

ASSEMBLY, No. 5213

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 23, 2023

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Requires delivery network companies to maintain automobile insurance.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning delivery network companies and insurance and
2 supplementing P.L.2017, c.26 (C.39:5H-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 "Delivery network company" means a corporation, partnership,
9 sole proprietorship, or other entity that operates in this State and
10 uses a digital network to connect a delivery network company
11 customer to a delivery network driver to provide delivery services.
12 A delivery network company shall not be deemed to control, direct,
13 or manage the personal vehicles or delivery network drivers that
14 connect to its digital network, except where agreed to by written
15 contract.

16 "Delivery network company customer" or "customer" means a
17 person who orders the delivery of goods, where the delivery
18 network driver delivers the goods at the direction of the customer.

19 "Delivery network driver" or "driver" means an individual who
20 provides delivery services through a delivery network company's
21 digital network using a personal vehicle.

22 "Digital network" means any online-enabled application,
23 software, website, or system offered or utilized by a delivery
24 network company that enables deliveries with delivery network
25 drivers.

26 "Delivery available period" means the period when a driver:

27 (1) has logged on to a digital network and is available to receive
28 requests to provide delivery services from a delivery network
29 company;

30 (2) is operating a personal vehicle; and

31 (3) is not providing delivery services or operating in the
32 delivery service period.

33 "Delivery services" means the fulfillment of delivery requests
34 made by a customer through a digital network, including the pickup
35 of any good and the delivery of the good to a customer by a
36 delivery network driver. Delivery services may include a series of
37 deliveries to different customers.

38 "Delivery service period" means the period:

39 (1) beginning when a driver starts operating a personal vehicle
40 enroute to pick up goods for a delivery or series of deliveries as
41 documented via a digital network controlled by a delivery network
42 company;

43 (2) continuing while the driver transports the requested
44 deliveries; and

45 (3) ending upon delivery of the requested good to:

46 (a) the customer or the last customer in a series of deliveries; or

47 (b) a location designated by the delivery network company,
48 including for purposes of returning the good.

49 "Personal vehicle" means a vehicle that is:

1 (1) used by a delivery network driver to provide delivery
2 services via a digital network; and

3 (2) owned, leased, or otherwise authorized for use by the
4 delivery network driver.

5

6 2. Nothing in this act limits the scope of federal or State law
7 regarding delivery or transport of goods. Deliveries made pursuant
8 to this act that are subject to any other law shall also comply with
9 the requirements of that law. In the event of a conflict between this
10 act and another law dealing with the delivery or transport of goods,
11 the other law shall prevail.

12

13 3. a. A delivery network company shall ensure that, during the
14 delivery available period, if it applies, and during the delivery
15 service period, primary automobile liability insurance is in place
16 that recognizes that the driver is a delivery network driver or that
17 does not exclude coverage for use of a personal vehicle to provide
18 deliveries.

19 b. During the delivery service period and delivery available
20 period, the delivery network driver, delivery network company, or
21 any combination of the two shall maintain insurance that insures the
22 driver for liability to third parties of:

23 (1) not less than \$50,000 for damages arising out of bodily
24 injury sustained by any one person in an accident, not less than
25 \$100,000 for damages arising out of bodily injury sustained by all
26 persons injured in an accident, and not less than \$25,000 for all
27 damages arising out of damage to or destruction of property in an
28 accident;

29 (2) primary personal injury protection benefits that provide
30 coverage amounts selected pursuant to section 4 of P.L.1972, c.70
31 (C.39:6A-4); and

32 (3) uninsured and underinsured motorist coverage to the extent
33 required pursuant to section 2 of P.L.1968, c.385 (C.17:28-1.1).

34 c. If the insurance coverage maintained by a delivery network
35 driver has lapsed or does not provide the coverage required
36 pursuant to subsections a. and b. of this section, insurance
37 maintained by the delivery network company shall provide the
38 coverage required by subsections a. and b. of this section beginning
39 with the first dollar of a claim and the insurance maintained by the
40 delivery network company shall have the duty to defend the claim.

41 d. Coverage under an automobile insurance policy maintained
42 by the delivery network company shall not be dependent upon
43 another motor vehicle liability insurer first denying a claim, nor
44 shall another motor vehicle liability insurance policy be required to
45 first deny a claim.

46 e. Insurance coverage required under this section may be
47 obtained from an insurance company licensed to transact business
48 under the insurance laws of this State or by an eligible surplus lines
49 insurer under section 11 of P.L.1960, c.32 (C.17:22-6.45).

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1 f. The coverage required pursuant to subsections a. and b. of
2 this section shall be deemed to meet the financial responsibility
3 requirements of the "Motor Vehicle Security-Responsibility Law,"
4 P.L.1952, c.173 (C.39:6-23 et seq.), P.L.1972, c.197 (C.39:6B-1 et
5 seq.), and P.L.1972, c.70 (C.39:6A-1 et seq.).

6 g. A delivery network driver shall carry proof of insurance
7 required pursuant to subsections a. and b. of this section at all times
8 while using a personal vehicle in connection with a digital network.
9 In the event of an accident, a delivery network driver shall, upon
10 request, provide insurance coverage information to the directly
11 interested parties, automobile insurers, and investigating law
12 enforcement officers.

13 The insurance coverage information may be displayed or
14 provided in either paper or electronic form as provided pursuant to
15 R.S.39:3-29. A delivery network driver shall, upon request,
16 disclose to the directly interested parties, automobile insurers, and
17 investigating law enforcement officers whether the driver was
18 operating during the delivery available period or the delivery
19 service period at the time of the accident.

20 h. In a claims coverage investigation, a delivery network
21 company or its insurer shall cooperate with all insurers that are
22 involved in the claims coverage investigation to facilitate the
23 exchange of information and shall immediately provide upon
24 request by directly involved parties or any insurer the precise times
25 that a delivery network driver began and ended the delivery
26 available period or the delivery service period on the delivery
27 network company's digital network in the 12-hour period
28 immediately preceding the accident and in the 12-hour period
29 immediately following the accident. Insurers potentially providing
30 the coverage required pursuant to section 3 of this act shall disclose
31 upon request by any other such insurer involved in the particular
32 claim, the applicable coverages, exclusions, and limits provided
33 under any automobile insurance maintained in order to satisfy the
34 requirements of section 3 of this act.

35 i. The insurer or insurers of a delivery network company
36 providing coverage under subsections a. and b. of this section shall
37 assume primary liability for a claim when a dispute exists as to
38 when the delivery available period or the delivery service period
39 began or ended and the delivery network company does not have
40 available, did not retain, or fails to provide the information required
41 by subsection g. of this section.

42

43 4. A delivery network company shall not permit a delivery
44 network driver to engage in delivery services on the delivery
45 network company's digital network until the delivery network
46 company discloses in writing to the driver:

47 a. the insurance coverage, including the types of coverage and
48 the limits for each coverage, that the delivery network company

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

3 b. that the driver's own automobile insurance policy might not
4 provide any coverage during the delivery available period, if it
5 applies, or the delivery service period.

6
7 5. a. An authorized insurer that writes motor vehicle liability
8 insurance in the State may exclude any and all coverage and the
9 duty to defend or indemnify for any injury or loss that occurs during
10 the delivery available period and the delivery service period,
11 including but not limited to:

12 (1) liability coverage for bodily injury and property damage;

13 (2) personal injury protection coverage pursuant to section 4 of
14 P.L.1972, c.70 (C.39:6A-4);

15 (3) uninsured and underinsured motorist coverage pursuant to
16 section 2 of P.L.1968, c.385 (C.17:28-1.1);

17 (4) comprehensive physical damage coverage; and

18 (5) collision physical damage coverage.

19 b. Nothing in this act invalidates or limits an exclusion
20 contained in a motor vehicle liability insurance policy, including
21 any insurance policy in use or approved for use that excludes
22 coverage for motor vehicles used for delivery or for any business
23 use.

24 Nothing in this act invalidates, limits or restricts an insurer's
25 ability under existing law to underwrite any insurance policy.
26 Nothing in this act invalidates, limits or restricts an insurer's ability
27 under existing law to cancel and non-renew policies.

28 c. A motor vehicle liability insurer that defends or indemnifies
29 a claim against a delivery network driver that is excluded under the
30 terms of its policy shall have the right to seek recovery against the
31 insurer providing coverage under subsections a. and b. of section 3
32 of this act if the claim:

33 (1) occurs during the delivery available period or the delivery
34 service period; and

35 (2) is excluded under the terms of its policy.

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37 6. This act shall take effect on the first day of the 13th month
38 next following enactment, except the Commissioner of Banking and
39 Insurance may take such anticipatory administrative action in
40 advance thereof as shall be necessary for the implementation of this
41 act.

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STATEMENT

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46 This bill requires delivery network companies and delivery
47 network company drivers to maintain certain levels of automobile
48 insurance. Under the bill, a "delivery network company" means a
49 corporation, partnership, sole proprietorship, or other entity that

1 operates in New Jersey and uses a digital network to connect a
2 delivery network company customer to a delivery network driver to
3 provide delivery services.

4 The bill requires delivery network companies to ensure that,
5 during the delivery available period, if it applies, and during the
6 delivery service period, primary automobile liability insurance is in
7 place that recognizes that the driver is a delivery network driver or
8 that does not exclude coverage for use of a personal vehicle to
9 provide deliveries.

10 The bill provides that, during the delivery service period and
11 delivery available period, as those terms are defined in the bill, the
12 delivery network driver, delivery network company, or any
13 combination of the two is to maintain insurance that insures the
14 driver for liability to third parties of:

15 (1) not less than \$50,000 for damages arising out of bodily
16 injury sustained by any one person in an accident, not less than
17 \$100,000 for damages arising out of bodily injury sustained by all
18 persons injured in an accident, and not less than \$25,000 for all
19 damages arising out of damage to or destruction of property in an
20 accident

21 (2) primary personal injury protection benefits that provide
22 coverage amounts selected pursuant to New Jersey law; and

23 (3) uninsured and underinsured motorist coverage to the extent
24 required pursuant to New Jersey law.

25 Under the bill, if the insurance coverage maintained by a
26 delivery network driver has lapsed or does not provide the required
27 coverage, insurance maintained by the delivery network company is
28 to provide the coverage required by the bill beginning with the first
29 dollar of a claim and the insurance maintained by the delivery
30 network company shall have the duty to defend the claim.

31 The bill requires a delivery network driver to carry proof of
32 insurance required pursuant to the bill at all times while using a
33 personal vehicle in connection with a digital network.

34 The bill provides that a delivery network company is not to
35 permit a delivery network driver to engage in delivery services on
36 the delivery network company's digital network until the delivery
37 network company makes certain disclosures to the driver.