

Legislative Analysis



AUTO INSURANCE: TRANSPORTATION NETWORK COMPANIES & DRIVERS

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<http://www.house.mi.gov/hfa>

House Bill 4639 as introduced
Sponsor: Rep. Brandt Iden

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4640 as introduced
Sponsor: Rep. Tom Barrett

Committee: Commerce and Trade
Complete to 6-1-15

SUMMARY:

Both bills would amend the Insurance Code and apply to vehicles being operated by a transportation network company driver (for example, an Uber driver).

House Bill 4639 would amend the Insurance Code to allow an automobile insurance company insuring a personal vehicle to exclude all coverage under that policy for loss or injury occurring while a transportation network company driver is logged on to the company's digital network or while the company driver is providing a prearranged ride.

Under House Bill 4640, for accidental bodily injuries, generally speaking, the bill would treat passengers in a motor vehicle being operated by a transportation network company driver in the same way as passengers in taxicabs.

The bills are tied to a bill that would create a new act to regulate transportation network companies and network company drivers using their personal vehicles (such as Uber and Lyft). That bill contains the minimum insurance coverages that must be provided by such a company. That bill, House Bill 4637, is summarized in a separate document.

House Bill 4639

As noted above, the bill would allow an automobile insurance company insuring a personal vehicle to exclude all coverage under that policy for loss or injury occurring while a transportation network company driver is logged on to the company's digital network or while the company driver is providing a prearranged ride. It is tie-barred to House Bill 4637, which would create a new act to regulate transportation network companies and network company drivers using their personal vehicles (such as Uber and Lyft).

This would allow the exclusion of the following coverages: residual liability, personal (injury) protection and property protection, uninsured and underinsured motorist, comprehensive, and collision.

The bill also specifies that it does not require an insurer to provide coverage under any of the following circumstances: (1) while a transportation network company driver is logged

on to the company's digital network; (2) while the company driver is engaged in providing a prearranged ride; or (3) while the company driver otherwise uses a vehicle to transport passengers for compensation. An insurance company that excludes coverage, as described above, would not have a duty to defend or indemnify for any claim that is expressly excluded.

This does not preclude an insurer from providing coverage for a transportation network company driver's personal vehicle by contract or endorsement.

The bill states that it does not invalidate or limit an exclusion contained in a policy, including one in use or approved for use prior to the bill's effective date, that excludes coverage for vehicles used to carry individuals or property for charge or that are available for hire by the public.

An insurer that defended or indemnified for a claim against a transportation network company driver who is excluded under the terms of the policy would have a right of contribution against other insurers that provided automobile insurance to the company driver in satisfaction of the coverage requirements under Section 17 of the Transportation Network Company Act (to be created by House Bill 4637) at the time of the loss.

During an investigation of whether a claim is covered under an insurance policy, a transportation network company and any insurer that potentially provides coverage under Section 17 must cooperate in the exchange of relevant information with persons directly involved and with any insurer of the network company driver. Relevant information would include, but not be limited to, the following:

** The times that the company driver logged on to and logged off of the company's digital network during the 12 hours preceding the accident and the 12 hours following the accident.

** A clear description of the coverage, exclusions, and limits under any insurance policy maintained as required under Section 17.

House Bill 4640

For accidental bodily injuries, generally speaking, the bill would treat passengers in a motor vehicle being operated by a transportation network company driver (for example, an Uber driver) in the same way as passengers in taxicabs.

Under Section 3114(2) of the Insurance Code, a person suffering accidental bodily injury while an operator or a passenger of a motor vehicle operated in the business of transporting passengers receives personal (injury) protection benefits from the insurer of the motor vehicle. However, that does not apply to passengers in a list of passenger vehicles, including school buses, buses operated by common carriers, buses operated by government, buses operated by or providing services to nonprofit organizations, taxicabs insured as required under the code, and buses operated by canoe, bicycle, and horse liveries, unless the passenger is not entitled to PIP benefits under any other policy. This means that

passengers injured in these vehicles look first to their own no-fault automobile coverages for PIP benefits. They would look to the policies of owners of the vehicles in which they were passengers only if they had no other source of no-fault coverage. House Bill 4640 would add to that list of vehicles: a motor vehicle while being operated by a transportation network company driver in connection with the company's digital network.

FISCAL IMPACT:

House Bills 4639 and 4640, as introduced, would not have a significant fiscal impact on the Department of Insurance and Financial Services (DIFS) or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.