.

22 (b) This section applies to home rule and general law municipalities.

23 (c) In this section,

24 (1) "transportation network company" has the meaning given in
25 AS 28.23.180;

26 (2) "transportation network company driver" has the meaning given in
27 AS 28.23.180.