



ISSUES BRIEFING
March 25, 2015

LB 629 – Provide for regulation of transportation network companies (TNC’s)

Sponsor: Senator Heath Mello
Date of Hearing: March 2, 2015

Committee: Transportation & Telecommunications (**Priority**)
IIAN Position: Monitor

Purpose: LB 629 seeks to establish a comprehensive framework for the Public Service Commission to regulate companies like Lyft and Uber; commonly referred to as transportation network companies (TNC’s). As drafted, LB 629 would create a statutory regulatory framework for TNC’s as a new classification of transportation service provider under the Nebraska Public Service Commission. TNCs would be required to carry “appropriate levels of insurance”, conduct thorough criminal background checks on their drivers, and execute vehicle inspections by certified mechanics. Lastly, the Nebraska Public Service Commission is provided authority to collect fees, enforce all new requirements on TNCs, and investigate complaints against TNC’s.

An amendment to LB 629 is “in the works” to address concerns of interested parties and the PSC, which has some impact on insurance provisions in the bill as introduced. In addition, on March 24, Uber and a group of insurance companies reached a new compromise on “national model” bill language, which has several provisions not included in LB 629, or the pending amendment.

Major Insurance Provisions - Summary

LB 629 would require **transportation network companies and/or participating drivers** to maintain “**transportation network company insurance**” that expressly covers loss from a participating driver's use of a personal vehicle in connection with a transportation network company's online-enabled application.

LB 629 would **not require** a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a participating driver logs on to the transportation network company's online-enabled application until the driver logs off or the passenger exits the motor vehicle, whichever is later, but **would require** that if the driver’s personal automobile policy does provide “transportation network company Insurance”, **the personal automobile policy must expressly provide coverage during that period of time** (can be included by endorsement) .

Coverages & Limits Required:

During the “engaged stage (match made but passenger not yet in car)” and “passenger on board stage” (Periods 2 and 3) LB 629 requires coverage (**provided by the TNC and/or driver**) for:

- primary liability for death, personal injury, and property damage with a minimum limit of \$500,000,
- uninsured and underinsured motorists for both driver and passenger in the amounts required by the UM/UIM Insurance Coverage Act.

During the “application open stage” (waiting for a match - Period 1) LB 629 requires coverage for:

- primary TNC insurance liability for death and personal injury with minimum limits of \$25,000 per person/\$50,000 per incident, and property damage with a minimum limit of \$25,000.

- As originally introduced, **LB 629** also requires \$200,000 in excess coverage during Period 1 (not included in pending amendment) – but requires no **UM/UIM coverage** (however, minimum statutory UM/UIM limits are included in the pending amendment).

- During Period 1, insurance may be provided by the driver, or **provided by the TNC if the driver’s insurance is cancelled or non-existent** (underlined phrase is deleted from the pending amendment).

- As originally introduced, **LB 629 does not require comprehensive/collision coverage during any “Period” when the application is open**; however the pending amendment says that the owner of a personal vehicle has a “duty” to maintain comprehensive/collision coverage, if required by a lien or other contractual obligation. **NOTE: Most TNC’s provide comprehensive/collision coverage during Periods 2 and 3, if the driver has purchased it on the personal auto policy.**

LB 629 requires TNC’s to disclose to their drivers that their current personal auto policy “may not” provide any coverage for TNC-related driving (pending amendment says “**most policies do not**” provide any coverage).

Comment: While the TNCs may interpret **personal auto insurance policies** as providing some coverage for TNC activities, insurers clearly do not interpret their policy language that way. Personal auto insurance policies are not intended to cover the higher risks associated with using a car for commercial purposes. Just about every standard auto insurance policy contains some form of a livery exclusion, which means carrying passengers for hire. **As a result, any damages or losses sustained when the car is being used for TNC activities will not be covered by the personal auto policy.** Additionally it will not provide coverage for the driver or passenger if they are hit by an uninsured or underinsured driver. There is also no coverage to repair the driver’s vehicle if it is damaged while in use as a ride-sharing vehicle.

New Products/Coverage Options: Following Erie Insurance late last year, USAA and Farmers are providing protection for personal auto policyholders from the moment ridesharing mobile apps are turned on until they are matched with a passenger (Period 1), and also between rides and rider requests, until the driver logs off.

Comments from a draft of “TNC Insurance Principles for Legislation and Regulators” © by the Sharing Economy Working Group of the National Association of Insurance Commissioners:

“Some regulators require lower coverage amounts during Period 1, because there is no passenger in the vehicle at that time. However, this practice results in less coverage for a third party hit during Period 1. The San Francisco accident that killed 5 year-old Sofia Liu and injured her mother and brother occurred during Period 1. Consumer groups argue that injury or death should not be worth less merely because it occurred in one period instead of another.” To read the entire draft, got to:

http://www.naic.org/documents/committees_c_sharing_econ_wg_exposure_tnc_insurance_principles.pdf