

1 AN ACT relating to delivery services.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 4 of this Act:*

6 *(1) "Delivery available period" means the period when a delivery network driver:*

7 *(a) Has logged on to a digital network;*

8 *(b) Is available to receive requests to provide delivery services from a delivery*
9 *network company;*

10 *(c) Is operating a personal vehicle; and*

11 *(d) Is not:*

12 *1. Providing delivery services; or*

13 *2. Operating in the delivery service period;*

14 *(2) "Delivery network company" means a corporation, partnership, sole*
15 *proprietorship, or other entity that:*

16 *(a) Operates in this state; and*

17 *(b) Uses a digital network to connect a delivery network company customer to a*
18 *delivery network driver to provide delivery services;*

19 *(3) "Delivery network company customer" means a person who orders goods that*
20 *are delivered by a delivery network driver at the direction of the person;*

21 *(4) "Delivery network driver" means an individual who provides delivery services*
22 *through a digital network using a personal vehicle;*

23 *(5) "Delivery services":*

24 *(a) Means the fulfillment of delivery requests made by a delivery network*
25 *company customer through a digital network; and*

26 *(b) Includes:*

27 *1. The pickup of goods that are delivered by a delivery network driver to*

- 1 a:
2 a. Delivery network company customer; or
3 b. Location designated by a delivery network company customer;
4 and
5 2. A series of deliveries to different delivery network company customers
6 or locations designated by delivery network company customers;

7 (6) "Delivery service period" means the period:

- 8 (a) Beginning when a delivery network driver starts operating a personal
9 vehicle en route to pick up goods for a delivery or series of deliveries as
10 documented via a digital network controlled by a delivery network company;
11 (b) Continuing while the delivery network driver transports the requested
12 delivery or deliveries; and
13 (c) Ending upon delivery of the requested goods to:
14 1. The delivery network company customer or the last delivery network
15 company customer in a series of deliveries;
16 2. A location designated by the delivery network company customer or
17 the last location so designated in a series of deliveries; or
18 3. A location designated by the delivery network company, including for
19 purposes of returning the goods;

20 (7) "Digital network" means any online-enabled application, software, website, or
21 system offered or utilized by a delivery network company that enables deliveries
22 with delivery network drivers; and

23 (8) "Personal vehicle" means a motor vehicle that is:

- 24 (a) Used by a delivery network driver to provide delivery services; and
25 (b) Owned, leased, or otherwise authorized for use by the delivery network
26 driver.

27 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) A delivery network company shall ensure that, during the delivery available
3 period, if applicable, and delivery service period, primary motor vehicle liability
4 insurance coverage is in place that:

5 (a) Recognizes that the driver is a delivery network driver; or

6 (b) Does not exclude coverage for use of the motor vehicle to provide delivery
7 services.

8 (2) The delivery network driver, delivery network company, or any combination of
9 the two (2) shall maintain a motor vehicle liability insurance policy that provides
10 the coverage required under KRS 304.39-080 during the delivery available period
11 and delivery service period in amounts not less than:

12 (a) For bodily injury and property damage to third parties:

13 1. Fifty thousand dollars (\$50,000) or the amount required under KRS
14 304.39-110(1)(a)1., whichever is greater, for all damages arising out
15 of bodily injury sustained by any one (1) person as a result of any one
16 (1) accident;

17 2. One hundred thousand dollars (\$100,000) or the amount required
18 under KRS 304.39-110(1)(a)1., whichever is greater, for all damages
19 arising out of bodily injury sustained by all persons as a result of any
20 one (1) accident; and

21 3. Twenty-five thousand dollars (\$25,000) or the amount required under
22 KRS 304.39-110(1)(a)1., whichever is greater, for all damages arising
23 out of damage to or destruction of property as a result of any one (1)
24 accident; and

25 (b) For basic reparation benefits, the amount set forth in KRS 304.39-020(2).

26 (3) If the insurance coverage maintained by a delivery network driver in accordance
27 with subsections (1) and (2) of this section has lapsed or does not provide the

1 required coverage, insurance maintained by the delivery network company shall:

2 (a) Provide the coverage required by subsections (1) and (2) of this section
3 beginning with the first dollar of a claim; and

4 (b) Have the duty to defend a claim made under the coverage provided under
5 paragraph (a) of this subsection.

6 (4) Coverage under a motor vehicle liability insurance policy maintained by a
7 delivery network company shall not be dependent upon another motor vehicle
8 liability insurer first denying a claim nor shall another motor vehicle liability
9 insurance policy be required to first deny a claim.

10 (5) The insurance coverage required by this section may be obtained from:

11 (a) An insurer duly licensed or authorized to transact business under the
12 insurance laws of this state; or

13 (b) A surplus lines broker licensed under KRS 304.10-120.

14 (6) (a) A delivery network driver shall carry proof of the insurance required under
15 subsections (1) and (2) of this section at all times while using a personal
16 vehicle in connection with a digital network.

17 (b) In the event of an accident, a delivery network driver shall, upon request,
18 provide the following to directly interested parties, motor vehicle liability
19 insurers, and investigating law enforcement officers:

20 1. Information about the insurance coverage maintained under
21 subsections (1) and (2) of this section; and

22 2. Whether the driver was operating during a delivery available period or
23 delivery service period at the time of the accident.

24 (c) Information about the insurance coverage maintained under subsections
25 (1) and (2) of this section may be displayed or provided in either paper or
26 electronic format as provided in KRS 304.39-117.

27 (7) In a claims coverage investigation:

1 (a) A delivery network company or its insurer shall:

2 1. Cooperate with all insurers that are involved with the claims coverage
3 investigation to facilitate the exchange of information; and

4 2. Immediately provide, upon request by directly involved parties or any
5 insurer, the precise times that a delivery network driver began and
6 ended any delivery available periods and delivery service periods on
7 the delivery network company's digital network in the twelve (12) hour
8 period immediately preceding the accident and immediately following
9 the accident; and

10 (b) Insurers potentially providing the coverage required under this section shall
11 disclose, upon request by any other insurer involved in the particular claim,
12 the applicable coverages, exclusions, and limits provided under any motor
13 vehicle liability insurance maintained to satisfy the requirements of this
14 section.

15 (8) The insurer or insurers of a delivery network company providing coverage under
16 subsections (1) and (2) of this section shall assume primary liability for a claim
17 if:

18 (a) A dispute exists as to when a delivery available period or delivery service
19 period began or ended; and

20 (b) The delivery network company does not have available, did not retain, or
21 fails to provide the information required under subsection (7)(a) of this
22 section.

23 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) A delivery network company shall not be deemed to control, direct, or manage a
26 personal vehicle or delivery network driver that connects to the company's digital
27 network, except where agreed to by written contract.

1 (2) A delivery network company shall not permit a delivery network driver to engage
2 in delivery services on the company's digital network until the company discloses
3 in writing to the driver:

4 (a) The insurance coverage, including the types of coverage and the limits for
5 each coverage, that the company provides while the driver uses a personal
6 vehicle in connection with the company's digital network; and

7 (b) That the driver's own motor vehicle liability insurance policy might not
8 provide any coverage during a delivery available period, if applicable, or a
9 delivery service period.

10 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) Nothing in Section 1, 2, or 3 of this Act shall be construed to:

13 (a) Invalidate or limit an exclusion contained in a motor vehicle liability
14 insurance policy, including any policy in use or approved for use that
15 excludes coverage for motor vehicles:

16 1. Used for delivery; or

17 2. For any business use; or

18 (b) Invalidate, limit, or restrict an insurer's ability under existing law to:

19 1. Underwrite any insurance policy; or

20 2. Cancel and nonrenew policies.

21 (2) (a) Nothing in Section 1, 2, or 3 of this Act limits the scope of federal or state
22 law regarding the delivery or transport of goods.

23 (b) Deliveries made under Section 1, 2, or 3 of this Act that are subject to
24 federal or state law regarding the delivery or transport of goods shall also
25 comply with the requirements of those laws.

26 (c) In the event of a conflict between Section 1, 2, or 3 of this Act and another
27 law dealing with the delivery or transport of goods, the other law prevails.

➔SECTION 5. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304
IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, the following have the same meaning as in Section 1 of
this Act:

(a) "Delivery available period";

(b) "Delivery network driver"; and

(c) "Delivery service period."

(2) An authorized insurer that writes motor vehicle liability insurance in this state
may exclude any and all coverage, and the duty to defend or indemnify, for any
injury or loss that occurs during a delivery available period or delivery service
period, including but not limited to:

(a) Security for payment of tort liabilities under KRS 304.39-110;

(b) Uninsured motorist coverage under KRS 304.20-020;

(c) Underinsured motorist coverage under KRS 304.39-320;

(d) Basic reparation benefits as defined in KRS 304.39-020;

(e) Medical payments coverage;

(f) Comprehensive property damage coverage; and

(g) Collision property damage coverage.

(3) A motor vehicle liability insurer that defends or indemnifies a claim against a
delivery network driver shall have the right to seek recovery against the insurer
providing coverage under subsections (1) and (2) of Section 2 of this Act if:

(a) The claim occurs during a delivery available period or delivery service
period; and

(b) Coverage for the claim is excluded under the terms of the insurer's policy.

➔Section 6. This Act takes effect on January 1, 2024.