

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:

James E. Timilty

DISTRICT/ADDRESS:

Bristol and Norfolk

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:

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

3 CHAPTER 175M

4 TRANSPORTATION NETWORK COMPANY INSURANCE

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

7 “Transportation network company”, an organization, including, but not limited to, a
8 corporation, limited liability company, partnership, sole proprietor, or any other entity, operating
9 in the Commonwealth of Massachusetts that provides prearranged transportation services for
10 compensation using an online-enabled application or platform to connect passengers with drivers
11 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.

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

123 (c) Notwithstanding any other law or regulation to the contrary, a personal automobile
124 insurer may, after making a filing consistent with the requirements of section 113A of chapter
125 175 of the General Laws, offer an motor vehicle liability insurance policy, or an amendment or
126 endorsement to an existing policy that covers a private passenger vehicle, station wagon type
127 vehicle, sport utility vehicle, or similar type of vehicle with a passenger capacity of eight persons
128 or less, including the driver, while used in connection with a transportation network company's
129 online-enabled application or platform only if the policy expressly provides for the coverage
130 during the time period specified in subdivision (b), with or without a separate charge filed in
131 accordance with the provisions of chapter 175E of the General Laws, or the policy contains an
132 amendment or an endorsement to provide that coverage, for which a separately stated premium
133 may be charged in accordance with the requirements of chapter 175E of the General Laws.

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

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

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

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