

COMMENTARY

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Have no Fear, W.Va., Uber Is Here: But Now What?

In 2016, the **West Virginia Legislature** passed HB 4228, allowing transportation network companies, known as TNCs, to operate in this state. A TNC is a company that uses a digital network to connect riders to drivers who provide pre-arranged rides with their personal vehicles. This service is commonly known as “ridesharing.” The most prominent TNC is **Uber**, but other companies include **Lyft** and **Sidocar**.



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Uber announced plans to file for a permit with the **West Virginia Division of Motor Vehicles** on July 1, 2016, the first day the new state law takes effect. The company will launch first in Morgantown, with plans to offer ridesharing in Charleston and likely Huntington. This announcement has riders and drivers buzzing with anticipation but also asking questions.

■ **How is a TNC different from a taxi company?** Unlike a traditional for-hire vehicle service, a TNC is not a common carrier, it is prohibited from accepting street hails, it cannot accept

cash payments from riders and it has different insurance requirements.

■ **What insurance does a TNC have to have?** In West Virginia, either the driver or the TNC on behalf of the driver must maintain primary automobile liability insurance coverage during two phases: while the TNC driver is logged on to the digital network; and while the driver is engaged in a pre-arranged ride. During phase one, the insurance must be in the amount of at least \$50,000 for death or bodily injury per person, \$100,000 for death or bodily injury per incident and \$25,000 for property damage, plus uninsured and underinsured motorist coverage as required by W.Va. Code § 33-6-31. During phase two, the insurance must provide at least \$1,000,000 for death, bodily injury and property damage and uninsured and underinsured motorist coverage as required by W.Va. Code § 33-6-31.

■ **What do TNC drivers need to know about insurance?** Drivers need to have commercial automobile insurance to cover them while they are in phases one and two for a TNC, as personal policies generally contain a “livery” or “business use” exclusion. A commercial policy not only covers the

driver for transporting riders for hire, but it also will typically have higher limits and cover rental reimbursement, loss of income and other services. The TNC driver may instead be able to purchase a ridesharing supplement or endorsement to his or her personal policy for less cost than a traditional commercial policy. This removes the business use exclusion and can provide higher limits of coverage, particularly during phase one when the state mandated limits are lower and there is no requirement for comprehensive or collision coverage for the driver under the TNC policy.

■ **What do TNC riders need to know about insurance?** If you are involved in an accident and the TNC driver is at fault, there should be \$1,000,000 of liability insurance coverage. If the driver’s personal insurance has lapsed or does not provide the coverage, the TNC’s insurance must provide the coverage, beginning with the first \$1 of the claim. If you are involved in an accident as a TNC rider but another driver is at fault, there should be uninsured motorist coverage of at least \$25,000 per person and \$50,000 per accident for bodily injury, \$25,000 for property damage and possibly as much as \$1,000,000. There may also be un-

derinsured motorist coverage in these amounts. However, TNC riders should also check their personal automobile insurance policies to see if their own medical payments, uninsured or underinsured coverage applies.

■ **What else do TNC riders need to know?** TNCs are required to have several measures in place to provide riders with safe transportation. The driver must submit an application to the TNC with his or her address, age, driver’s license, motor vehicle registration, automobile liability insurance and other information required by the TNC. The TNC must conduct a criminal background check, including with the **National Sex Offender Registry**, and must conduct a driving history research report. The TNC must also implement a zero tolerance policy regarding the use of drugs or alcohol.

While there may be more questions regarding ridesharing, one thing is certain: the introduction of TNCs provides an opportunity for West Virginia drivers and riders alike.

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