



**Office of the Director
Arizona Department of Insurance**

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**Douglas A. Ducey, Governor
Germaine L. Marks, Director**

REGULATORY BULLETIN 2015-04¹

To: Insurance Rating Organizations Insurance Industry Representatives; Insurance Trade Associations; Property & Casualty Insurers; and, Other Interested Parties.

From: Germaine L. Marks *GLM*
Director

Date: April 27, 2015

Re: **Insuring Transportation Network Company Drivers**

The Arizona Legislature passed HB 2135 (Laws 2015, Chapter 235) that establishes insurance and regulatory requirements for transportation network companies and their drivers. **The legislation is effective from and after July 3, 2015.** The purpose of this Regulatory Bulletin is to provide guidance to insurers that wish to file products with the Arizona Department of Insurance (“ADOI”) to provide coverage for individuals operating a transportation network company vehicle.

Background

A “Transportation Network Company” (“TNC”) is a technology-based business that utilizes a digital platform (like a mobile phone application) to match TNC drivers to potential passengers. For a fee paid by a passenger through the application, the transportation network driver transports the connected passenger with either the driver’s personal automobile or a TNC-owned vehicle. Pursuant to ARS § 20-1631, a driver under a personal motor vehicle insurance policy may be subject to cancellation of the policy if the covered vehicle is used for commercial purposes. A TNC driver operating a vehicle insured by a personal motor vehicle policy for TNC purposes (commercial) might be in breach of the terms of the insured’s personal motor vehicle policy if the driver does not carry coverage for the commercial purpose (TNC).

Current law does not permit the ADOI to approve a motor vehicle policy or any motor vehicle policy endorsement, amendment, or rider that has noncompliant or conflicting coverages. For example, ADOI could not approve a personal motor vehicle insurance policy filing that also offers coverage for commercial risks. Therefore, if an insurer filed a personal motor vehicle insurance

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policy or endorsement, amendment, or rider to the policy that covers TNC use the ADOI could not approve it.

HB 2135's changes to Arizona insurance law

Among its numerous provisions, HB 2135 amends ARS § 20-1631 to permit insurers to offer coverage for TNC services under a personal motor vehicle insurance policy. Specifically, the legislation creates a commercial use exemption for TNC purposes under ARS § 20-1631(D)(6). The exemption states that an insurer may not cancel or nonrenew a personal motor vehicle insurance policy that has been in effect for 60 or more days if the named insured has either:

1. Procured a TNC endorsement to a private passenger policy; or
2. TNC coverage is expressly provided for by a motor vehicle liability insurance policy issued by another insurer.

From and after July 3, 2015 and on or before February 29, 2016, an insurer may not cancel or nonrenew a personal motor vehicle insurance policy that has been in effect for 60 or more days, solely because the named insured uses the vehicle for TNC purposes. **On and after March 1, 2016**, a personal motor vehicle insurance policy that has been in effect for 60 or more days may be subject to cancellation or nonrenewal if the named insured does not maintain coverage for TNC use.

Further, HB 2135 adds ARS § 20-1631(N) to permit an insurer to issue an endorsement to a private passenger policy that expressly provides coverage for TNC services. The bill specifies that the coverage by endorsement may not be treated as “basic coverage” [defined by ARS § 20-1631(K)] and termination of the endorsement is not considered a modification of the basic coverage. An insurer that terminates a TNC endorsement issued to an insured must provide notice to the named insured at least 45 days prior to the termination and include an explanation that continued TNC services without appropriate coverage may subject the insured to cancellation or nonrenewal of the insured’s private passenger motor vehicle insurance policy.

Finally, the legislation includes language [ARS § 20-1631(O)] that an insurer is not obligated to offer, provide or issue coverage for “any liability incurred while a TNC driver is logged in to a TNC’s digital network or software application to be a driver or is providing TNC services.”

Insurer Guidelines for Filing TNC Products

ADOI anticipates that private passenger auto insurers, and Insurance Services Office (“ISO”), will file amendments to Arizona motor vehicle insurance policies or the Arizona Amendatory Endorsement to address the cancellation law changes. Insurers may also file an endorsement to an Arizona motor vehicle insurance policy that expressly provides coverage for TNC services. In order to expedite the review of TNC-related filings, insurers are urged to:

- Carefully review and follow the new Submission Requirements for Private Passenger Auto (Sub-TOI 19.0001) Form filings in SERFF.
- Include in the filing **only** those forms that are being amended to address changes related to TNC exposures and those which HB 2135 necessitates.
- Make as few TNC-related filings as possible by including as many forms in a single filing as possible. These filings include, but are not limited to, the Arizona Amendatory Endorsement or Policy Application, Declaration Page, and, if applicable, the TNC Endorsement.

- Ensure that the TNC endorsement or policy form filings include an effective date that is either on July 3, 2015, or a specified date after July 3, 2015.
- Ensure that the changes to cancellation provisions in forms include an effective date of March 1, 2016.
- Ensure that filings comply with all applicable Arizona insurance laws and regulations and HB 2135 (Laws 2015, Chapter 235).

Please direct any questions regarding form and rate filings to Rosemary Cutter, Senior Insurance Analyst (P/C Section, Rate & Form Division), rcutter@azinsurance.gov or (602) 364-3453 x3459.