

By: Leach

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 AFFIDAVITS. (a) Except as
6 provided 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 (1) an affidavit by the claimant's counsel that sets
12 forth specifically for each theory of recovery for which damages
13 are sought:

14 (A) the negligence, if any, or other action,
15 error, or omission of the company; and

16 (B) the factual basis for each claim; and

17 (2) an affidavit attesting that the damages suffered
18 by the claimant exceed the applicable insurance coverage limit
19 required under Chapter 1954, Insurance Code, that is signed by a
20 third-party expert who:

21 (A) is competent to testify; and

22 (B) offers testimony based on the expert's:

23 (i) knowledge;

24 (ii) skill;

25 (iii) experience;

26 (iv) education;

27 (v) training; and

1 (vi) practice.

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

14 (c) A defendant in the action or arbitration proceeding is
15 not required to file an answer to the petition or arbitration
16 request until the 30th day after the date all affidavits required by
17 Subsection (a) are filed.

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

20 Sec. 150E.004. DISMISSAL FOR FAILURE TO PROVIDE AFFIDAVITS.

21 (a) A court or arbitration tribunal shall dismiss with prejudice a
22 complaint against a transportation network company with respect to
23 which the claimant failed to file the affidavits in accordance with
24 Section 150E.003.

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

27 (1) immediately appealable as an interlocutory order;

1 or

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

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

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

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

13 SECTION 2. The changes in law made by this Act apply only to
14 a cause of action that accrues on or after the effective date of
15 this Act.

16 SECTION 3. This Act takes effect September 1, 2021.