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## **Transportation Network Companies**

**Heather Long**

# TRANSPORTATION NETWORK COMPANIES

Heather Lynn Long  
HEATHER LONG LAW, PC  
Dallas, Texas

## I. INTRODUCTION

“It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth cannot be produced by human institutions. In the full enjoyment of the gifts of Heaven and the fruits of superior industry, economy, and virtue, every man is equally entitled to protection by law; *but when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society—the farmers, mechanics, and laborers—who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their Government.*”

– Andrew Jackson, 7<sup>th</sup> U.S. President

## II. TEXAS INSURANCE CODE CHAPTER 1954

The 2015 Legislature wrote TNC’s into the TEXAS INSURANCE CODE, providing rideshare companies and rideshare drivers with their very own set of special insurance laws.

### A. Definitions

When it comes to automobile insurance, the following terms have been defined in TEX. INS. CODE § 1954.001:

- Digital network
- Personal vehicle
- Prearranged ride
- Transportation network company
- Transportation network company driver
- Transportation network company rider

### B. Responsibility to Maintain Insurance Coverage

All TNC drivers are required to maintain primary automobile insurance that allows a TNC driver to use a personal vehicle to transport TNC riders for compensation and cover the driver while:

1. The driver is logged on to the TNC’s digital network; or
2. The driver is engaged in a prearranged ride.

The burden of maintaining appropriate insurance coverage does not automatically rest on the TNC itself as one might expect. A TNC may maintain required coverage on behalf of its drivers, but it does not have to do so. TEX. INS. CODE § 1954.051(a) (“A transportation network company driver or transportation network company on the driver’s behalf shall maintain primary automobile insurance as required by this subchapter.”). Drivers have a legal obligation to carry appropriate insurance. *Id.*

That said, other provisions of the new statute operate in such a way that encourages TNCs to acquire appropriate insurance coverage. Those provisions are discussed in greater detail below.

### C. Required Disclosures

Texas expects rideshare companies to be upfront with their drivers about insurance coverage. Before a driver accesses the digital network, the TNC must disclose the following *in writing*:

(1) the insurance policy, including the types of coverage and the limits for the policy, that the company provides while a driver uses a personal vehicle in connection with the company's digital network; and

(2) that the driver's personal automobile insurance policy may not provide coverage, depending on the policy's terms, while the driver is logged on to the company's digital network and is available to receive transportation requests or is engaged in a prearranged ride.

TEX. INS. CODE § 1954.101.

Ask every TNC driver client for this information as soon as possible in the representation.

Send discovery requests for this information in every TNC case.

### D. Minimum Coverage Required Between Prearranged Rides

All Texas drivers are required to carry at least \$30,000/\$60,000 in liability

coverage. The insurance code increases the minimum amount of liability coverage for TNC drivers between prearranged rides.

If TNC driver is *logged on* to the TNC's digital network and is *available to receive ride requests* but not engaged in prearranged ride, minimum liability limits increase to \$50,000 per person, \$100,000 per incident. TEX. INS. CODE § 1954.052. Coverage for UM/UIM and PIP are also required unless there is a written rejection.

Unfortunately, TNC drivers between prearranged rides don't carry signs around advertising their status. In the event of a wreck, Chapter 1954 requires:

... a driver shall provide the proof of insurance to a directly interested person, automobile insurer, and investigating peace officer on request under Section 601.053, Transportation Code. On request, a driver shall also disclose to a directly interested person, automobile insurer, and investigating peace officer whether, at the time of the accident, the driver was:

(1) logged on to the company's digital network; or

(2) engaged in a prearranged ride.

TEX. INS. CODE § 1954.056. In a perfect world, that would solve the problem. This is not a perfect world.

Do not settle a single car wreck case without confirming whether a TNC driver between rides was involved. Getting this information should be easy. Start by asking the insurance adjuster. Insurers have an

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