SENATE DOCKET, NO. 1184 FILED ON: 1/16/2015

SENATE . . . . . No. 559

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to transportation network company insurance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	*Bristol and Norfolk*

SENATE DOCKET, NO. 1184 FILED ON: 1/16/2015

SENATE . . . . . No. 559

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 559) of James E. Timilty for legislation relative to transportation network company insurance. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to transportation network company insurance.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 175K the following chapter:-

CHAPTER 175M

TRANSPORTATION NETWORK COMPANY INSURANCE

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Transportation network company", an organization, including, but not limited to, a corporation, limited liability company, partnership, sole proprietor, or any other entity, operating in the Commonwealth of Massachusetts that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with drivers using a personal vehicle.

"Participating driver" or "Driver", any person who uses a vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.

"Transportation network company insurance", an insurance policy written by a company duly licensed in the commonwealth that specifically covers a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

Section 2. A transportation network company shall disclose in writing to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform, and shall advise a participating driver in writing that the driver's personal automobile insurance policy may not provide any required or optional coverage because the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform.

Section 3. (a) A transportation network company and any participating driver shall maintain transportation network company insurance as provided in this section.

(b) The following requirements shall apply to transportation network company insurance from the moment a participating driver accepts a ride request on the transportation network company's online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the ride is complete, whichever is later:

(1) Transportation network company insurance shall provide primary liability coverage, consistent with the requirements for a motor vehicle liability policy as defined in section 34A of chapter 90 of the General Laws but with limits of $100,000 per person and $300,00 per accident

for bodily injury or death, and property damage liability coverage consistent with the requirements of 34O of chapter 90 of the General Laws in the amount of $50,000.

(2) Transportation network company insurance coverage provided under this subdivision shall also provide:

(A) Personal injury protection as defined in section 34A, and as prescribed by section 34M, of chapter 90 of the General Laws.

(B) Uninsured motorist coverage in accordance with section 113L(1) of chapter 175 of the General Laws in the amount of $100,000 per person and $300,000 per accident, and underinsured motorist coverage in accordance section 113L(2) of chapter 175 of the General Laws if the participating driver carries that coverage.

(C) Collision coverage as described in section 34O of chapter 90 of the General Laws and comprehensive coverage as described in section 113O of chapter 175 of the General Laws if the participating driver carries those coverages on their personal auto policy unless that insurer is providing transportation network company insurance to the driver.

(3) The requirements for the coverage required by this paragraph may be satisfied by any of the following:

(A) Transportation network company insurance maintained by a participating driver.

(B) Transportation network company insurance maintained by a transportation network company.

(C) Any combination of subparagraphs (A) and (B).

(D) A transportation network company may meet its obligations under this subdivision through a policy obtained by a participating driver pursuant to subparagraph (A) or (C) of only if the transportation network company verifies that the policy is maintained by the driver and is specifically written to cover the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

(4) The insurer providing transportation network company insurance under this subdivision shall have the duty to defend and indemnify the insured.

(c) The following requirements shall apply to transportation network company insurance from the moment a participating driver logs on to the transportation network company's online-enabled application or platform until the driver accepts a request to transport a passenger, and from the moment the driver completes the transaction on the online-enabled application or platform or the ride is complete, whichever is later, until the driver either accepts another ride request on the online-enabled application or platform or logs off the online-enabled application or platform:

(1) Transportation network company insurance shall provide primary liability coverage

consistent with the requirements for a motor vehicle liability policy as defined in section 34A of chapter 90 of the General Laws but with limits of $100,000 per person and $300,00 per accident for bodily injury or death, and property damage liability coverage consistent with the requirements of 34O of chapter 90 of the General Laws in the amount of $50,000.

(2) Transportation network company insurance coverage provided under this subdivision shall also provide:

(A) Uninsured motorist coverage in accordance with section 113L(1) of chapter 175 of the General Laws in the amount of $100,000 per person and $300,000 per accident, and underinsured motorist coverage in accordance section 113L(2) of chapter 175 of the General Laws if the participating driver carries that coverage.

(B) Personal injury protection as defined in section 34A, and as prescribed by section 34M, of chapter 90 of the General Laws.

(C) Collision coverage as described in section 34O of chapter 90 of the General Laws and comprehensive coverage as described in section 113O of chapter 175 of the General Laws if the participating driver carries those coverages on their personal auto policy unless that insurer is providing transportation network company insurance to the driver.

(3) The requirements for the coverage required by this paragraph may be satisfied by any of the following:

(A) Transportation network company insurance maintained by a participating driver.

(B) Transportation network company insurance maintained by a transportation network company that provides coverage in the event a participating driver's insurance policy under subparagraph (A) has ceased to exist or has been canceled, or the participating driver does not otherwise maintain transportation network company insurance pursuant to this subdivision.

(C) Any combination of subparagraphs (A) and (B).

(4) The insurer providing transportation network company insurance under this subdivision shall have the duty to defend and indemnify the insured.

(d) Coverage under a transportation network company insurance policy shall not be dependent on a personal automobile insurance policy first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(e) In every instance where transportation network company insurance maintained by a participating driver 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.

Section 4. (a) Nothing in this section shall be construed to require a personal automobile insurance policy to provide primary or excess coverage during the period of time from the moment a participating driver in a transportation network company logs on to the transportation network company's online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the vehicle, whichever is later.

(b) During the period of time from the moment a participating driver in a transportation network company logs on to the transportation network company's online-enabled application or platform until the driver logs off the online-enabled application or platform or until the ride is complete, whichever is later, all of the following shall apply:

(1) The participating driver's or the vehicle owner's personal automobile insurance policy shall not provide any coverage to the participating driver, vehicle owner, or any third party, unless the policy expressly provides for that coverage during the period of time to which this subdivision is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

(2) The participating driver's or the vehicle owner's personal automobile insurance policy shall not have the duty to defend or indemnify for the driver's activities in connection with the transportation network company, unless the policy expressly provides otherwise for the period of time to which this subdivision is applicable, with or without a separate charge, or the policy contains an amendment or endorsement to provide that coverage, for which a separately stated premium is charged.

(c) Notwithstanding any other law or regulation to the contrary, a personal automobile insurer may, after making a filing consistent with the requirements of section 113A of chapter 175 of the General Laws, offer an motor vehicle liability insurance policy, or an amendment or endorsement to an existing policy that covers a private passenger vehicle, station wagon type vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform only if the policy expressly provides for the coverage during the time period specified in subdivision (b), with or without a separate charge filed in accordance with the provisions of chapter 175E of the General Laws, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged in accordance with the requirements of chapter 175E of the General Laws.

Section 5. In a claims coverage investigation, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involved a participating driver and the precise times that the participating driver logged on and off the transportation network company's online-enabled application or platform.

Section 6. A participating driver of a transportation network company shall carry proof of transportation network company insurance coverage with him or her at all times during his or her use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver shall provide this insurance coverage information to any other party involved in the accident, and to a police officer, upon request.

Section 7. Notwithstanding any other law affecting whether one or more policies of insurance that may apply with respect to an occurrence is primary or excess, this article determines the obligations under insurance policies issued to transportation network companies and, if applicable, drivers using a vehicle in connection with a transportation network company's online-enabled application or platform.

SECTION 2. This act shall take effect on January 1, 2016.