

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

A Bill

HOUSE BILL 1585

5 By: Representatives Maddox, Perry
6 By: Senators Hill, Irvin
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE DELIVERY NETWORK COMPANY
10 INSURANCE ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO CREATE THE DELIVERY NETWORK COMPANY
14 INSURANCE ACT.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 23, Chapter 13, is amended to add an
21 additional subchapter to read as follows:
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Subchapter 9 – Delivery Network Company Insurance Act

23-13-901. Title.

25 This subchapter shall be known and may be cited as the "Delivery
26 Network Company Insurance Act".
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23-13-902. Definitions.

29 As used in this subchapter:

30 (1) "Delivery availability period" means the period when a
31 delivery network company driver:
32

33 (A) Has logged on to a digital network and is available to
34 receive immediate requests to provide delivery services from a delivery
35 network company;

36 (B) Is operating a personal vehicle; and



1 (C) Is not providing delivery services or operating in the
2 delivery service period;

3 (2) "Delivery network company" means an entity that:

4 (A) Is a corporation, partnership, sole proprietorship, or
5 other entity;

6 (B) Operates in this state; and

7 (C) Uses a digital network to connect a delivery network
8 company customer to a delivery network company driver to provide delivery
9 services;

10 (3) "Delivery network company customer" means a person:

11 (A) Who orders the delivery of goods; and

12 (B) Who directs the delivery network company driver as to
13 the delivery location for the goods;

14 (4) "Delivery network company driver" means an individual who
15 provides delivery services through a delivery network company's digital network
16 using a personal vehicle;

17 (5) "Delivery service period" means the period that:

18 (A) Begins when a delivery network company driver starts
19 operating a personal vehicle en route to pick up goods for a delivery or
20 series of deliveries as documented through a digital network controlled by a
21 delivery network company;

22 (B) Continues while the delivery network company driver
23 transports the requested delivery or deliveries; and

24 (C) Ends upon delivery of the requested goods to:

25 (i) The location designated by delivery network
26 company customer or the location designated by the last delivery network
27 company customer in a series of deliveries; or

28 (ii) A location designated by the delivery network
29 company, including for purposes of returning the goods;

30 (6)(A) "Delivery services" means the fulfillment of delivery
31 requests made by a delivery network company customer through a digital
32 network, including the pickup of any goods by the delivery network company
33 driver and the delivery of the goods to the location designated by the
34 delivery network company customer.

35 (B) "Delivery services" may include a series of deliveries
36 to the designated locations of different delivery network company customers;

1 (7) "Digital network" means any online application, software,
2 website, or system offered or utilized by a delivery network company that
3 enables deliveries with delivery network company drivers; and

4 (8) "Personal vehicle" means a motor vehicle that is:

5 (A) Used by a delivery network company driver to provide
6 delivery services through a digital network; or

7 (B) Owned, leased, or otherwise authorized for use by the
8 delivery network company driver.

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10 23-13-903. Interaction with other law.

11 (a) This subchapter does not limit the scope of federal or state law
12 regarding delivery or transport of goods.

13 (b) A delivery made under this subchapter that is subject to any other
14 law shall comply with the requirements of that law.

15 (c) If a conflict between this subchapter and another law dealing with
16 the delivery or transport of goods arises, then the other law prevails.

17
18 23-13-904. Insurance requirements.

19 (a) A delivery network company shall ensure that, during the delivery
20 availability period, if applicable, and during the delivery service period,
21 primary motor vehicle liability insurance is in effect that:

22 (1) Recognizes that the operator of the motor vehicle is a
23 delivery network company driver; or

24 (2) Does not exclude coverage for use of a personal vehicle to
25 provide deliveries.

26 (b) During the delivery service period and the delivery availability
27 period, the delivery network company driver or delivery network company, or
28 any combination of the two (2), shall maintain motor vehicle liability
29 insurance coverage that insures the delivery network company driver for
30 liability to third parties of not less than:

31 (1) Fifty thousand dollars (\$50,000) for damages arising out of
32 bodily injury sustained by any one (1) person in an accident;

33 (2) One hundred thousand dollars (\$100,000) for damages arising
34 out of bodily injury sustained by all persons injured in an accident; and

35 (3) Twenty-five thousand dollars (\$25,000) for all damages
36 arising out of damage to or destruction of property in an accident.

1 (c) If the insurance coverage maintained by a delivery network company
2 driver under subsections (a) and (b) of this section has lapsed or does not
3 provide the required motor vehicle liability insurance coverage, then:

4 (1) The insurance coverage maintained by the delivery network
5 company shall provide the motor vehicle liability insurance coverage required
6 by subsections (a) and (b) of this section beginning with the first one
7 dollar (\$1.00) of a claim; and

8 (2) The insurance coverage maintained by the delivery network
9 company shall provide that the motor vehicle liability insurer has the duty
10 to defend the claim.

11 (d) Coverage under a motor vehicle liability insurance policy
12 maintained by the delivery network company is not dependent upon another
13 motor vehicle liability insurer first denying a claim, nor shall another motor
14 vehicle liability insurance policy be required to first deny a claim.

15 (e) Insurance coverage required by this section may be obtained from
16 an insurance company licensed to transact business under the insurance laws
17 of this state or by an eligible surplus lines broker under the Surplus Lines
18 Insurance Law, § 23-65-301 et seq.

19 (f) The coverage required under subsections (a) and (b) of this section
20 shall be deemed to meet the requirements of the Motor Vehicle Safety
21 Responsibility Act, § 27-19-101 et seq.

22 (g)(1) A delivery network company driver shall carry proof of
23 insurance required under subsections (a) and (b) of this section at all times
24 while using a personal vehicle in connection with a digital network.

25 (2) In the event of an accident, a delivery network company
26 driver shall, upon request:

27 (A) Provide insurance coverage information to the directly
28 interested parties, insurers, and investigating law enforcement officers; and

29 (B) Disclose to the directly interested parties, insurers,
30 and investigating law enforcement officers whether or not the delivery
31 network company driver was operating during the delivery availability period
32 or the delivery service period at the time of the accident.

33 (3) The insurance coverage information required in § 23-89-213
34 may be displayed or provided in either paper or electronic format.

35 (h)(1) In a claims coverage investigation, a delivery network company
36 or an insurer of the delivery network company shall:

1 (A) Cooperate with all insurers that are involved in the
2 claims coverage investigation to facilitate the exchange of information; and

3 (B) Upon request by directly involved parties or an
4 insurer of directly involved parties, immediately provide the times that a
5 delivery network company driver began and ended the delivery availability
6 period and the delivery service period on the delivery network company's
7 digital network in:

8 (i) The twelve-hour period immediately preceding the
9 accident; and

10 (ii) The twelve-hour period immediately following
11 the accident.

12 (2) An insurer potentially providing the coverage required in
13 this section shall disclose upon request by any other insurer involved in the
14 particular claim a clear description of the applicable coverage, exclusions,
15 and limits provided under any motor vehicle liability insurance policies
16 maintained in order to satisfy the requirements of this section.

17 (i) An insurer of a delivery network company providing coverage under
18 subsections (a) and (b) of this section shall assume primary liability for a
19 claim when:

20 (1) A dispute exists as to when the delivery availability period
21 or the delivery service period began or ended; and

22 (2) The delivery network company does not have available, did not
23 retain, or fails to provide the information required in subsection (h) of this
24 section.

25 (j) A delivery network company shall not be deemed to control, direct,
26 or manage a personal vehicle or delivery network company driver that connects
27 to the delivery network company's digital network except if agreed to by
28 written contract.

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30 23-13-905. Disclosures to delivery network company drivers.

31 A delivery network company shall not permit a delivery network company
32 driver to engage in delivery services on the delivery network company's
33 digital network until the delivery network company discloses in writing to
34 the delivery network company driver:

35 (1) The insurance coverage, including without limitation the
36 types of coverage and the limits for each coverage, that the delivery network

1 company provides while the delivery network company driver uses a personal
 2 vehicle in connection with a delivery network company's digital network; and

3 (2) That the delivery network company driver's own motor vehicle
 4 liability insurance policy may not provide any insurance coverage during the
 5 delivery availability period, if applicable, or the delivery service period.

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 7 23-13-906. Exclusions in motor vehicle liability insurance policies.

8 (a) An insurer that is licensed to write motor vehicle liability
 9 insurance in this state may exclude coverage and deny the duty to defend or
 10 indemnify for a claim of injury or loss that occurs during the delivery
 11 availability period and the delivery service period.

12 (b) The right to exclude all coverage under subsection (a) of this
 13 section may apply to any coverage included in the motor vehicle liability
 14 insurance policy, including without limitation:

- 15 (1) Liability coverage for bodily injury and property damage;
- 16 (2) Uninsured and underinsured motorist coverage;
- 17 (3) Medical payments coverage;
- 18 (4) Comprehensive physical damage coverage; and
- 19 (5) Collision physical damage coverage.

20 (c) This subchapter does not:

21 (1) Invalidate or limit an exclusion contained in a motor vehicle
 22 liability insurance policy, including any insurance policy in use or approved
 23 for use that excludes coverage for motor vehicles used for delivery or for
 24 any business use; or

25 (2) Invalidate, limit, or restrict an insurer's ability under
 26 existing law to:

- 27 (A) Underwrite any insurance policy; or
- 28 (B) Cancel and nonrenew an insurance policy.

29 (d) A motor vehicle liability insurer that defends or indemnifies a
 30 claim against a delivery network company driver that is excluded under the
 31 terms of its insurance policy may seek recovery against the insurer providing
 32 insurance coverage under § 23-13-904(a) and (b) if the claim:

- 33 (1) Occurs during the delivery availability period or the
 34 delivery service period; and
- 35 (2) Is excluded under the terms of its insurance policy.

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1 SECTION 2. EFFECTIVE DATE. This act is effective on and after October
2 1, 2024.

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