



**Massachusetts Division of Insurance
Annual Report Concerning Coverage Minimums
for Transportation Network Vehicles
for Calendar Year 2016**

Acknowledgements

This report was prepared by the Massachusetts Division of Insurance (the “Division”) in consultation with the Transportation Network Company Division (the “TNCD”). The report is based primarily on data reported to the Division.

The Division makes all appropriate efforts to check the completeness and consistency of data reported.

Annual Reports

On August 5, 2016, An Act Regulating Transportation Network Companies (St. 2016, c. 187) was enacted, adding to the Massachusetts General Laws (“M.G.L.”) provisions related to the regulation of entities that use a digital network to connect riders to drivers to pre-arrange and provide transportation. One of these provisions, M.G.L. c. 175, § 228(i), requires the Division, in consultation with the TNCD to produce an annual report concerning the coverage minimums required for transportation network vehicles during the period of time where the transportation network driver is logged onto the digital network but is not engaged in a pre-arranged ride; this is commonly referred to as “phase one.”

By statute, the Division’s report must include: (1) an examination, based on actuarial data, of whether the existing coverage requirements provide adequate protection for riders, transportation network drivers and the general public; (2) whether it is presently feasible for a transportation network company to obtain an insurance policy providing coverage of \$1,000,000 per occurrence, per vehicle during the relevant time period; (3) if such a policy is available, whether the coverage minimums should be raised so that all transportation network vehicles carry \$1,000,000 of coverage per occurrence, per vehicle, at all times while operating as a transportation network company; (4) whether a strategy can be developed to raise the coverage requirements during this period through the use of admitted motor vehicle insurance carries, the surplus lines market and technological innovations in the insurance industry such as the use of telematics to improve risk assessment; and (5) any recommended action by the Division, the TNCD, the legislature or other government entity that would encourage the insurance market to provide policies with higher insurance limits while transportation network companies are not engaged in a pre-arranged ride.

It is important to note that M.G.L. c. 175, § 228 became effective in November 2016. The requirement that the Division draft and submit a report on coverage minimums for transportation network vehicles was instituted four months before the deadline for this first annual report. The legislation requires the TNCD to promulgate regulations by November 13, 2017. As such, there is limited data and information at this time. As the market for transportation network companies evolves, more information and data will emerge.

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Background

There are three phases to a transportation network company (“TNC”) transaction. Phase one is when the driver is logged onto the TNC digital network but has not been matched with a rider. Phase two is when the driver has accepted a match with a rider and is en route to pick up the rider. Phase three is when the rider is in the car until the termination of the ride. This report focuses on the minimum insurance coverages required for transportation network vehicles during the period of time where the transportation network driver is logged onto the digital network but is not engaged in a pre-arranged ride, i.e. phase one.

There are different insurance coverage requirements for each phase, pursuant to M.G.L. c. 175, § 228.

Phase One	Coverage Type	Minimum
	Bodily Injury to Others	\$50,000 per person \$100,000 per accident
	Damage to Someone Else’s Property	\$30,000 per accident
	Personal Injury Protection	\$8,000 per person, per accident
	Bodily Injury Caused by Uninsured Auto	\$20,000 per person \$40,000 per accident

Phases Two & Three	Coverage Type	Minimum
	Bodily Injury to Others	\$1,000,000 per vehicle, per accident
	Damage to Someone Else’s Property	\$1,000,000 per vehicle, per accident
	Personal Injury Protection	\$8,000 per person, per accident
	Bodily Injury Caused by Uninsured Auto	\$20,000 per person \$40,000 per accident

Auto insurance policies are broken up into different coverages. Some coverages are “compulsory”, meaning they are required by statute. Each compulsory coverage has a minimum coverage requirement. There are four compulsory coverages. Bodily Injury to Others coverage¹ pays claims for injuries that the insured (drivers listed on the policy and others driving the car with permission) causes to someone else. Personal Injury Protection² pays for treating injuries to the insured and passengers [in the insured’s car]. Bodily Injury Caused by an Uninsured Auto³ coverage reimburses the policyholder if an uninsured or a hit-and-run driver hits an insured. Damage to Someone Else’s Property⁴ coverage pays claims for damage caused by the insured to someone else’s car or to objects and structures the policyholder’s insured’s car hits.

¹ M.G.L. c. 90, § 34A
² M.G.L. c. 90, § 34A
³ M.G.L. c. 175, § 113L
⁴ M.G.L. c. 90, § 34O

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Below are the minimum compulsory coverage requirements for private passenger motor vehicle in the Commonwealth.

Coverage Type	Minimum
Bodily Injury to Others	\$20,000 per person \$40,000 per accident
Damage to Someone Else’s Property	\$5,000 per accident
Personal Injury Protection	\$8,000 per person, per accident
Bodily Injury Caused by Uninsured Auto	\$20,000 per person \$40,000 per accident

Other coverages are available to an insured on an optional basis, such as: optional bodily injury to others (which increases bodily injury coverage to cover injuries to guest occupants and for accidents that happen outside of Massachusetts), medical payments (payments for reasonable and necessary medical and funeral services incurred because of an accident), and bodily injury caused by an underinsured auto (covers damages caused by someone who does not have enough insurance to pay for the damages s/he caused). Coverage is also available for substitute transportation, towing and labor, collision, limited collision, comprehensive. Comprehensive covers one’s own auto from damage due to “acts of God” or other non-collision damage, including damage to vehicle glass. Collision and limited collision cover one’s own auto from damage caused while you or a permitted driver was operating the vehicle.

Adequacy of Existing Coverage Requirements

Pursuant to M.G.L. c. 175, § 228(c), a transportation network driver is required to have the following insurance coverage during phase one:

	Coverage Type	Minimum
Phase One	Bodily Injury to Others	\$50,000 per person \$100,000 per accident
	Damage to Someone Else’s Property	\$30,000 per accident
	Personal Injury Protection	\$8,000 per person, per accident
	Bodily Injury Caused by Uninsured Auto	\$20,000 per person \$40,000 per accident

The statute permits this insurance to be provided by a driver’s personal auto policy or by the transportation network company. At this time, most personal auto policies will not cover a driver while the transportation network company application (“app”) is on. There is no requirement for transportation network company insurance policies to provide comprehensive or collision coverage. As the driver’s vehicle is used as a livery service while being driven as a TNC vehicle, personal auto policies may not cover collision or comprehensive damage that occurs while the vehicle is being used as a TNC vehicle. A majority of financing institutions require a buyer or lessor to have specific insurance coverage, including collision and comprehensive.

At this time, there is insufficient data available for an actuarial examination to assist in determining whether existing coverage requirements provide adequate protection for riders, transportation network drivers, or the general public. In the future, the Division intends to request data from transportation network companies and insurance providers, as well as TNCD and the Merit Rating Board.

Feasibility of Obtaining Coverage during Phase One

Pursuant to M.G.L. c. 175, § 228, transportation network drivers are required to have coverage amounting to at least \$50,000 per individual for bodily injury and \$100,000 per accident for bodily injury during phase one. Additionally, drivers must have coverage of \$30,000 for property damage, \$8,000 for Personal Injury Protection, and \$20,000/\$40,000 for Bodily Injury Caused by an Uninsured Auto. The law permits this coverage to be held by the transportation network driver, the TNC, or a combination of the two. Currently, this coverage is primarily provided by the transportation network companies through surplus lines.⁵ Pursuant to M.G.L. c. 159A½, § 5, each TNC must disclose to its transportation network drivers the types of coverage and limits for each type that is provided by the TNC to a driver while providing transportation network services and must also inform the drivers that their personal auto policies may not provide coverage.

Most personal auto policies do not currently cover drivers during any phases. In calendar year 2016, United Services Automobile Association (“USAA”) was the only company that had an endorsement available for use in the Commonwealth by drivers.⁶ Other insurance companies offer endorsements and separate policies in other states. The Division anticipates additional products entering the market in the Commonwealth in the future, including through admitted companies.⁷

Raising Coverage Requirements for All Phases

At this time, there is insufficient data available to determine if the coverage minimums should be changed, or whether changes would be cost-prohibitive.

Strategy for Raising Coverage Requirements during Phase One

At this time, there is not sufficient data available to develop a strategy or provide justification for raising the coverage requirements for phase one. The Division cannot require auto insurance carriers to cover transportation network drivers through their personal auto policies. The majority of current policies do not cover drivers while they are using their cars for business, i.e. driving for a transportation network company. In order for a carrier to cover an insured’s activities while driving for a TNC, the carrier will have to file an endorsement or a new policy

⁵ Surplus lines insurance provides coverage through approved companies when coverage is not offered by an in-state licensed (admitted) insurer. Compulsory auto insurance cannot be obtained on a surplus lines basis. M.G.L. c. 175, § 168.

⁶ USAA limits membership to military members and their families.

⁷ The Commerce Insurance Company (“Commerce”) received approval from the Division to offer a TNC endorsement as of May 1, 2017.

form with the Division for approval. Once an endorsement is approved, a driver may add this endorsement to their policy for an increased premium.⁸

Other strategies such as telematics and technological innovations remain relatively new to the insurance industry. Telematics involves the integrated use of telecommunications for application in vehicles to more closely align driving behaviors with premium rates. The monitoring of driver behavior is accomplished by odometer readings and in-vehicle telecommunication devices that are usually self-installed into a special vehicle port or already integrated in original equipment installed by car manufacturers. How telematics will interplay with TNCs will continue to be explored as technology expands. The Division will continue to monitor the use of telematics and its reliability within the market.

Recommended Actions

As the new statute is implemented, it is expected that insurers will begin to file endorsements and policy forms with the Division that cover TNC activities, including phase one. The Division will continue to monitor developments in the industry and is a participant in the National Association of Insurance Commissioners' Sharing Economy Working Group, which studies and makes recommendations about regulatory issues related to the sharing economy, including transportation sharing, and develops documentation on best practices for addressing insurance coverage issues related to the sharing economy.

⁸ As of the writing of this report, the Division has approved endorsements submitted by USAA and Commerce for transportation network drivers.