

## Ride-Sharing Regulations Arrive in the Buckeye State, by Andrew L. Smith, Esq.



On December 22, 2015, Ohio Governor John Kasich signed House Bill 237, which allows the Public Utilities Commission of Ohio (“PUCO”) to regulate ride-sharing 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 ride-sharing industry, and the current status of regulations across the country, with a focus on the new Ohio Bill.

### Ride-Sharing Explained

By way of background, “ride-sharing” is a service arranging one-time shared rides on very short notice. This type of carpooling generally makes use of three technological advances: (1) GPS navigation devices to determine a driver’s route and arrange the shared ride; (2) smartphones for a traveler to request a ride from wherever they are located; and (3) social networks to establish trust and accountability between drivers and passengers. Unlike traditional taxi companies, almost anyone can drive for a ride-sharing service. All a driver needs is a car and a smartphone app.

Ride-sharing has been highly controversial, criticized as lacking adequate regulation, insurance, licensure, and training. One of the main ride-sharing firms, Uber, is banned in Berlin and a number of other European cities. Opposition may also come from taxi com-

panies and public transit operators, because they are seen as cheaper, unfair, competitive alternatives.

Uber is the largest ride-sharing provider, valued at **\$50 billion**. It is available in **58 countries** worldwide. Uber averages 30 million rides a month. Uber

operates throughout Ohio, including Akron, Columbus, Cincinnati, Cleveland, Dayton, and Toledo. Lyft is the second largest company. Lyft 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 six-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, and neither would Uber’s policy, since the driver is not carrying passengers. Indeed, personal automobile policies ex-

plicitly 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 ride-sharing exclusion.

Below is an explanation of the three separate periods involved in a ride-sharing transaction:

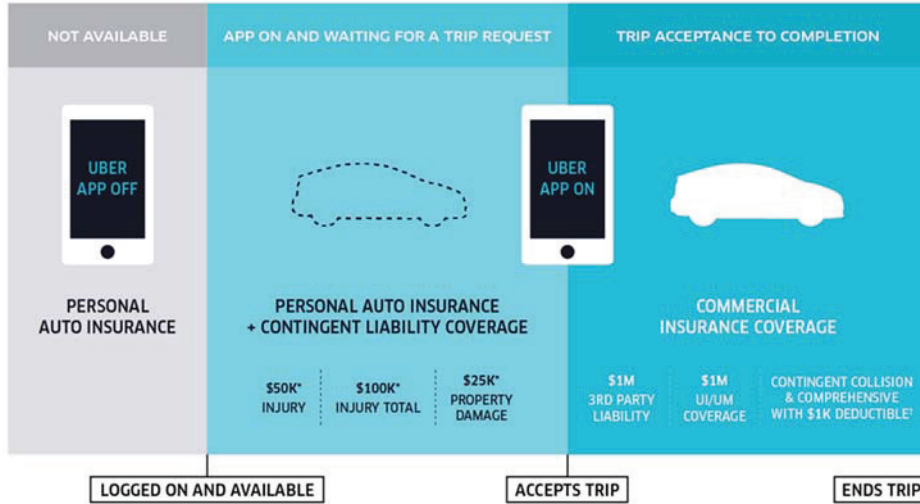
- **Period One:** The driver is logged into the app and driving around looking to obtain business. There are no passengers in the vehicle. The driver has not been contacted and has not accepted a ride request.
- **Period Two:** The driver has been contacted by phone or through the app, has accepted the 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 ride-sharing 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 November 2014 in an accident. This is the first time a Lyft passenger has died in an accident.

The following is a chart summarizing Uber’s position on insurance coverage.

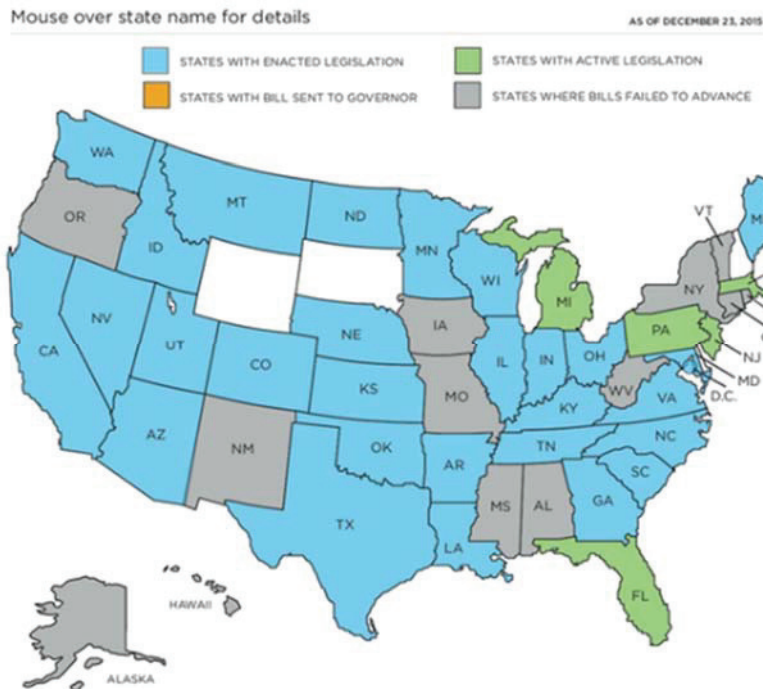
Ride-Sharing Regulations Arrive in the Buckeye State (cont'd.)

uberX RIDESHARING INSURANCE COVERAGE



\*PROVIDES AUTOMOBILE LIABILITY INSURANCE IF/WHEN THE DRIVER'S PERSONAL AUTO POLICY DOES NOT PROVIDE COVERAGE.  
 †PROVIDES COVERAGE IF DRIVER'S PERSONAL AUTO INSURANCE INCLUDES COLLISION COVERAGE

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 ride-sharing 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 required to be provided by ride-sharing companies. Is your state next?



**Ride-Sharing Regulations Arrive in the Buckeye State (cont'd.)**

**Ohio House Bill 237**

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

- Ride-sharing companies must obtain a \$5,000 permit from PUCO to use a digital network to prearrange rides between riders and drivers.
- Ride-sharing companies must disclose how fares are calculated, provide a receipt, conduct background checks on drivers, and maintain records for two years.
- Ride-sharing companies must institute non-discrimination policies, accommodate service animals, and provide a method for requesting wheel-chair accessible vehicles.
- Drivers must be 19 years or older, pass criminal background checks, and not 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 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 ride-sharing 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 ride-sharing 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 apply to the third-party ride-sharing 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% in 2015 and Lyft rides increased by 700%. For the first time, Uber passed car rentals as business travelers' top mode of choice for getting around town. This is a con-

stantly evolving industry and regulations will continue to grow and change.

Ride-sharing litigation will be sure to follow in the Buckeye State. In December 2015 an Uber passenger was pulled under the rear wheel of an SUV while entering the vehicle and died as a result in Columbus. Earlier 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.

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