

616 Fifth Avenue, Suite 106
Belmar, NJ 07719
732-201-4133
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



PRESIDENT: Rep. Deborah Ferguson, AR
VICE PRESIDENT: Rep. Tom Oliverson, TX
TREASURER: Asw. Pamela Hunter, NY
SECRETARY: Sen. Paul Utke, MN

IMMEDIATE PAST PRESIDENTS:
Asm. Ken Cooley, CA
Rep. Matt Lehman, IN

For Immediate Release
December 13, 2022
Contact: Pat Gilbert
(732) 201-4133

NCOIL ADOPTS TWO NEW PROPERTY & CASUALTY INSURANCE MODEL LAWS AT ANNUAL MEETING IN NEW ORLEANS, LA

*Models include the NCOIL Delivery Network Company (DNC) Insurance Model Act and the
NCOIL Dog Breed Insurance Underwriting Protection Model Act*

Belmar, NJ – The National Council of Insurance Legislators (NCOIL) adopted two new Property and Casualty Insurance Model Laws at the recently concluded 2022 NCOIL Annual Meeting. The Models passed without opposition via voice vote by both the NCOIL Property & Casualty Insurance Committee and the NCOIL Executive Committee.

The two new Models are the NCOIL Delivery Network Company (DNC) Insurance Model Act, sponsored by Rep. Bart Rowland (KY), Chair of the NCOIL Property & Casualty Insurance Committee, and co-sponsored by Del. Steve Westfall (WV), Vice Chair of the NCOIL Health Insurance & Long Term Care Issues Committee, and the NCOIL Dog Breed Insurance Underwriting Protection Model Act, sponsored by Asm. Kevin Cahill (NY), former NCOIL Vice President, and co-sponsored by Rep. Tammy Nuccio (CT).

“It was great to preside over the work this Committee did the past year that led to the adoption of these Models which deal with two timely and important issues facing the property & casualty marketplace right now,” said Rep. Rowland. “It has been a great honor to Chair this committee, and while I am leaving the Kentucky Legislature and thus NCOIL at the end of this year, I look forward to seeing how the organization will continue to address important issues going forward.”

The NCOIL Delivery Network Company (DNC) Insurance Model Act provides a structure for insurance requirements for companies that allow people to use their personal vehicles to deliver food or beverages, such as Grubhub and Drizly. Many elements of the Model are based on those contained in the NCOIL Transportation Network Company (TNC) Insurance Model Act, which was adopted in 2015 when companies such as Uber and Lyft entered the marketplace. The TNC Model has been used as the basis for nearly every state’s TNC law. A new model law was necessary to convey the differences in risk between transporting people versus goods.



WEBSITE: www.ncoil.org



Sound Public Policy In 50 States For 50-Plus Years

“I was proud to sponsor the DNC Model Act. As people increasingly use these services, it is crucial to ensure proper coverage,” said Rep. Rowland. “The TNC Model serves as a framework in virtually every state in the nation and I’m sure this model will similarly prove to be very useful to legislators in all 50 states.”

“It was great to see the swift adoption of this Model as it shows legislation, and NCOIL, can keep up with innovation as the DNC market continues to expand,” said Del. Westfall. “I think everyone would agree that insurance protection is essential, but the same level of coverage is not required for a sandwich as there is for a family.”

During the Model drafting and deliberation process, NCOIL legislators and staff heard from a wide array of interested parties such as Uber, Lyft, the American Property and Casualty Insurance Association (APCIA), the National Association of Mutual Insurance Companies (NAMIC), DoorDash, UPS, Amazon, Shipt, Instacart, Shelter Insurance, and Buckle.

The NCOIL Dog Breed Insurance Underwriting Protection Model Act addresses how the use of dog breed can factor into underwriting for homeowners and rental policies. The Model establishes that no insurer can refuse to issue, cancel, renew, or increase a premium or rate for a policy of insurance based solely on the specific breed or mixture of breeds of a dog that is harbored or owned on an applicable property.

Asm. Cahill stated "One of the most important attributes of National Council of Insurance Legislators' meetings is the opportunity to lower the temperature on polarizing issues. The proceedings surrounding the adoption of a model law that prohibits insurance companies from making arbitrary underwriting decisions based upon the breed of a dog, is one such example. Passionate advocates and skeptical legislators used NCOIL to educate each other and hash out differences to come to a widely accepted result that will undoubtedly guide state legislatures across the country, while also raising awareness of important insurance concepts."

“When we first discussed this topic at our Annual Meeting last year, it seemed unlikely we would be able to get a Model over the finish line because of how far apart legislators and interested parties were on the issue,” said Rep. Nuccio. “Luckily, everyone recognized how important this issue is and we were able to reach a compromise that will provide a great framework for states to use.”

During the Model drafting and deliberation process, the Committee heard from interested parties such as Best Friends Animal Society, APCIA, the Humane Society of the United States, NAMIC, the National Canine Research Council (NCRC), the Animal Farm Foundation (AFF), and the American Society for the Prevention of Cruelty to Animals (ASPCA).

NCOIL CEO Commissioner Tom Considine said “Thank you to the Committee for working tirelessly this year to get these two important Models to a place where they were ready to be voted on. For a while it seemed like voting on the Models in November would be unlikely as Chair Rowland set an ambitious timeline, but everyone rose to the occasion and recognized the importance of producing Models here at NCOIL that can be used as the basis for similar state laws next year. I’d also like to thank Representative Rowland specifically for his leadership in

chairing this committee as well as his broader service here at NCOIL as he will be leaving the Kentucky legislature at the end of this year. We all owe him a debt of gratitude for his service.”

A full copy of the models are below:

National Council of Insurance Legislators (NCOIL)

Delivery Network Company (DNC) Insurance Model Act

**Sponsored by Rep. Bart Rowland (KY)*

**Co-sponsored by Del. Steve Westfall (WV)*

**Adopted by the NCOIL Property & Casualty Insurance Committee on November 18, 2022 and the NCOIL Executive Committee on November 19, 2022.*

Section 1. Definitions

- (a) "Delivery Network Company" or "DNC" means a corporation, partnership, sole proprietorship, or other entity that operates in [State] 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.
- (b) "Delivery Network Company Customer" or "Customer" means a person who orders the delivery of goods, where the Delivery Network Driver delivers such goods at the direction of the Customer.
- (c) "Delivery Network Driver" or "Driver" means an individual who provides Delivery Services through a DNC's Digital Network using a personal vehicle.
- (d) "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.
- (e) "Personal Vehicle" means a vehicle that is:
 - (1) used by a Delivery Network Driver to provide delivery services via a Digital Network;

- (2) owned, leased, or otherwise authorized for use by the Delivery Network Driver; and
- (f) “Delivery Available Period” means the period:
- (1) when a Driver has logged on to a Digital Network and is available to receive requests to provide Delivery Services from a Delivery Network Company,
 - (2) is operating a Personal Vehicle, and
 - (3) is not providing Delivery Services or operating in the Delivery Service Period.
- (g) "Delivery Services" means the fulfillment of delivery requests made by a Customer through a Digital Network, including the pickup of any good(s) and the delivery of the good(s) to a Customer by a Delivery Network Driver. Delivery Services may include a series of deliveries to different Customers.
- (h) “Delivery Service Period” means the period:
- (1) beginning when a Driver starts operating a Personal Vehicle enroute to pick up goods for a delivery or series of deliveries as documented via a Digital Network controlled by a Delivery Network Company,
 - (2) continuing while the Driver transports the requested deliveries, and
 - (3) ending upon delivery of the requested good(s) to (i) the Customer or the last Customer in a series of deliveries, or (ii) a location designated by the Delivery Network Company, including for purposes of returning the good(s).

Section 2. Interaction with Other Law

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

Section 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 automobile liability insurance is in place that recognizes that the driver is a Delivery Network 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.

Drafting Note: Reference by statute all other state mandated coverages for motor vehicles by state financial responsibility law, UM/UIM, Med Pay, NF and/or PIP.

- (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 subsections a. and b. of 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 an automobile 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 (cite surplus lines law).
- (f) The coverage required pursuant to subsections a. and b. of this section shall be deemed to meet the (cite state financial responsibility law).
- (g) A Delivery Network Driver shall carry proof of insurance required pursuant to subsections a. and b. of 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, automobile insurers, and investigating law enforcement officers.

The insurance coverage information may be displayed or provided in either paper or electronic form as provided in (cite state law on proof of auto insurance). A Delivery Network Driver shall, upon request, disclose to the directly interested parties, automobile 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.

- (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 and/or the Delivery Service Period on the

Delivery Network Company's Digital Network in the twelve-hour period immediately preceding the accident and in the twelve-hour period immediately following the accident. Insurers potentially providing the coverage required in Section 3 shall disclose upon request by any other such insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of Section 3.

- (i) The insurer or insurers of a Delivery Network Company providing coverage under subsections (a) and (b) shall assume primary liability for a claim when a dispute exists as to when the Delivery Available Period and/or the Delivery Service Period began or ended and the Delivery Network Company does not have available, did not retain, or fails to provide the information required by subsection g. of this section.

Section 4. Disclosures to Delivery Network Drivers

A Delivery Network Company shall not permit a Delivery Network Driver to engage in Delivery Services on the DNC's Digital Network until the DNC discloses in writing to the Driver:

- (a) 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
- (b) that the Driver's own automobile insurance policy might not provide any coverage during the Delivery Available Period, if it applies, or the Delivery Service Period.

Section 5. Exclusions in Motor Vehicle Liability Insurance Policies

- (a) An authorized insurer that writes motor vehicle liability insurance in the 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) personal injury protection coverage as defined in [CITE STATUTE],
 - (3) uninsured and underinsured motorist coverage,
 - (4) medical payments coverage,
 - (5) comprehensive physical damage coverage, and
 - (6) collision physical damage coverage.
- (b) Nothing in this Act 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 Act invalidates, limits or restricts an insurer's ability under existing law to underwrite any insurance policy. Nothing in this Act 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 subsections 3(a) and 3(b) 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.

Section 6. Effective Date

This act shall take effect on (date at least 12 months from enactment).

National Council of Insurance Legislators (NCOIL)

Dog Breed Insurance Underwriting Protection Model Act

**Sponsored by Asm. Kevin Cahill (NY)*

**Co-sponsor: Rep. Tammy Nuccio (CT)*

**Adopted by the NCOIL Property & Casualty Insurance Committee on November 18, 2022 and the NCOIL Executive Committee on November 19, 2022.*

Section 1. Title

This Act shall be referred and cited to as the [State] Dog Breed Insurance Underwriting Protection Act

Section 2. Restrictions on Dog-Breed Discrimination in Homeowners and Renter's Insurance Policies

(A)With respect to homeowners' insurance policies and renter's insurance policies as defined in section ___ of the insurance law, no insurer shall refuse to issue or renew, cancel, or charge or impose an increased premium or rate for such policy or contract, or exclude, limit, restrict, or reduce coverage under such policy or contract based solely upon harboring or owning any dog of a specific breed or mixture of breeds.

(B) The provisions of this section shall not prohibit an insurer from refusing to issue or renew or from canceling any such contract or policy, nor from imposing a reasonably increased premium or rate for such a policy or contract based upon the designation of a dog of any breed or mixture of breeds as a dangerous dog pursuant to section xxxxxxxx, based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience subject to the applicable provisions of xxxx.

Section 3. Rules

The Insurance Commissioner shall have the authority to promulgate rules that are not inconsistent with and necessary to administer and enforce the provisions of this Act

Section 4. Effective Date

This act shall take effect six months after passage and shall apply to all policies issued, renewed, modified, altered or amended on or after such date.