

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**H. B. No. 679**

**Representatives Hackett, Bishoff**

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**A BILL**

To enact sections 3938.01, 3938.02, 3938.03, 3938.04,  
3938.05, 3938.06, 3938.07, and 3938.99 of the  
Revised Code to regulate insurance requirements  
for transportation network companies and  
transportation network company drivers.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3938.01, 3938.02, 3938.03, 3938.04,  
3938.05, 3938.06, 3938.07, and 3938.99 of the Revised Code be  
enacted to read as follows:

**Sec. 3938.01.** As used in this chapter:

(A) "Owner" means the person whose name appears on the  
personal vehicle's registration.

(B) "Personal vehicle" means a vehicle that is used by a  
transportation network company driver in connection with providing  
transportation network company services.

(C) "Rider" means an individual who, through the use of a  
transportation network company, is connected with a transportation  
network company driver to obtain transportation network company  
services in a personal vehicle.

(D) "Transportation network company" includes a corporation,  
partnership, association, limited liability company,

proprietorship, or other entity operating in this state that uses 21  
an online application or platform, digital network, or other means 22  
to connect riders to transportation network company drivers for 23  
the purpose of providing transportation for compensation, other 24  
than for the reimbursement of expenses in a ridesharing 25  
arrangement as defined in section 4921.01 of Revised Code. 26

(E) "Transportation network company driver" means an 27  
individual who uses a personal vehicle to provide transportation 28  
network company services. A transportation network company driver 29  
is not required to be an employee of a transportation network 30  
company. 31

(F)(1) "Transportation network company services" means 32  
services provided by a transportation network company driver in 33  
connection with the transportation network company and includes 34  
both of the following: 35

(a) The period of time during which the transportation 36  
network company driver is available to provide transportation 37  
network company services by logging on to the transportation 38  
network company's online application or platform, digital network, 39  
or other system, including the time period before the 40  
transportation network company driver has been matched with a 41  
rider and after the driver has been matched with a rider; 42

(b) The time period during which a rider and any other 43  
passengers are occupying the transportation network company 44  
driver's personal vehicle. 45

(2) "Transportation network company services" end when the 46  
transportation network company driver logs off the online 47  
application or platform, digital network, or other system or when 48  
the rider and any other passengers completely exit the personal 49  
vehicle, whichever is later. 50

(3) "Transportation network company services" do not include 51

services provided by any of the following: 52

(a) A taxicab; 53

(b) A chauffeured limousine as defined in section 4501.01 of  
the Revised Code; 54  
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(c) Any commercially registered vehicle and commercially  
licensed driver; 56  
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(d) A ridesharing arrangement as defined in section 4921.01  
of the Revised Code when any fee charged each individual  
transported in such an arrangement is in such an amount as to  
recover only the individual's share of the costs of operating the  
vehicle for that purpose. 58  
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**Sec. 3938.02. (A) Each transportation network company driver,  
or a transportation network company on behalf of the  
transportation network company driver or personal vehicle owner,  
shall maintain an automobile liability insurance policy that does  
all of the following:** 63  
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(1) Provides primary coverage for liability arising from the  
transportation network company driver's use of a personal vehicle  
during the period of time the driver is providing transportation  
network company services; 68  
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(2) Meets, at minimum, the proof of financial responsibility  
requirements as described in division (B) of section 4509.80 of  
the Revised Code and is one of the following: 72  
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(a) A commercial automobile liability insurance policy that  
provides primary coverage for transportation network company  
services similar in all material respects to coverage for  
chauffeured limousines; 75  
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(b) An insurance rider to, or an endorsement of, the driver's  
personal automobile liability insurance obtained to satisfy the  
proof of financial responsibility required by Chapter 4509. of the 79  
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Revised Code. The rider or endorsement may be combined with an 82  
excess policy provided by the transportation network company such 83  
that the combined limits of the policies meet those required in 84  
division (B) of section 4509.80 of the Revised Code; 85

(c) A commercial automobile liability insurance policy 86  
purchased by the transportation network company that provides 87  
primary coverage for the period of time when a transportation 88  
network company driver is providing transportation network company 89  
services. The policy shall also provide first party coverage to 90  
the personal vehicle's owner at the same limits, deductibles, and 91  
coverage options purchased by the owner on the owner's personal 92  
automobile policy. 93

(3) The policies described in division (A)(2) of this section 94  
shall attach and provide coverage regardless of whether a 95  
transportation network company driver has agreed to waive coverage 96  
or has entered into an agreement with the transportation network 97  
company to hold harmless or indemnify the transportation network 98  
company. 99

(B) If a transportation network company purchases a liability 100  
insurance policy as described in division (A)(2)(c) of this 101  
section, it shall provide documentation to the registrar of motor 102  
vehicles evidencing the purchase of the policy within thirty day 103  
after the effective date of the policy. 104

(C) A liability insurance policy required by this section may 105  
be placed with either of the following: 106

(1) A domestic, foreign, or alien insurance company organized 107  
or admitted under Title XXXIX of the Revised Code to issue such a 108  
policy; 109

(2) An insurer not holding a license in this state if the 110  
policy is obtained through an individual holding a surplus lines 111  
broker's license in accordance with sections 3905.30 to 3905.36 of 112

the Revised Code. 113

(D)(1) If the transportation network company requires the 114  
transportation network company driver to purchase an insurance 115  
rider to, or an endorsement of, the driver's personal automobile 116  
liability insurance policy, the company shall verify all of the 117  
following: 118

(a) The driver or the owner of the personal vehicle has 119  
purchased the rider or endorsement before allowing the driver to 120  
provide transportation network company services; 121

(b) The rider or endorsement remains in force continuously 122  
during the time the driver is providing transportation network 123  
company services; 124

(c) The rider or endorsement covers transportation network 125  
company services during the time the driver is providing those 126  
services. 127

(2) A transportation network company that fails to verify the 128  
information required in division (D)(1) of this section is liable, 129  
in the absence of a liability insurance policy meeting the 130  
requirements of division (A) of this section, for any damages or 131  
losses that would have been covered by the required insurance 132  
liability policy had the policy been in force when the damages or 133  
losses were sustained. 134

**Sec. 3938.03.** (A) Notwithstanding any provision of the 135  
Revised Code or any provision in a personal lines primary or 136  
excess insurance policy to the contrary: 137

(1) A personal lines insurer providing primary or excess 138  
coverage to the owner of a personal vehicle may exclude any and 139  
all coverage and the duty to defend and indemnify afforded under 140  
the personal lines insurance policy for any loss or injury that 141  
occurs while an insured personal vehicle or driver is providing 142

<u>transportation network company services. The right to exclude</u>	143
<u>coverage and the duty to defend and indemnify applies to all</u>	144
<u>coverage provided by the insurer of the driver or owner of the</u>	145
<u>personal vehicle including all of the following:</u>	146
<u>(a) Liability and physical damage coverage;</u>	147
<u>(b) Uninsured and underinsured motorist coverage described in</u>	148
<u>section 3937.18 of the Revised Code;</u>	149
<u>(c) Uninsured and underinsured motor vehicle property damage</u>	150
<u>coverage described in section 3987.181 of the Revised Code;</u>	151
<u>(d) Medical payments coverage for persons using or occupying</u>	152
<u>the personal vehicle;</u>	153
<u>(e) Comprehensive physical damage coverage;</u>	154
<u>(f) Collision physical damage coverage.</u>	155
<u>(2) A primary or excess insurer of the owner or driver may</u>	156
<u>notify an insured that the insurer has no duty to defend or</u>	157
<u>indemnify any individual or organization for liability for any</u>	158
<u>loss that occurs while that personal vehicle is providing</u>	159
<u>transportation network company services.</u>	160
<u>(B) Nothing in this section requires a personal lines primary</u>	161
<u>or excess automobile insurance policy to provide any coverage for</u>	162
<u>a personal vehicle or driver while providing transportation</u>	163
<u>network company services.</u>	164
<u>(C) As used in this section, "personal lines" means a policy</u>	165
<u>of property or casualty insurance issued to a natural person</u>	166
<u>primarily for personal or familial protection for personal</u>	167
<u>automobile, homeowner's, tenant's, mobile-homeowner's,</u>	168
<u>noncommercial dwelling fire, or personal umbrella coverage.</u>	169
<u>Sec. 3938.04. (A) For each personal vehicle used by a</u>	170
<u>transportation network company, the company shall provide a</u>	171

written disclosure to the personal vehicle's owner and to any 172  
transportation network company driver before the personal vehicle 173  
is first used to provide transportation network company services 174  
and before any change in insurance by the company. The disclosure 175  
shall contain all of the following: 176

(1) A full and clear description of the insurance coverage 177  
and limits provided under the company's primary insurance policy 178  
along with the name, address, and telephone number of the insurer; 179

(2) Notice that the private passenger automobile policy of 180  
the owner or any driver may exclude all coverage for any loss or 181  
injury to the driver and to others, including property damage, and 182  
may exclude the duty to defend or indemnify any person or 183  
organization for liability for any loss or injury that occurs 184  
during the time transportation network company services are being 185  
provided. 186

(3) Notice that the private passenger automobile policy of 187  
the owner or the driver may exclude coverage for damage to the 188  
vehicle, medical payments, uninsured and underinsured motorist 189  
damage, motor vehicle property damage, and other claims. 190

(B) A transportation network company shall prominently place 191  
the disclosures required by division (A)(1) of this section in the 192  
prospective transportation network company driver's written terms 193  
of service and obtain the driver's acknowledgement of the terms of 194  
service by electronic or written signature. 195

(C) If a transportation network company is providing primary 196  
insurance coverage under division (A)(2)(c) of section 3938.02 of 197  
the Revised Code, it shall provide direct notice of that fact to 198  
the transportation network company driver, owner, and owner's 199  
personal lines automobile insurer before the first use of a 200  
personal vehicle for transportation network company services, or 201  
upon the termination of the transportation network company 202

driver's participation in the transportation network company. 203

(D) Upon request of the owner's personal automobile insurer, 204  
a transportation network company shall provide all data and 205  
records associated with the personal vehicle while the vehicle is 206  
available to provide transportation network company services. 207

(E) If a transportation network company is providing primary 208  
insurance coverage under division (A)(2)(c) of section 3938.02 of 209  
the Revised Code both of the following apply: 210

(1) The company shall assume liability, including the costs 211  
of defense and indemnification, for a claim in which a dispute 212  
exists as to whether the loss or injury giving rise to the claim 213  
occurred while transportation network company services were being 214  
provided. The company must notify the owner and the owner's 215  
insurer of any such dispute within twenty-five business days after 216  
receiving notice of the accident giving rise to that claim. 217

(2) If a personal vehicle's owner or the owner's insurer is 218  
named as a defendant in a civil action for any loss or injury that 219  
occurs while transportation network company services were being 220  
provided, the company shall have the duty to defend and indemnify 221  
the personal vehicle's owner, transportation network company 222  
driver, and the owner's insurer. The company and its insurer shall 223  
cooperate with the insurer of the personal vehicle's owner or 224  
transportation network company driver. 225

**Sec. 3938.05.** (A) A transportation network company shall 226  
maintain a record of all personal vehicles used to provide 227  
transportation network company services that includes the 228  
following: 229

(1) The name, address, driver's license number, and telephone 230  
number of each transportation network company driver; 231

(2) The license plate number, make, model, year, and color of 232



<u>each transportation network company driver's personal vehicle;</u>	233
<u>(3) The number of hours and miles that each transportation network company driver is providing transportation network company services.</u>	234
<u>(B)(1) The transportation network company shall maintain an electronic record of each transportation network company service provided by a transportation network company driver. The record shall include all of the following information:</u>	237
<u>(a) The license plate number of the personal vehicle used;</u>	238
<u>(b) The name of the transportation network company driver;</u>	239
<u>(c) The name of the rider;</u>	240
<u>(d) The date the transportation network company service was provided;</u>	241
<u>(e) The time the transportation network company driver was matched with the rider;</u>	242
<u>(f) The times the transportation network company service began and ended;</u>	243
<u>(g) The number of miles of the transportation network company service;</u>	244
<u>(h) The final address of the transportation network company service;</u>	245
<u>(i) The total compensation paid, if any.</u>	246
<u>(2) The transportation network company shall maintain each record required under division (B)(1) of this section for a period of three years.</u>	247
<u>(C) A transportation network company shall not disclose to a third party any personally identifiable information of a rider unless one of the following applies:</u>	248
<u>(1) The rider knowingly consents to the disclosure;</u>	249
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(2) The disclosure is pursuant to a statutory or common law duty, responsibility, or other legal obligation, including as part of any accreditation, licensing, or registration requirement; 262  
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(3) The disclosure is made to the superintendent of insurance in accordance with section 3901.04 of the Revised Code. The information disclosed is not a public record under section 149.43 of the Revised Code. 265  
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Sec. 3938.06. No person shall violate section 3938.02, 3938.04, or 3938.05 of the Revised Code. Failure to maintain an automobile liability insurance policy in violation of division (A) of section 3938.02 of the Revised Code constitutes a violation by both the transportation network company driver and the transportation network company. 269  
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Sec. 3938.07. The regulation of insurance related to transportation network company services and the provision of transportation network company services is a matter of general statewide interest that requires statewide regulation. Chapter 3938. of the Revised Code constitutes a comprehensive plan with respect to all aspects of insurance for transportation network companies and the provision of transportation network company services, and it is the intent of the general assembly to preempt any local ordinance, resolution, or other law adopted to impose, require, or otherwise regulate insurance requirements for transportation network companies and the provision of transportation network company services. 275  
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Sec. 3938.99. Whoever violates section 3938.06 of the Revised Code is guilty of a misdemeanor of the first degree. 287  
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