WEST VIRGINIA CODE CHAPTER 33 ARTICLE 63

WV Legislature

§33-63-1. Short title and definitions.

(a) This article may be cited as the “Delivery Network Company Insurance Act.”

(b) As used in this article:

(1) "Delivery network company" or "DNC" means a corporation, partnership, sole proprietorship, or other entity that operates in West Virginia and uses a digital network to connect a delivery network company customer to a delivery network driver to provide delivery services. A DNC shall not be deemed to control, direct, or manage the personal vehicles or delivery network drivers that connect to its digital network, except where agreed to by written contract.

(2) "Delivery network company customer" or "customer" means a person who uses a digital network and orders the delivery of goods and prompts a delivery network driver to deliver such goods at the direction of the customer.

(3) "Delivery network driver" or "driver" means a person who provides delivery services through a DNC's digital network using a personal vehicle. For purposes of this Act, a driver shall be deemed to be an independent contractor and not an employee of the DNC, unless otherwise agreed in writing.

(4) "Delivery available period" means the period when a delivery network driver:

(A) Is operating a personal vehicle;

(B) Has logged on to a digital network and is eligible to receive requests to provide delivery services from a delivery network company, and

(C) Is not providing delivery services or operating in the delivery service period.

(5) "Delivery services" means the fulfillment of delivery requests made by a customer through a digital network, including the pickup of any goods and the delivery of the goods by a delivery network driver. Delivery services may include a series of deliveries to different customers, or to different locations at the direction of a customer.

(6) "Delivery service period" means the period beginning when a driver starts operating a personal vehicle to pick up goods for a delivery or series of deliveries as documented via a digital network controlled by a delivery network company, continuing while the driver transports the requested deliveries, and ending upon delivery of the requested goods to:

(A) The customer or the last customer in a series of deliveries;

(B) A location designated by the customer, or the last location so designated in a series of deliveries; or

WV Legislature

(C) The location designated by the delivery network company, including for purposes of returning the goods.

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

(8) "Personal vehicle" means a vehicle as defined in §17C-1-2 of this code that is:

(A) Used by a delivery network driver to provide delivery services via a digital network;

(B) Owned, leased, or otherwise authorized for use by the delivery network driver;

(C) A two axel vehicle, the primary purpose of which is the transportation of passengers, including motorcycles and mopeds.

WV Legislature

§33-63-2. Interaction with other law.

Nothing in this article limits the scope of federal or state law regarding delivery or transport of goods. Deliveries made under this article that are subject to such other law must also comply with the requirements of that law. In the event of a conflict between this article and another law dealing with the delivery or transport of goods, the other law prevails.

WV Legislature

§33-63-3. Insurance requirements.

(a) A delivery network company shall ensure that during the delivery available period, if it applies, and during the delivery service period, primary motor vehicle liability insurance is in place that recognizes that the driver is a delivery network company driver or that does not exclude coverage for use of a personal vehicle to provide deliveries.

(b) During the delivery service period and delivery available period, the delivery network driver, delivery network company, or any combination of the two shall maintain insurance that insures the driver for liability to third parties of not less than $50,000 for damages arising out of bodily injury sustained by any one person in an accident, of not less than $100,000 for damages arising out of bodily injury sustained by all persons injured in an accident, and of not less than $25,000 for all damages arising out of damage to or destruction of property in an accident: *Provided*, That no provision in this article relieves the DNC and driver from the requirements of §17A-1-1 *et seq*. and §17D-1-1 *et seq*. of this code and from the uninsured motorists' coverage requirements of §33-6-31 of this code.

(c) If the insurance coverage maintained by a delivery network driver pursuant to subsections (a) and (b) of this section has lapsed or does not provide the required coverage, insurance maintained by the delivery network company shall provide the coverage required by this section beginning with the first dollar of a claim and the insurance maintained by the delivery network company shall have the duty to defend the claim.

(d) Coverage under a motor vehicle insurance policy maintained by the delivery network company shall not be dependent upon another motor vehicle liability insurer first denying a claim, nor shall another motor vehicle liability insurance policy be required to first deny a claim.

(e) Insurance coverage required by this section may be obtained from an insurance company duly licensed to transact business under the insurance laws of this state or by an eligible surplus lines broker under §33-12C-1 *et seq*. of this code.

(f) The coverage required pursuant to this section shall be deemed to meet the financial responsibility law of this state.

(g) A delivery network driver shall carry proof of insurance required pursuant to this section at all times while using a personal vehicle in connection with a digital network. In the event of an accident, a delivery network driver shall, upon request, provide insurance coverage information to the directly interested parties, motor vehicle insurers, and investigating law enforcement officers. The insurance coverage information may be displayed or provided in either paper or electronic form as provided in §17D-2A-4 of this code. A delivery network driver shall, upon request, disclose to the directly interested parties, motor vehicle insurers, and investigating law enforcement officers whether the driver was operating during the delivery available period or the delivery service period at the time of the accident.

WV Legislature

(h) In a claims coverage investigation, a delivery network company or its insurer shall cooperate with all insurers that are involved in the claims coverage investigation to facilitate the exchange of information and shall immediately provide upon request by directly involved parties or any insurer the precise times that a delivery network driver began and ended the delivery available period, the delivery service period, or both periods on the delivery network company's digital network in the 12-hour period immediately preceding the accident and in the 12-hour period immediately following the accident. Insurers potentially providing the coverage required in this section shall disclose, upon request by any other such insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any motor vehicle insurance maintained in order to satisfy the requirements of this section.

(i) The insurer or insurers of a delivery network company providing coverage under subsections (a) and (b) of this section shall assume primary liability for a claim when a dispute exists as to when the delivery available period, the delivery service period, or both periods began or ended and the delivery network company does not have available, did not retain, or fails to provide the information required by subsection (h) of this section.

WV Legislature

§33-63-4. Disclosures to delivery network drivers.

A delivery network company shall not permit a delivery network driver to accept a request for a delivery or engage in delivery services on a DNC’s digital network until the DNC discloses in writing to the driver:

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

(2) That the delivery network driver's own motor vehicle insurance policy might not provide any coverage during the delivery available period, if it applies, or the delivery service period.

WV Legislature

§33-63-5. Exclusions in motor vehicle liability insurance policies.

(a) 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 the delivery available period and the delivery service period, including, but not limited to:

(1) Liability coverage for bodily injury and property damage;

(2) Uninsured and underinsured motorist coverage pursuant to §33-6-31 of this code;

(3) Medical payments coverage;

(4) Comprehensive physical damage coverage; and

(5) Collision physical damage coverage.

(b) Nothing in this article invalidates or limits an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles used for delivery or for any business use.

(c) Nothing in this article invalidates, limits, or restricts an insurer's ability under existing law to underwrite any insurance policy. Nothing in this article invalidates, limits, or restricts an insurer's ability under existing law to cancel and non-renew policies.

(d) A motor vehicle liability insurer that defends or indemnifies a claim against a delivery network driver that is excluded under the terms of its policy shall have the right to seek recovery against the insurer providing coverage under §33-63-3(a) and §33-63-3(b) of this code if the claim:

(1) Occurs during the delivery available period or the delivery service period; and

(2) Is excluded under the terms of its policy.

WV Legislature

§33-63-6. Effective date.

This article shall take effect on July 1, 2025.

WV Legislature