

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1278

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-2.1-17-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6.5. "Digital network" means an online enabled application, software, web site, or system offered or used by a TNC to enable the prearrangement of rides with TNC drivers.**

SECTION 2. IC 8-2.1-17-11.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.2. "Motor vehicle insurance" means any type of insurance described in IC 27-1-5-1, Class 2(f).**

SECTION 3. IC 8-2.1-17-13.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 13.2. "Personal vehicle" means a vehicle that is:**

- (1) used by a TNC driver to provide a prearranged ride;**
- (2) owned, leased, or otherwise authorized for use by the TNC driver; and**
- (3) not a taxicab, limousine, or other for hire vehicle.**

SECTION 4. IC 8-2.1-17-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2015]: **Sec. 13.5. (a) "Prearranged ride" means the provision of transportation by a TNC driver to a TNC rider:**

- (1) beginning when the TNC driver accepts a TNC rider's request for a ride through a digital network controlled by a TNC;
- (2) continuing while the TNC driver transports the requesting TNC rider; and
- (3) ending when the last requesting TNC rider departs from the personal vehicle.

(b) The term "prearranged ride" does not include transportation provided through any of the following:

- (1) A shared expense carpool or vanpool arrangement.
- (2) Use of a taxicab, limousine, or other for hire vehicle.
- (3) A regional transportation authority established under IC 36-9-3.

SECTION 5. IC 8-2.1-17-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 16. "Taxicab" means a motor vehicle that:**

- (1) is designed and constructed to accommodate and transport not more than six (6) passengers in addition to the driver;
- (2) does not operate over any definite and designated routes within the corporate boundaries of a city or town and the suburban territory of a city or town; and
- (3) transports passengers to the destination designated by the passengers at the time of their transportation.

The term does not include a personal vehicle operated by a TNC driver.

SECTION 6. IC 8-2.1-17-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 18. "Transportation network company" or "TNC" means an entity that:**

- (1) does business in Indiana; and
- (2) uses a digital network to connect TNC riders to TNC drivers to request prearranged rides.

SECTION 7. IC 8-2.1-17-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 19. "TNC driver" means an individual who:**

- (1) receives:
 - (A) connections to potential TNC riders; and
 - (B) related services;
 from a TNC in exchange for payment of a fee to the TNC; and



(2) uses a personal vehicle to offer or provide prearranged rides to TNC riders:

(A) upon connection through a digital network controlled by the TNC; and

(B) in exchange for compensation or payment of a fee.

SECTION 8. IC 8-2.1-17-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 20. "TNC rider" means an individual who uses a TNC's digital network to connect with a TNC driver who provides to the individual a prearranged ride:**

(1) in the TNC driver's personal vehicle; and

(2) between points chosen by the individual.

SECTION 9. IC 8-2.1-19-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 3. This chapter does not apply to a personal vehicle operated by a TNC driver.**

SECTION 10. IC 8-2.1-19.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 19.1. Transportation Network Companies

Sec. 1. (a) A transportation network company may not operate in Indiana without a permit issued under section 3 of this chapter.

(b) A permit is valid for one (1) year after the date of issuance.

Sec. 2. A TNC or a TNC driver is not:

(1) a common carrier;

(2) a contract carrier; or

(3) a motor carrier.

Sec. 3. The department shall issue a permit to a TNC that satisfies the following requirements:

(1) Establishes a zero tolerance policy for drug and alcohol use under section 6 of this chapter.

(2) Requires compliance with applicable vehicle requirements under section 7 of this chapter.

(3) Imposes motor vehicle insurance requirements that meet or exceed the requirements under section 8 of this chapter.

(4) Establishes fare guidelines under section 13 of this chapter.

(5) Establishes a privacy policy under section 14 of this chapter.

(6) Adopts nondiscrimination and accessibility policies under section 15 of this chapter.

(7) Establishes record maintenance guidelines under section



16 of this chapter.

Sec. 4. Except as otherwise provided in a written contract:

- (1) a TNC driver who connects to a TNC's digital network is an independent contractor of the TNC; and**
- (2) a TNC is not considered to do either of the following:**
 - (A) Control, direct, or manage a TNC driver who connects to the TNC's digital network.**
 - (B) Own, control, operate, or manage a personal vehicle used by a TNC driver to provide prearranged rides.**

Sec. 5. (a) Before a TNC allows an individual to act as a TNC driver on the TNC's digital network, the TNC shall:

- (1) require the individual to submit to the TNC an application that includes:**
 - (A) the individual's name, address, and age;**
 - (B) a copy of the individual's driver's license;**
 - (C) a copy of the certificate of registration for the personal vehicle that the individual will use to provide prearranged rides;**
 - (D) proof of financial responsibility for the personal vehicle described in clause (C) of a type and in the amounts required by the TNC; and**
 - (E) any other information required by the TNC;**
- (2) with respect to the individual, conduct, or contract with a third party to conduct:**
 - (A) a local and national criminal background check; and**
 - (B) a search of the national sex offender registry; and**
- (3) obtain a copy of the individual's driving record maintained under IC 9-14-3-7.**

(b) A TNC may not knowingly allow to act as a TNC driver on the TNC's digital network an individual:

- (1) who has received judgments for:**
 - (A) more than three (3) moving traffic violations; or**
 - (B) at least one (1) violation involving reckless driving or driving on a suspended or revoked license;**
- in the preceding three (3) years;**
- (2) who has been convicted of a:**
 - (A) felony; or**
 - (B) misdemeanor involving:**
 - (i) resisting law enforcement;**
 - (ii) dishonesty;**
 - (iii) injury to a person;**
 - (iv) operating while intoxicated;**



- (v) operating a vehicle in a manner that endangers a person;
 - (vi) operating a vehicle with a suspended or revoked license; or
 - (vii) damage to the property of another person;
- in the preceding seven (7) years;
- (3) who is a match in the national sex offender registry;
 - (4) who is unable to provide information required under subsection (a); or
 - (5) who is less than nineteen (19) years of age.

Sec. 6. (a) A TNC shall establish and enforce a zero tolerance policy for drug and alcohol use by TNC drivers during any period when a TNC driver is engaged in, or is logged into the TNC's digital network but is not engaged in, a prearranged ride. The policy must include provisions for:

- (1) investigations of alleged policy violations; and
 - (2) suspensions of TNC drivers under investigation.
- (b)** A TNC shall publish on the TNC's digital network:
- (1) the policy established under subsection (a); and
 - (2) the procedure by which a TNC rider may report a violation of the policy by a TNC driver.

Sec. 7. A TNC must require that a personal vehicle used to provide prearranged rides must comply with all applicable laws and regulations concerning vehicle equipment.

Sec. 8. (a) Not later than July 15, 2015, a TNC driver, or a TNC on the TNC driver's behalf, shall maintain primary motor vehicle insurance that meets the following requirements:

- (1) The motor vehicle insurance is issued:
 - (A) by an insurance company that holds a certificate of authority to do insurance business in Indiana under IC 27-1-3-20; or
 - (B) through a surplus lines producer licensed under IC 27-1-15.8.
- (2) The language of the motor vehicle insurance policy:
 - (A) recognizes that the driver is a TNC driver or otherwise uses the personal vehicle to transport passengers for compensation; and
 - (B) covers the driver while the driver is:
 - (i) logged on to the TNC's digital network; or
 - (ii) engaged in a prearranged ride.
- (3) The motor vehicle insurance must meet the following coverage requirements while a TNC driver is logged on to the



TNC's digital network, but is not engaged in a prearranged ride:

(A) Primary motor vehicle liability insurance in an amount equal to at least:

- (i) fifty thousand dollars (\$50,000) per person for death and bodily injury;
- (ii) one hundred thousand dollars (\$100,000) per incident for death and bodily injury; and
- (iii) twenty-five thousand dollars (\$25,000) per incident for property damage;

(B) The insurance required by clause (A) may be provided by any of the following:

- (i) Motor vehicle insurance maintained by the TNC driver.
- (ii) Motor vehicle insurance maintained by the TNC.
- (iii) Motor vehicle insurance maintained by any combination of items (i) and (ii).

(4) The motor vehicle insurance must meet the following coverage requirements while a TNC driver is engaged in a prearranged ride:

(A) Primary motor vehicle liability insurance in an amount equal to at least one million dollars (\$1,000,000) per incident for death, bodily injury, and property damage.

(B) The insurance required by clause (A) may be provided by any of the following:

- (i) Motor vehicle insurance maintained by the TNC driver.
- (ii) Motor vehicle insurance maintained by the TNC.
- (iii) Motor vehicle insurance maintained by any combination of items (i) and (ii).

(b) If motor vehicle insurance maintained by a TNC driver as described in subsection (a) lapses or does not provide the required coverage:

(1) motor vehicle insurance maintained by the TNC must provide the required coverage beginning with the first dollar of a claim; and

(2) the insurance company that issues the motor vehicle insurance described in subdivision (1) has a duty to defend the claim described in subdivision (1).

(c) Coverage under motor vehicle insurance maintained by a TNC may not be dependent on a personal motor vehicle insurance company's first denying a claim for coverage under a personal



motor vehicle insurance policy, nor may a personal motor vehicle insurance company be required to first deny a claim.

(d) A motor vehicle insurance policy that meets the coverage requirements of subsection (a) satisfies the financial responsibility requirement of IC 9-25 while the driver of the personal vehicle is:

- (A) logged on to the TNC's digital network; or
- (B) engaged in a prearranged ride.

(e) A TNC driver shall do the following:

- (1) At all times during which the TNC driver uses a personal vehicle in connection with a TNC's digital network, carry proof of the coverage required by subsection (a).
 - (2) In the event of an accident, upon request, provide to directly interested parties, motor vehicle insurance companies, and investigating law enforcement officers:
 - (A) the proof described in subdivision (1); and
 - (B) a disclosure of whether the TNC driver was:
 - (i) logged on to the TNC's digital network; or
 - (ii) engaged in a prearranged ride;
- at the time of the accident.

Information provided under this subdivision may be provided in electronic form under IC 27-1-43-3, as applicable.

(f) If a TNC's motor vehicle insurance provides comprehensive coverage or collision coverage for a claim for repair to a personal vehicle, the TNC shall direct the insurance company to make the claim payment:

- (1) directly to the person that repairs the personal vehicle as payment in full for the completed repairs; or
 - (2) jointly to:
 - (A) the owner of; and
 - (B) any primary lienholder on;
- the personal vehicle.

Sec. 9. A TNC shall, before the TNC allows a TNC driver to accept a request for a prearranged ride on the TNC's digital network, disclose in writing to the TNC driver all the following:

- (1) The motor vehicle insurance coverage, including the types of coverage and limits of liability for each type of coverage, that the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC's digital network.
- (2) That the terms of the TNC driver's own motor vehicle insurance policy may not provide coverage while the TNC driver is:
 - (A) logged on to the TNC's digital network; or



(B) engaged in a prearranged ride.

Sec. 10. (a) An insurance company that writes motor vehicle insurance in Indiana may exclude coverage under a motor vehicle insurance policy issued to an owner or operator of a personal vehicle for a loss or injury that occurs while the driver is:

- (1) logged on to a TNC's digital network; or
- (2) engaged in a prearranged ride.

(b) An exclusion described in subsection (a) includes any coverage included in a motor vehicle insurance policy, including the following:

- (1) Liability coverage for death, bodily injury, and property damage.
- (2) Uninsured and underinsured motorist coverage.
- (3) Medical payments coverage.
- (4) Comprehensive physical damage coverage.
- (5) Collision physical damage coverage.

(c) An exclusion described in this section applies notwithstanding any requirement of IC 9-25.

(d) This chapter does not do either of the following:

- (1) Require a personal motor vehicle insurance policy to provide coverage while the driver is:
 - (A) logged on to a TNC's digital network;
 - (B) engaged in a prearranged ride; or
 - (C) otherwise using a personal vehicle to transport passengers for compensation.
- (2) Preclude an insurance company from providing the coverage described in subdivision (1) under a contract or an endorsement.

Sec. 11. (a) An insurance company that excludes coverage described in section 10 of this chapter has no duty to defend or indemnify a claim for coverage that is expressly excluded under a motor vehicle insurance policy.

(b) This chapter does not invalidate or limit an exclusion:

- (1) of coverage for a personal vehicle that is:
 - (A) used to carry an individual or property for a charge;
 - or
 - (B) available for hire by the public; and
- (2) contained in a motor vehicle insurance policy;

including a policy filed under IC 27-1-22-4 or in use in Indiana before July 1, 2015.

(c) An insurance company that defends or indemnifies a claim against a TNC driver for which coverage is excluded under the



terms of a motor vehicle insurance policy has a right of contribution against any other insurance company that issues motor vehicle insurance coverage to the TNC driver:

- (1) in satisfaction of the requirements of section 8 of this chapter; and
- (2) in effect at the time the loss occurs.

Sec. 12. In a claim coverage investigation, a TNC and an insurance company that issues a motor vehicle insurance policy potentially providing the coverage required by section 8 of this chapter shall cooperate to facilitate the exchange of information with directly involved parties and any insurance company that issues a motor vehicle insurance policy that provides coverage to the TNC driver, including:

- (1) the precise time that a TNC driver logs on to and off of the TNC's digital network during the twelve (12) hour period immediately preceding, and the twelve (12) hour period immediately following, the accident; and
- (2) disclosure among the parties and insurance companies of a clear description of the insurance coverage, exclusions, and limitations that apply under any applicable motor vehicle insurance policy that:
 - (A) is issued or maintained by a party; and
 - (B) provides the coverage required by section 8 of this chapter.

Sec. 13. (a) A TNC shall establish guidelines under which a TNC may charge a fare for prearranged rides. The guidelines must require the following:

- (1) Disclosure of the fare calculation method on the TNC's digital network.
- (2) Publication to TNC riders of applicable rates at the time of service.
- (3) Providing a TNC rider the option to receive an estimated fare before the TNC rider enters a personal vehicle operated by a TNC driver.
- (4) Payment of a fare only by electronic means using the TNC's digital network.

(b) A TNC driver may not solicit or accept cash payments from TNC riders.

Sec. 14. (a) A TNC shall establish a privacy policy to protect the personal identifying information of a TNC rider.

(b) A policy established under subsection (a) shall prohibit the disclosure of a TNC rider's personal identifying information



unless:

- (1) the TNC rider consents in writing to the disclosure;
- (2) the disclosure is required under law; or
- (3) the disclosure is necessary to:
 - (A) protect or defend; or
 - (B) investigate violations of;
the terms of use of prearranged rides.

(c) A policy established under subsection (a) may authorize the disclosure of a TNC rider's name and telephone number by a TNC to a TNC driver to facilitate the provision of prearranged rides by the TNC driver to the TNC rider.

Sec. 15. (a) A TNC shall adopt policies concerning nondiscrimination and accessibility that comply with state and federal law.

(b) A TNC may not impose an additional charge on or a different fare schedule for a TNC rider who is an individual with a disability.

(c) At the time a TNC rider requests a prearranged ride through a TNC's digital network, the TNC shall provide the TNC rider an opportunity to indicate whether the TNC rider requires a vehicle that is wheelchair accessible. If the TNC is unable to make available a vehicle that is wheelchair accessible, the TNC shall inform the TNC rider of an alternative service that is wheelchair accessible.

Sec. 16. A TNC shall establish record maintenance guidelines that require the following:

- (1) Records related to the enforcement of a zero tolerance policy established under section 6(a) of this chapter must be maintained for at least two (2) years following the date on which a TNC rider reports a violation of the policy.
- (2) Individual trip records must be maintained for at least one (1) year from the date of each trip.
- (3) Records related to a TNC driver must be maintained for at least one (1) year following the date on which a TNC driver is no longer permitted to act as a TNC driver on the TNC's digital network.

Sec. 17. At the time a TNC rider arranges with a TNC for a prearranged ride, the TNC shall display on the TNC's digital network:

- (1) a digital photograph of the TNC driver; and
 - (2) the license plate number of the personal vehicle;
- that will be used to provide a prearranged ride to the TNC rider.



Sec. 18. Within a reasonable time after a TNC driver provides a prearranged ride to a TNC rider, the TNC shall transmit to the TNC rider an electronic receipt that includes the following information:

- (1) The origin and destination of the trip.
- (2) The total duration and distance of the trip.
- (3) An itemization of the total fare.

Sec. 19. A TNC or a TNC driver may not solicit or accept street hails.

Sec. 20. A person that violates this chapter commits a Class A infraction.

SECTION 11. IC 9-19-11-1, AS AMENDED BY P.L.24-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. This chapter does not apply to a person who operates any of the following vehicles:

- (1) A school bus.
- (2) A taxicab.
- (3) An ambulance.
- (4) A public passenger bus.
- (5) A motor vehicle having a seating capacity greater than nine (9) individuals that is owned or leased and operated by a religious or not-for-profit youth organization.
- (6) An antique motor vehicle.
- (7) A motorcycle.
- (8) A motor vehicle that is owned or leased by a governmental unit and is being used in the performance of official law enforcement duties.
- (9) A motor vehicle that is being used in an emergency.
- (10) A motor vehicle that is funeral equipment used in the operation of funeral services when used in:
 - (A) a funeral procession;
 - (B) the return trip to a funeral home (as defined in IC 25-15-2-15); or
 - (C) both the funeral procession and return trip.

(11) A motor vehicle used to provide prearranged rides (as defined in IC 8-2.1-17-13.5).

SECTION 12. IC 36-9-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. **(a) Except as provided in subsection (b),** a unit may regulate the services offered by persons who hold out for public hire the use of vehicles. This includes the power to fix the price to be charged for that service.

(b) A unit may not regulate the following:



- (1) A transportation network company (as defined in IC 8-2.1-17-18).**
- (2) A TNC driver (as defined in IC 8-2.1-17-19).**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

