

Transportation Network Company Guidance

Traditional ride-sharing, also known as carpooling, is covered by most personal auto policies (PAPs). But transporting passengers for a fee that exceeds the simple sharing of expenses is excluded in most PAPs. The coverage issues associated with transporting passengers in personal vehicles for a profit are the focus of this guidance regarding ride-hailing services also known as transportation network companies (TNCs).

A TNC is an organization that arranges transportation for a fee using a technology platform such as a mobile application (app) or website. TNCs create online apps that connect riders and drivers. Drivers use the online apps to sign up to provide rides for a fee. The TNC takes a portion of each fee. TNCs typically have driver requirements such as minimum age limits, valid driver's license, current vehicle registration and insurance, at a minimum.

In order to open a TNC account, potential passengers first download the app and must provide credit card information for billing purposes and agree to the terms and conditions for use. Once the account is created, a potential rider simply logs onto the mobile app, enters his or her location and is matched with a driver in the vicinity.

TNC activities are different than taking a traditional taxi or limousine. Taxis and limousines have to be licensed by a local transportation authority. The vehicles are required to be inspected and drivers must be properly licensed. In addition, taxi companies are required to have commercial insurance that protects a passenger and third parties (i.e. pedestrians or other drivers) in the event of an accident. TNCs may have different types of coverages within their insurance policies than a typical commercial auto policy.

The insurance issues associated with TNC activities arise because TNC drivers use personal cars for commercial activity, or livery activity, but do not have commercial auto insurance. Drivers who are often new to the transportation business are transporting people they do not personally know. This activity has traditionally been the realm of commercial taxis. PAPs generally exclude this exposure by what is commonly called a "livery exclusion."

TNCs create a new option for peer-to-peer transportation. New technologies and business ventures often present risks not previously contemplated by state and local laws. North Dakota has worked to clearly define the terminology and identify the insurance coverage and limits which are required for TNCs. Below is an outline of the laws and regulations for a TNC doing business in North Dakota.

Under the law passed in 2015, North Dakota defines coverage requirements during three different periods: *See Chapter 26.1-40.1 of the North Dakota Century Code for further information.*

- Period 1: The application is turned off, the driver is not available for rides
 - The TNC does not have to provide insurance coverage

- Period 2: a TNC Driver is logged on to the TNC app and available for a ride, but has not accepted a ride. *See N.D.C.C. § 26.1-40.1-04*
 - The TNC or the driver must provide primary insurance coverage which includes:
 - At least \$50,000 per person and \$100,000 per incident for death and bodily injury and at least \$25,000 for property damage.
 - Uninsured, underinsured, and PIP coverage, which is primary coverage in amounts that meet the requirements under state law. *See N.D.C.C. §§ 26.1-40-15.2 and 26.1-40-15.3, and chapter 26.1-41.*
- Period 3: a TNC driver accepts a ride request through the company’s online application through the time the ride is complete and the passenger has exited the vehicle. *See N.D.C.C. § 26.1-40.1-03*
 - The TNC or the driver must provide primary insurance coverage which includes:
 - At least \$1 million of coverage for death, bodily injury, and property damage
 - Uninsured, underinsured, and PIP coverage, which is primary coverage in amounts that meet the requirements under state law. *See N.D.C.C. §§ 26.1-40-15.2 and 26.1-40-15.3, and chapter 26.1-41.*

Check with your carrier to determine coverage:

If a TNC driver’s personal auto policy has an exclusion for ride-hailing activities (most ND policies do), there is likely no insurance coverage for incidents unless the driver has a “TNC specific” endorsement that allows for coverage when driving for a TNC.

Other Requirements of TNCs: *See Chapter 39-34 of the North Dakota Century Code for further information.*

- A TNC must register with the North Dakota Secretary of State. *See N.D.C.C. § 39-34-01*
- Driver Requirements: *See N.D.C.C. § 39-34-03*
 - Before allowing a driver to work for the TNC, the TNC must:
 - Require an application
 - Conduct a background check
 - A TNC Driver cannot operate if they:
 - Are not 21 yrs old or older
 - Have had 3 or more moving violations in the prior 3 years, or a major violation in the prior 3 years
 - Have been convicted of a DUI, fraud, sexual offense, use of motor vehicle to commit a felony, a crime involving property damage, theft, an act of violence, or an act of terror
 - Do not possess a valid driver’s license
 - Do not possess proof of registration for the vehicle they will use
 - Do not possess proof of auto insurance for the vehicle they will use
- Reports due to the North Dakota Department of Transportation: *See N.D.C.C. § 39-34-05*
 - Due June 15th and December 15th of each year for the previous 6 months’ activity
 - List of all political subdivisions in which the TNC operates
 - Number of accidents reported to the TNC during period 3 above
 - Number of traffic violations and other violations reported to the TNC during period 3 above

The information available in this report is not intended to constitute and should not be considered legal advice, nor is it intended to be a substitute for obtaining legal advice from competent, independent legal counsel in North Dakota. This report is intended to be merely guidance on how to handle TNCs within North Dakota. As with any insurance law issue, every TNC is different and every case will be fact specific. This report is not a substitute for consultation from a competent and licensed insurance agent and/or attorney in North Dakota.