



**Massachusetts Division of Insurance
Annual Report Concerning Coverage Minimums
for
Transportation Network Vehicles
For Calendar Year 2017**

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Summary

This report is submitted in compliance with the requirements of M.G.L. c. 175, § 228(i), which requires the Division of Insurance, in consultation with the Transportation Network Company Division (TNCD) of the Department of Public Utilities, to produce an annual report concerning the minimum insurance coverage required for transportation network vehicles during the period of time where the transportation network driver is logged onto the digital network but is not engaged in a pre-arranged ride; commonly referred to as “period one”, and whether those coverage minimums provide adequate protection for drivers and the general public.

The minimum motor vehicle liability insurance requirements for Period 1 are \$50,000 per person/\$100,000 per occurrence for bodily injury to others, and \$30,000 per occurrence for property damage to others.

Since the number of policies and claims associated with extended TNC coverage under personal automobile policies is small, the adequacy of the Period 1 coverage minimums were evaluated using industry data for all personal automobile insurance policies. This analysis indicated that 94.4% of claims for bodily injury were for \$50,000 or less, on a per person basis; 99.8% of claims for property damage were for \$30,000, or less on a per occurrence basis.

Based upon the reported information, it appears that current minimum liability requirements cover the vast majority of TNC claims and the Division does not recommend changes to the existing requirements at this time.

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Background & Scope

Chapter 187 of the Acts of 2016, An Act Regulating Transportation Network Companies, provides regulatory guidance regarding on-line companies that coordinate pre-arranged rides for riders. The companies, referred to as transportation network companies¹ (TNCs), use a digital network² to pre-arrange private transportation network services³ between drivers and riders.

The TNC ride has three established phases:

- **Period 1**, time when the driver is logged onto the TNC digital network but has not yet been matched with a rider;
- **Period 2**, time when the driver has accepted a transportation request and is en-route to pick up the rider; and
- **Period 3**, time when the rider is in the car until the rider exits the vehicle.

The scope of the Division's report, as defined by M.G.L. c. 175, § 228(i), is as follows:

1. Whether the existing insurance coverage requirements during Period 1 provide adequate protection for riders, transportation network drivers and the general public based on actuarial data;
2. Whether it is presently feasible for a transportation network company to obtain an insurance policy providing coverage of \$1,000,000 per occurrence, per vehicle during Period 1;
3. If such a policy is available, whether the coverage minimums should be raised so that all transportation network vehicles carry \$1,000,000 of coverage per occurrence, per vehicle, at all times while operating as a transportation network company;
4. Whether a strategy can be developed to raise the coverage requirements during Period 1 through the use of admitted motor vehicle insurance carriers, the surplus lines market and technological innovations in the insurance industry such as the use of telematics to improve risk assessment; and
5. Any recommended actions that would encourage the insurance market to provide policies with higher insurance limits while transportation network companies are not engaged in a pre-arranged ride.

This report is limited to the insurance requirements for vehicles that do not seat more than six (6) passengers. There are minimum liability insurance requirements for motor vehicles that carry 15 or fewer passengers as established by the Federal Motor Carrier Safety Administration, but they

¹ Defined in M.G.L. c. 159A1/2, § 1 as a "corporation, partnership, sole proprietorship or other entity that uses a digital network to connect riders to drivers to pre-arrange and provide transportation."

² Defined in M.G.L. c. 159A1/2, § 1 as "any online-enabled application, software, website or system offered or utilized by a transportation network company that enables pre-arranged rides with transportation network drivers."

³ Defined in M.G.L. c. 159A1/2, § 1 as "offering or providing of pre-arranged rides for compensation or on a promotional basis to riders or prospective riders through the transportation network company's digital network, covering the period beginning when a transportation network driver is logged onto the transportation network company's digital network and is available to receive a pre-arranged ride or while in the course of providing a pre-arranged ride."

do not apply to motor vehicles that will not seat more than 6 passengers, that provide taxicab services, and that do not operate on a regular route or between specified points.

Adequacy of Existing Coverage Requirements

Standard auto insurance policies are broken up into different coverages. There are four compulsory coverages, each with a minimum coverage requirement.

Below are the minimum compulsory coverage requirements for private passenger motor vehicle in the Commonwealth.

Coverage Type	Minimum
Bodily Injury to Others	\$20,000 per person \$40,000 per accident
Damage to Someone Else's Property	\$5,000 per accident
Personal Injury Protection	\$8,000 per person, per accident
Bodily Injury Caused by Uninsured Auto	\$20,000 per person \$40,000 per accident

While the law permits that coverage during a TNC period may be provided by either the TNC or by the driver's personal auto policy, most standard private passenger personal automobile insurance excludes coverage when a motor vehicle is used for commercial purposes. Therefore, a TNC driver cannot rely on their personal auto policy to provide coverage in the event of an accident.

The shifting liability exposure over the three periods of a TNC ride is the basis for the different minimum liability insurance requirements in M.G.L. c. 175, § 228(c) and 228(d). TNC drivers are required to have adequate automobile liability coverage whether it is held by the driver, the TNC or a combination of both.⁴

Period 1 Insurance Requirements

M.G.L. c. 175, § 228(c) defines the minimum liability insurance coverage requirements during Period 1 as set forth in the table below.

Period 1	Coverage Type	Minimum
	Liability for Bodily Injury to Others	\$50,000 per person \$100,000 per accident

⁴ M.G.L. c. 175, § 228(c).

Liability for Damage to Someone Else's Property	\$30,000 per accident
Personal Injury Protection	\$8,000 per person, per accident
Bodily Injury Caused by Uninsured Auto	M.G.L. c. 175, § 113L

Massachusetts Period 1 minimum liability insurance requirements are similar to minimum requirements in other northeastern states, as shown below.

Period 1 Minimum Liability Insurance Requirements in Other Northeastern States						
	<u>CT</u>	<u>ME</u>	<u>NH</u>	<u>NY</u>	<u>RI</u>	<u>VT</u>
Liability for Bodily Injury to Others (per person /occurrence)	Pending	50/100	50/100	75/150	50/100	Pending
Liability for Damage to Someone Else's Property (per occurrence)	Pending	\$25,000	\$25,000	\$25,000	\$25,000	Pending
Personal Injury Protection	Pending	N/A	N/A	**	N/A	Pending
Bodily Injury Caused by Uninsured Auto	Pending	**	**	**	**	Pending

** As required by state law

Period 2 and 3 Insurance Requirements

M.G.L. c. 175, § 228(d) defines the minimum liability insurance coverage requirements from the time when a transportation network driver receives a transportation request from a TNC until that transportation request is completed. The specific requirements are set forth in the table below.

	Coverage Type	Minimum
<div>Periods</div> <div>2&3</div>	Liability for Bodily Injury to Others and Damage to Someone Else's Property	\$1,000,000 per occurrence
	Personal Injury Protection	\$8,000 per person, per accident
	Bodily Injury Caused by Uninsured Auto	M.G.L. c. 175, § 113L

Massachusetts Period 2 and 3 minimum liability insurance requirements are similar to minimum requirements in other northeastern states, as shown below.

Period 2 and 3 Minimum Liability Insurance Requirements in Other Northeastern States						
	<u>CT</u>	<u>ME</u>	<u>NH</u>	<u>NY</u>	<u>RI</u>	<u>VT</u>
Liability for Bodily Injury to Others and Damage to Someone Else's Property (per occurrence)	Pending	\$1.0 M	\$0.3 M	\$1.25 M	\$1.5 M	Pending
Personal Injury Protection	Pending	N/A	N/A	**	N/A	Pending
Bodily Injury Caused by Uninsured Auto	Pending	**	**	**	**	Pending

** As required by state law

Feasibility of Obtaining Coverage during Period One

M.G.L. c. 175, § 228 permits minimum liability insurance requirements to be satisfied by the TNC, the driver of the vehicle providing transportation services, or a combination of the two.

Liability Insurance Provided by TNCs

Insurance provided by a TNC is obtained through commercial insurance policies. TNCs in Massachusetts are regulated by the TNCD. Massachusetts regulation 220 CMR 274.00 establishes rules and regulations governing the oversight of TNCs, the provision of transportation network services within the Commonwealth, and the suitability requirements of transportation network drivers.

To obtain a permit from the TNCD, a TNC must provide proof of adequate insurance as certified by the Division of Insurance in accordance with the provisions of M.G.L. c. 159A½ and M.G.L. c. 175, § 228.⁵ Permits are valid for one year. The key requirements of a TNC's liability insurance coverage are as follows:

1. A TNC must carry adequate liability insurance for Period 2 and 3 to comply with the minimum coverage amounts specified in law.
2. A TNC is liable for injuries and damages that occur during Period 1 if insurance coverage is not available under the vehicle's personal automobile liability policy.

Commercial insurers that provide automobile liability insurance coverage on behalf of TNCs must address coverage needs for the driver in both Periods 1, 2 and 3.⁶ Commercial insurers for TNC's are required to investigate and defend any claim for automobile accident injuries that occur if the personal automobile insurance policy that would normally apply fails to respond. Coverage under a TNC liability policy is not dependent on whether a driver's personal automobile insurer first denies a claim, and a TNC liability insurance policy may not require that a personal automobile insurer deny the claim before coverage becomes available under the TNC liability policy.⁷

3. TNCs must provide written disclosure about the insurance coverage they will provide to prospective drivers. This disclosure must include:
 - a. The types and limits of coverage the TNC provides during Periods 1, 2 and 3; and
 - b. A statement that the driver's personal automobile insurance policy may not provide coverage while the driver is using the vehicle to provide transportation services for a TNC.⁸

⁵ Regulation 220 CMR 274.03(1)(c)5.

⁶ M.G.L. c. 159A½, sections 5(a) and 5(b).

⁷ M.G.L. c. 175, § 228 (e) & (f)

⁸ M.G.L. c. 159A½, sections 5(d).

Liability Insurance Provided by the Driver

Individuals who own vehicles for their personal use insure them through a personal automobile insurance policy. M.G.L. c. 175, § 228(h) expressly allows personal automobile insurers to exclude coverage under their policies for accidents that occur while the vehicle is being used in Period 1, Period 2 or Period 3. The law also allows insurers to extend coverage under a personal automobile policy to provide coverage for accidents that arise while the vehicle is used to provide transportation services for a TNC.

According to the Division's survey of the market, a small number (five) of the personal automobile insurers licensed in Massachusetts are willing to issue extension coverage under a personal automobile policy for a vehicle owner's TNC exposure during Period 1. Additional carriers may opt to provide this coverage in the Commonwealth in the future.

Raising Coverage Requirements during Period One/ Raising Coverage Requirements for All Periods

Insurance statistical data for personal automobile policies that had TNC extension coverage in 2017 is not yet available.

The liability exposure of Period 1 does not include the risk of injury to passengers being transported for hire. As a result, there are two indicators that can be considered to assess whether the Period 1 minimum liability insurance requirements are sufficient to compensate for bodily injury or property damage to others:

1. Average size of claim under standard personal automobile liability insurance policies
 2. Massachusetts court cases regarding motor vehicle accidents that involve a personal vehicle providing transportation services for a TNC during Period 1.
1. Average size of a claim under standard personal automobile liability insurance policies

Since the liability of a TNC driver during Period 1 is essentially the same as if the car were being driven strictly for personal use, it is reasonable to consider statistics reported by insurers for standard personal automobile policies to determine whether the Period 1 minimum coverage requirements are adequate. The Division conducted an actuarial analysis of Massachusetts industry loss and claim data as described below.

Minimum Bodily Injury Liability Limit

The Division reviewed the average per person bodily injury losses recorded under Massachusetts personal automobile policies for accidents that occurred in 2015.⁹ Limits of bodily injury liability coverage under a personal automobile insurance policy typically ranges from a low of 20/40 to a high of 250/500. To ensure that the limit of liability does not “cap” the true loss, the Division’s review focused on losses made against vehicles with bodily injury liability limits of 100/300 or 250/500.¹⁰ As summarized in the table below, 94.4% of 2015 claims resulted in an average per person loss of \$50,000 or less.

Bodily Injury Loss Per Person	
<u>Average Loss Size</u>	<u>% 2015 Claims</u>
<= \$20,000	86.5%
\$20,001 - \$30,000	4.6%
\$30,001 - \$40,000	1.9%
\$40,001 - \$50,000	1.5%
\$50,001 - \$75,000	1.6%
\$75,001 - \$100,000	3.0%
\$100,001 - \$250,000	1.0%
Total	100.0%

Minimum Property Damage Liability Limit

The Division reviewed average per occurrence property damage losses for accidents that occurred in 2016.¹¹ Limits of property damage liability coverage under a personal automobile insurance policy typically range from a low of \$5,000 to a high of \$250,000. To ensure that the limit of liability does not “cap” the true loss, the Division’s review focused on losses made against vehicles with property damage liability limits of \$100,000.¹² As indicated in the table below, 99.8% of 2016 claims resulted in per occurrence losses of \$30,000 or less.

⁹ Statistics provided by the Automobile Insurers Bureau of Massachusetts. Reserves for 2015 accidents are current as of December 31, 2016. Since case reserves for bodily injury claims that occurred in 2016 are still being developed by insurers, they were not evaluated by the Division for this report.

¹⁰ Approximately 67% of all voluntary personal automobile policies carry limits of 100/300 or 250/500 for bodily injury liability.

¹¹ Statistics provided by the Automobile Insurers Bureau of Massachusetts. Reserves for property damage claims in 2016 are current through March 31, 2017. Vehicle damage claims are easier to estimate and are settled more quickly than injury claims so they are meaningful to evaluate for this report.

¹² Approximately 69% of all voluntary personal automobile policies carry property damage liability limits of \$100,000.

Property Damage Loss Per Accident	
Average Loss Size	% 2016 Claims
<= \$5,000	83.2%
\$5,001 - \$10,000	12.7%
\$10,001 - \$20,000	3.5%
\$20,001 - \$30,000	0.5%
\$30,001 - \$50,000	0.1%
\$50,001 - \$75,000	0.0%
\$75,001 - \$100,000	0.0%
Total	100.0%

2. Massachusetts court cases regarding motor vehicle accidents that involve a personal vehicle providing transportation services for a TNC.

The Division reviewed case law and recent court decisions to identify any cases where the liability coverage minimums for Period 1 were at issue. No such cases were identified in this review.

Conclusion and Recommendations

There were not any actions or recommendations made by the Division, the TNCD, the Legislature or other government entity in 2017 to modify the minimum liability insurance requirements for Period 1.

The minimum motor vehicle liability insurance requirements for Period 1 that are established in M.G.L. c. 175, § 228(c) are for \$50,000 per person/\$100,000 per occurrence for bodily injury to others, and for \$30,000 per occurrence for property damage to others. These minimum bodily injury liability insurance requirements are comparable to the minimums imposed in other northeastern states and the minimum property damage liability requirements are higher than the minimum imposed in other of the northeastern states.

Based on the Division's review of Massachusetts personal automobile insurers' actuarial data reported for standard personal automobile policies industrywide, 94.4%% of claims for bodily injury were for \$50,000 or less on a per person basis, and 99.8% of claims for property damage were for \$30,000 or less on a per occurrence basis.

At this time, there is insufficient data available to determine if the coverage minimums should be changed. As the market for transportation network companies evolves, more information and data will emerge. The Division will continue to monitor developments in the industry.