



ECONOMIC AFFAIRS COMMITTEE

MEETING PACKET

**Wednesday, January 13, 2016
3:30 PM – 4:30 PM
Reed Hall (102 HOB)**

**Steve Crisafulli
Speaker**

**Jose Oliva
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Economic Affairs Committee

Start Date and Time: Wednesday, January 13, 2016 03:30 pm

End Date and Time: Wednesday, January 13, 2016 04:30 pm

Location: Reed Hall (102 HOB)

Duration: 1.00 hrs

Consideration of the following bill(s):

CS/HB 509 Transportation Network Companies by Highway & Waterway Safety Subcommittee, Gaetz, Grant

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Tuesday, January 12, 2016.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, January 12, 2016.

NOTICE FINALIZED on 01/11/2016 3:21PM by Manning.Karen

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 509 Transportation Network Companies
SPONSOR(S): Highway & Waterway Subcommittee; Gaetz and others
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	10 Y, 1 N, As CS	Johnson	Smith
2) Economic Affairs Committee		Johnson	Pitts

SUMMARY ANALYSIS

The bill preempts to the state the regulation of Transportation Network Companies (TNCs) and creates a regulatory framework for the operation of TNCs. Specifically, the bill:

- Defines “transportation network company” as an entity granted a permit under s. 316.680, F.S., to operate in this state using a digital network or software application service to connect riders to TNC service provided by drivers. A TNC is not deemed to own, control, operate, or manage the vehicles used by drivers; is not deemed to control or manage drivers; and is not a taxicab association or for-hire vehicle owner. A TNC does not include an individual, corporation, partnership, sole proprietorship, or other entity arranging nonemergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or a managed care organization. The bill also provides other definitions related to TNCs.
- Provides that a TNC is not a common carrier and does not provide taxi or for-hire vehicle service.
- Provides that a TNC driver is not required to register his or her vehicle as a commercial motor vehicle or for-hire vehicle.
- Provides that a person must obtain a permit from the Department of Highway Safety and Motor Vehicles (DHSMV) to operate as a TNC.
- Provides an annual permit fee for TNCs in the amount of \$5,000, paid to DHSMV.
- Requires TNCs charging fares to disclose the fare calculation, to provide riders with applicable rates being charged, and an option to receive an estimated fare.
- Requires an electronic receipt to be provided to TNC riders within a reasonable period of time.
- Requires the identification of TNC vehicles and drivers by license plate and picture of the driver.
- Provides minimum TNC and driver insurance requirements and requires certain insurance related disclosures.
- Provides that TNC drivers are independent contractors if certain conditions are met and TNCs are not required to provide workers’ compensation coverage for independent contractors.
- Requires TNCs to have a zero tolerance policy for illegal drug or alcohol use.
- Provides minimum requirements for TNC drivers, including a criminal background check and a driving history report.
- Prohibits certain conduct from TNC drivers such as accepting street hails or cash payments.
- Prohibits TNCs from discriminating against drivers and requires them to develop policies on nondiscrimination and accessibility.
- Requires TNCs to maintain certain records for a minimum period of time.
- Prohibits local governments from imposing taxes or licenses on TNCs relating to the provision of TNC service.
- Provides that airports may charge an annual fee to TNCs of up to \$5,000.

The bill has an indeterminate, but positive, fiscal impact on DHSMV. The bill has a potential negative fiscal impact on local governments currently collecting fees from TNCs; however, airports may see a positive fiscal impact from charging fees for the use of airport facilities.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 316, F.S., is the Florida Uniform Traffic Control Law, whose purpose is to make uniform traffic laws apply throughout the state.¹ Provisions in Ch. 316, F.S., relate to, but are not limited to, traffic laws, traffic infraction detectors, parking regulations, and driving under the influence.

Currently, the majority of taxi and limousine regulation in Florida is controlled by local governments. Florida law currently provides the following requirements relating to limousines and taxis:

- Taxis and limousines must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per incident for bodily injury, and \$50,000 for property damage;²
- An owner or lessee who is required to maintain insurance under s. 324.021(9)(b), F.S., and who operates at least 300 taxicabs, limousines, jitneys, or any other for-hire passenger vehicles is authorized to fulfill the requirement through self-insurance as provided by s. 324.171, F.S.;³
- With respect to workers' compensation an "employee" is not a taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues;⁴
- The child restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation;⁵ and
- To the extent not inconsistent with general or special law, the legislative and governing body of a county must have the power to carry on county government, including, but not restricted to, the power to license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county; except that any constitutional charter county as defined in s. 125.011(1), F.S.,⁶ must on July 1, 1988, have been authorized to have issued a number of permits to operate taxis which is no less than the ratio of one permit for each 1,000 residents of said county, and any such new permits issued after June 4, 1988, must be issued by lottery among individuals with such experience as a taxi driver as the county may determine.⁷

While the regulation of taxi and limousines is not expressly provided for, a municipality's broad home rule powers give it the authority to enact legislation concerning any subject matter upon which the state Legislature may act, except:

- The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;
- Any subject expressly prohibited by the constitution;

¹ Section 316.002, F.S.

² Section 324.032(1), F.S.

³ Section 324.032(2), F.S.

⁴ Section 440.02(15), F.S.

⁵ Section 316.613(6), F.S. The statute provides that it is the parent's or other caregiver's responsibility to meet the child restraint requirements.

⁶ Section 125.011(1), F.S., defines "county" as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions must include "board of county commissioners" of such county."

⁷ Section 125.01(1)(n), F.S.

- Any subject expressly preempted to state or county government by the constitution or by general law; and
- Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.⁸

Since the regulation of taxis, limousines, and other for-hire vehicles has not been expressly preempted to the state or county government, municipalities may regulate these vehicles under their broad home rule powers.

For-hire vehicle services are undergoing changes with respect to models most often associated with the provision of transportation to individuals, such as by taxi. Technological advances are resulting in new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, e-mail, and text messages. Some states and local governments have taken steps to recognize and regulate companies using these new technologies, which describe themselves as “transportation network companies” (TNCs) and not vehicles for hire.

Currently, Florida law does not recognize TNCs, but some local governments are in various stages of imposing regulations on TNCs and the regulations vary by jurisdiction.

National Criminal Database

A National Criminal Database, or Multi-Jurisdictional Search, is a database of criminal records collected by a commercial entity from a patchwork of state, local and other criminal records. These resources are generally created by large background screening firms and other data aggregators who have specialized in the collection of criminal data for resale purposes. The information collected by individual background screening firms is unique to the company hosting the database. Although many records are similar, providers use different mixes of sources and methods to match results. No National Criminal Database has all criminal records to date.⁹

The Dru Sjodin National Sex Offender Public Website (NSOPW)

The Dru Sjodin National Sex Offender Public Website contains public information regarding individuals who are required to register through a State Sex Offender Registry, and consists of the individual registries and public registry websites operated by all 50 States, the District of Columbia, four of the principal U.S. Territories, as well as over 70 federally-recognized Indian Tribes. The NSOPW contains information on those who have committed sexually violent offenses against adults and children, as well as certain sexual contact and other crimes against victims who are minors. Information about individuals who appear on these lists depends on the individual states’ registry requirements. The NSOPW, as well as more detailed database for law enforcement, are administered through the United States Department of Justice.¹⁰

Proposed Changes

The bill creates s. 316.830, F.S., relating to transportation network companies. The bill preempts the permitting and regulation of TNCs to the state. Additionally, the bill creates a regulatory framework governing the operation of TNCs in the state.

Transportation Network Company Regulation

Definitions

⁸ Section 166.021(3), F.S.

⁹ NATIONAL ASSOCIATION OF PROFESSIONAL BACKGROUND SCREENER (NAPBS), portal.napbs.com/files/public/Consumer_education/Resources/standardization_of_common_industry_terms.pdf (last visited November 17, 2015).

¹⁰ UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF SEX OFFENDER SENTENCING, MONITORING, APPREHENDING, REGISTERING, AND TRACKING (SMART), <https://www.nsopw.gov/en/Home/About> (last visited November 17, 2015).

The bill provides the following definitions relating to TNCs:

- Digital Network-any online-enabled application, software, website or system offered or used by a TNC that enables the prearrangement of rides with TNC drivers.
- Personal Vehicle-a vehicle that is used by a TNC driver in connection with providing TNC service and is:
 - Owned, leased, or otherwise authorized for use by a TNC driver; and
 - Not a taxi, jitney, limousine,¹¹ or for-hire vehicle as defined in s. 320.01(15), F.S.¹²
- Transportation Network Company or Company-an entity granted a permit under s. 316.680, F.S., to operate in this state using a digital network or software application service to connect riders to TNC service provided by drivers. A TNC is not deemed to own, control, operate, or manage the vehicles used by drivers; is not deemed to control or manage drivers; and is not a taxicab association or for-hire vehicle owner. A TNC does not include an individual, corporation, partnership, sole proprietorship, or other entity arranging non-emergency medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or managed care organization.
- Transportation Network Company Driver or Driver-an individual who:
 - Receives connections to potential riders and related services from a TNC in exchange for payment of a fee to the TNC; and
 - Uses a personal vehicle to provide TNC service to riders upon connection through a digital network controlled by a TNC in return for compensation or a payment of a fee.
- Transportation Network Company Rider or Rider-an individual or person who uses a TNC's digital network to connect with a TNC driver who provides TNC service to the rider in the driver's personal vehicle between points chosen by the rider.
- Transportation Network Company Service-the provision of transportation by a driver to a rider, beginning when a driver accepts a ride request by a rider through a digital network controlled by a TNC, continuing while the driver transports a rider, and ending when the last rider departs from the personal vehicle. The term does not include a taxi, for-hire vehicle, or street hail service and does not include ridesharing as defined in s. 341.031, F.S.,¹³ a carpool service, as

¹¹ The terms "taxi," "jitney," and "limousine" are not defined in Florida Statutes.

¹² Section 320.01(15), F.S. defines "for-hire vehicle" as "any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a "share-expense" basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is "for hire." The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation "for hire." The following are not included in the term "for-hire vehicle": a motor vehicle used for transporting school children to and from school under contract with school officials; a hearse or ambulance when operated by a licensed embalmer or mortician or his or her agent or employee in this state; a motor vehicle used in the transportation of agricultural or horticultural products or in transporting agricultural or horticultural supplies direct to growers or the consumers of such supplies or to associations of such growers or consumers; a motor vehicle temporarily used by a farmer for the transportation of agricultural or horticultural products from any farm or grove to a packinghouse or to a point of shipment by a transportation company; or a motor vehicle not exceeding 11/2 tons under contract with the Government of the United States to carry United States mail, provided such vehicle is not used for commercial purposes."

¹³ Section 341.031(9)(a), F.S., defines "ridesharing" as "an arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination. For purposes of ridesharing, employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall be deemed to terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer. However, an employee shall be

defined in s. 450.28, F.S.,¹⁴ or any other type of service in which the driver receives a fee that does not exceed the individual's cost to provide the ride.

- Trip—the duration of TNC service beginning at the point of origin where the rider enters the driver's vehicle and ending at a point of destination where the rider exits the vehicle.

Preemption

The bill provides Legislative intent providing for uniformity of laws governing TNCs, TNC drivers, and vehicles used by TNC drivers throughout Florida. Notwithstanding any other provision of law, TNCs, TNC drivers, and vehicles used by TNC drivers are governed exclusively by state law and any rules adopted by the Department of Highway Safety and Motor Vehicles (DHSMV).¹⁵ A county, municipality, special district, airport authority, port authority, or other local government entity or subdivision may not impose a tax on, or require a license for, a TNC or a driver, or a vehicle used by a driver, if such tax or license relates to providing TNC services, or subjects a company to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, or other local governmental entity or subdivision. The bill does not prohibit an airport from charging an appropriate annual fee, not to exceed \$5,000 per transportation network company, for use of the airports facilities or designating locations for staging, pickup, and other similar operations of the airport.

Not a Common Carrier

The bill provides that a TNC or a TNC driver is not a common carrier¹⁶ and is not providing taxi or for-hire vehicle service. In addition, TNC drivers are not required to register vehicles used for TNC service as commercial motor vehicles or for-hire vehicles.

Permit Required

The bill requires a TNC to obtain a permit from the DHSMV in order to operate. DHSMV is required to issue a permit to each TNC that meets the requirements of a TNC and pays DHSMV a \$5,000 annual permit fee. The annual permit fee is to be deposited into the Highway Safety Operating Trust Fund.

Agent for Service of Process Required

The bill requires a TNC to designate and maintain an agent for service of process in the state. If the TNC's registered agent cannot, with reasonable diligence, be found or if the TNC fails to designate or maintain a registered agent in the state, DHSMV's executive director must be an agent for the TNC upon whom any process, notice, or demand may be served.^{17, 18}

Fare Collected for Services

The bill authorizes a TNC to collect a fare on behalf of a driver for services provided to riders; however, if a fare is collected from a rider, the TNC is required to disclose to the rider the fare calculation method

deemed to be within the course of employment when the employee is engaged in the performance of duties assigned or directed by the employer, or acting in the furtherance of the business of the employer, irrespective of location.”

¹⁴ Section 450.28(3), F.S., defines “carpool” as “an arrangement made by the workers using one worker’s own vehicle for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool.”

¹⁵ The bill does not give DHSMV specific rulemaking authority regarding TNCs.

¹⁶ The term “common carrier” is not defined for purposes of Ch. 316, F.S.

¹⁷ Section 48.091, F.S., requires any corporation doing business in the state to have a registered agent and registered office in the state.

¹⁸ Section 48.161, F.S., provides that “[w]hen any law designates a public officer, board, agency, or commission as the agent for service of process on any person, firm, or corporation, service of process thereunder shall be made by leaving one copy of the process with the public officer, board, agency, or commission or in the office thereof, or by mailing one copy to the public officer, board, agency, or commission. The public officer, board, agency, or commission so served shall retain a record copy and promptly send the copy served, by registered or certified mail, to the person to be served as shown by his or her or its records. Proof of service on the public officer, board, agency, or commission shall be by a notice accepting the process which shall be issued by the public officer, board, agency, or commission promptly after service and filed in the court issuing the process. The notice accepting service shall state the date upon which the copy of the process was mailed by the public officer, board, agency, or commission to the person being served and the time for pleading prescribed by the rules of procedure shall run from this date. The service is valid service for all purposes on the person for whom the public officer, board, agency, or commission is statutory agent for service of process.”

on its website or within its software application service. The TNC is also required to provide the rider with the applicable rates being charged and the option to receive an estimated fare before the rider enters the driver's vehicle. By required policy, payment for TNC service must be made electronically using the company's digital network or software application service. Cash payments are prohibited.

Electronic Receipt

The bill requires that within a reasonable period of time, the TNC is required to provide an electronic receipt to the rider which lists:

- The origin and destination of the trip.
- The total time and distance of the trip.
- An itemization of the total fare paid.

Identification of Vehicle and Drivers

The bill requires a TNC's software application service or website to display a picture of the driver and the license plate number of the motor vehicle used to provide TNC service before the rider enters the driver's vehicle.

Transportation Network Company and Driver Insurance Requirements

The bill provides that beginning March 1, 2017, a TNC driver or a TNC on the driver's behalf is required to maintain primary automobile insurance that recognizes that the driver is a TNC driver or otherwise uses the vehicle to transport riders for compensation and covers the driver:

- While the driver is logged into the TNC digital network; or
- While the driver is engaged in TNC service.

The above provision is the only insurance provision that goes into effect on March 1, 2017. The remainder of the insurance provisions go into effect on July 1, 2016.

The bill provides that the following automobile insurance requirements apply while a participating driver is logged into the TNC's digital network and is available to receive transportation requests but is **not** engaged in TNC service (i.e., the driver is **not** connected to a rider):

- Primary automobile liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage.
- Personal injury protection benefits that provide the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law.¹⁹ The amount of insurance required is \$10,000 for disability and \$5,000 for death.²⁰ It is notable that no-fault coverage is for the named insured (TNC driver), relatives, residing in the same household, persons operating the insured motor vehicle, riders in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle.²¹

The bill provides that the following automobile insurance requirements apply while a driver is engaged in TNC service (i.e., the driver is connected to a rider):

- Primary automobile liability insurance that provides at least \$1 million for death, bodily injury, and property damage; and
- Personal injury protection benefits that provide the minimum coverage amounts for a limousine under the Florida Motor Vehicle No-Fault Law. Pursuant to s. 627.733(1)(a), F.S., limousines are exempt from the Florida Motor Vehicle No-Fault Law; however, if the Legislature removes this exemption or makes certain parts of the Florida Motor Vehicle No-Fault Law applicable to limousines, the changes in that law would also apply to TNCs and their drivers.

¹⁹ Sections 627.730 through 627.7405, F.S.

²⁰ Section 627.736, F.S.

²¹ Section 627.736(1), F.S.

For purposes of comparison, s. 324.032, F.S., requires for-hire passenger transportation vehicles to carry limits of \$125,000/\$250,000 for bodily injury and \$50,000 for property damage.²² The bill requires less coverage than required for for-hire transportation vehicles when a driver is logged onto the TNCs digital network, but is not engaged in TNC service. However, the bill requires more coverage than required for for-hire passenger transportation vehicles when a driver is engaged in providing TNC service.

The insurance coverage requirements above may be satisfied by:

- Automobile liability insurance maintained by the driver;
- Automobile liability insurance maintained by the TNC; or
- A combination of coverage maintained by the driver and the TNC.

The bill provides that if insurance maintained by a driver has lapsed or does not provide the required coverage, insurance maintained by a TNC is required to provide the required coverage beginning with the first dollar of a claim.

Coverage under an automobile insurance policy maintained by the TNC is not dependent on a personal automobile insurer's first denying a claim nor is a personal automobile insurance policy required to first deny a claim.

The required insurance may be placed with an insurance carrier authorized to do business in the state or with a surplus lines insurer eligible under the Surplus Lines Law.²³

The bill requires a driver to carry proof of coverage satisfying provisions of the bill at all times during his or her use of a vehicle in connection with a TNC's digital network. In the event of an accident, the driver is required to provide this insurance coverage information to interested parties, automobile insurers, and investigating police officers. Proof of financial responsibility may be presented through a digital phone application under s. 316.646, F.S.,²⁴ controlled by a TNC. Upon such request, the TNC driver is also required to disclose to directly interested parties, automobile insurers, and investigating police officers whether he or she was logged into the TNC's digital network or engaged in TNC service at the time of the accident.

The bill provides that if a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC is required to cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

Transportation Network Company and Insurer; Exclusions; Disclosure

The bill requires TNCs to disclose the following in writing to drivers before they are allowed to accept a request for TNC service on the TNC's digital network:

- The insurance coverage, including the types of coverage and the limits for each coverage that the TNC provides while the driver uses a personal vehicle in connection with a TNC's digital network.
- That the driver's own automobile insurance policy may not provide any coverage while the driver is logged into the TNC's digital network and is available to receive transportation requests or is engaged in TNC service depending on its terms.

²² Section 320.032(1)(a), F.S.

²³ Sections 626.913 through 626.937, F.S. "Surplus Lines" is "property/casualty insurance coverage that isn't available from insurers licensed in the state, called admitted companies, and must be purchased from a non-admitted carrier. Examples include risks of an unusual nature that require greater flexibility in policy terms and conditions than exist in standard forms or where the highest rates allowed by state regulators are considered inadequate by admitted companies. Laws governing surplus lines vary by state."

<http://www.iii.org/services/glossary/s/> (Last visited November 23, 2015).

²⁴ Section 316.646, F.S., relates to required proof of automobile insurance and the display of such proof.

- That the provision of rides for compensation, whether prearranged or otherwise, which is not covered by s. 316.680, F.S., subjects the driver to the coverage requirements imposed by s. 324.032(1), F.S., and that failure to meet such limits subjects the driver to penalties provided in s. 324.221, up to and including a misdemeanor of the second degree.

The bill provides that an insurer that provides automobile liability insurance policies under Part XI of Ch. 627, F.S.²⁵ may exclude any and all coverage afforded under the owner's or driver's insurance policy for any loss or injury that occurs while a driver is logged into a TNC's digital network or while a driver provides TNC service. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage.
- Uninsured and underinsured motorist coverage.
- Medical payments coverage.
- Comprehensive physical damage coverage.
- Collision physical damage coverage.
- Personal injury protection.

The exclusions described above apply notwithstanding any requirement under the Financial Responsibility Law of 1955.²⁶ The bill does not require or imply that a personal automobile insurance policy provides coverage while the driver is logged into the TNC's digital network, while the driver is engaged in TNC service, or while the driver otherwise uses a vehicle to transport passengers for compensation.

The bill does not preclude an insurer from providing coverage for TNC services by contract or endorsement for the driver's vehicle.

The bill provides that an insurer that excludes the coverage described above has no duty to defend or indemnify any claim expressly excluded. The bill does not invalidate or limit an exclusion contained in a policy in use or approved for use in the state before July 1, 2016.

The bill provides that an automobile insurer that defends or indemnifies a claim against a driver, which is excluded under the terms of its policy, has a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements in the bill at the time of loss.

The bill provides that in a claims coverage investigation, TNCs and any insurer potentially providing coverage is required to cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the driver, if applicable, including the precise times that a driver logged into and off of the TNC's digital network during the 12-hour period immediately before and the 12-hour period immediately after the accident and disclose to one another a clear description of the coverage exclusions, and limits provided under any automobile insurance maintained under the requirements of the bill.

Drivers as Independent Contractors

The bill provides that a TNC driver is an independent contractor and **not** an employee of the TNC if all of the following conditions are met:

- The TNC does not prescribe specific hours during which the driver must be logged into the TNC's digital network.
- The TNC does not impose restrictions on the driver's ability to use digital networks from other TNCs.
- The TNC does not assign the driver to a particular territory in which TNC services are authorized to be provided.

²⁵ Part XI of Ch. 627, F.S., relates to motor vehicle and casualty insurance contracts.

²⁶ Chapter 324, F.S.

- The TNC does not restrict the driver from engaging in any other occupation or business.
- The TNC and driver agree in writing that the driver is an independent contractor of the company.

The bill provides that a TNC is not required to provide workers' compensation coverage to a TNC driver who is classified as an independent contractor.

Zero Tolerance for Drug and Alcohol Use

The bill requires a TNC to implement a zero tolerance policy on the use of illegal drugs or alcohol by a driver who is providing TNC service or who is logged into the TNC's digital network but is not providing service.

The bill requires a TNC to provide notice on its website of a zero tolerance policy on the use of illegal drugs and alcohol by drivers and shall provide procedures for a rider to file a complaint about a driver who the rider reasonably suspects was under the influence of drugs or alcohol during the course of a trip.

Upon receiving a rider complaint alleging a violation of the zero tolerance policy, the TNC is required to immediately suspend the accused driver's access to the TNC's digital network and conduct an investigation into the reported incident. The suspension is required to last for the duration of the investigation.

Transportation Network Company Driver Requirements

The bill provides that before allowing a person to act as a driver and at least once annually thereafter, the TNC shall:

- Require the applicant to submit an application to the TNC, including his or her address, date of birth, social security number, driver license number, driving history, motor vehicle registration, automobile liability insurance, and other information required by the TNC.
- Conduct, or have a third party conduct, a criminal background check for each applicant to include:
 - A Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial national database with validation.
 - The Dru Sjodin National Sex Offender Public Website.
- Conduct a social security trace or similar identification check that is designed to identify relevant information about the applicant, including first name, last name, middle name or initial, aliases, maiden name, alternative spellings, nicknames, date of birth, and any known addresses.
- Obtain and review a driving history research report for such persons.

The bill requires a TNC to prohibit a person from acting as a driver on its digital network if the person:

- Has had more than three moving violations in the preceding three-year period or one major violation in the preceding three-year period. A major violation is fleeing or attempting to elude a law enforcement officer, reckless driving, or driving with a suspended or revoked license;
- Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage or theft, acts of violence, or acts of terror;
- Has been convicted, within the past seven years of any offenses listed on the level 2 screening standards set forth in s. 435.04(2) or (3), F.S.,²⁷ or a substantially similar law of another state or federal law;
- Is a match in the Dru Sjodin National Sex Offender Public Website;
- Does not possess a valid driver license;
- Does not possess proof of registration for the motor vehicle used to provide TNC service;

²⁷ Section 435.04, F.S., contains the level 2 background screening standards.

- Does not possess proof of automobile liability insurance for the motor vehicle used to provide TNC service; or
- Has not attained the age of 19 years.

Prohibited Conduct

The bill provides that a TNC driver may not:

- Accept a rider other than a rider arranged through a digital network or software application service.
- Solicit or accept street hails.
- Solicit or accept cash payments from riders. A TNC is required to adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify drivers of such policy. Such policy must require a payment for TNC service to be made electronically using the TNCs digital network or software application service.

Nondiscrimination; Accessibility

The bill provides that a TNC may not discriminate against a driver on the basis of race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation. A TNC is required to adopt a policy to assist a driver who reasonably believes that he or she received a negative rating from a rider because of his or her race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation.

A TNC is required to adopt a policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, or sexual orientation with respect to riders or potential riders and shall notify drivers of such policy.

Drivers are required to comply with the nondiscrimination policy and with all applicable laws relating to the accommodation of service animals.

The bill prohibits a TNC from imposing additional charges for providing TNC service to persons with physical disabilities because of those disabilities.

A TNC is required to provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a TNC cannot arrange wheelchair-accessible service, the TNC is required to direct the rider to an alternate provider of the wheelchair-accessible service, if available.

Records

The bill requires TNCs to maintain:

- Individual trip records for at least one year after the date each trip was provided.
- Driver records for at least one year after the date on which a driver's activation on the TNCs digital network has ended.
- The TNC is required to maintain records of written rider complaints received through the TNC's software application for at least two years after the date the complaint was received by the TNC.

Current Situation-Proving Financial Responsibility

Chapter 324, F.S., is the Financial Responsibility Law of 1955²⁸ and relates to financial responsibility regarding the operation of a motor vehicle.²⁹

Section 324.031, F.S., provides that the owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory

²⁸ Section 324.251, F.S.

²⁹ Section 324.011, F.S.

evidence of holding a motor vehicle liability policy as defined in s. 324.021(8), F.S.,³⁰ or s. 324.151, F.S.,³¹ which policy is issued by an insurance carrier which is a member of the Florida Insurance Guaranty Association.³²

Proposed Changes-Proving Financial Responsibility

The bill amends s. 324.031, F.S., allowing the owner or operator of a taxicab, limousine, jitney, or any vehicle used in connection with a TNC or any other for-hire vehicle transportation to prove financial responsibility by providing evidence of holding a motor vehicle liability policy issued by an insurance carrier who is a member of the Florida Insurance Guaranty Association or an eligible surplus lines insurer³³ rated "A-" or higher by A.M. Best Company.

There are multiple private organizations that engage in the evaluation and rating of insurance companies for the purposes of identifying the financial strength of insurers.³⁴ These financial strength ratings allow potential investors to make informed decisions regarding possible investment in the rated insurer. The rating companies use similar terminology, but each has a proprietary method to establish their rating results. While the rating results are similar, one should review the rating organization's own explanation of its approach and methods to understand the subtle differences that occur when a particular insurer is rated by multiple rating organizations. A.M. Best's Financial Strength Rating is divided between "Secure," with ratings between A++ and B+, or "Vulnerable," with ratings of B or lower. Among the "Secure" ratings, A++ and A+ are described as "Superior," A and A- are described as "Excellent," and B++ and B+ are described as "Good" in terms of A.M. Best's opinion of the company's ability to meet financial obligations.³⁵

The bill amends ss. 324.023, 324.051, 324.071, 324.151, and 627.733, F.S., conforming to changes made to ss. 324.031 and 324.032, F.S.

Effective Date

The bill has an effective date of July 1, 2016.

B. SECTION DIRECTORY:

- | | |
|-----------|--|
| Section 1 | Creates s. 316.680, F.S., relating to transportation network companies. |
| Section 2 | Amends s. 324.031, F.S., relating to the manner of proving financial responsibility. |
| Section 3 | Amends s. 324.023, F.S., relating to financial responsibility for bodily injury or death to conform. |

³⁰ Section 324.021(8), F.S., defines "motor vehicle liability policy" as "any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring such owner or operator against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by any insurance company authorized to do business in this state. The owner, registrant, or operator of a motor vehicle is exempt from providing such proof of financial responsibility if he or she is a member of the United States Armed Forces and is called to or on active duty outside this state or the United States, or if the owner of the vehicle is the dependent spouse of such active duty member and is also residing with the active duty member at the place of posting of such member, and the vehicle is primarily maintained at such place of posting. The exemption provided by this subsection applies only as long as the member of the armed forces is on such active duty outside this state or the United States and the owner complies with the security requirements of the state of posting or any possession or territory of the United States."

³¹ Section 324.151, F.S., provides required provisions for motor vehicle liability policies.

³² The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

³³ Section 626.918, F.S., provides the statutory requirements for eligible surplus lines insurers.

³⁴ Financial strength rating organizations include: A.M. Best (www.ambest.com), Fitch (www.fitchratings.com), Moody's Investor Services (www.moodys.com), Standard & Poor's (www.standardandpoors.com), and Demotech (www.demotech.com).

³⁵ See A.M. BEST COMPANY, Guide to Best's Financial Strength Ratings, <http://www.ambest.com/ratings/guide.pdf>. (Last visited Nov. 13, 2015).

- Section 4 Amends s. 324.051, F.S., relating to reports of crashes; suspensions of licenses and registrations conform.
- Section 5 Amends s. 324.071, F.S., relating to reinstatement; renewal of license; reinstatement fee to conform.
- Section 6 Amends s. 324.151, F.S., relating to motor vehicle liability policies; required provisions to conform.
- Section 7 Amends s. 627.733, F.S., relating to required security to conform.
- Section 8 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. The bill will increase revenues to DHSMV. The bill requires TNCs to pay an annual permit fee of \$5,000 to DHSMV; however, the number of applicants to be TNCs is unknown at this time. The permit fees may be used by DHSMV to fund the administration of issuing TNC permits.

2. Expenditures:

DHSMV may incur some expenditures associated with regulating TNCs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill preempts to the state the regulation of TNCs. To the extent municipalities, counties, and other local governmental entities are imposing fees on TNCs, they will experience an indeterminate negative fiscal impact.

The bill does not prohibit airports from charging an annual fee of up to \$5,000, per TNC, for use of the airports facilities. This may provide a positive fiscal impact to the airports, but the total fiscal impact is unknown at this time.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

TNCs may see a reduced cost associated with statewide regulation instead of regulation at the local government level.

Motor vehicle insurers may see a positive impact due to insurance premiums from TNC and their drivers for covering TNC service.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill preempts to the state the regulation of TNCs; however, an exception may apply since the bill applies to similarly situated persons, including special districts regulation TNCs. If the provision applies, the bill will require a two-thirds vote.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides that TNCs, TNC drivers, and vehicles used by TNC drivers are governed exclusively by s. 316.680, F.S., and any rules adopted by DHSMV to administer s. 316.680, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Comments

The bill provides that TNCs must maintain the level of coverage required for limousines under the Florida Motor Vehicle No-Fault Law. However, limousines are exempt from this law. This may exempt TNC drivers from the coverage requirements under The Florida Motor Vehicle No-Fault under certain circumstances.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 2, 2015, the Highway and Waterway Safety Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Revised the definition of "transportation network company service."
- Revised insurance requirements.
- Revised background check requirements for TNC driver.
- Removed a requirement that vehicles being used to provide TNC service meet state safety and emissions standards of the state where the vehicle is registered.
- Authorized airports to charge certain annual fees to TNCs.
- Removes provisions deleting the statutory authorization for certain entities to self-insure their vehicles.
- Makes various technical and conforming changes to the bill.

This analysis is written to the Committee Substitute as it was reported out of the Highway & Waterway Safety Subcommittee.

1 A bill to be entitled
2 An act relating to transportation network companies;
3 creating s. 316.680, F.S.; providing definitions;
4 providing requirements for a person to obtain a permit
5 as a transportation network company; directing the
6 Department of Highway Safety and Motor Vehicles to
7 issue such permits; providing a permit fee; requiring
8 an agent for service of process; requiring disclosure
9 of a company's fares; requiring display of certain
10 information related to a transportation network
11 company driver; requiring that a company provide an
12 electronic receipt to a rider; providing requirements
13 for automobile insurance and insurance disclosure;
14 providing requirements for drivers to act as
15 independent contractors; requiring a zero tolerance
16 policy for drug and alcohol use; providing
17 requirements for employment as a transportation
18 network company driver; prohibiting specified conduct;
19 providing certain nondiscrimination and accessibility
20 requirements; requiring a company to maintain certain
21 records; providing for preemption; amending s.
22 324.031, F.S.; providing for proof of financial
23 responsibility by owners or operators of a vehicle
24 used in connection with a transportation network
25 company; amending ss. 324.023, 324.051, 324.071,
26 324.151, and 627.733, F.S.; conforming provisions to

27 changes made by the act; providing an effective date.

28

29 Be It Enacted by the Legislature of the State of Florida:

30

31 Section 1. Section 316.680, Florida Statutes, is created
32 to read:

33 316.680 Transportation network companies.-

34 (1) DEFINITIONS.-As used in this section, the term:

35 (a) "Digital network" means any online-enabled application,
36 software, website, or system offered or used by a transportation
37 network company that enables the prearrangement of rides with
38 transportation network company drivers.

39 (b) "Personal vehicle" means a vehicle that is used by a
40 transportation network company driver in connection with
41 providing transportation network company service and is:

42 1. Owned, leased, or otherwise authorized for use by a
43 transportation network company driver; and

44 2. Not a taxi, jitney, limousine, or for-hire vehicle as
45 defined in s. 320.01(15).

46 (c) "Transportation network company" or "company" means an
47 entity granted a permit under this section to operate in this
48 state using a digital network or software application service to
49 connect riders to transportation network company service
50 provided by drivers. A company is not deemed to own, control,
51 operate, or manage the vehicles used by drivers; is not deemed
52 to control or manage drivers; and is not a taxicab association

53 | or for-hire vehicle owner. A transportation network company does
 54 | not include an individual, corporation, partnership, sole
 55 | proprietorship, or other entity arranging nonemergency medical
 56 | transportation for individuals qualifying for Medicaid or
 57 | Medicare pursuant to a contract with the state or a managed care
 58 | organization.

59 | (d) "Transportation network company driver" or "driver"
 60 | means an individual who:

61 | 1. Receives connections to potential riders and related
 62 | services from a transportation network company in exchange for
 63 | payment of a fee to the transportation network company; and

64 | 2. Uses a personal vehicle to provide transportation
 65 | network company service to riders upon connection through a
 66 | digital network controlled by a transportation network company
 67 | in return for compensation or payment of a fee.

68 | (e) "Transportation network company rider" or "rider"
 69 | means an individual or person who uses a transportation network
 70 | company's digital network to connect with a transportation
 71 | network company driver who provides transportation network
 72 | company service to the rider in the driver's personal vehicle
 73 | between points chosen by the rider.

74 | (f) "Transportation network company service" means the
 75 | provision of transportation by a driver to a rider, beginning
 76 | when a driver accepts a ride requested by a rider through a
 77 | digital network controlled by a transportation network company,
 78 | continuing while the driver transports a rider, and ending when

79 | the last rider departs from the personal vehicle. The term does
 80 | not include a taxi, for-hire vehicle, or street hail service and
 81 | does not include ridesharing as defined in s. 341.031, a carpool
 82 | service as defined s. 450.28, or any other type of service in
 83 | which the driver receives a fee that does not exceed the
 84 | driver's cost to provide the ride.

85 | (g) "Trip" means the duration of transportation network
 86 | company service beginning at a point of origin where the rider
 87 | enters the driver's vehicle and ending at a point of destination
 88 | where the rider exits the vehicle.

89 | (2) NOT A COMMON CARRIER.—A transportation network company
 90 | or driver is not a common carrier and does not provide taxi or
 91 | for-hire vehicle service. In addition, a driver is not required
 92 | to register the vehicle that the driver uses for transportation
 93 | network company service as a commercial motor vehicle or a for-
 94 | hire vehicle.

95 | (3) PERMIT REQUIRED.—

96 | (a) A company must obtain a permit from the department to
 97 | operate a transportation network company in this state.

98 | (b) The department shall issue a permit to each company
 99 | that meets the requirements for a transportation network company
 100 | pursuant to this section and pays an annual permit fee of \$5,000
 101 | to the department to be deposited into the Highway Safety
 102 | Operating Trust Fund.

103 | (4) AGENT FOR SERVICE OF PROCESS REQUIRED.—A
 104 | transportation network company must designate and maintain an

105 agent for service of process in this state. If the registered
 106 agent of the company cannot, with reasonable diligence, be found
 107 or if the company fails to designate or maintain a registered
 108 agent in this state, the executive director of the department
 109 must be an agent of the transportation network company upon whom
 110 any process, notice, or demand may be served.

111 (5) FARE COLLECTED FOR SERVICES.—A company may collect a
 112 fare on behalf of a driver for the services provided to riders;
 113 however, if a fare is collected from a rider, the company shall
 114 disclose to the rider the fare calculation method on its website
 115 or within its software application service. The company shall
 116 also provide the rider with the applicable rates being charged
 117 and the option to receive an estimated fare before the rider
 118 enters the driver's vehicle.

119 (6) IDENTIFICATION OF VEHICLES AND DRIVERS.—The company's
 120 software application service or website shall display a picture
 121 of the driver and the license plate number of the motor vehicle
 122 used to provide transportation network company service before
 123 the rider enters the driver's vehicle.

124 (7) ELECTRONIC RECEIPT.—Within a reasonable period of
 125 time, the company shall provide an electronic receipt to the
 126 rider which lists:

- 127 (a) The origin and destination of the trip.
- 128 (b) The total time and distance of the trip.
- 129 (c) An itemization of the total fare paid.

130 (8) TRANSPORTATION NETWORK COMPANY AND DRIVER INSURANCE

131 REQUIREMENTS.—

132 (a) Beginning March 1, 2017, a transportation network
 133 company driver or transportation network company on the driver's
 134 behalf shall maintain primary automobile insurance that
 135 recognizes that the driver is a transportation network company
 136 driver or otherwise uses a vehicle to transport riders for
 137 compensation and covers the driver:

138 1. While the driver is logged into the transportation
 139 network company's digital network; or

140 2. While the driver is engaged in transportation network
 141 company service.

142 (b) The following automobile insurance requirements apply
 143 while a participating driver is logged into the transportation
 144 network company's digital network and is available to receive
 145 transportation requests but is not engaged in transportation
 146 network company service:

147 1. Primary automobile liability insurance in the amount of
 148 at least \$50,000 for death and bodily injury per person,
 149 \$100,000 for death and bodily injury per incident, and \$25,000
 150 for property damage.

151 2. Personal injury protection benefits that provide the
 152 minimum coverage amounts required under ss. 627.730-627.7405.

153 (c) The following automobile insurance requirements apply
 154 while a driver is engaged in transportation network company
 155 service:

156 1. Primary automobile liability insurance that provides at

157 | least \$1 million for death, bodily injury, and property damage;
 158 | and

159 | 2. Personal injury protection benefits that provide the
 160 | minimum coverage amounts where required of a limousine under ss.
 161 | 627.730-627.7405.

162 | (d) The coverage requirements of paragraphs (b) and (c)
 163 | may be satisfied by:

- 164 | 1. Automobile insurance maintained by the driver;
- 165 | 2. Automobile insurance maintained by the company; or
- 166 | 3. A combination of coverage maintained as provided in
 167 | subparagraphs 1. and 2.

168 | (e) If insurance maintained by a driver under paragraph
 169 | (b) or paragraph (c) has lapsed or does not provide the required
 170 | coverage, insurance maintained by a transportation network
 171 | company shall provide the coverage required by this section
 172 | beginning with the first dollar of a claim.

173 | (f) Coverage under an automobile insurance policy
 174 | maintained by the transportation network company is not
 175 | dependent on the maintenance of a personal automobile insurance
 176 | policy or on the personal automobile insurer's first denying a
 177 | claim.

178 | (g) Insurance required by this section may be placed with
 179 | an insurer authorized to do business in the state or with a
 180 | surplus lines insurer eligible under the Surplus Lines Law under
 181 | ss. 626.913-626.937.

182 | (h) Insurance satisfying the requirements of this section

183 is deemed to satisfy the financial responsibility requirement
 184 for a motor vehicle under chapter 324 and the security required
 185 under s. 627.733.

186 (i) A driver shall carry proof of coverage satisfying
 187 paragraphs (b) and (c) with him or her at all times during his
 188 or her use of a vehicle in connection with a transportation
 189 network company's digital network. In the event of an accident,
 190 the driver shall provide this insurance coverage information to
 191 the directly interested parties, automobile insurers, and
 192 investigating police officers. Such proof of financial
 193 responsibility may be presented through a digital phone
 194 application under s. 316.646 controlled by a transportation
 195 network company. Upon such request, the driver shall also
 196 disclose to directly interested parties, automobile insurers,
 197 and investigating police officers whether he or she was logged
 198 into the transportation network company's digital network or
 199 engaged in transportation network company service at the time of
 200 the accident.

201 (j) If a transportation network company's insurer makes a
 202 payment for a claim covered under comprehensive coverage or
 203 collision coverage, the transportation network company shall
 204 cause its insurer to issue the payment directly to the business
 205 repairing the vehicle or jointly to the owner of the vehicle and
 206 the primary lienholder on the covered vehicle.

207 (9) TRANSPORTATION NETWORK COMPANY AND INSURER;
 208 EXCLUSIONS; DISCLOSURE.—

209 (a) The transportation network company shall disclose the
 210 following in writing to drivers before they are allowed to
 211 accept a request for transportation network company service on
 212 the transportation network company's digital network:

213 1. The insurance coverage, including the types of coverage
 214 and the limits for each coverage, that the transportation
 215 network company provides while the driver uses a personal
 216 vehicle in connection with a transportation network company's
 217 digital network.

218 2. That the driver's own automobile insurance policy might
 219 not provide any coverage while the driver is logged into the
 220 transportation network company's digital network and is
 221 available to receive transportation requests or is engaged in
 222 transportation network company service depending on its terms.

223 3. That the provision of rides for compensation, whether
 224 prearranged or otherwise, which is not covered by this section
 225 subjects the driver to the coverage requirements imposed by s.
 226 324.032(1), and that failure to meet such limits subjects the
 227 driver to penalties provided in s. 324.221, up to and including
 228 a misdemeanor of the second degree.

229 (b)1. An insurer that provides automobile liability
 230 insurance policies under part XI of chapter 627 may exclude any
 231 and all coverage afforded under the owner's or driver's
 232 insurance policy for any loss or injury that occurs while a
 233 driver is logged into a transportation network company's digital
 234 network or while a driver provides transportation network

235 | company service. This right to exclude all coverage may apply to
 236 | any coverage included in an automobile insurance policy,
 237 | including, but not limited to:

238 | a. Liability coverage for bodily injury and property
 239 | damage.

240 | b. Uninsured and underinsured motorist coverage.

241 | c. Medical payments coverage.

242 | d. Comprehensive physical damage coverage.

243 | e. Collision physical damage coverage.

244 | f. Personal injury protection.

245 | 2. The exclusions described in subparagraph 1. apply
 246 | notwithstanding any requirement under chapter 324. This section
 247 | does not require or imply that a personal automobile insurance
 248 | policy provides coverage while the driver is logged into the
 249 | transportation network company's digital network, while the
 250 | driver is engaged in transportation network company service, or
 251 | while the driver otherwise uses a vehicle to transport riders
 252 | for compensation.

253 | 3. This section does not preclude an insurer from
 254 | providing coverage by contract or endorsement for the driver's
 255 | vehicle.

256 | (c)1. An insurer that excludes the coverage described in
 257 | subparagraph (b)1. has no duty to defend or indemnify any claim
 258 | expressly excluded thereunder. This section does not invalidate
 259 | or limit an exclusion contained in a policy, including a policy
 260 | in use or approved for use in this state before July 1, 2016.

261 2. An automobile insurer that defends or indemnifies a
 262 claim against a driver, which is excluded under the terms of its
 263 policy, has a right of contribution against other insurers that
 264 provide automobile insurance to the same driver in satisfaction
 265 of the coverage requirements of subsection (8) at the time of
 266 loss.

267 (d) In a claims coverage investigation, transportation
 268 network companies and any insurer providing coverage under
 269 subsection (8) shall cooperate to facilitate the exchange of
 270 relevant information with directly involved parties and any
 271 insurer of the driver, if applicable, including the precise
 272 times that a driver logged into and off of the transportation
 273 network company's digital network during the 12-hour period
 274 immediately before and the 12-hour period immediately after the
 275 accident and disclose to one another a clear description of the
 276 coverage, exclusions, and limits provided under any automobile
 277 insurance maintained under subsection (8).

278 (10) DRIVERS AS INDEPENDENT CONTRACTORS.—

279 (a) A driver is an independent contractor and not an
 280 employee of the company if all of the following conditions are
 281 met:

282 1. The company does not prescribe specific hours during
 283 which the driver must be logged into the company's digital
 284 network.

285 2. The company does not impose restrictions on the
 286 driver's ability to use digital networks from other companies.

287 3. The company does not assign the driver to a particular
 288 territory in which transportation network company services are
 289 authorized to be provided.

290 4. The company does not restrict the driver from engaging
 291 in any other occupation or business.

292 5. The company and the driver agree in writing that the
 293 driver is an independent contractor of the company.

294 (b) A company operating under this section is not required
 295 to provide workers' compensation coverage to a transportation
 296 network company driver who is classified as an independent
 297 contractor pursuant to this section.

298 (11) ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.-

299 (a) A company shall implement a zero tolerance policy on
 300 use of illegal drugs or alcohol by a driver who is providing
 301 transportation network company service or who is logged into the
 302 company's digital network but is not providing service.

303 (b) A company shall provide notice on its website of a
 304 zero tolerance policy under paragraph (a) and shall provide
 305 procedures for a rider to file a complaint about a driver who
 306 the rider reasonably suspects was under the influence of drugs
 307 or alcohol during the course of a trip.

308 (c) Upon receipt of a rider complaint alleging a violation
 309 of the zero tolerance policy, the company shall immediately
 310 suspend the accused driver's access to the company's digital
 311 network and shall conduct an investigation into the reported
 312 incident. The suspension shall last for the duration of the

313 investigation.

314 (12) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.—

315 (a) Before allowing a person to act as a driver on its digital
 316 network, and at least once annually thereafter, the company
 317 shall:

318 1. Require the applicant to submit an application to the
 319 company, including his or her address, date of birth, social
 320 security number, driver license number, driving history, motor
 321 vehicle registration, automobile liability insurance, and other
 322 information required by the company.

323 2. Conduct, or have a third party conduct, a criminal
 324 background check for each applicant to include:

325 a. A Multi-State/Multi-Jurisdiction Criminal Records
 326 Locator or other similar commercial national database with
 327 validation.

328 b. The Dru Sjodin National Sex Offender Public Website.

329 3. Conduct a social security trace or similar
 330 identification check that is designed to identify relevant
 331 information about the applicant, including first name, middle
 332 name or initial, last name, aliases, maiden name, alternative
 333 spellings, nicknames, date of birth, and any known addresses.

334 4. Obtain and review a driving history research report for
 335 the applicant.

336 (b) The company shall prohibit an applicant from acting as
 337 a driver on its digital network if the applicant:

338 1. Has had more than three moving violations in the

339 | preceding 3-year period or one major violation in the preceding
 340 | 3-year period. A major violation is:
 341 | a. Fleeing or attempting to elude a law enforcement
 342 | officer;
 343 | b. Reckless driving; or
 344 | c. Driving with a suspended or revoked license;
 345 | 2. Has been convicted, within the past 7 years, of driving
 346 | under the influence of drugs or alcohol, fraud, sexual offenses,
 347 | use of a motor vehicle to commit a felony, a crime involving
 348 | property damage or theft, acts of violence, or acts of terror;
 349 | 3. Has been convicted, within the past 7 years, of any
 350 | offense listed in the level 2 screening standards in s.
 351 | 435.04(2) or (3), or a substantially similar law of another
 352 | state or federal law;
 353 | 4. Is a match in the Dru Sjodin National Sex Offender
 354 | Public Website;
 355 | 5. Does not possess a valid driver license;
 356 | 6. Does not possess proof of registration for the motor
 357 | vehicle used to provide transportation network company service;
 358 | 7. Does not possess proof of automobile liability
 359 | insurance for the motor vehicle used to provide transportation
 360 | network company service; or
 361 | 8. Has not attained the age of 19 years.
 362 | (13) PROHIBITED CONDUCT.—A driver may not:
 363 | (a) Accept a rider other than a rider arranged through a
 364 | digital network or software application service.

365 (b) Solicit or accept street hails.

366 (c) Solicit or accept cash payments from riders. A company
 367 shall adopt a policy prohibiting solicitation or acceptance of
 368 cash payments from riders and notify drivers of such policy.
 369 Such policy must require a payment for transportation network
 370 company service to be made electronically using the company's
 371 digital network or software application service.

372 (14) NONDISCRIMINATION; ACCESSIBILITY.-

373 (a) A company may not discriminate against a driver on the
 374 basis of race, color, national origin, religious belief or
 375 affiliation, sex, disability, age, or sexual orientation. A
 376 company shall adopt a policy to assist a driver who reasonably
 377 believes that he or she has received a negative rating from a
 378 rider because of his or her race, color, national origin,
 379 religious belief or affiliation, sex, disability, age, or sexual
 380 orientation.

381 (b) A company shall adopt a policy of nondiscrimination on
 382 the basis of destination, race, color, national origin,
 383 religious belief or affiliation, sex, disability, age, or sexual
 384 orientation with respect to riders and potential riders and
 385 shall notify drivers of such policy.

386 (c) A driver shall comply with the nondiscrimination
 387 policy.

388 (d) A driver shall comply with all applicable laws
 389 relating to accommodation of service animals.

390 (e) A company may not impose additional charges for

391 providing transportation network company service to persons with
 392 physical disabilities because of those disabilities.

393 (f) A company shall provide riders an opportunity to
 394 indicate whether they require a wheelchair-accessible vehicle.
 395 If a company cannot arrange wheelchair-accessible service, it
 396 shall direct the rider to an alternate provider of wheelchair-
 397 accessible service, if available.

398 (15) RECORDS.—A company shall maintain:

399 (a) Individual trip records for at least 1 year after the
 400 date each trip was provided.

401 (b) Driver records for at least 1 year after the date on
 402 which a driver's activation on the company's digital network has
 403 ended.

404 (c) The company shall maintain records of written rider
 405 complaints received through the company's software application
 406 service for at least 2 years after the date such complaint is
 407 received by the company.

408 (16) PREEMPTION.—It is the intent of the Legislature to
 409 provide for uniformity of laws governing transportation network
 410 companies, transportation network company drivers, and vehicles
 411 used by transportation network company drivers throughout the
 412 state. Transportation network companies, transportation network
 413 company drivers, and vehicles used by transportation network
 414 company drivers are governed exclusively by state law and any
 415 rules adopted by the department. A county, municipality, special
 416 district, airport authority, port authority, or other local

417 governmental entity or subdivision may not impose a tax on, or
 418 require a license for, a company or a driver, or a vehicle used
 419 by a driver, if such tax or license relates to providing
 420 transportation network company services, or subjects a company,
 421 driver, or vehicle to any rate, entry, operation, or other
 422 requirement of the county, municipality, special district,
 423 airport authority, port authority, or other local governmental
 424 entity or subdivision. This section does not prohibit an airport
 425 from charging an appropriate annual fee, not to exceed \$5,000
 426 per transportation network company, for use of the airport's
 427 facilities or designating locations for staging, pickup, and
 428 other similar operations of the airport.

429 Section 2. Section 324.031, Florida Statutes, is amended
 430 to read:

431 324.031 Manner of proving financial responsibility.—The
 432 owner or operator of a taxicab, limousine, jitney, any vehicle
 433 used in connection with a transportation network company, or
 434 any other for-hire passenger transportation vehicle may prove
 435 financial responsibility by providing satisfactory evidence of
 436 holding a motor vehicle liability policy as defined in s.
 437 324.021(8) or s. 324.151, which policy is issued by an insurance
 438 carrier which is a member of the Florida Insurance Guaranty
 439 Association or an eligible surplus lines insurer under s.
 440 626.918 that is rated "A-" or higher by A. M. Best Company. The
 441 operator or owner of any other vehicle may prove his or her
 442 financial responsibility by:

443 (1) Furnishing satisfactory evidence of holding a motor
 444 vehicle liability policy as defined in ss. 324.021(8) and
 445 324.151;

446 (2) Furnishing a certificate of self-insurance showing a
 447 deposit of cash in accordance with s. 324.161; or

448 (3) Furnishing a certificate of self-insurance issued by
 449 the department in accordance with s. 324.171.

450

451 Any person, including any firm, partnership, association,
 452 corporation, or other person, other than a natural person,
 453 electing to use the method of proof specified in subsection (2)
 454 shall furnish a certificate of deposit equal to the number of
 455 vehicles owned times \$30,000, to a maximum of \$120,000; in
 456 addition, any such person, other than a natural person, shall
 457 maintain insurance providing coverage in excess of limits of
 458 \$10,000/20,000/10,000 or \$30,000 combined single limits, and
 459 such excess insurance shall provide minimum limits of
 460 \$125,000/250,000/50,000 or \$300,000 combined single limits.
 461 These increased limits shall not affect the requirements for
 462 proving financial responsibility under s. 324.032(1).

463 Section 3. Section 324.023, Florida Statutes, is amended
 464 to read:

465 324.023 Financial responsibility for bodily injury or
 466 death.—In addition to any other financial responsibility
 467 required by law, every owner or operator of a motor vehicle that
 468 is required to be registered in this state, or that is located

469 within this state, and who, regardless of adjudication of guilt,
 470 has been found guilty of or entered a plea of guilty or nolo
 471 contendere to a charge of driving under the influence under s.
 472 316.193 after October 1, 2007, shall, by ~~one of~~ the methods
 473 established in s. 324.031 ~~324.031(1) or (2)~~, establish and
 474 maintain the ability to respond in damages for liability on
 475 account of accidents arising out of the use of a motor vehicle
 476 in the amount of \$100,000 because of bodily injury to, or death
 477 of, one person in any one crash and, subject to such limits for
 478 one person, in the amount of \$300,000 because of bodily injury
 479 to, or death of, two or more persons in any one crash and in the
 480 amount of \$50,000 because of property damage in any one crash.
 481 If the owner or operator chooses to establish and maintain such
 482 ability by furnishing a certificate of deposit ~~pursuant to s.~~
 483 ~~324.031(2)~~, such certificate of deposit must be at least
 484 \$350,000. Such higher limits must be carried for a minimum
 485 period of 3 years. If the owner or operator has not been
 486 convicted of driving under the influence or a felony traffic
 487 offense for a period of 3 years after ~~from~~ the date of
 488 reinstatement of driving privileges for a violation of s.
 489 316.193, the owner or operator shall be exempt from this
 490 section.

491 Section 4. Paragraph (a) of subsection (2) of section
 492 324.051, Florida Statutes, is amended to read:

493 324.051 Reports of crashes; suspensions of licenses and
 494 registrations.-

495 (2)(a) Thirty days after receipt of notice of any accident
 496 described in paragraph (1)(a) involving a motor vehicle within
 497 this state, the department shall suspend, after due notice and
 498 opportunity to be heard, the license of each operator and all
 499 registrations of the owner of the vehicles operated by such
 500 operator whether or not involved in such crash and, in the case
 501 of a nonresident owner or operator, shall suspend such
 502 nonresident's operating privilege in this state, unless such
 503 operator or owner shall, prior to the expiration of such 30
 504 days, be found by the department to be exempt from the operation
 505 of this chapter, based upon evidence satisfactory to the
 506 department that:

507 1. The motor vehicle was legally parked at the time of
 508 such crash.

509 2. The motor vehicle was owned by the United States
 510 Government, this state, or any political subdivision of this
 511 state or any municipality therein.

512 3. Such operator or owner has secured a duly acknowledged
 513 written agreement providing for release from liability by all
 514 parties injured as the result of said crash and has complied
 515 with ~~one of the provisions of~~ s. 324.031.

516 4. Such operator or owner has deposited with the
 517 department security to conform with s. 324.061 when applicable
 518 and has complied with ~~one of the provisions of~~ s. 324.031.

519 5. One year has elapsed since such owner or operator was
 520 suspended pursuant to subsection (3), the owner or operator has

521 | complied with ~~one of the provisions~~ of s. 324.031, and no bill
 522 | of complaint of which the department has notice has been filed
 523 | in a court of competent jurisdiction.

524 |

525 | No such policy or bond shall be effective under this subsection
 526 | unless it contains limits of not less than those specified in s.
 527 | 324.021(7).

528 | Section 5. Section 324.071, Florida Statutes, is amended
 529 | to read:

530 | 324.071 Reinstatement; renewal of license; reinstatement
 531 | fee.—Any operator or owner whose license or registration has
 532 | been suspended pursuant to s. 324.051(2), s. 324.072, s.
 533 | 324.081, or s. 324.121 may effect its reinstatement upon
 534 | compliance with the provisions of s. 324.051(2)(a)3. or 4., or
 535 | s. 324.081(2) and (3), as the case may be, and with ~~one of the~~
 536 | ~~provisions~~ of s. 324.031 and upon payment to the department of a
 537 | nonrefundable reinstatement fee of \$15. Only one such fee shall
 538 | be paid by any one person irrespective of the number of licenses
 539 | and registrations to be then reinstated or issued to such
 540 | person. All such fees shall be deposited to a department trust
 541 | fund. When the reinstatement of any license or registration is
 542 | effected by compliance with s. 324.051(2)(a)3. or 4., the
 543 | department shall not renew the license or registration within a
 544 | period of 3 years from such reinstatement, nor shall any other
 545 | license or registration be issued in the name of such person,
 546 | unless the operator is continuing to comply with ~~one of the~~

547 ~~provisions of s. 324.031.~~

548 Section 6. Subsection (1) of section 324.151, Florida
 549 Statutes, is amended to read:

550 324.151 Motor vehicle liability policies; required
 551 provisions.—

552 (1) A motor vehicle liability policy to be proof of
 553 financial responsibility under s. 324.031 ~~324.031(1)~~, shall be
 554 issued to owners or operators under the following provisions:

555 (a) An owner's liability insurance policy shall designate
 556 by explicit description or by appropriate reference all motor
 557 vehicles with respect to which coverage is thereby granted and
 558 shall insure the owner named therein and any other person as
 559 operator using such motor vehicle or motor vehicles with the
 560 express or implied permission of such owner against loss from
 561 the liability imposed by law for damage arising out of the
 562 ownership, maintenance, or use of such motor vehicle or motor
 563 vehicles within the United States or the Dominion of Canada,
 564 subject to limits, exclusive of interest and costs with respect
 565 to each such motor vehicle as is provided for under s.
 566 324.021(7). Insurers may make available, with respect to
 567 property damage liability coverage, a deductible amount not to
 568 exceed \$500. In the event of a property damage loss covered by a
 569 policy containing a property damage deductible provision, the
 570 insurer shall pay to the third-party claimant the amount of any
 571 property damage liability settlement or judgment, subject to
 572 policy limits, as if no deductible existed.

573 (b) An operator's motor vehicle liability policy of
 574 insurance shall insure the person named therein against loss
 575 from the liability imposed upon him or her by law for damages
 576 arising out of the use by the person of any motor vehicle not
 577 owned by him or her, with the same territorial limits and
 578 subject to the same limits of liability as referred to above
 579 with respect to an owner's policy of liability insurance.

580 (c) All such motor vehicle liability policies shall state
 581 the name and address of the named insured, the coverage afforded
 582 by the policy, the premium charged therefor, the policy period,
 583 the limits of liability, and shall contain an agreement or be
 584 endorsed that insurance is provided in accordance with the
 585 coverage defined in this chapter as respects bodily injury and
 586 death or property damage or both and is subject to all
 587 provisions of this chapter. Said policies shall also contain a
 588 provision that the satisfaction by an insured of a judgment for
 589 such injury or damage shall not be a condition precedent to the
 590 right or duty of the insurance carrier to make payment on
 591 account of such injury or damage, and shall also contain a
 592 provision that bankruptcy or insolvency of the insured or of the
 593 insured's estate shall not relieve the insurance carrier of any
 594 of its obligations under said policy.

595 Section 7. Paragraph (b) of subsection (3) of section
 596 627.733, Florida Statutes, is amended to read:

597 627.733 Required security.—

598 (3) Such security shall be provided:

599 (b) By any other method authorized by s. 324.031~~(2)~~ ~~or (3)~~
600 and approved by the Department of Highway Safety and Motor
601 Vehicles as affording security equivalent to that afforded by a
602 policy of insurance or by self-insuring as authorized by s.
603 768.28(16). The person filing such security shall have all of
604 the obligations and rights of an insurer under ss. 627.730-
605 627.7405.

606 Section 8. This act shall take effect July 1, 2016.



Amendment No. 1.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
 2 Representative Gaetz offered the following:

Amendment (with title amendment)

Between lines 30 and 31, insert:

Section 1. Paragraphs (b) and (c) of subsection (1) and subsection (3) of section 316.066, Florida Statutes, are amended to read:

316.066 Written reports of crashes.-

(1)

(b) The Florida Traffic Crash Report, Long Form must include:

1. The date, time, and location of the crash.
2. A description of the vehicles involved.
3. The names and addresses of the parties involved, including all drivers and passengers, and the identification of the vehicle in which each was a driver or a passenger.



Amendment No. 1.

18 4. The names and addresses of witnesses.

19 5. The name, badge number, and law enforcement agency of
20 the officer investigating the crash.

21 6. The names of the insurance companies for the respective
22 parties involved in the crash.

23 7. A statement as to whether, at the time of the accident,
24 any driver was engaged in the provision of transportation
25 network company service, as defined in s. 316.680, or logged
26 into the transportation network company's digital network.

27 (c) In any crash for which a Florida Traffic Crash Report,
28 Long Form is not required by this section and which occurs on
29 the public roadways of this state, the law enforcement officer
30 shall complete a short-form crash report or provide a driver
31 exchange-of-information form, to be completed by all drivers and
32 passengers involved in the crash, which requires the
33 identification of each vehicle that the drivers and passengers
34 were in. The short-form report must include:

35 1. The date, time, and location of the crash.

36 2. A description of the vehicles involved.

37 3. The names and addresses of the parties involved,
38 including all drivers and passengers, and the identification of
39 the vehicle in which each was a driver or a passenger.

40 4. The names and addresses of witnesses.

41 5. The name, badge number, and law enforcement agency of
42 the officer investigating the crash.



Amendment No. 1.

43 6. The names of the insurance companies for the respective
44 parties involved in the crash.

45 7. A statement as to whether, at the time of the accident,
46 any driver was engaged in the provision of transportation
47 network company service, as defined in s. 316.680, or logged
48 into the transportation network company's digital network.

49 (3) (a) Any driver failing to file the written report
50 required under subsection (1) commits a noncriminal traffic
51 infraction, punishable as a nonmoving violation as provided in
52 chapter 318.

53 (b) Any employee of a state or local agency in possession
54 of information made confidential and exempt by this section who
55 knowingly discloses such confidential and exempt information to
56 a person not entitled to access such information under this
57 section commits a felony of the third degree, punishable as
58 provided in s. 775.082, s. 775.083, or s. 775.084.

59 (c) Any person, knowing that he or she is not entitled to
60 obtain information made confidential and exempt by this section,
61 who obtains or attempts to obtain such information commits a
62 felony of the third degree, punishable as provided in s.
63 775.082, s. 775.083, or s. 775.084.

64 (d) Any person who knowingly uses confidential and exempt
65 information in violation of a filed written sworn statement or
66 contractual agreement required by this section commits a felony
67 of the third degree, punishable as provided in s. 775.082, s.
68 775.083, or s. 775.084.



Amendment No. 1.

69 (e) Any driver who provides a false statement to a law
70 enforcement officer in connection with the information that is
71 required to be reported under subsection (1)(b)(7) or (1)(c)(7)
72 commits a noncriminal traffic infraction, punishable as a moving
73 violation as provided in Chapter 318.

74

75

76

T I T L E A M E N D M E N T

77

Between lines 2 and 3, insert:

78

amending s. 316.066, F.S.; adding information that must be

79

contained in long form and short form Florida traffic crash

80

reports; providing penalties;



Amendment No. 2.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
 2 Representative Gaetz offered the following:

Amendment

Between lines 45 and 46, insert:

6 Notwithstanding any other provision of law, a vehicle that is
 7 let or rented to another for consideration may be used as a
 8 personal vehicle.