87R19204 JES-F

By:  Leach H.B. No. 2788

Substitute the following for H.B. No. 2788:

By:  Middleton C.S.H.B. No. 2788

A BILL TO BE ENTITLED

AN ACT

relating to civil actions or arbitrations involving transportation network companies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 150E to read as follows:

CHAPTER 150E. CIVIL ACTIONS OR ARBITRATIONS INVOLVING TRANSPORTATION NETWORK COMPANIES

Sec. 150E.001.  DEFINITIONS. In this chapter, "digital network," "personal vehicle," and "transportation network company" have the meanings assigned by Section 2402.001, Occupations Code.

Sec. 150E.002.  APPLICABILITY OF CHAPTER. This chapter applies only to an action or arbitration proceeding in which:

(1)  a transportation network company is a defendant;

(2)  the claimant seeks recovery of damages for loss of property, bodily injury, or death;

(3)  the claim for which the action or proceeding is brought arises out of the ownership, use, operation, or possession of a personal vehicle while the vehicle's driver or passenger was logged on to a transportation network company's digital network; and

(4)  the theory of recovery for which damages are sought against the transportation network company is based on:

(A)  the ownership, operation, design, manufacture, or maintenance of a digital network accessed by a driver or passenger; or

(B)  the affiliation or interaction with a driver logged on to a transportation network company's digital network.

Sec. 150E.003.  REQUIRED AFFIDAVIT. (a) Except as provided by Subsection (b), at the time a claimant initially names a transportation network company as a party in an action or proceeding to which this chapter applies, a claimant shall, as applicable, file with the petition or provide to the arbitration tribunal and each other party at the initiation of the arbitration an affidavit by the claimant's counsel attesting that the damages suffered by the claimant exceed the applicable insurance coverage limit required under Chapter 1954, Insurance Code.

(b)  The contemporaneous filing requirement of Subsection (a) does not apply to any action or arbitration proceeding in which the limitations period expires within 10 days of the date of filing of the petition or initiation of arbitration and, because of the time constraints, a claimant has alleged that the required affidavit could not be prepared. A claimant shall supplement the pleadings with the affidavit not later than the 30th day after the date the petition is filed or the arbitration is initiated. The trial court or arbitration tribunal may, on a motion by a party, after hearing and for good cause, extend the deadline for supplementing the pleadings as the court or tribunal determines justice requires.

(c)  A defendant in the action or arbitration proceeding is not required to file an answer to the petition or arbitration request until the 30th day after the date the affidavit required by Subsection (a) is filed.

(d)  This section may not be construed to extend any applicable period of limitation or repose.

Sec. 150E.004.  DISMISSAL FOR FAILURE TO PROVIDE AFFIDAVIT. (a) A court or arbitration tribunal shall dismiss with prejudice a complaint against a transportation network company with respect to which the claimant failed to file an affidavit in accordance with Section 150E.003.

(b)  An order granting or denying a motion for dismissal under this chapter is, as applicable:

(1)  immediately appealable as an interlocutory order; or

(2)  grounds to file an application to a court under Subchapter D, Chapter 171, for the court to review the order.

Sec. 150E.005.  LIMITATION OF LIABILITY. A transportation network company may not be held vicariously liable for damages in an action or arbitration proceeding to which this chapter applies if the company:

(1)  did not commit a crime under the laws of this state or federal law; and

(2)  has fulfilled all of the company's obligations with respect to the transportation network company driver under Chapter 2402, Occupations Code.

SECTION 2.  Subchapter A, Chapter 2402, Occupations Code, is amended by adding Section 2402.005 to read as follows:

Sec. 2402.005.  AFFIDAVIT REQUIRED AND LIMITATION OF LIABILITY FOR CERTAIN CIVIL CLAIMS. Chapter 150E, Civil Practice and Remedies Code, applies to any civil action or arbitration proceeding described by Section 150E.002, Civil Practice and Remedies Code, against a transportation network company.

SECTION 3.  The changes in law made by this Act apply only to a cause of action that accrues on or after the effective date of this Act.

SECTION 4.  This Act takes effect September 1, 2021.