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(MARKED UP VERSION OF PROPOSED RULE)

RULE 2024-2
ACT 804 OF 2023 – IMPLEMENTATION RULE

Pursuant to the authority granted by Act 804 of 2023, and in compliance with the requirements thereof, the Secretary of the Arkansas Department of Finance and Administration hereby promulgates the following rule.

SECTION I. TAXICABS AND FOR-HIRE VEHICLES – LIABILITY INSURANCE
REQUIREMENTS

1. DEFINITIONS – As used in Rule I of these rules:
 - a. “Affiliated person” means an officer, director, or partner of an applicant as well as any other person owning or controlling more than five percent (5%) of an applicant’s debt or equity;
 - b. “Applicant” means an entity engaged in the business of operating a taxicab but does not include an entity providing services under the Transportation Network Company Services Act, Ark. Code Ann. § 23-13-701 et seq;
 - c. “Disclosure Statement” means a notarized, written statement by the applicant containing:
 - i. A complete list of business names or identities under which the applicant has previously operated a business engaged in carrying passengers for hire;
 - ii. A complete list of names used by affiliated persons or owner(s) of the applicant entity within the previous ten (10) years;
 - iii. The case style, case number, or a copy of a judgment entered, or lien filed against the applicant or any affiliated person; and
 - iv. The case style, case number, or copy of pleadings of any bankruptcy proceeding in which the applicant or an affiliated person was named as a debtor or a discharge of a debt against the applicant or an affiliated person was obtained;
 - d. “Secretary” means the Secretary of the Arkansas Department of Finance and Administration; and
 - e. i. “Taxicab” means an automobile or similar vehicle used for hire;
ii. “Taxicab” does not include an entity providing services under the Transportation Network Company Services Act, Ark. Code Ann. § 23-13-701 et seq.
2. PROOF OF LIABILITY INSURANCE
 - a. The Secretary shall not issue a license or registration for a taxicab or other vehicle used for hire unless one of the following is provided to the Secretary prior to licensing or registration:
 - i. A liability contract of insurance issued to the vehicle owner; or
 - ii. A certificate of insurance issued to the owner.
 - b. The owner of a taxicab shall not operate, use, or allow the operation or use of a taxicab on the streets, roads, or highways within this state unless proof of liability insurance is provided to the Secretary as required by Rule (I)(2)(a) of these Rules.
 - c. A liability contract of insurance or certificate of insurance provided to the Secretary as required by Rule (I)(2)(a) of these Rules shall:
 - i. Be substantially in the form of the standard liability insurance policy in customary use;

- ii. Be approved by the Secretary;
- iii. Be issued by an insurance company licensed to do business in Arkansas;
- iv. Secure payment for personal injuries to any person or damage to their property caused by the operation of a taxicab used for hire;
- v. Secure payment for personal injuries and for damage to property for at least the minimum amounts required for liability insurance under the Motor Vehicle Safety Responsibility Act, Ark. Code Ann. § 27-19-101 et seq.;
- vi. Not be required to secure payment for personal injuries to employees or joint venturers of the taxicab owner; and
- vii. Not be required to secure payment for damage to property owned by, rented to, leased to, in charge of, or transported by the owner, other than baggage of passengers.

3. POLICY CANCELLATION

- a. A liability contract or certificate of insurance shall not be canceled by either the taxicab owner, or the insurance carrier, unless written notice of cancellation has been mailed to the Secretary.
- b. The notice provided under Rule (I)(3)(a) of these Rules shall state the exact time and date of cancellation which shall not be less than seven (7) days from the date of mailing.
- c. The mailing of notice under Rule (I)(3)(a) of these Rules shall be sufficient proof of notice and the effective date of cancellation stated in the notice shall become the end of the policy period.

4. BOND IN LIEU OF LIABILITY CONTRACT OR CERTIFICATE OF INSURANCE

- a. In lieu of a liability contract or certificate of insurance, a taxicab owner may file a bond from a solvent surety company licensed to do business in Arkansas.
- b. A bond provided under Rule (I)(4)(a) of these Rules shall:
 - i. Be in the form approved by the Secretary;
 - ii. Be in an amount not less than two hundred and fifty thousand dollars (\$250,000) for all claims for the taxicab owner or operator's fleet; and
 - iii. Not be required to provide uninsured motorist coverage.
- c. If a bond becomes insufficient for any reason, the taxicab owner or operator shall have seven (7) days to restore it to the full amount or shall be required to provide a liability contract or certificate of insurance.

5. DISCLOSURE STATEMENT

- a. An applicant shall annually file a disclosure statement with the Secretary.
- b. The annual disclosure statement shall be submitted in writing and shall be signed by the owner or an officer of the applicant.
- c. The annual disclosure statement shall be mailed to the Secretary at the following address:
Department of Finance and Administration
Online Insurance
P.O. Box 1272
Little Rock, AR 72203

Or by email at: mv.onlineinsurance@dfa.arkansas.gov

SECTION II. SELF-INSURANCE

1. DEFINITIONS – As used in Rule II of these rules:
 - a. “Office” means the Office of Motor Vehicle of the Department of Finance and Administration; and
 - b. “Person” means someone in whose name more than twenty-five (25) vehicles are registered in this state or any political subdivision or municipality of this state, individually or collectively.
2. REQUIREMENTS
 - a. In lieu of providing proof of liability insurance under the Motor Vehicle Safety Responsibility Act, Ark. Code Ann. § 27-19-101 et seq., a person or a religious denomination may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the Secretary of the Department of Finance and Administration.
 - b. The Secretary shall not issue a certificate of self-insurance unless:
 - i. A person or religious denomination has more than twenty-five (25) vehicles registered in their name in this state; and
 - ii. In the case of a religious denomination, the denomination:
 1. Prohibits its members from purchasing insurance of any form as being contrary to its religious tenets; or
 2. Shares liability among its members for liability insurance purposes, in which case the religious denomination is considered an insurer for motor vehicle liability insurance purposes.
3. ANNUAL APPLICATION
 - a. The person or religious denomination seeking to qualify as a self-insurer shall annually apply for issuance of a Certificate of Self-Insurance from the Office.
 - b. The application described in Rule (II)(3)(a) of these Rules shall:
 - i. Be filed on a form prescribed by the Office; and
 - ii. Shall provide proof of the applicant’s ability to pay judgments against them.
4. ISSUANCE OF SELF-INSURANCE CERTIFICATE
 - a. The Office may issue a certificate of self-insurance when it is satisfied that the applicant now possesses and will continue to possess the ability to pay judgments against them.
 - b. Once issued, the certificate of self-insurance authorizes the applicant to act as a self-insurer for either property damage or bodily injury, or both.
 - c. A taxicab or similar vehicle used for hire as described in Ark. Code Ann. § 27-14-1501 or Rule I of these rules shall not be a self-insurer.
5. CANCELLATION OF SELF-INSURANCE CERTIFICATE
 - a. The Office may cancel a certificate of self-insurance if it finds that reasonable grounds exist for cancellation.
 - b. A certificate of self-insurance shall not be cancelled unless the Office provides notice of the intended action at least five (5) days prior to taking any action and provides the certificate holder with an opportunity for a hearing to consider the holder’s objections to the proposed action.

- c. Failure to pay any judgment within thirty (30) days after the judgment is final constitutes reasonable ground for the cancellation of a certificate of self-insurance.

Issued this 21st day of August in the City of Little Rock, Pulaski County, Arkansas.



Jim Hudson, Secretary
Department of Finance and Administration

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/28/23

A Bill

HOUSE BILL 1237

5 By: Representatives L. Johnson, *J. Richardson*
6 By: *Senator J. Boyd*
7

For An Act To Be Entitled

9 AN ACT TO REGULATE THE BUSINESS OF VEHICLES FOR HIRE;
10 TO REQUIRE CERTAIN DISCLOSURES BY A BUSINESS ENGAGED
11 IN CARRYING PASSENGERS FOR HIRE; TO REQUIRE LIABILITY
12 INSURANCE COVERAGE FOR EACH TAXICAB, AUTOMOBILE, OR
13 SIMILAR VEHICLE USED FOR HIRE; TO AMEND THE LAW
14 REGARDING SELF-INSURANCE BY CERTAIN ENTITIES; AND FOR
15 OTHER PURPOSES.
16
17

Subtitle

18 TO REGULATE THE BUSINESS OF TAXICAB,
19 AUTOMOBILE, OR SIMILAR VEHICLE ENGAGED IN
20 CARRYING PASSENGERS FOR HIRE.
21
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 27-14-1501 is amended to read as follows:
27 27-14-1501. Liability insurance prerequisite to licensing.

28 (a)(1) ~~No~~ A license shall not be issued for any taxicab, automobile,
29 or similar vehicle used for hire, nor shall these vehicles be operated or
30 used in and upon the streets, roads, and highways of the State of Arkansas,
31 within or without the corporate limits of any city or village, for the
32 purpose of carrying passengers for hire unless there ~~shall have~~ has been
33 filed with the Secretary of the Department of Finance and Administration a
34 liability contract of insurance, or certificates of insurance, issued to the
35 owner of the vehicle, ~~which~~.

36 (2) The liability contract of insurance or certificate of



1 insurance described in subdivision (a)(1) of this section shall be
2 substantially:

3 (A) Substantially in the form of the standard automobile
4 liability insurance policy in customary use, ~~to be approved;~~

5 (B) Approved by the secretary, ~~issued;~~ and

6 (C) Issued by an insurance company licensed to do business
7 in the State of Arkansas.

8 (b) The policy under subsection (a) of this section shall secure
9 payment ~~in accordance with~~ according to the provisions ~~thereof~~ of subsection
10 (a) of this section to any person except employees or joint venturers of ~~the~~
11 an owner for personal injuries to that person and for any damage to property
12 except property owned by, rented to, leased to, in charge of, or transported
13 by the owner, other than baggage of passengers, caused by the operation of a
14 taxicab, automobile, or similar vehicle used for hire for at least the
15 minimum amounts prescribed for liability insurance under the Motor Vehicle
16 Safety Responsibility Act, § 27-19-101 et seq.

17 (c)(1) In lieu of the policy of insurance, ~~an~~ the owner may file a
18 bond by some solvent surety company licensed to do business in this state ~~or~~
19 ~~may file a bond by suitable collateral.~~

20 (2)(A) The bond ~~or collateral~~ shall be in the form approved by
21 the secretary and shall be conditioned for the payment of property damage and
22 personal injuries and shall be in an amount no less than ~~fifty thousand~~
23 ~~dollars (\$50,000)~~ two hundred fifty thousand dollars (\$250,000) for all
24 claims for the operator's fleet, and uninsured motorist coverage shall not be
25 required of the operators.

26 (B) If the bond ~~or collateral~~ becomes insufficient because
27 of claims or any other reason, the operator shall have seven (7) days to
28 restore it to the full amount or lose its bonded status.

29 ~~(d) In lieu of the policy of insurance or bond, an owner may provide~~
30 ~~self insurance as authorized under § 27-19-107.~~

31 ~~(e)(1)(d)(1) No~~ A policy of insurance ~~may~~ shall not be cancelled by
32 the licensee or by the insurance carrier unless written notice of the
33 cancellation ~~shall have~~ has been mailed to the secretary.

34 (2) The written notice shall state the exact time and date of
35 cancellation ~~to be not~~ no less than seven (7) days from the date of mailing.

36 (3) The mailing of notice shall be sufficient proof of notice,

1 and the effective date of cancellation stated in the notice shall become the
2 end of the policy period.

3 ~~(f)(e)~~ Any An individual or corporation engaged in the operation of a
4 taxicab, ~~etc.~~ automobile, or similar vehicle used for hire, as a common
5 carrier of passengers for hire ~~who~~ that violates this section or ~~who~~ that
6 procures, aids, or abets ~~any~~ an individual or corporation in violating this
7 section shall, upon conviction, be guilty of a Class B misdemeanor.

8 ~~(g)(1)(f)(1)~~ Notwithstanding any other provision of state law, ~~any~~ a
9 municipality in a county with a population in excess of two hundred thousand
10 (200,000) that requires a franchise for taxicabs to operate within the
11 corporate limits of the municipality may impose any insurance requirements
12 desired by the municipality that shall be applicable to ~~any~~ a taxicab that
13 operates within the municipality.

14 (2)(A) If a municipality imposes ~~such~~ additional insurance
15 requirements on its taxicabs as described under subdivision (f)(1) of this
16 section, it shall be unlawful for ~~any~~ a taxicab operator to operate a taxicab
17 within the corporate limits of that municipality without meeting ~~such~~ the
18 additional insurance requirements.

19 (B) ~~Any~~ A person found guilty or who pleads guilty or nolo
20 contendere to a charge of violating this ~~subsection~~ subdivision (f)(2) shall
21 be subject to a:

22 (i) ~~fine~~ Fine of not less than ~~one hundred dollars~~
23 ~~(\$100) nor more than~~ five hundred dollars (\$500) and not to exceed one
24 thousand dollars (\$1,000); and

25 (ii) Sentence that shall not exceed ninety (90) days
26 for a Class B misdemeanor.

27 (3) In addition to penalties that may be assessed against the
28 taxicab operator, if the taxicab owner is a different person or entity, the
29 owner shall be subject to a fine of not less than one hundred dollars (\$100)
30 nor more than five hundred dollars (\$500).

31 (4) A municipality may, by ordinance, declare that an uninsured
32 taxicab shall be subject to seizure and that a seized taxicab shall not be
33 released until ~~such~~ insurance is in place.

34 (g) This subchapter does not apply to an entity providing services
35 under the Transportation Network Company Services Act, § 23-13-701 et seq.

36

1 SECTION 2. Arkansas Code Title 27, Chapter 14, Subchapter 15, is
2 amended to add an additional section to read as follows:

3 27-14-1503. Disclosures required – Definitions.

4 (a) As used in this section:

5 (1) "Affiliated person" means:

6 (A) Any officer, director, or partner of an applicant; and

7 (B) Any person owning or controlling more than five
8 percent (5%) of the applicant's debt or equity;

9 (2)(A) "Applicant" means an entity engaged in the business of
10 operating a taxicab, automobile, or similar vehicle used for hire.

11 (B) "Applicant" does not include an entity providing
12 services under the Transportation Network Company Services Act, § 23-13-701
13 et seq.; and

14 (3) "Disclosure statement" means a notarized, written statement
15 by the applicant that contains:

16 (A) A complete list of business names or identities under
17 which the applicant has previously operated a business engaged in carrying
18 passengers for hire;

19 (B) A complete list of names used by affiliated persons or
20 owner of the applicant entity within the previous ten (10) years;

21 (C) The case style, case number, or a copy of a judgment
22 entered or lien filed against the applicant or an affiliated person; and

23 (D) The case style, case number, or a copy of pleadings of
24 any bankruptcy proceeding in which the applicant or an affiliated person was
25 named as a debtor or a discharge of a debt against the applicant or an
26 affiliated person was obtained.

27 (c) An applicant shall file a disclosure statement with the secretary
28 annually.

29 (d) The secretary shall promulgate rules to implement this section.

30
31 SECTION 3. Arkansas Code § 27-19-107 is amended to read as follows:
32 27-19-107. Self-insurers.

33 (a)(1) A Except as described in subsection (d) of this section, a
34 person or religious denomination may qualify as a self-insurer by obtaining a
35 certificate of self-insurance issued by the Office of Motor Vehicle as
36 described in subsection (b) of this section if:

1 ~~(1)(A)~~ The person is someone in whose name more than
2 twenty-five (25) vehicles are registered in this state or any political
3 subdivision or municipality of this state, individually or collectively; or

4 ~~(2)(B)~~ The religious denomination:

5 ~~(A)(i)~~ Has more than twenty-five (25) members who
6 own motor vehicles registered in this state and prohibits its members from
7 purchasing insurance of any form as being contrary to its religious tenets;
8 or

9 ~~(B)(i)(ii)(a)~~ Shares liability among members for
10 liability insurance purposes.

11 ~~(ii)(b)~~ The religious denomination described
12 in subdivision ~~(a)(2)(B)(i)~~ (a)(1)(B)(ii)(a) of this section is considered an
13 insurer for motor vehicle liability insurance purposes.

14 (2) A person or religious denomination under subdivision (a)(1)
15 of this section shall apply for a certificate of self-insurance annually,
16 using the form prescribed by the Office of Motor Vehicle, and provide proof
17 of his, her, or its ability to pay judgments against them.

18 (b)(1) The Office of Motor Vehicle may, in its discretion, upon the
19 annual application of the religious denomination, person, political
20 subdivision, or municipality, individually or collectively, issue a
21 certificate of self-insurance when it is satisfied that the religious
22 denomination, person, political subdivision, or municipality is possessed and
23 will continue to be possessed of ability to pay judgments against them.

24 (2) The certificate may be issued authorizing a religious
25 denomination, person, political subdivision, or municipality, individually or
26 collectively, to act as a self-insurer for either property damage or bodily
27 injury, or both.

28 (c)(1) Upon not less than five (5) days' notice and a hearing pursuant
29 to the notice, the Office of Motor Vehicle may, upon reasonable grounds,
30 cancel a certificate of self-insurance.

31 (2) Failure to pay any judgment within thirty (30) days after
32 the judgment ~~shall have become~~ is final shall constitute a reasonable ground
33 for the cancellation of a certificate of self-insurance.

34 (d) A taxicab, automobile, or similar vehicle used for hire, as
35 described under § 27-14-1501, shall not be a self-insurer.

36

SECTION 4. TEMPORARY LANGUAGE. DO NOT CODIFY. Rules.

(a) The Secretary of the Department of Finance and Administration shall promulgate rules necessary to implement this act.

(b)(1) When adopting the initial rules to implement this act, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(A) On or before January 1, 2024; or

(B) If approval under § 10-3-309 has not occurred by January 1, 2024, as soon as practicable after approval under § 10-3-309.

(2) The Secretary of the Department of Finance and Administration shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2024, so that the Legislative Council may consider the rule for approval before January 1, 2024.

/s/L. Johnson

APPROVED: 4/13/23