New Rules of the Road

How Auto Insurance Coverage is Changing To Meet the Needs of the App-Wielding Rideshare Generation

BY KEVEN DRUMMOND EIBER & CHRISTOPHER G. HAWLEY

Americans have had a long love-affair with the automobile and most of us own or lease the cars we drive and are reasonably familiar with traditional auto insurance coverages, which largely are dictated by state laws. Typically, our personal auto policies provide third-party liability coverage in the event we cause property damage or bodily injury to others, provide first-party collision coverage in the event we suffer property damage to our own car, and provide uninsured/underinsured motorists coverage which protects us when we suffer property damage or bodily injury due to the fault of another who may have no insurance or inadequate insurance. Taxi companies and other businesses purchase similar insurance for their vehicles and employee drivers in the form of commercial auto policies.

Today, however, it is increasingly likely that the ordinary car behind you is a rideshare — a privately owned car whose owner/driver has been matched with a rider via an app on their mobile devices. (Two such Transportation Network Companies, or TNCs, providing this service are Uber and Lyft.) In the unfortunate event that driver rear-ends you at the next light, will there be insurance to cover your injuries? The Uber or Lyft driver's passenger's injuries? The driver's injuries? The damage to the two cars?

Until recently, coverage in such situations was uncertain, at best. Virtually all personal auto policies have an exclusion for business use of the car, including using it for transporting passengers for hire or for delivery services. Uber, for a long time, resisted providing commercial auto coverage for its drivers, many of whom worked only part time and many of whom worked for multiple ride-share companies at the same time. The question of coverage was further complicated by the nature of the ride-share business itself, where drivers may have logged into the company's app but have not yet been matched with a rider, may be matched to a rider but are still enroute to pick up the rider, or may actually have a rider in the car.

California, followed in short order by Colorado, first addressed the issues in 2014 with legislation mandating that TNCs provide certain levels of insurance coverage for their drivers.

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of drivers were not familiar with the TNC's insurance coverage

92%

of drivers did not tell their own insurance company about the fact that they were a rideshare driver.

Since then, the auto insurance and transportation network industries have worked together to develop compromise model legislation intended to require appropriate auto insurance for TNC drivers, clarify auto insurance requirements, and eliminate driver and consumer confusion, all without quashing the entrepreneurial nature of TNCs or the market for new insurance products. Currently, 27 states and the District of Columbia have enacted Transportation Network Company insurance laws in some form. Ohio, along with many other states, enacted HB 237 on December 22, 2015.

The TNC Insurance Compromise Model Bill (March 26, 2015) requires that drivers have state mandated coverage, which typically includes liability and may include UM/UIM coverage, at all times while logged onto the TNC's digital network. For the period of time when the driver is logged onto the network but is *not* engaged in a prearranged ride, the driver is required to have primary liability insurance in the default amount of $50,000 per person for bodily injury, $100,000 per incident for bodily injury, and $25,000 for property damage. Individual state laws may specify higher limits.

The default limit requirements increase for the period of time when the driver is engaged in a prearranged ride. This period begins when a driver accepts a ride requested by a rider through the digital network, even if the rider has not yet been picked up, and ends when the rider departs the vehicle. For this period, the driver is required to have primary insurance in the amount of $1,000,000 for both bodily injury and property damage. Again, individual state laws may specify a higher limit, although none have. In any event, the good news for passengers is that $1,000,000 is considerably higher than most state requirements for personal auto policies.

These insurance requirements may be satisfied either by the TNC's insurance or by the driver's own insurance, but if the driver does not have the required insurance, the TNC *shall* provide the required coverage. Further, the insurance maintained by the TNC cannot be conditioned on the driver's insurance company first denying a claim. Lyft's policy for the period October 1, 2015 to October 1, 2016, issued by Steadfast Insurance Company, provides the limits specified in the model legislation. Uber's policy for the period March 1, 2015 to March 1, 2016, issued by James River Casualty Company, also provides the limits specified in the model legislation.

The model law requires the TNC to disclose its insurance coverage in writing to its drivers and to advise them that their own insurance may not provide coverage. The model law also permits insurance companies that write auto insurance to exclude coverage for their policyholders while they are logged onto a TNC digital network. And, the model law provides a right of contribution among multiple insurers that provide auto insurance to the same driver in satisfaction of these requirements, which is important because at least one study[1] has shown that many drivers log onto multiple TNC digital networks at the same time.

The model law does not mandate any collision or comprehensive coverage, which pays for damage to the policyholder's own vehicle. However, Uber's current policy provides contingent comprehensive and collision coverage for its drivers if the driver's personal insurance includes such coverage, with a $1,000 deductible, but only while the driver is both logged on and has been connected with a rider. This still leaves a gap in coverage for drivers, who will want to make sure that any exclusion in their personal auto policies related to rideshare activities will not apply to their comprehensive or collision coverage, or purchase specific coverage for rideshare drivers, which is increasingly becoming available.

As well, insurance companies are increasingly making auto insurance policies for rideshare drivers available with premiums that are significantly less expensive than for commercial auto policies, although still more than for traditional personal auto policies. Such policies are being offered by GEICO (in Ohio), Progressive (in Pennsylvania), Erie, Farmers, USAA, Allstate and others. Insurers offering coverage for rideshare drivers are taking different approaches to providing coverage, including some that simply eliminate the "business use" exclusion, some that are written like commercial auto policies, and some that are written to specifically fill the gap in coverage for when the rideshare driver is logged on but does not have a passenger.

Even recently, according to the same Josh Waldrum study cited above, 72% of drivers were not familiar with the TNC's insurance coverage, and 92% did not tell their own insurance company about the fact that they were a rideshare driver.[2] These auto insurance developments should help clarify the insurance issues for ridesharing drivers and passengers. Stay tuned for further insurance adventures in the future of self-driving cars.

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[1] According to at least one, probably statistically unreliable, study performed by Josh Waldrum, who gave up his car and only used Uber and Lyft for one month, 40% of Uber drivers also Lyft and 76% of Lyft drivers also Uber, with 58% of all drivers logged onto both digital networks as they cruise for riders. See, https://www.thezebra.com/insurance-news/848/uber-vs-lyft/.

[2] https://www.thezebra.com/insurance-news/848/uber-vs-lyft/.

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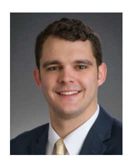

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