

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,

1 manufacture, or maintenance of a digital network accessed by a  
2 driver or passenger; or

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

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

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

26 (c) A defendant in the action or arbitration proceeding is  
27 not required to file an answer to the petition or arbitration

1 request until the 30th day after the date the affidavit required by  
2 Subsection (a) is filed.

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

5 Sec. 150E.004. DISMISSAL FOR FAILURE TO PROVIDE AFFIDAVIT.

6 (a) A court or arbitration tribunal shall dismiss with prejudice a  
7 complaint against a transportation network company with respect to  
8 which the claimant failed to file an affidavit in accordance with  
9 Section 150E.003.

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

12 (1) immediately appealable as an interlocutory order;

13 or

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

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

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

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

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

27 Sec. 2402.005. AFFIDAVIT REQUIRED AND LIMITATION OF

1 LIABILITY FOR CERTAIN CIVIL CLAIMS. Chapter 150E, Civil Practice  
2 and Remedies Code, applies to any civil action or arbitration  
3 proceeding described by Section 150E.002, Civil Practice and  
4 Remedies Code, against a transportation network company.

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

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