

1 HOUSE BILL NO. 1495
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee on _____
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Austin)

6 A BILL to amend and reenact §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia and to repeal §
 7 46.2-2099.51 of the Code of Virginia, relating to transportation network companies; uninsured and
 8 underinsured motorist coverage.

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That §§ 46.2-2099.50 and 46.2-2099.52 of the Code of Virginia are amended and reenacted as**
 11 **follows:**

12 **§ 46.2-2099.50. Requirements for TNC partner vehicles; trade dress issued by transportation**
 13 **network company.**

14 A. A TNC partner vehicle shall:

- 15 1. Be a personal vehicle;
- 16 2. Have a seating capacity of no more than eight persons, including the driver;
- 17 3. Be validly titled and registered in the Commonwealth or in another state;
- 18 4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the
 19 vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;
- 20 5. Have a valid Virginia safety inspection or an annual inspection conducted in another state for
 21 which the Department of State Police has determined that such motor vehicle safety inspection standards
 22 adequately ensure public safety and carry proof of that inspection on or in the vehicle; and
- 23 6. Be covered under a TNC insurance policy meeting the requirements of ~~§ 46.2-2099.51 or 46.2-~~
 24 ~~2099.52, as applicable.~~

25 No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of
 26 this subsection.

27 B. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network
28 company shall confirm that the vehicle meets the requirements of subsection A and shall provide each
29 TNC partner with proof of any TNC insurance policy maintained by the transportation network company.

30 For each TNC partner vehicle it authorizes, a transportation network company shall issue trade
31 dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the
32 transportation network company or digital platform with which the vehicle is affiliated and shall be
33 displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and
34 color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not
35 in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress
36 may take the form of a removable device that meets the identification and visibility requirements of this
37 subsection.

38 Notwithstanding any other provision of this title, a TNC partner vehicle may be equipped with no
39 more than two removable, illuminated, interior, TNC-issued, trade dress devices that assist passengers in
40 identifying and communicating with TNC partners. Such devices may use a single steady-burning color
41 while the TNC partner is logged in to a transportation network company's associated digital platform and
42 may change to a different steady-burning color once the TNC partner accepts a request to transport a
43 passenger and is within 0.4 miles of such passenger. The illuminated display on each such device shall
44 not (i) exceed five candlepower or 62.85 lumens; (ii) exceed 20 square inches; (iii) utilize red, blue, or
45 amber lights; (iv) project a glaring or dazzling light; or (v) attach to the windshield.

46 The transportation network company shall submit to the Department proof that the transportation
47 network company has established the trade dress required under this subsection by filing with the
48 Department an illustration or photograph of the trade dress. Any TNC that issues an illuminated removable
49 interior trade dress device for use in the Commonwealth shall file with the Department the specifications
50 of such device, including the default color.

51 A TNC partner shall keep the trade dress issued under this subsection visible at all times while the
52 vehicle is being operated as a TNC partner vehicle.

53 No person shall operate a vehicle bearing trade dress issued under this subsection without the
54 authorization of the transportation network company issuing the trade dress.

55 **§ 46.2-2099.52. TNC insurance.**

56 A. ~~On and after January 1, 2016, at~~ At all times during the operation of a TNC partner vehicle, a
57 transportation network company or TNC partner shall keep in force TNC insurance as provided in this
58 section.

59 B. The following requirements shall apply to TNC insurance from the moment a TNC partner
60 accepts a prearranged ride request on a transportation network company's digital platform until the TNC
61 partner completes the transaction on the digital platform or until the prearranged ride is complete,
62 whichever is later:

63 1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary
64 and the minimum amount of liability coverage for death, bodily injury, and property damage shall be \$1
65 million.

66 2. TNC insurance shall provide uninsured motorist coverage and underinsured motorist coverage
67 as required by § 38.2-2206. Such coverage shall apply With regard to such underinsured motorist coverage
68 that applies solely from the moment a passenger enters a TNC partner vehicle until the passenger exits the
69 vehicle. ~~The minimum amount of uninsured motorist coverage and underinsured motorist coverage for~~
70 ~~death, bodily injury, and property damage shall be \$1 million, it shall be paid without any credit for the~~
71 ~~bodily injury and property damage coverage available for payment, and neither the TNC nor the TNC~~
72 ~~partner shall elect to refuse the change in underinsured motorist coverage pursuant to subsection C of §~~
73 ~~38.2-2202.~~

74 3. The requirements of this subsection may be satisfied by any of the following:

- 75 a. TNC insurance maintained by a TNC partner;
- 76 b. TNC insurance maintained by a transportation network company; or
- 77 c. Any combination of subdivisions a and b.

78 A transportation network company may meet its obligations under this subsection through a policy
79 obtained by a TNC partner under subdivision a or c only if the transportation network company verifies
80 that the policy is maintained by the TNC partner.

81 4. Insurers providing insurance coverage under this subsection shall have the exclusive duty to
82 defend any liability claim, including any claim against a TNC partner, arising from an accident occurring
83 within the time periods specified in this subsection. Neither the TNC partner's nor the vehicle owner's
84 personal automobile insurance policy shall have the duty to defend or indemnify the TNC partner's
85 activities in connection with the transportation network company, unless the policy expressly provides
86 otherwise for the period of time to which this subsection is applicable or the policy contains an amendment
87 or endorsement to provide that coverage.

88 5. Coverage under a TNC insurance policy shall not be dependent on a personal automobile
89 insurance policy first denying a claim, nor shall a personal automobile insurance policy be required to first
90 deny a claim.

91 6. Nothing in this subsection shall be construed to require a personal automobile insurance policy
92 to provide primary or excess coverage. Neither the TNC partner's nor the vehicle owner's personal
93 automobile insurance policy shall provide any coverage to the TNC partner, the vehicle owner, or any
94 third party, unless the policy expressly provides for that coverage during the period of time to which this
95 subsection is applicable or the policy contains an amendment or endorsement to provide that coverage.

96 C. The following requirements shall apply to TNC insurance (i) from the moment a TNC partner
97 logs on to a transportation network company's associated digital platform until the TNC partner accepts a
98 request to transport a passenger and (ii) from the moment the TNC partner completes the transaction on
99 the digital platform or the prearranged ride is complete, whichever is later, until the TNC partner either
100 accepts another prearranged ride request on the digital platform or logs off the digital platform:

101 1. TNC insurance shall provide motor vehicle liability coverage. Such coverage shall be primary
102 and shall provide liability coverage of at least \$50,000 per person and \$100,000 per incident for death and
103 bodily injury and at least \$25,000 for property damage. TNC insurance shall provide uninsured motorist
104 coverage and underinsured motorist coverage as required by § 38.2-2206.

105 2. The requirements for the coverage required by this subsection may be satisfied by any of the
106 following:

107 a. TNC insurance maintained by a TNC partner;

108 b. TNC insurance maintained by a transportation network company that provides coverage in the
109 event that a TNC partner's insurance policy under subdivision a has ceased to exist or has been canceled
110 or in the event that the TNC partner does not otherwise maintain TNC insurance; or

111 c. Any combination of subdivisions a and b.

112 A transportation network company may meet its obligations under this subsection through a policy
113 obtained by a TNC partner pursuant to subdivision a or c only if the transportation network company
114 verifies that the policy is maintained by the TNC partner and is specifically written to cover the TNC
115 partner's use of a vehicle in connection with a transportation network company's digital platform.

116 D. In the event that the digital platform becomes inaccessible due to failure or malfunction while
117 a TNC partner is en route to or transporting a passenger during a prearranged ride described in subsection
118 B, TNC insurance coverage shall be presumed to be that required in subdivision B 1 until the passenger
119 exits the vehicle.

120 E. In every instance where TNC insurance maintained by a TNC partner to fulfill the insurance
121 obligations of this section has lapsed or ceased to exist, the transportation network company shall provide
122 the coverage required by this section beginning with the first dollar of a claim.

123 F. This section shall not limit the liability of a transportation network company arising out of an
124 accident involving a TNC partner in any action for damages against a transportation network company for
125 an amount above the required insurance coverage.

126 G. Any person, or an attorney acting on his behalf, who suffers a loss in an automobile accident
127 with a reasonable belief that the accident involves a TNC partner vehicle driven by a TNC partner in
128 connection with a transportation network company and who provides the transportation network company
129 with the date, approximate time, and location of the accident, and if available the name of the TNC partner
130 and if available the accident report, may request in writing from the transportation network company
131 information relating to the insurance coverage and the company providing the coverage. The

132 transportation network company shall respond electronically or in writing within 30 days. The
133 transportation network company's response shall contain the following information: (i) whether, at the
134 approximate time of the accident, the TNC partner was logged into the transportation network company's
135 digital platform and, if so logged in, whether a trip request had been accepted or a passenger was in the
136 TNC partner vehicle; (ii) the name of the insurance carrier providing primary coverage; and (iii) the
137 identity and last known address of the TNC partner.

138 H. No contract, receipt, rule, or regulation shall exempt any transportation network company from
139 the liability that would exist had no contract been made or entered into, and no such contract, receipt, rule,
140 or regulation for exemption from liability for injury or loss occasioned by the neglect or misconduct of
141 such transportation network company shall be valid. The liability referred to in this subsection shall mean
142 the liability imposed by law upon a transportation network company for any loss, damage, or injury to
143 passengers in its custody and care as a transportation network company.

144 I. Any insurance required by this section may be placed with an insurer that has been admitted in
145 Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

146 J. Any insurance policy required by this section shall satisfy the financial responsibility
147 requirement for a motor vehicle under § 46.2-706 during the period such vehicle is being operated as a
148 TNC partner vehicle.

149 K. The Department shall not issue the certificate of fitness required under § 46.2-2099.45 to any
150 transportation network company that has not certified to the Department that every TNC partner vehicle
151 it has authorized to operate on its digital platform is covered by an insurance policy that meets the
152 requirements of this section.

153 L. Each transportation network company shall keep on file with the Department proof of an
154 insurance policy maintained by the transportation network company in accordance with this section. Such
155 proof shall be in a form acceptable to the Commissioner. A record of the policy shall remain in the files
156 of the Department six months after the certificate is revoked or suspended for any cause.

157 M. The Department may suspend a certificate if the certificate holder fails to comply with the
158 requirements of this section. Any person whose certificate has been suspended pursuant to this subsection
159 may request a hearing as provided in subsection D of § 46.2-2011.26.

160 N. In a claims coverage investigation, a transportation network company and its insurer shall
161 cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of
162 information, including the dates and times of any accident involving a TNC partner and the precise times
163 that the TNC partner logged in and was logged out of the transportation network company's digital
164 platform.

165 **2. That § 46.2-2099.51 of the Code of Virginia is repealed.**

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