

HOUSE BILL 168

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Monica Youngblood

This document incorporates committee amendments adopted during standing committee(s) consideration of this measure. It is a tool to show the amendments in context and is not to be used for introduction, amendment or substitution.

AN ACT

RELATING TO TRANSPORTATION; ENACTING THE TRANSPORTATION NETWORK COMPANY SERVICES ACT AND PROVIDING FOR ADMINISTRATION OF THE ACT BY THE PUBLIC REGULATION COMMISSION; CREATING A FUND; PROVIDING PENALTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 25 of this act may be cited as the "Transportation Network Company Services Act".

SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the Transportation Network Company Services Act is to ensure the safety, reliability and cost-effectiveness of rides provided by transportation network company drivers within New Mexico and to preserve and enhance access to these important transportation options for residents of and visitors to the state.

SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the .202750.2 Amendments in Context

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Transportation Network Company Services Act:

A. "digital network" means an online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers;

B. "personal vehicle" means a vehicle that is used by a transportation network company driver and is:

(1) owned, leased or otherwise authorized for use by the transportation network company driver; and

(2) not a taxicab or other vehicle for hire;

C. "prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include shared-expense vanpool or carpool arrangements or transportation provided using a taxicab, limousine or other vehicle for hire pursuant to the Motor Carrier Act;

D. "transportation network company" means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to the Transportation Network Company Services Act and operating in New Mexico that uses a digital

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network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract;

E. "transportation network company driver" or "driver" means an individual who:

(1) receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(2) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation; and

F. "transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a transportation network company driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

SECTION 4. [NEW MATERIAL] NOT OTHER CARRIERS.--

Transportation network companies and transportation network company drivers are not motor carriers as defined in the Motor

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Carrier Act, nor do they provide taxicab service, limousine service, charter service, passenger service, shuttle service or other transportation service as defined in the Motor Carrier Act. A transportation network company driver shall not be required to register the vehicle that the driver uses to provide prearranged rides as a commercial vehicle or vehicle for hire.

SECTION 5. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY PERMIT REQUIRED.--

A. A person shall not operate a transportation network company in New Mexico without first having obtained a permit from the public regulation commission.

B. The public regulation commission shall issue a permit to an applicant that meets the requirements for a transportation network company set forth in the Transportation Network Company Services Act and any rules adopted by the commission pursuant to that act. The transportation network company shall pay an annual permit fee of ten thousand dollars (\$10,000) to the commission.

SECTION 6. [NEW MATERIAL] AGENT.--The transportation network company shall maintain an agent for service of process in New Mexico.

SECTION 7. [NEW MATERIAL] FARE COLLECTED FOR SERVICES.-- On behalf of a transportation network company driver, a transportation network company may charge a fare for the

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services provided to riders; provided that, if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare calculation method within the software application service. The transportation network company shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the transportation network company driver's vehicle.

SECTION 8. [NEW MATERIAL] IDENTIFICATION OF TRANSPORTATION NETWORK COMPANY VEHICLES AND DRIVERS.--The transportation network company's software application or website shall display a picture of the transportation network company driver and the license plate number of the motor vehicle used for providing the prearranged ride before the rider enters the transportation network company driver's vehicle.

SECTION 9. [NEW MATERIAL] ELECTRONIC RECEIPT.--Within a reasonable period of time following the completion of a prearranged ride, a transportation network company shall transmit an electronic receipt to the rider on behalf of the transportation network company driver that lists:

- A. the origin and destination of the trip;
- B. the total time and distance of the trip; and
- C. an itemization of the total fare paid, if any.

SECTION 10. [NEW MATERIAL] FINANCIAL RESPONSIBILITY OF

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TRANSPORTATION NETWORK COMPANIES.--

A. A transportation network company driver or transportation network company on the driver's behalf shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:

- (1) while the driver is logged on to the transportation network company's digital network; or
- (2) while the driver is engaged in a prearranged ride.

B. While a participating transportation network company driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride, the following automobile insurance requirements shall apply: primary automobile liability insurance in the amount of at least fifty thousand dollars (\$50,000) for death and bodily injury per person, one hundred thousand dollars (\$100,000) for death and bodily injury per incident and twenty-five thousand dollars (\$25,000) for property damage. This coverage requirement may be satisfied by any of the following:

- (1) automobile insurance maintained by the transportation network company driver;
- (2) automobile insurance maintained by the

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transportation network company; or

(3) a combination of Paragraphs (1) and (2) of this subsection.

C. While a transportation network company driver is engaged in a prearranged ride, the following automobile insurance requirements shall apply: ~~primary automobile liability insurance of at least one million dollars (\$1,000,000) for death, bodily injury and property damage.~~

(1) insurance of at least one million dollars (\$1,000,000) primary automobile liability for death, bodily injury and property damage; and

(2) uninsured and underinsured motorist coverage to the extent required by Section 66-5-301 NMSA 1978.

D. The coverage requirements of ~~this subsection~~ Subsection C of this section may be satisfied by any of the following:

(1) automobile insurance maintained by the transportation network company driver;

(2) automobile insurance maintained by the transportation network company; or

(3) a combination of Paragraphs (1) and (2) of this subsection.

ED. If insurance maintained by the driver has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide

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the coverage required by this section beginning with the first dollar of a claim and have the duty to defend such claim.

FE. Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

GF. Insurance required by this section may be placed with an insurer authorized to do business in the state or with a surplus lines insurer eligible pursuant to the New Mexico Insurance Code.

HG. Insurance satisfying the requirements of this section shall be deemed to satisfy the requirements of the Mandatory Financial Responsibility Act.

IH. A transportation network company driver shall carry digital or physical proof of coverage required by this section with the driver at all times during the driver's use of a vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers. Upon such request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers and investigating police officers if the driver was logged on to

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the transportation network company's digital network or on a prearranged ride at the time of an accident.

SECTION 11. [NEW MATERIAL] DISCLOSURES.--The transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a prearranged ride on the transportation network company's digital network:

A. the insurance coverage, including the types of coverage and the limits for each coverage, that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network;

B. that the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms; and

C. that, if the motor vehicle that the driver uses to provide transportation network company services has a lien against it, using the motor vehicle for transportation network company services without physical damage coverage may violate the terms of the contract with the lienholder.

SECTION 12. [NEW MATERIAL] AUTOMOBILE INSURANCE

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PROVISIONS.--

A. Insurers that write automobile insurance in New Mexico may exclude any and all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including:

- (1) liability coverage for bodily injury and property damage;
 - (2) uninsured and underinsured motorist coverage;
 - (3) medical payments coverage;
 - (4) comprehensive physical damage coverage;
- and
- (5) collision physical damage coverage.

B. Exclusions shall apply notwithstanding any requirement pursuant to the Mandatory Financial Responsibility Act. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation. Nothing in this section shall be

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deemed to preclude an insurer from providing coverage for the transportation network company driver's vehicle if the insurer chooses to do so by contract or endorsement.

C. Automobile insurers that exclude the coverage described in Section 10 of the Transportation Network Company Services Act shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in the Transportation Network Company Services Act shall be deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in New Mexico prior to the enactment of the Transportation Network Company Services Act, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of Section 10 of the Transportation Network Company Services Act at the time of loss.

D. In a claims coverage investigation, transportation network companies and any insurer potentially providing coverage under Section 10 of the Transportation Network Company Services Act shall cooperate to facilitate the exchange of relevant information with directly involved parties

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and any insurer of the transportation network company driver, if applicable, including the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the twelve-hour period immediately preceding and in the twelve-hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under Section 10 of the Transportation Network Company Services Act.

E. If a transportation network company's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the transportation network company shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

SECTION 13. [NEW MATERIAL] LIMITATION ON TRANSPORTATION NETWORK COMPANIES.--Drivers shall be independent contractors and not employees of the transportation network company if:

A. the transportation network company does not prescribe specific hours during which a transportation network company driver must be logged on to the transportation network company's digital network;

B. the transportation network company imposes no restrictions on the transportation network company driver's

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ability to utilize digital networks from other transportation network companies;

C. the transportation network company does not assign a transportation network company driver a particular territory in which prearranged rides can be provided;

D. the transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

E. the transportation network company and the transportation network company driver agree in writing that the driver is an independent contractor of the transportation network company.

SECTION 14. [NEW MATERIAL] ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.--

A. The transportation network company shall implement a zero-tolerance policy regarding a transportation network company driver's activities while accessing the transportation network company's digital network. The zero-tolerance policy shall address the use of ~~illegal drugs or alcohol~~ intoxicating drugs or liquor while a transportation network company driver is providing prearranged rides or is logged on to the transportation network company's digital network but is not providing prearranged rides, and the transportation network company shall provide notice of this policy on its website, as well as procedures to report a

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complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of illegal drugs or alcohol during the course of the trip.

B. Upon receipt of a rider complaint alleging a violation of the zero-tolerance policy, the transportation network company shall immediately suspend the transportation network company driver's ability to accept trip requests through the transportation network company's digital network and shall conduct an investigation into the reported incident. The suspension shall last for the duration of the investigation.

C. The transportation network company shall maintain records relevant to the enforcement of the requirements of this section for a period of at least two years from the date that a rider complaint is received by the transportation network company.

SECTION 15. [NEW MATERIAL] TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.--

A. Before allowing an individual to accept prearranged ride requests through a transportation network company's digital network:

(1) the individual shall submit an application to the transportation network company that includes information regarding the individual's address, age, driver's license, driving history, motor vehicle registration, automobile

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liability insurance and other information required by the transportation network company;

(2) the transportation network company shall conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include:

(a) multistate or multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation and primary source search; and

(b) the Dru Sjodin national sex offender public website; and

(3) the transportation network company shall obtain and review a driving history research report for the individual.

B. The transportation network company shall not permit an individual to act as a transportation network company driver on its digital network who:

(1) has had more than three moving violations in the prior three-year period or one major violation in the prior three-year period, including attempting to evade the police, reckless driving or driving on a suspended or revoked license;

(2) has been convicted within the past seven years of:

(a) a felony;

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(b) misdemeanor driving under the influence, reckless driving, ~~hit-and-run~~ leaving the scene of an accident or any other driving-related offense or any misdemeanor violent offense or sexual offense; or

(c) more than three misdemeanors of any kind;

(3) is a match on the Dru Sjodin national sex offender public website;

(4) does not possess a valid driver's license;

(5) does not possess proof of registration for the motor vehicle used to provide prearranged rides;

(6) does not possess proof of automobile liability insurance for the motor vehicle used to provide prearranged rides; or

(7) is not at least nineteen years old.

C. A transportation network company driver shall not provide prearranged rides for more than twelve hours out of any twenty-four-hour period.

~~SECTION 16. [NEW MATERIAL] VEHICLE SAFETY. A transportation network company shall not allow a transportation network company driver to accept prearranged ride requests through the transportation network company's digital network unless any motor vehicle that a transportation network company driver will use to provide prearranged rides meets New Mexico's vehicle equipment standards applicable to a private motor~~

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~~vehicle pursuant to the Motor Vehicle Code.~~

SECTION 16. [NEW MATERIAL] VEHICLE SAFETY.--

A. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the transportation network company if the motor vehicle operated by the driver to provide transportation services:

(1) is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;

(2) has fewer than four doors;

(3) is designed to carry more than eight passengers, including the driver; or

(4) is a farm tractor, mobile home, recreational vehicle, semitractor, semitrailer, trailer, bus, motorcycle or tow car.

B. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter.

C. The inspection required by Subsection B of this section shall include an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, taillights, turn indicator

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lights, braking lights, front seat adjustment mechanism, doors, horn, speedometer, bumpers, muffler, exhaust, tires, rearview mirrors and safety belts of the vehicle to ensure the proper functioning of each component.

D. The public regulation commission shall promulgate rules and regulations to determine compliance with the provisions of this section.

SECTION 17. [NEW MATERIAL] NO STREET HAILS.--A transportation network company driver shall not solicit or accept street hails.

SECTION 18. [NEW MATERIAL] NO CASH TRIPS.--The transportation network company shall adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify transportation network company drivers of the policy. Transportation network company drivers shall not solicit or accept cash payments from riders. Any payment for prearranged rides shall be made only electronically using the transportation network company's digital network or software application.

SECTION 19. [NEW MATERIAL] NONDISCRIMINATION--ACCESSIBILITY.--

A. A transportation network company shall adopt a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity with

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respect to riders and potential riders and notify transportation network company drivers of the policy.

B. Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity.

C. Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.

D. A transportation network company shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

E. A transportation network company shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange a wheelchair-accessible prearranged ride in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

SECTION 20. [NEW MATERIAL] RECORDS.--A transportation network company shall maintain the following records:

A. individual prearranged ride records for at least three years from the date each trip was provided; and

B. individual records of transportation network company drivers at least until the one-year anniversary of the

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date on which a transportation network company driver's relationship with the transportation network company has ended.

SECTION 21. [NEW MATERIAL] CONTROLLING AUTHORITY.--

A. Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by the Transportation Network Company Services Act and any rules adopted by the public regulation commission consistent with that act. No municipality or other local entity may impose a tax on or require a license for a transportation network company, a transportation network company driver or a vehicle used by a transportation network company driver where the tax or licenses relates to providing prearranged rides or subject a transportation network company to the municipality or other local entity's rate, entry, operational or other requirements, except for generally applicable business licenses or business-related taxes imposed on transportation network company drivers at the local level.

B. Nothing in this section prohibits an airport with more than one million annual enplanements as reported by the federal aviation administration in the previous calendar year from requiring a transportation network company to sign a permit requiring fees and other requirements in order to operate at that airport.

SECTION 22. [NEW MATERIAL] TRANSPORTATION DIVISION FUND

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CREATED--ASSESSMENT AND COLLECTION OF FEES.--

A. The "transportation division fund" is created in the state treasury for the purpose of ensuring the safety and financial responsibility of transportation network companies and transportation network company drivers. The fund shall consist of fees collected pursuant to the Transportation Network Company Services Act, administrative fines collected under that act, appropriations, gifts, grants, donations and earnings on investment of the fund. Balances in the fund shall not revert to the general fund or any other fund at the end of any fiscal year.

B. The transportation division fund shall be administered by the public regulation commission. Money in the fund is appropriated to the commission to carry out its duties pursuant to the provisions of the Transportation Network Company Services Act. Not more than five percent of the fees collected pursuant to this section shall be used by the commission for administrative purposes.

C. Payments from the transportation division fund shall be made upon vouchers issued and signed by the director of the administrative services division of the public regulation commission or the director's authorized representative upon warrants drawn by the secretary of finance and administration.

SECTION 23. [NEW MATERIAL] RECORDS PURSUANT TO RULES OF

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THE PUBLIC REGULATION COMMISSION.--

A. A transportation network company holding a permit issued by the public regulation commission shall maintain the records required pursuant to the Transportation Network Company Services Act to be collected by the transportation network company, including records regarding transportation network company drivers.

B. In response to a specific complaint, the public regulation commission, its employees or its duly authorized agents may inspect those records held by a transportation network company for the investigation and resolution of the complaint.

C. No more than semiannually and as determined by the public regulation commission, the commission, its employees or its duly authorized agents may, in a mutually agreed setting, inspect those records held by a transportation network company whose review is necessary to ensure public safety; provided that such review shall be on an audit rather than a comprehensive basis.

D. Any proprietary records obtained by the public regulation commission pursuant to this section shall not be subject to disclosure by the commission.

SECTION 24. [NEW MATERIAL] ADMINISTRATIVE PENALTIES.--

A. If the public regulation commission finds after investigation that a provision of the Transportation Network

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Company Services Act or an order or rule of the commission is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the public regulation commission may assess an administrative fine of not more than one thousand dollars (\$1,000) for each violation of a provision of the Transportation Network Company Services Act or of a lawful rule or order of the commission. In the case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. All penalties accruing under the Transportation Network Company Services Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution.

SECTION 25. [NEW MATERIAL] INVOLUNTARY SUSPENSION AND REVOCATION.--

A. The public regulation commission shall immediately suspend, without notice or a hearing, the permit of a transportation network company that:

(1) does not continuously maintain the amounts of financial responsibility prescribed by the Transportation

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Network Company Services Act;

(2) does not pay the fees owed by the transportation network company and the transportation network company's drivers; or

(3) operates in a manner that poses an immediate or imminent threat to public safety.

B. Once suspended, the transportation network company may apply for reinstatement by requesting a public hearing before the public regulation commission. At the public hearing on reinstatement, the transportation network company shall have the burden of proving that the reasons for the suspension no longer pertain.

SECTION 26. Section 66-5-205.3 NMSA 1978 (being Laws 2003, Chapter 171, Section 1) is amended to read:

"66-5-205.3. MOTOR VEHICLE INSURANCE POLICY--
PROCEDURES.--

A. A motor vehicle insurance policy shall:

(1) designate by explicit description or by appropriate reference all motor vehicles to which coverage is to be granted; and

(2) insure the person named in the policy and a person using any such motor vehicle with the express or implied permission of the named insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the motor vehicle within a

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jurisdiction, subject to the requirement to provide evidence of financial responsibility pursuant to the Mandatory Financial Responsibility Act.

B. A motor vehicle insurance policy shall insure a person named as insured against loss from the liability imposed upon the person by law for damages arising out of the use, with the express or implied permission of the owner or person in lawful possession, of a motor vehicle that the insured person does not own. The policy shall insure the person within the same territorial limits and in compliance with the requirement of evidence of financial responsibility as set forth in the Mandatory Financial Responsibility Act with respect to a motor vehicle insurance policy. A motor vehicle liability policy in which the described vehicle is a private passenger car is not required to provide liability insurance coverage for a non-owned truck tractor designed to pull a trailer or semitrailer.

C. Permitted exceptions to coverage otherwise required by Subsections A and B of this section may include the following if excluded by the motor vehicle insurance policy:

- (1) an automobile business exclusion;
- (2) a furnished for regular use exclusion;
- (3) a vehicle rented for business use

exclusion if the exclusion is contained in the motor vehicle insurance policy and is enforceable;

- (4) an exclusion for any liability of the

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United States government or its agencies when the provisions of the Federal Tort Claims Act apply;

(5) an exclusion for liability of the insured under any workers' compensation law;

(6) an exclusion for damages to property owned by, rented to, in the charge of or transported by an insured; provided, however, that this exclusion shall not apply to damages to a residence or private garage rented by an insured; and

(7) an exclusion to apply when a vehicle is rented to others or used to carry persons for a charge, including when a vehicle is being used while logged on to a transportation network company's digital network and available to take requests for transportation or while a driver provides a prearranged ride; provided, however, that this exclusion shall not apply to use on a shared expense basis.

D. The motor vehicle insurance policy shall state the name and address of the insured, the coverage afforded by the policy, the premium charged, the policy period and the limits of liability. The policy shall also contain an agreement or endorsement that states that the insurance is:

(1) provided in accordance with the coverage defined in the Mandatory Financial Responsibility Act regarding bodily injury and death or property damage or both; and

(2) subject to all the provisions of that act.

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E. Every motor vehicle insurance policy shall be subject to the following provisions, which may be contained in the policy:

(1) the policy may not be canceled or annulled as to the liability of the insurance carrier with respect to the insurance required by the Mandatory Financial Responsibility Act by an agreement between the insurance carrier and the insured after the occurrence of the injury or damage;

(2) the satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to pay on account of injury or damage;

(3) the insurance carrier has the right to settle a claim covered by the policy. If the settlement is made in good faith, the amount of the settlement is deductible from the limits of liability specified in the Mandatory Financial Responsibility Act; and

(4) the policy, the declarations page, the written application and a rider or an endorsement that does not conflict with the provisions of the Mandatory Financial Responsibility Act constitute the entire contract between the parties.

F. A binder issued pending the issuance of a motor vehicle insurance policy is deemed to fulfill the requirements

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for the policy."

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