

Ridesharing Regulations Arrive in the Buckeye State



By Andrew L. Smith

On Dec. 22, 2015, Ohio Governor, John Kasich, signed House bill 237, which allows the Public Utilities Commission of Ohio (PUCO) to regulate ridesharing companies in Ohio, including Uber and Lyft. The bill takes effect later this month on March 21, 2016. This article will explore the background of the ridesharing industry and the current status of regulations across the country, with a focus on the new Ohio bill.

Ridesharing Explained

By way of background, “ridesharing” is a service arranging one-time, shared rides on very short notice. This type of carpooling generally makes use of three technological advances: GPS navigation devices to determine a driver’s route and arrange the shared ride, smartphones for a traveler to request a ride from wherever they are located, and social networks to establish trust and accountability between drivers and passengers. Unlike traditional taxi companies, almost anyone can drive for a ridesharing service. All a driver needs is a car and a smartphone app.

Ridesharing has been highly controversial, criticized as lacking adequate regulation, insurance, licensure, and training. One of the main ridesharing firms, Uber, is banned in Berlin and a number of other European cities. Opposition may also come from taxi companies and public transit operators because they

are seen as cheaper, unfair, competitive alternatives.

Uber is the largest ridesharing provider, valued at \$50 billion. It is available in 58 countries worldwide. Uber averages 30 million rides per month and operates throughout Ohio, including Akron, Columbus, Cincinnati, Cleveland, Dayton, and Toledo. Lyft is the second largest company. It averages more than two million rides per month, and is valued at \$2.5 billion. It is available only in 30 of the continental United States. Lyft also operates in Akron, Bowling Green, Cleveland, Cincinnati, and Toledo.

Insurance Coverage Gap?

In 2013, an Uber driver hit and killed a 6-year-old pedestrian in San Francisco. The driver was not carrying a passenger, but he did have the app turned on. At that time, Uber provided commercial insurance to its drivers while they were carrying passengers, but not when the app was turned on and awaiting passengers. The family filed suit against Uber in January 2014 in the San Francisco Superior

Court. See [Liu v. Uber Technologies](#), Case No. CGC 14 536979, California Superior Court, San Francisco. A settlement was reached with Uber in July 2015, but filed under seal, of course.

Insurers and critics alike argued this created an “insurance coverage gap” since a personal policy would not apply if the app was on, since the driver is engaged in commercial activity. Uber’s policy wouldn’t apply either, since the driver is not

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carrying passengers. Indeed, personal automobile policies explicitly exclude the use of your personal vehicle for hire or commercial use, known as a livery or commercial use exclusion. However, to date, the Insurance Services Office (ISO) has not released a standard ridesharing exclusion.

Below is an explanation of the three separate periods involved in a ridesharing transaction:

- **Period One:** The driver is logged into the app and driving around looking to obtain business. There are no passengers in the vehicle. The driver has not been contacted and has not accepted a ride request.
- **Period Two:** The driver has been contacted by phone or through the app, has accepted the ride request, and is traveling to pick up the passenger.
- **Period Three:** The driver arrives, picks up the passenger, and actually drives the passenger to his or her destination.

When a driver pulls away after dropping a customer off, his or her personal insurance becomes their primary coverage; the ridesharing companies only offer secondary coverage. If a driver gets in a wreck during such times, it can take a long time to sort out which insurance company is responsible. So far, there is little to no published, noteworthy case law on point. Clarity may be provided in Sacramento, where a 24-year-old Lyft passenger, Shane Holland, was killed in an accident in November 2014. This is the first time a Lyft passenger has died in an accident.

As a result of the so-called insurance coverage gap, since 2014, a total of 29 states and numerous towns and cities have implemented legislation requiring heightened regulation of the ridesharing industry. Even more states are expected to join this rapid trend in 2016. Most of the statutes are very similar in nature, with the primary differences focusing on the amount of coverage ridesharing companies are required to provide. Is your state next?

Ohio House Bill 237

Ohio House bill 237 becomes effective on March 21, 2016. Under the law:

- Ridesharing companies must obtain a \$5,000 permit from PUCO to use a digital network to prearrange rides between riders and drivers.
- Ridesharing companies must disclose how fares are calculated, provide a receipt, conduct background checks on drivers, and maintain records for two years.
- Ridesharing companies must institute non-discrimination policies, accommodate service animals, and provide a method for requesting wheelchair accessible vehicles.
- Drivers must be 19 years or older, pass criminal background checks, and must not have committed any type of serious vehicle-related offense in the last 13 years.
- The bill specifies drivers are not employees, nor agents of the companies, unless a written contract between

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the driver and the company says otherwise.

The 13-page bill sets minimum levels of commercial auto insurance drivers must carry:

- In phase one, the period when the rideshare app is on and the driver has not yet received a request for a ride, the ridesharing company, driver, or a combination of the two, are required to obtain coverage with minimum liability limits of:
 - \$50,000 of coverage for bodily injury liability per person;
 - \$100,000 of coverage for bodily injury liability per accident; and
 - \$25,000 for property damage.
- In phases two and three, when the driver has a rider in the car or has accepted a request for a ride via the app, the minimum liability limits increase to \$1,000,000 because of bodily injury or death of one or more persons, or injury to property of others in any one accident.

- In all three phases, the ridesharing company's coverage is primary and does not require a personal auto insurer to deny a claim before coverage is available.

While the insured driver would have a duty to cooperate with his or her own insurer's investigation involving an insurance claim, this in turn raises the question of whether a similar duty would apply to the third-party ridesharing company. California answered this question in the affirmative in their statute. Likewise, Ohio's statute states as follows:

In a claims coverage investigation, a transportation network company and any insurer providing automobile insurance shall cooperate to facilitate the exchange of relevant information with directly interested parties and any personal insurer of the transportation network company driver, if applicable.

Conclusion

Ridesharing companies like Uber

and Lyft are here to stay. In 2015, Uber rides increased by 400% and Lyft rides increased by 700%. For the first time, Uber passed car rentals as business travelers' top mode of transportation for getting around town. This is a constantly evolving industry and regulations will continue to grow and change.

Ridesharing litigation will be sure to follow in the Buckeye State. In December 2015, an Uber passenger in Columbus was pulled under the rear wheel of an SUV while entering the vehicle and died as a result. In September 2015, a woman was also allegedly assaulted by an Uber driver here in Cincinnati.

Be sure to stay updated on the latest news, including the important new House bill 237, which will drastically change the way Uber and Lyft operate here in Cincinnati and throughout Ohio.

Smith is a senior associate attorney in the Cincinnati, Ohio office of Smith, Rolfe & Skavdahl Company LPA, who concentrates his practice in the areas of construction law, insurance defense, and bad faith litigation defense. Smith has extensive experience in state and federal court handling complex civil litigation matters. He is also the co-host of BearcatsSportsRadio.com and an avid UC Bearcats follower.

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