RIDESHARE COMPANIES
2015 STATE LEGISLATION AND WHAT’S AHEAD FOR 2016

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Presented with The Griffith Insurance Education Foundation
RIDESHARE COMPANIES:
2015 STATE LEGISLATION & WHAT’S AHEAD FOR 2016

WEBCAST
THE GRIFFITH FOUNDATION & THE COUNCIL OF STATE GOVERNMENTS
4 NOVEMBER 2015

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Purpose of Presentation
Update on Legislative Progress

Goals:

• Understand Legislative Challenges arising from the Sharing Economy and Ridesharing

• Review how the insurance industry is addressing the Challenges of ride sharing within a Personal Automobile Policy (PAP)

• Point out Key Changes that have been incorporated since the first presentation.

• Introduce legal issues surrounding the Designation of Drivers as “Independent Contractors”.
The end of law is not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings capable of law, where there is no law, there is no freedom.
— John Locke

LEGISLATIVE CHALLENGES

COMING UP WITH SHARED SOLUTIONS

... TO DATE A LEGAL AND REGULATORY Driven PROCESS
Major Legislative Issues
Sharing Economy / Ridesharing

• **Determination of Legality** of ridesharing.

• **Requirements for Public Safety**, including adequacy of insurance coverage and background checks of drivers.

• **Disclosure Requirements** (regulators, insurers)

• **Rights of Insurance Companies** to cancel or not renew insurance for rideshare drivers; or deny coverage while engaged in ridesharing.
Other Legislative Issues
Sharing Economy / Ridesharing

• Generation of employment opportunities
• Conflicts between sharing economy innovation and taxi industry
• Voter preferences
• States rights vs. Municipal rights
Legality of Ridesharing

• Ridesharing spread across the United States in the absence of a legal structure

• California’s experience is typical:
  • Ridesharing services started and were declared illegal by California Public Utility Commission;
  • After due consideration, allowed to operate with certain restrictions and insurance requirements;
  • Regulatory guidelines developed guidelines for background checks, allowable operations;
  • Insurance guidelines developed;
  • Rules under development were enshrined in legislation
Public Safety

• Legal and regulatory structure have to balance innovation with passenger safety.

• How good are the background checks?
  • There are incidents of personal attack on passengers.
  • Are rates and kind of attack different than the experience of passengers of taxis and other transportation services?

• Is a fair payment being charged?
  • Does the escalation of fees during bad weather or periods of high demand (to bring more drivers out)?
  • Are these different from the Taxi Industry, or is there a hidden economic cost resulting from having to wait longer?
Insurance Adequacy

• Are the drivers covered by Personal Auto Insurance Policies, or are more costly commercial policies needed?

• Is coverage sufficient to protect the passenger, the driver and the general public?

• Are Hybrid policies possible?

• What about disability insurance, health insurance, unemployment insurance and worker’s compensation coverage for drivers?
Disruptive Innovation: Displacing Established Companies & Workers

Ridesharing technology creates employment for drivers, while disrupting livelihoods of others:

• Owners of taxi companies
• Owners of taxi medallions
  • Boston: Average price of medallions sold in 2015* is $402,444—down 40% in 2014.
• Drivers that work for taxi companies.

Balancing competing interests
Know your Audience
Passenger / Voter Preferences

• Many individuals express preference for ridesharing
  • More convenient and quicker than hailing a taxi on the street or calling a taxi company for a pick-up (often arriving 15-30+ minutes later).
  • People like the web experience.
    • Knowing when a car is arriving.
    • Knowing that the driver’s route is monitored and priced correctly.
  • Some note rideshare cars are cleaner.
Economic Impact on Passengers

With car ownership costs approaching $9,000 per year

[Survey response: 5,700 passengers and 2,600 drivers across 7 major cities]

States Rights vs. Municipal Rights

• The regulation of taxi services has usually been done on a municipal basis

• However, ridesharing could be in chaos if rules changed across the states

• Cleveland vs. Columbus, Ohio experience
  • Lyft withdrew from Columbus as rules tightened.

• New York City vs. Albany

Confusion exists when legislation is not clear
Other Legislative Issues

• Disclosure Requirements (insurers regulator)
• Right of insurance companies to deny coverage while engaged in ridesharing.
• Sharing data allowing insurers to adequately classify and price risk.
Other Legislative Issues

- Taxation, including excise/sales tax, airport fees – these are paid by taxi drivers
- Commercial Insurance (vs. contingent insurance provided by Ridesharing firms)
- Authorized locations (major cities vs. statewide; airports, other transportation hubs).
A Difference in Perspective

Internet-based companies tend to claim instinctively that they belong outside traditional legal regimes.

This position often fails—for good reasons.

Instead, companies focused on the Sharing Economy, Internet of Things, and Big Data should learn to work within the system.

– Kevin Werback
Wharton Magazine, Summer 2015
Ridesharing Insurance
State Programs

Status of 2015 legislation regarding Transportation Network Companies

Nearly the entire country (44 states) has introduced legislation to regulate ride-sharing companies. States in the Northeast have been less likely to act on such legislation this session.

- **Enacted legislation**
- **Passed one or both chambers**
- **Legislation failed**
- **Introduced legislation**

Note: Reflects bills introduced through June 23, 2015

Source: FiscalNote Prophecy

Additional Passed: California, Arizona, Colorado, South Carolina, Louisiana, Colorado, D.C., Delaware (via regulation); New York Failed (being revisited – allowed in NYC)
Sample Legislation

• California (revised, July 2015)
  • Personal auto insurance will no longer apply while you are logged into ridesharing apps—unless you have purchased specific coverage for ridesharing.
  • RS firms must provide primary third-party liability insurance—covering the costs of injury, death, and property damage to third parties—from the time drivers open their apps to the time they close them.
  • They must also maintain $200,000 of excess liability coverage in the case of particularly bad accidents.
Sample Legislation

• Tennessee
  • Rideshare firms do own background checks
  • Considered outline for other stated by rideshare firms

• Nevada
  • 3 percent excise tax on fares, including on taxis and limousines, to fully fund medical school at UNLV.

• Utah
  • Minimum $1 million in liability insurance.
  • Firms do their own background checks and vehicle inspections.
Sample Legislation

- Maryland
  - Public Service Commission will regulate the new transportation industry, and issue licenses to the companies and their drivers.
  - The companies must prove they have a stringent background check system that requires fingerprinting of all drivers (9 month waiver).

- Virginia
  - Pay $100,000 for a license to operate in the state.
  - Background check – review of history of felonies and a search of sex offender and crimes against minors registry.
  - The company or the driver must have insurance that covers up to $1 million in liability
  - Must abide by a zero-tolerance policy regarding the use of drugs and alcohol.
States that have Adopted Legislation

- Arizona
- Arizona
- California
- Colorado
- Delaware (regulatory)
- Georgia
- Idaho
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Montana
- Nevada
- New York (NYC Only)
- North Dakota
- Oklahoma
- Pennsylvania
- South Carolina
- Tennessee
- Utah
- Virginia
- Washington
- Wisconsin

List my be Incomplete (via internet searches)
List my be Incomplete (via internet searches)
Critical Legal Issue
Are Drivers Independent Contractors or Employees?

Worker’s Compensation is a sub-issue

• California Labor Commission has ruled both ways. Most recent rules for plaintiff being an employee with respect to Worker’s Compensation

• California Unemployment Insurance Appeals Board ruled Driver an employee in regards to awarding unemployment insurance when laid off by ridesharing firm

• These two are non-binding as legal precedents to other cases – each was unique. Currently under review (class action) in California Courts

I am not a Lawyer – Seek professional advice
Critical Legal Issue
Are Drivers Independent Contractors or Employees?

• Federal Court in California let a class action suit proceed, indicating that many of the arguments were convincing.

Secondary Issue (seems to have less support)
• Is the Driver or the Ridesharing firm responsible for paying for maintenance, gas, depreciation etc.

I am not a Lawyer – Seek professional advice
Open Discussion

Questions Regarding Legal and Legislative Issues

Insurance Covered in Next Section
“Have Insurers Lost the Capacity to Run an Underwriting Profit?”
— Robert Hartwig, President, Insurance Information Institute

INSURANCE ISSUES

NEED FOR INNOVATION | COMING UP WITH SHARED SOLUTIONS

MARKET DRIVEN VS. REGULATOR DRIVEN APPROACHES

GRADUAL MOVEMENT FROM OPPOSITION TO LIMITED ACCOMMODATION
“Next time, listen to your actuaries!”
Insurers operate under the concept of *Utmost Good Faith*: High degree of honesty imposed on all parties

- Insurers believe Ridesharing firms provide erroneous information to drivers regarding coverage under Personal Auto Policy (they know, or should have known, and have been told).
- Ridesharing activities are required to be disclosed by driver to insurer (representations).
Utmost Good Faith

*Uberrima Fides*

Insurers operate under the concept of *Utmost Good Faith*: High degree of honesty imposed on all parties.

- Insurance market can fail when insureds do not disclose known sources of risk (concealment).
- Ridesharing insurance structure creates a perverse incentive for drivers to misrepresent risk/loss.
How Insurers Underwrite Risk

• Gather and interpret loss data
• Determine risk classification (separating high risk from low-risk individuals and firms)
• Personal risks vs. commercial risks
• Predict frequency and severity distributions
• Appraise time (and resources) engaged in risky activities
How Insurers Underwrite Risk

• Estimate timing of loss and loss adjustment payments (longer tail lines enable greater investment returns)

• Determination of premium based on actuarially fair rates, the expenses associated with production and a return on investment to pay dividends and grow the firm

• Underwriting is difficult when risky activities are different than assumed (hours driven, time of day, location, etc.)
Exclusions define activities not covered by insurance. In Personal Auto Policies, these include:

- Racing or speed contests
- Using car for illegal activities
- Providing Livery Services (transporting passengers for hire)
- Sustained while being in the business of the insured
Insurance Reaction to Ridesharing

• The initial response of the insurance industry emphasized that providing Livery Services is excluded from a Personal Auto Policy (PAP).

• The risks differed significantly from PAP

• Frustration that Ridesharing Firms ignored their contention that livery services were not covered.
Insurance Reaction to Ridesharing


• We [the Insurer] do not provide Liability Coverage for any ‘insured’:
  • For that ‘insured’s’ liability arising out of the ownership or operation of a vehicle while it is being used as a public or livery conveyance.
  • This includes but is not limited to any period of time that ‘insured’ is logged into a ‘transportation network platform’ as a driver, whether or not a passenger is ‘occupying’ the vehicle.
  • This exclusion does not apply to a share-the-expense car pool.
Commercial Insurance Coverage
Provided by Ridesharing Firms

The History was very different!

Coverage is similar at other Ridesharing Firms
[Coverage may vary by State]
Economic Incentives vis-à-vis Insurance

What incentives are created by existing rideshare insurance structure?

Especially under Contingent Coverage (but in all time periods for minor damages)
Insurance Gaps

Passengers:
- Generally equal or better coverage than taxis

Drivers:
- Will personal auto policy provide coverage?
- Will policy be cancelled if insurer discovers ride share activity?
- Fairly low coverage level during contingent period
- Currently no worker’s compensation coverage
- Drivers on their own for medical, life and disability insurance
Need for Innovation in Insurance Markets

Big Data Problem

TNCs are working with selected insurers to design policies for Rideshare Drivers

Why the Delay?
**Changing Insurance Marketplace**

Insurers are beginning to provide coverage as Pilot Programs

<table>
<thead>
<tr>
<th><strong>Metromile</strong> (California, Washington):</th>
<th>Purchase insurance per mile driven. Specifically includes ridesharing. Costs 5-6 cents per mile. Does not charge for miles when the app is on. Uber only.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Erie Insurance</strong> (Illinois, Indiana):</td>
<td>Amendment allows ridesharing coverage in personal policy as excess insurance for TNC activity for any insured with a business classification on personal auto.</td>
</tr>
<tr>
<td><strong>Allstate</strong> (Colorado, Illinois, Texas, Colorado):</td>
<td>Ride for Hire endorsement. Expect $15 to $20 a year to a driver's bill.</td>
</tr>
<tr>
<td><strong>USAA</strong> (Colorado):</td>
<td>Endorsement to cover period 1 (app on, not connected). Expect cost $6-8 per month.</td>
</tr>
</tbody>
</table>
## Changing Insurance Marketplace

**Insurers are beginning to provide coverage as Pilot Programs**

<table>
<thead>
<tr>
<th>Company</th>
<th>试点地区</th>
<th>Coverage Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmers</td>
<td>Colorado, California, Utah</td>
<td>Extends cover through contingent period. Expect 8% increase in customer's premium</td>
</tr>
<tr>
<td>MetLife</td>
<td>Colorado</td>
<td>Extends coverage through contingent period. Lyft only.</td>
</tr>
<tr>
<td>Geico</td>
<td>Maryland, Virginia, DC, Georgia</td>
<td>Policy offers coverage during all phases of driving. Expects pricing to fall somewhere between personal and commercial policy.</td>
</tr>
<tr>
<td>Liberty Mutual</td>
<td></td>
<td>is only providing coverage for non-rideshare (personal) related driving. No coverage when app is on. Must be part of multi-car policy.</td>
</tr>
</tbody>
</table>

Other insurers are reported to have policies under development.
Ridesharing Insurance

State of Rideshare Insurance in America
April 2015

Rideshare Insurance Report Data provided by Sharesurance (www.rideshareinsurance.com)
Open Discussion

Questions?
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References


References


History of the Sharing Economy

There is nothing new under the sun!

• Some assets are too expensive for most individuals
• It is convenient to share some assets
Unlocking Value in Underutilized Assets

In the sharing economy, individuals are able to unlock the value of existing assets. Assets can be stores of value or wasting assets. The latter are more common.

Other individuals can benefit by the use of asset that they do not have to own.

This creates value for both sides of the transaction.
Unlocking Value in Wasting Asset
Automobile Depreciation over 5 years

Assumes $15,000 miles per year. Does not include the cost of fuel, maintenance, insurance, etc.
Monetizing an Underutilized Asset via a Technological Platform

Drivers
Unlocks value of underutilized assets to provide income

Passengers
Don’t need to purchase an underutilized asset

Technological Platform (TNC)
Connects drivers & passengers via smartphone
Manages payments
Reduces asymmetric information
Extracts economic rents

Win ... Win ... WIN!

But do all win?
Disruptive Innovation

• **Disruptive Innovation:** “Process by which a product or service takes root initially in simple applications at the bottom of a market and then relentlessly moves up market, eventually displacing established competitors.”

• **Creative Destruction:** “Process of industrial mutation that incessantly revolutionizes the economic structure from within, incessantly destroying the old one, incessantly creating a new one.”
Critical Legal Issue
Definition of Independent Contractor

A person or business which performs services for another person or entity under a contract between them, with the terms spelled out such as duties, pay, the amount and type of work and other matters.

An independent contractor is distinguished from an employee, who works regularly for an employer. The exact nature of the independent contractor's relationship with the party hiring him/her/it has become vital since an independent contractor pays his/her/its own social security, income taxes without payroll deduction, has no retirement or health plan rights, and often is not entitled to workers' compensation coverage.

Public agencies, particularly the Internal Revenue Service, look hard at independent contractor agreements when it appears the contractor is much like an employee.

An independent contractor must be able to determine when and where work is performed, be able to work for others, provide own equipment, and other factors which are indicative of true independence.

I am not a Lawyer
Seek professional advice
Dueling Cost Estimates

Uber
Frank Chang, Lead Actuary

• Study by Milliman to measure the impact of ridesharing drivers on Period 1 in Colorado;
• Net result on the personal auto insurance would increase all policies was $0.70 / policy.
• However, each passenger in a ridesharing vehicle is one less driver on the road. This reduces the miles covered by personal insurance.
• Giving bar-hoppers a safe way home, ridesharing actually makes roads safer.

Property Casualty Insurers
Laura Maxwell, Pinnacle Actuarial Resources

• Drivers tend to look for rides when demand is high. Later at night and in bad weather.
• Rideshare drivers also tend to be more distracted, Maxwell said, while checking their apps and finding their fares
• Part-time Rideshare drivers (1,000 miles/year) Expected cost $100 to $200
• Full-time drivers in Colorado would pay $1,000 to about $1,500
• Full-time drivers in San Francisco would pay an additional $3,000.

Source: Actuaries Debate Insurance Issues in Ridesharing
uberX Ridesharing Insurance Coverage

AS OF MARCH 14, 2014

NOT AVAILABLE

- UBER APP OFF
  - PERSONAL AUTO INSURANCE

AVAILABLE BUT NOT ON TRIP

- PERSONAL AUTO INSURANCE + CONTINGENT LIABILITY COVERAGE
  - $50K* INJURY
  - $100K* INJURY TOTAL
  - $25K* PROPERTY DAMAGE

DURING TRIP

- UBER APP ON
  - COMMERCIAL INSURANCE COVERAGE
    - $1M 3RD PARTY LIABILITY
    - $1M UI/UIM COVERAGE
    - CONTINGENT COLLISION & COMPREHENSIVE* WITH $1K DEDUCTIBLE

*PROVIDES BACK-UP COVERAGE WHEN/IF DRIVER'S PERSONAL AUTO INSURANCE DECLINES CLAIM
*UNDER $50K MAXIMUM

LOGGED ON AND AVAILABLE

ACCEPTS TRIP

ENDS TRIP
Metromile and Uber
Integrated Insurance coverage

Metromile coverage

Uber coverage

Rider exits

Rider matched

Rider embarks

APP OFF

Personal use

Period 1

Period 2

Period 3

APP ON
Driver Longevity – 20 cities

[based on survey of 963 drivers by Sherpa Share]
Earnings – 20 cities
[based on survey of 963 drivers by Sherpa Share]

Gross driver earnings per hours worked
Fall 2015 SherpaShare driver survey

Monthly Income
$3,000
$2,250
$1,500
$750

<5 hrs 6-10 11-15 16-20 21-25 26-30 31-40 41+
$278 $578 $772 $1,062 $1,376 $1,791 $2,100 $2,971

Hours Worked Per Week
Disruptive Innovation
Perspective of Ridesharing Firms

• The initial position of the ridesharing companies was that there was no need to regulate the services provided.
  • The “drivers” were unlocking the value of assets that they owned in an entrepreneurial effort.
  • Insurance coverage should be the responsibility of the “driver’s” personal insurance policy.
  • This is no different than the exception to the livery exclusion for car pooling.
• The sharing economy was considered a revolutionary change in transportation as they were providing a better, cheaper, service.
Disruptive Innovation

Perspective of Drivers

• Ridesharing was initially considered by most drivers as a part-time occupation; they could share a commute and earn money. Students and other individuals looking for part-time income outside of normal working hours, the temporarily unemployed.

• The part-time population of ridesharing is large, but there are many who work full time.

• The part-time driver is a challenge in insurance.
Disruptive Innovation

Opposition from Competitors and Others

- Initial opposition came from the taxi industry. They saw this as unfair competition as TNCs avoided regulations, medallion fees, etc. Opposition Increased as number of TNC vehicles increased and economic impact intensified.

- Soon after, the insurance industry became concerned about the unknown risks and losses associated with ridesharing drivers (who in their opinion were excluded under livery exclusion).

- Still later, consumer advocates and attorneys became involved in support of both riders and drivers. These focused on public safety, gaps in insurance coverage, and the designations of drivers as employees vs. independent contractors.

The discussion that started in California is no different than the discussion taking place across the United States.
Questions?

Please submit them in the question box of the GoToWebinar taskbar.