



Highway & Waterway Safety Subcommittee

MEETING PACKET

Wednesday, December 2, 2015
8:30 AM – 10:30 AM
116 (Knott Building)

Steve Crisafulli
Speaker

W. Gregory Steube
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Highway & Waterway Safety Subcommittee

Start Date and Time: Wednesday, December 02, 2015 08:30 am
End Date and Time: Wednesday, December 02, 2015 10:30 am
Location: 116 Knott Building
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 435 Gold Star License Plates by Burgess
HB 509 Transportation Network Companies by Gaetz, Grant

Consideration of the following proposed committee bill(s):

PCB HWSS 16-01 -- At-Risk Vessel

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, December 1, 2015.

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, December 1, 2015.

NOTICE FINALIZED on 11/25/2015 8:24AM by Lawhon.Amanda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 435 Gold Star License Plates
SPONSOR(S): Burgess, Jr.
TIED BILLS: IDEN./SIM. **BILLS:** SB 88

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee		Whittaker	Smith
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The Gold Star special license plate, created in 2007, was developed to honor the family members of service members who have been killed while serving in the Armed Forces of the United States. To qualify for a Gold Star license plate, the applicant must be directly related to a fallen service member as spouse, legal mother or father, or stepparent who is currently married to the mother or father of the fallen service member.¹

The bill expands the list of individuals who qualify for issuance of a Gold Star license plate to include the following family members of a fallen service member:

Parent through adoption	Child	Brother/Sister
Foster parent	Step child	Half brother
Grandparent	Adopted child	Half sister

Additionally, the bill removes the requirement that the stepparent must be currently married to the mother or father of the fallen service member.

The bill has an indeterminate fiscal impact to state funds. See fiscal comments.

The bill provides an effective date of upon becoming a law.

¹ s. 320.0894, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Gold Star License Plate

The Gold Star special license plate, created in 2007, was developed to honor the family members of service members who have been killed while serving in the Armed Forces of the United States. To qualify for a Gold Star license plate, the applicant must be directly related to a fallen service member as spouse, legal mother or father, or stepparent who is currently married to the mother or father of the fallen service member.²

The Gold Star plate bears a unique design that includes the symbol for a fallen service member, a gold star with blue fringe on a white background with a red border.³



A qualifying surviving spouse and a surviving parent, upon application, are issued the Gold Star license plate for one vehicle per household free of charge. Renewal decals are also issued free of charge. Other qualifying applicants, or additional household license plates, are subject to payment of the license tax and appropriate fees. Each initial application for a Gold Star license plate must include documented proof that the service member was killed while serving and proof of relationship to the service member.⁴

During fiscal year 2014-15, there were 51 Gold Star license plates issued and as of August 2015, there were 564 active registrations statewide.⁵

Proposed Change

The bill amends s. 320.0894(4)(a), F.S., expanding the list of individuals who qualify for issuance of a Gold Star license plate to include the following family members of a fallen service member:

Parent through adoption	Child	Brother/Sister
Foster parent	Step child	Half brother
Grandparent	Adopted child	Half sister

Additionally, the bill removes the requirement that the stepparent must be currently married to the mother or father of the fallen service member.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.0894, F.S., including certain individuals as qualified for issuance of a Gold Star license plate.

Section 2 Provides an effective date of upon becoming a law.

² s. 320.0894(4)(a)2., F.S.

³ s. 320.0894(1), F.S.

⁴ s. 320.0894(3)-(4), F.S.

⁵ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2016 Senate Bill 88, (August 24, 2015) (on file with the House Highway and Waterway Safety Subcommittee).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The state will pay \$2.82 in manufacturing fees for each additional Gold Star license plate issued.⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

An eligible family member who chooses to receive a Gold Star license plate will pay the same tax and fees as he or she would if issued a standard license plate.⁷

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

⁶ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2016 Senate Bill 88, (August 24, 2015) (on file with the House Highway and Waterway Safety Subcommittee).

⁷ License taxes vary based on type and weight of vehicle. See s. 320.08, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to Gold Star license plates; amending
 3 s. 320.0894, F.S.; revising qualifications for receipt
 4 of a Gold Star license plate to include certain
 5 relatives of a fallen servicemember; providing an
 6 effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (a) of subsection (4) of section
 11 320.0894, Florida Statutes, is amended to read:

12 320.0894 Motor vehicle license plates to Gold Star family
 13 members.—The department shall develop a special license plate
 14 honoring the family members of servicemembers who have been
 15 killed while serving in the Armed Forces of the United States.
 16 The license plate shall be officially designated as the Gold
 17 Star license plate and shall be developed and issued as provided
 18 in this section.

19 (4)(a)1.a. The Gold Star license plate shall be issued
 20 only to family members of a servicemember who resided in Florida
 21 at the time of the death of the servicemember.

22 b. Any family member, as defined in subparagraph 2., of a
 23 servicemember killed while serving may be issued a Gold Star
 24 license plate upon payment of the license tax and appropriate
 25 fees as provided in paragraph (3)(a) without regard to the state
 26 of residence of the servicemember.

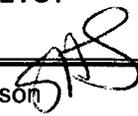
27 2. To qualify for issuance of a Gold Star license plate,
 28 the applicant must be directly related to a fallen servicemember
 29 as spouse, legal mother or father, ~~or stepparent,~~ parent through
 30 adoption, foster parent, grandparent, child, stepchild, adopted
 31 child, brother, sister, half-brother, or half-sister ~~who is~~
 32 ~~currently married to the mother or father~~ of the fallen
 33 servicemember.

34 3. A servicemember is deemed to have been killed while in
 35 service as listed by the United States Department of Defense and
 36 may be verified from documentation directly from the Department
 37 of Defense or from its subordinate agencies, such as the Coast
 38 Guard, Reserve, or National Guard.

39 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 509 Transportation Network Companies
SPONSOR(S): Gaetz and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee		Johnson 	Smith 
2) Economic Affairs Committee			

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 passengers 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 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 passengers with applicable rates being charged, and an option to receive an estimated fare.
- Requires an electronic receipt to be provided to TNC passengers 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 provides for 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.
- Requires vehicles used to provide TNC service to meet the safety and emissions requirements of the state where the vehicle is registered.
- 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.

The bill also revises financial responsibility requirements for for-hire passenger transportation vehicles and eliminates the self-insurance authorization for motor vehicles, and a separate self-insurance authorization for large operators of for-hire passenger vehicles.

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. There may be a fiscal impact on the private sector for those required to purchase motor vehicle insurance that currently self-insure. However, the impact is indeterminate, but is expected to be negative on those entities that currently self-insure.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0509.HWSS.DOCX

DATE: 11/24/2015

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

Preemption

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 1 1/2 tons under contract with the Government of the United States to carry United States mail, provided such vehicle is not used for commercial purposes."

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 s. 316.680, F.S., and any rules adopted by DHSMV to administer that section.¹³ 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.

Not a Common Carrier

The bill provides that a TNC or a TNC driver is not a common carrier¹⁴ 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 vehicles or for-hire vehicles.

Permit Required

The bill requires a person¹⁵ to obtain a permit from the Department of Highway Safety and Motor Vehicles (DHSMV) to operate as a TNC. DHSMV is required to issue a permit to each applicant that meets the requirements of a TNC and pays DHSMV a \$5,000 annual permit fee. However, the bill does not specify where DHSMV is supposed to deposit the permit fees.

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.^{16, 17}

Fare Collected for Services

The bill authorizes a TNC to collect a fare on behalf of a driver for services provided to passengers; however, if a fare is collected from a passenger, the TNC is required to disclose to the passenger the fare calculation method on its website or within its software application. The TNC is also required to provide the passenger with the applicable rates being charged and the option to receive an estimated fare before the passenger 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 passenger which lists:

- The origin and destination of the trip.
- The total time and distance of the trip.

¹³ The bill does not give DHSMV specific rulemaking authority regarding TNCs.

¹⁴ The term "common carrier" is not defined for purposes of Ch. 316, F.S.

¹⁵ Section 316.003(29), F.S., defines "person" as "any natural person, firm, copartnership, association, or corporation.

¹⁶ Section 48.091, F.S., requires any corporation doing business in the state to have a registered agent and registered office in the state.

¹⁷ 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."

- 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 passenger 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 passengers 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 passenger):

- 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.
- Primary automobile liability insurance that provides the minimum coverage requirements under the Florida Motor Vehicle No-Fault Law.¹⁸ The amount of insurance required is \$10,000 for disability and \$5,000 for death.¹⁹ 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, passengers 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.²⁰

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 passenger):

- Primary automobile liability insurance that provides at least \$1 million for death, bodily injury, and property damage; and
- Primary automobile liability insurance that provides the minimum coverage requirements where required 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.

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.²¹ 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

¹⁸ Sections 627.730 through 627.7405, F.S.

¹⁹ Section 627.736, F.S.

²⁰ Section 627.736(1), F.S.

²¹ Section 320.032(1)(a), F.S.

- 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, and a personal automobile insurance policy is not required for the TNC's insurer to 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.²²

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.,²³ 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.

The bill provides that an insurer that provides automobile liability insurance policies under Part XI of Ch. 627, F.S.²⁴ 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.

²² 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).

²³ Section 316.646, F.S., relates to required proof of automobile insurance and the display of such proof.

²⁴ Part XI of Ch. 627, F.S., relates to motor vehicle and casualty insurance contracts.

- Personal injury protection.

The exclusions described above apply notwithstanding any requirement under the Financial Responsibility Law of 1955.²⁵ 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 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;
- The TNC does not restrict the driver from engaging in any other occupation or business; and
- 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 passenger to file a complaint about a driver who the passenger reasonably suspects was under the influence of drugs or alcohol during the course of a trip.

²⁵ Chapter 324, F.S.

Upon receiving a passenger 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 every two years thereafter, the TNC shall:

- Require the person to submit an application to the TNC, including his or her address, date of birth, 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.
- 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. Major violations²⁶ include, but are not limited to, 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;
- 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;
- 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.

Vehicle Safety and Emissions

The bill requires a TNC to require that a personal vehicle used by a driver to provide TNC service meet the vehicle safety and emissions requirements for a private motor vehicle of the state where the vehicle is registered.²⁷

Prohibited Conduct

The bill provides that a TNC driver may not:

- Accept a ride other than a ride arranged through a digital network or software application service.
- Solicit or accept street hails.
- Solicit or accept cash payments from passengers. A TNC is required to adopt a policy prohibiting solicitation or acceptance of cash payments from passengers 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

²⁶ Major violations are not listed anywhere in the state's traffic laws.

²⁷ Florida currently does not have vehicle emissions requirements for private motor vehicles.

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 passenger 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 passengers or potential passengers 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 passengers 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 passenger 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 passenger 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 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 The operator or owner of **any other** vehicle may prove his or her financial responsibility by:

²⁸ Section 324.251, F.S.

²⁹ Section 324.011, F.S.

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.

- Furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in ss. 324.021(8) and 324.151, F.S.;
- Furnishing a certificate of self-insurance showing a deposit of cash in accordance with s. 324.161, F.S.;³³ or
- Furnishing a certificate of self-insurance issued by DHSMV in accordance with s. 324.171, F.S.³⁴

Any person,³⁵ including, any firm, partnership, association, corporation, or other person, other than a natural person, electing to use the deposit of cash as the method of proof is required to furnish a certificate of deposit equal to the number of vehicles owned times \$30,000 to a maximum of \$120,000; in addition, any such person, other than a natural person, shall maintain insurance providing in excess of limits of \$10,000/20,000/10,000 or \$30,000 in combined single limits, and such excess insurance shall provide minimum limits of \$125,000/250,000/50,000 or \$300,000 combined single limits. These increased limits do not affect the requirements for providing financial responsibility under s. 324.032(1).

Section 324.032, F.S., provides that notwithstanding the provisions of s. 324.031, F.S.:

- A person who is either the owner or a lessee required to maintain insurance under s. 627.733(1)(b), F.S.,³⁶ and who operates one or more taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, but with minimum limits of \$125,000/250,000/50,000.
- A person who is either the owner or a lessee required to maintain insurance under s. 324.021(9)(b), F.S., and who operates limousines, jitneys, or any other for-hire passenger vehicles, other than taxicabs, may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.031, F.S.

An owner or a lessee who is required to maintain insurance under s. 324.021(9)(b), F.S., and operates at least 300 taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may provide financial responsibility by complying with the provisions of s. 324.171, F.S., such compliance to be demonstrated by maintaining at its principal place of business an audited financial statement, prepared in accordance with generally accepted accounting principles, and providing to DHSMV a certification issued by a certified public accountant that the applicant's net worth is at least equal to the requirements of s. 324.171, F.S., as determined by the Office of Insurance Regulation of the Financial Services Commission, including claims liabilities in an amount certified as adequate by a Fellow of the Casualty Actuarial Society.

Upon request by DHSMV, the applicant must provide the DHSMV at the applicant's principal place of business in this state access to the applicant's underlying financial information and financial statements providing the basis of the certified public accountant's certification. The applicant is required to reimburse DHSMV for all reasonable costs incurred by it in reviewing the supporting information. The maximum amount of self-insurance permissible under s. 324.032(2), F.S., is \$300,000 and must be stated on a per-occurrence basis, and the applicant is required maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Office of Insurance Regulation. All risks self-insured shall remain with the owner or lessee providing it and the risks are not transferable to any other person, unless a policy complying with s. 324.032(1), F.S., is obtained.

³³ Section 324.161, F.S., relates to proof of financial responsibility; deposits.

³⁴ Section 324.171, F.S., relates to self-insurers.

³⁵ Section 324.021(4), F.S., defines "person" for purposes of Ch. 324, F.S., as "every natural person, firm, copartnership, association, or corporation.

³⁶ Section 627.733(1)(b), F.S., provides for required security for motor vehicles used as taxi-cabs.

According to DHSMV, the state's self-insurance program currently contains 283 active accounts. Of these accounts, 242 are individual accounts and 41 are company accounts. Of the 41 company accounts, 37 have been issued a Company and Commercial Self-Insurance Certificate, two company accounts have been issued just a Commercial Vehicle Self-Insurance Certificate, and two companies have been issued Taxi Self-Insurance Certificates.³⁷

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 insurer³⁸ 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.³⁹ 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.⁴⁰

The bill also removes the provisions that the owner or operator of **any other vehicle** may prove his or her financial responsibility by either furnishing a deposit of cash in accordance with s. 324.161, F.S. or furnishing a certificate of self-insurance with DHSMV in accordance with s. 324.171, F.S. The bill also removes the minimum requirements for the deposit of cash.

The bill amends s. 324.032, F.S., removing a self-insurance provision allowing owners or lessees required to maintain insurance and operate at least 300 taxicabs, limousines, jitneys, or other for-hire passenger transportation vehicles to provide financial responsibility by maintaining audited financial statements and providing DHSMV certification issued by a certified public accountant showing that the applicant's net worth meets certain requirements. The bill also repeals language requiring the companies to provide the underlying financial information and financial statements to DHSMV upon the request of DHSMV.

The bill amends ss. 324.022, 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.

³⁷ November 20, 2015, e-mail from DHSMV to Economic Affairs Committee Staff. Copy on file with the Economic Affairs Committee.

³⁸ Section 626.918, F.S., provides the statutory requirements for eligible surplus lines insurers.

³⁹ Financial strength rating organizations include: A.M. Best (www.ambest.com), Fitch (www.fitchratings.com), Moody's Investor Services (www.moody.com), Standard & Poor's (www.standardandpoors.com), and Demotech (www.demotech.com).

⁴⁰ 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 3 Amends s. 324.032, F.S., relating to the manner of proving financial responsibility; for-hire passenger transportation vehicles.
- Section 4 Amends s. 324.033, F.S., relating to financial responsibility for property damage to conform.
- Section 5 Amends s. 324.023, F.S., relating to financial responsibility for bodily injury or death to conform.
- Section 6 Amends s. 324.051, F.S., relating to reports of crashes; suspensions of licenses and registrations conform.
- Section 7 Amends s. 324.071, F.S., relating to reinstatement; renewal of license; reinstatement fee to conform.
- Section 8 Amends s. 324.151, F.S., relating to motor vehicle liability policies; required provisions to conform.
- Section 9 Amends s. 627.733, F.S., relating to required security to conform.
- Section 10 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.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

TNC 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.

The bill removes the authorization for self-insuring motor vehicles. This could potentially have a negative indeterminate fiscal impact on those persons and businesses currently self-insuring their vehicles, since they will now be required to purchase automobile insurance.

D. FISCAL COMMENTS:

Lines 102 and 103 require TNCs to pay an annual permit fee of \$5,000 to DHSMV; however, the bill is silent as to where the fees are supposed to be deposited.

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:

Single Subject

The bill's relating to clause is "transportation network companies," while the vast majority of the bill addresses transportation network companies, the amendments to ss. 324.031 and 324.032, F.S., removes provisions allowing self-insurance for vehicles other than taxicabs, limousines, jitneys, vehicles used in connection with TNCs or any other for-hire transportation vehicle. This appears to eliminate the ability for individuals to self-insure their own motor vehicles. It could be argued that this insurance provision does not relate to TNCs; therefore, the bill may violate the single subject requirement contained in s.6 of Art. III of the Florida Constitution.

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.

DHSMV may be required to amend its motor vehicle self-insurance rule⁴¹ to conform to the removal of the self-insurance provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

On line 95, the word "motor" may need to be inserted between the words "commercial" and "vehicle."

Line 98 refers to a "person" obtaining a permit from DHSMV to operate a TNC in the state. Line 100 refers to an "applicant." The term "applicant" may need to be changed to "person."

On lines 116 and 399, the word "service" may need to be added after "application" to be consistent with other provisions of the bill.

Lines 276 through 290 contain a list of conditions which must be met for TNC drivers to be independent contractors. Some of the items end with a semicolon and other items end with a period. These lines may need to be amended for consistency.

Lines 408 and 409 indicate that TNCs are governed exclusively by s. 316.680, F.S., and rules adopted by DHSMV to administer that section. However, the bill does not expressly provide rulemaking authority; therefore it is not clear as to whether or not DHSMV has rulemaking authority regarding TNCs.

Section 2 of the bill appears to repeal the authorization of any motor vehicle to prove financial responsibility by furnishing a certificate of self-insurance. If that is the case, sections 324.161 and 324.171, F.S, providing for proof of financial responsibility and self-insurance may need to be amended or repealed for consistency.

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

N/A

27 responsibility; providing for such proof by owners or
 28 operators of a vehicle used in connection with a
 29 transportation network company; amending ss. 324.022,
 30 324.023, 324.051, 324.071, 324.151, and 627.733, F.S.;
 31 conforming provisions to changes made by the act;
 32 providing an effective date.

33

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

35

36 Section 1. Section 316.680, Florida Statutes, is created
 37 to read:

38 316.680 Transportation network companies.—

39 (1) DEFINITIONS.—As used in this section, the term:

40 (a) "Digital network" means any online-enabled application,
 41 software, website, or system offered or used by a transportation
 42 network company that enables the prearrangement of rides with
 43 transportation network company drivers.

44 (b) "Personal vehicle" means a vehicle that is used by a
 45 transportation network company driver in connection with
 46 providing transportation network company service and is:

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

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

51 (c) "Transportation network company" or "company" means an
 52 entity granted a permit under this section to operate in this

53 state using a digital network or software application service to
 54 connect passengers to transportation network company service
 55 provided by drivers. A company is not deemed to own, control,
 56 operate, or manage the vehicles used by drivers; is not deemed
 57 to control or manage drivers; and is not a taxicab association
 58 or for-hire vehicle owner. A transportation network company does
 59 not include an individual, corporation, partnership, sole
 60 proprietorship, or other entity arranging nonemergency medical
 61 transportation for individuals qualifying for Medicaid or
 62 Medicare pursuant to a contract with the state or a managed care
 63 organization.

64 (d) "Transportation network company driver" or "driver"
 65 means an individual who:

66 1. Receives connections to potential passengers and
 67 related services from a transportation network company in
 68 exchange for payment of a fee to the transportation network
 69 company; and

70 2. Uses a personal vehicle to provide transportation
 71 network company service to passengers upon connection through a
 72 digital network controlled by a transportation network company
 73 in return for compensation or payment of a fee.

74 (e) "Transportation network company rider" or "rider"
 75 means an individual or person who uses a transportation network
 76 company's digital network to connect with a transportation
 77 network company driver who provides transportation network
 78 company service to the rider in the driver's personal vehicle

79 between points chosen by the rider.

80 (f) "Transportation network company service" means the
 81 provision of transportation by a driver to a rider, beginning
 82 when a driver accepts a ride requested by a rider through a
 83 digital network controlled by a transportation network company,
 84 continuing while the driver transports a rider, and ending when
 85 the last rider departs from the personal vehicle. The term does
 86 not include a taxi, for-hire vehicle, or street hail service.

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

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

97 (3) PERMIT REQUIRED.—

98 (a) A person must obtain a permit from the department to
 99 operate a transportation network company in this state.

100 (b) The department shall issue a permit to each applicant
 101 that meets the requirements for a transportation network company
 102 pursuant to this section and pays an annual permit fee of \$5,000
 103 to the department.

104 (4) AGENT FOR SERVICE OF PROCESS REQUIRED.—A

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

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

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

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

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

131 (8) TRANSPORTATION NETWORK COMPANY AND DRIVER INSURANCE
 132 REQUIREMENTS.—

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

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

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

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

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

152 2. Primary automobile liability insurance that provides
 153 the minimum coverage requirements under ss. 627.730-627.7405.

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

157 1. Primary automobile liability insurance that provides at
 158 least \$1 million for death, bodily injury, and property damage;
 159 and

160 2. Primary automobile liability insurance that provides
 161 the minimum coverage requirements where required of a limousine
 162 under ss. 627.730-627.7405.

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

165 1. Automobile liability insurance maintained by the
 166 driver;

167 2. Automobile liability insurance maintained by the
 168 company; or

169 3. A combination of coverage maintained as provided in
 170 subparagraphs 1. and 2.

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

176 (f) Coverage under an automobile insurance policy
 177 maintained by the transportation network company is not
 178 dependent on a personal automobile insurer's first denying a
 179 claim, and a personal automobile insurance policy is not
 180 required for the transportation network company's insurer to
 181 deny a claim.

182 (g) Insurance required by this section may be placed with

183 an insurer authorized to do business in the state or with a
 184 surplus lines insurer eligible under the Surplus Lines Law under
 185 ss. 626.913-626.937.

186 (h) Insurance satisfying the requirements of this section
 187 is deemed to satisfy the financial responsibility requirement
 188 for a motor vehicle under chapter 324 and the security required
 189 under s. 627.733.

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

205 (j) If a transportation network company's insurer makes a
 206 payment for a claim covered under comprehensive coverage or
 207 collision coverage, the transportation network company shall
 208 cause its insurer to issue the payment directly to the business

209 repairing the vehicle or jointly to the owner of the vehicle and
 210 the primary lienholder on the covered vehicle.

211 (9) TRANSPORTATION NETWORK COMPANY AND INSURER;
 212 EXCLUSIONS; DISCLOSURE.—

213 (a) The transportation network company shall disclose the
 214 following in writing to drivers before they are allowed to
 215 accept a request for transportation network company service on
 216 the transportation network company's digital network:

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

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

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

235 including, but not limited to:
 236 a. Liability coverage for bodily injury and property
 237 damage.
 238 b. Uninsured and underinsured motorist coverage.
 239 c. Medical payments coverage.
 240 d. Comprehensive physical damage coverage.
 241 e. Collision physical damage coverage.
 242 f. Personal injury protection.
 243 2. The exclusions described in subparagraph 1. apply
 244 notwithstanding any requirement under chapter 324. This section
 245 does not require or imply that a personal automobile insurance
 246 policy provides coverage while the driver is logged into the
 247 transportation network company's digital network, while the
 248 driver is engaged in transportation network company service, or
 249 while the driver otherwise uses a vehicle to transport
 250 passengers for compensation.
 251 3. This section does not preclude an insurer from
 252 providing coverage by contract or endorsement for the driver's
 253 vehicle.
 254 (c)1. An insurer that excludes the coverage described in
 255 subparagraph (b)1. has no duty to defend or indemnify any claim
 256 expressly excluded thereunder. This section does not invalidate
 257 or limit an exclusion contained in a policy, including a policy
 258 in use or approved for use in this state before July 1, 2016.
 259 2. An automobile insurer that defends or indemnifies a
 260 claim against a driver, which is excluded under the terms of its

261 policy, has a right of contribution against other insurers that
 262 provide automobile insurance to the same driver in satisfaction
 263 of the coverage requirements of subsection (8) at the time of
 264 loss.

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

276 (10) DRIVERS AS INDEPENDENT CONTRACTORS.—

277 (a) A driver is an independent contractor and not an
 278 employee of the company if the following conditions are met:

279 1. The company does not prescribe specific hours during
 280 which the driver must be logged into the company's digital
 281 network.

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

284 3. The company does not assign the driver to a particular
 285 territory in which transportation network company services are
 286 authorized to be provided.

287 4. The company does not restrict the driver from engaging
 288 in any other occupation or business; and

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

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

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

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

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

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

311 (12) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

312 (a) Before allowing a person to act as a driver on its

313 digital network, and at least once every 2 years thereafter, the
 314 company shall:

315 1. Require the person to submit an application to the
 316 company, including his or her address, date of birth, driver
 317 license number, driving history, motor vehicle registration,
 318 automobile liability insurance, and other information required
 319 by the company.

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

322 a. A Multi-State/Multi-Jurisdiction Criminal Records
 323 Locator or other similar commercial national database with
 324 validation.

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

326 3. Obtain and review a driving history research report for
 327 such person.

328 (b) The company shall prohibit a person from acting as a
 329 driver on its digital network if the person:

330 1. Has had more than three moving violations in the
 331 preceding 3-year period or one major violation in the preceding
 332 3-year period. A major violation includes, but is not limited
 333 to, fleeing or attempting to elude a law enforcement officer,
 334 reckless driving, or driving with a suspended or revoked
 335 license;

336 2. Has been convicted, within the past 7 years, of driving
 337 under the influence of drugs or alcohol, fraud, sexual offenses,
 338 use of a motor vehicle to commit a felony, a crime involving

339 property damage or theft, acts of violence, or acts of terror;

340 3. Is a match in the Dru Sjodin National Sex Offender
 341 Public Website;

342 4. Does not possess a valid driver license;

343 5. Does not possess proof of registration for the motor
 344 vehicle used to provide transportation network company service;

345 6. Does not possess proof of automobile liability
 346 insurance for the motor vehicle used to provide transportation
 347 network company service; or

348 7. Has not attained the age of 19 years.

349 (13) VEHICLE SAFETY AND EMISSIONS.—A company shall require
 350 that a personal vehicle used by a driver to provide
 351 transportation network company service meets the vehicle safety
 352 and emissions requirements for a private motor vehicle of the
 353 state in which the vehicle is registered.

354 (14) PROHIBITED CONDUCT.—A driver may not:

355 (a) Accept a ride other than a ride arranged through a
 356 digital network or software application service.

357 (b) Solicit or accept street hails.

358 (c) Solicit or accept cash payments from passengers. A
 359 company shall adopt a policy prohibiting solicitation or
 360 acceptance of cash payments from passengers and notify drivers
 361 of such policy. Such policy must require a payment for
 362 transportation network company service to be made electronically
 363 using the company's digital network or software application
 364 service.

365 (15) NONDISCRIMINATION; ACCESSIBILITY.-

366 (a) A company may not discriminate against a driver on the
 367 basis of race, color, national origin, religious belief or
 368 affiliation, sex, disability, age, or sexual orientation. A
 369 company shall adopt a policy to assist a driver who reasonably
 370 believes that he or she has received a negative rating from a
 371 passenger because of his or her race, color, national origin,
 372 religious belief or affiliation, sex, disability, age, or sexual
 373 orientation.

374 (b) A company shall adopt a policy of nondiscrimination on
 375 the basis of destination, race, color, national origin,
 376 religious belief or affiliation, sex, disability, age, or sexual
 377 orientation with respect to passengers and potential passengers
 378 and shall notify drivers of such policy.

379 (c) A driver shall comply with the nondiscrimination
 380 policy.

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

383 (e) A company may not impose additional charges for
 384 providing transportation network company service to persons with
 385 physical disabilities because of those disabilities.

386 (f) A company shall provide passengers an opportunity to
 387 indicate whether they require a wheelchair-accessible vehicle.
 388 If a company cannot arrange wheelchair-accessible service, it
 389 shall direct the passenger to an alternate provider of
 390 wheelchair-accessible service, if available.

391 (16) RECORDS.—A company shall maintain:

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

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

397 (c) The company shall maintain records of written
 398 passenger complaints received through the company's software
 399 application for at least 2 years after the date such complaint
 400 is received by the company.

401 (17) PREEMPTION.—It is the intent of the Legislature to
 402 provide for uniformity of laws governing transportation network
 403 companies, transportation network company drivers, and vehicles
 404 used by transportation network company drivers throughout the
 405 state. Notwithstanding any other provision of law,
 406 transportation network companies, transportation network company
 407 drivers, and vehicles used by transportation network company
 408 drivers are governed exclusively by this section and any rules
 409 adopted by the department to administer this section. A county,
 410 municipality, special district, airport authority, port
 411 authority, or other local governmental entity or subdivision may
 412 not impose a tax on, or require a license for, a company or a
 413 driver, or a vehicle used by a driver, if such tax or license
 414 relates to providing transportation network company services, or
 415 subjects a company to any rate, entry, operation, or other
 416 requirement of the county, municipality, special district,

417 airport authority, port authority, or other local governmental
 418 entity or subdivision.

419 Section 2. Section 324.031, Florida Statutes, is amended
 420 to read:

421 324.031 Manner of proving financial responsibility.—The
 422 owner or operator of a taxicab, limousine, jitney, any vehicle
 423 used in connection with a transportation network company or any
 424 other for-hire passenger transportation vehicle may prove
 425 financial responsibility by providing satisfactory evidence of
 426 holding a motor vehicle liability policy as defined in s.
 427 324.021(8) or s. 324.151, which policy is issued by an insurance
 428 carrier which is a member of the Florida Insurance Guaranty
 429 Association or an eligible surplus lines insurer under s.
 430 626.918 that is rated "A-" or higher by A. M. Best Company. The
 431 operator or owner of any other vehicle may prove his or her
 432 financial responsibility by+

433 ~~(1) furnishing satisfactory evidence of holding a motor~~
 434 ~~vehicle liability policy as defined in ss. 324.021(8) and~~
 435 ~~324.151.~~

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

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

440
 441 ~~Any person, including any firm, partnership, association,~~
 442 ~~corporation, or other person, other than a natural person,~~

443 ~~electing to use the method of proof specified in subsection (2)~~
 444 ~~shall furnish a certificate of deposit equal to the number of~~
 445 ~~vehicles owned times \$30,000, to a maximum of \$120,000; in~~
 446 ~~addition, any such person, other than a natural person, shall~~
 447 ~~maintain insurance providing coverage in excess of limits of~~
 448 ~~\$10,000/20,000/10,000 or \$30,000 combined single limits, and~~
 449 ~~such excess insurance shall provide minimum limits of~~
 450 ~~\$125,000/250,000/50,000 or \$300,000 combined single limits.~~
 451 ~~These increased limits shall not affect the requirements for~~
 452 ~~proving financial responsibility under s. 324.032(1).~~

453 Section 3. Section 324.032, Florida Statutes, is amended
 454 to read:

455 324.032 Manner of proving financial responsibility; for-
 456 hire passenger transportation vehicles.—Notwithstanding the
 457 provisions of s. 324.031:

458 (1) ~~(a)~~ A person who is either the owner or a lessee
 459 required to maintain insurance under s. 627.733(1)(b) and who
 460 operates one or more taxicabs, limousines, jitneys, or any other
 461 for-hire passenger transportation vehicles may prove financial
 462 responsibility by furnishing satisfactory evidence of holding a
 463 motor vehicle liability policy, but with minimum limits of
 464 \$125,000/250,000/50,000.

465 (2) ~~(b)~~ A person who is either the owner or a lessee
 466 required to maintain insurance under s. 324.021(9)(b) and who
 467 operates limousines, jitneys, or any other for-hire passenger
 468 vehicles, other than taxicabs, may prove financial

469 responsibility by furnishing satisfactory evidence of holding a
 470 motor vehicle liability policy as defined in s. 324.031.

471 ~~(2) An owner or a lessee who is required to maintain~~
 472 ~~insurance under s. 324.021(9)(b) and who operates at least 300~~
 473 ~~taxicabs, limousines, jitneys, or any other for-hire passenger~~
 474 ~~transportation vehicles may provide financial responsibility by~~
 475 ~~complying with the provisions of s. 324.171, such compliance to~~
 476 ~~be demonstrated by maintaining at its principal place of~~
 477 ~~business an audited financial statement, prepared in accordance~~
 478 ~~with generally accepted accounting principles, and providing to~~
 479 ~~the department a certification issued by a certified public~~
 480 ~~accountant that the applicant's net worth is at least equal to~~
 481 ~~the requirements of s. 324.171 as determined by the Office of~~
 482 ~~Insurance Regulation of the Financial Services Commission,~~
 483 ~~including claims liabilities in an amount certified as adequate~~
 484 ~~by a Fellow of the Casualty Actuarial Society.~~

485
 486 ~~Upon request by the department, the applicant must provide the~~
 487 ~~department at the applicant's principal place of business in~~
 488 ~~this state access to the applicant's underlying financial~~
 489 ~~information and financial statements that provide the basis of~~
 490 ~~the certified public accountant's certification. The applicant~~
 491 ~~shall reimburse the requesting department for all reasonable~~
 492 ~~costs incurred by it in reviewing the supporting information.~~
 493 ~~The maximum amount of self-insurance permissible under this~~
 494 ~~subsection is \$300,000 and must be stated on a per-occurrence~~

495 ~~basis, and the applicant shall maintain adequate excess~~
 496 ~~insurance issued by an authorized or eligible insurer licensed~~
 497 ~~or approved by the Office of Insurance Regulation. All risks~~
 498 ~~self-insured shall remain with the owner or lessee providing it,~~
 499 ~~and the risks are not transferable to any other person, unless a~~
 500 ~~policy complying with subsection (1) is obtained.~~

501 Section 4. Subsection (1) and paragraph (a) of subsection
 502 (2) of section 324.022, Florida Statutes, are amended to read:

503 324.022 Financial responsibility for property damage.—

504 (1) Every owner or operator of a motor vehicle required to
 505 be registered in this state shall establish and maintain the
 506 ability to respond in damages for liability on account of
 507 accidents arising out of the use of the motor vehicle in the
 508 amount of \$10,000 because of damage to, or destruction of,
 509 property of others in any one crash. The requirements of this
 510 section may be met by ~~one of~~ the methods established in s.
 511 324.031; by self-insuring as authorized by s. 768.28(16); or by
 512 maintaining an insurance policy providing coverage for property
 513 damage liability in the amount of at least \$10,000 because of
 514 damage to, or destruction of, property of others in any one
 515 accident arising out of the use of the motor vehicle. The
 516 requirements of this section may also be met by having a policy
 517 which provides coverage in the amount of at least \$30,000 for
 518 combined property damage liability and bodily injury liability
 519 for any one crash arising out of the use of the motor vehicle.
 520 The policy, with respect to coverage for property damage

521 liability, must meet the applicable requirements of s. 324.151,
 522 subject to the usual policy exclusions that have been approved
 523 in policy forms by the Office of Insurance Regulation. No
 524 insurer shall have any duty to defend uncovered claims
 525 irrespective of their joinder with covered claims.

526 (2) As used in this section, the term:

527 (a) "Motor vehicle" means any self-propelled vehicle that
 528 has four or more wheels and that is of a type designed and
 529 required to be licensed for use on the highways of this state,
 530 and any trailer or semitrailer designed for use with such
 531 vehicle. The term does not include:

532 1. A mobile home.

533 2. A motor vehicle that is used in mass transit and
 534 designed to transport more than five passengers, exclusive of
 535 the operator of the motor vehicle, and that is owned by a
 536 municipality, transit authority, or political subdivision of the
 537 state.

538 3. A school bus as defined in s. 1006.25.

539 4. A vehicle providing for-hire transportation that is
 540 subject to ~~the provisions of~~ s. 324.031. A taxicab shall
 541 maintain security as required under s. 324.032 ~~324.032(1)~~.

542 Section 5. Section 324.023, Florida Statutes, is amended
 543 to read:

544 324.023 Financial responsibility for bodily injury or
 545 death.—In addition to any other financial responsibility
 546 required by law, every owner or operator of a motor vehicle that

547 | is required to be registered in this state, or that is located
 548 | within this state, and who, regardless of adjudication of guilt,
 549 | has been found guilty of or entered a plea of guilty or nolo
 550 | contendere to a charge of driving under the influence under s.
 551 | 316.193 after October 1, 2007, shall, by ~~one of~~ the methods
 552 | established in s. 324.031 ~~324.031(1) or (2)~~, establish and
 553 | maintain the ability to respond in damages for liability on
 554 | account of accidents arising out of the use of a motor vehicle
 555 | in the amount of \$100,000 because of bodily injury to, or death
 556 | of, one person in any one crash and, subject to such limits for
 557 | one person, in the amount of \$300,000 because of bodily injury
 558 | to, or death of, two or more persons in any one crash and in the
 559 | amount of \$50,000 because of property damage in any one crash.
 560 | If the owner or operator chooses to establish and maintain such
 561 | ability by furnishing a certificate of deposit ~~pursuant to s.~~
 562 | ~~324.031(2)~~, such certificate of deposit must be at least
 563 | \$350,000. Such higher limits must be carried for a minimum
 564 | period of 3 years. If the owner or operator has not been
 565 | convicted of driving under the influence or a felony traffic
 566 | offense for a period of 3 years after ~~from~~ the date of
 567 | reinstatement of driving privileges for a violation of s.
 568 | 316.193, the owner or operator shall be exempt from this
 569 | section.

570 | Section 6. Paragraph (a) of subsection (2) of section
 571 | 324.051, Florida Statutes, is amended to read:

572 | 324.051 Reports of crashes; suspensions of licenses and

573 | registrations.-

574 | (2)(a) Thirty days after receipt of notice of any accident
 575 | described in paragraph (1)(a) involving a motor vehicle within
 576 | this state, the department shall suspend, after due notice and
 577 | opportunity to be heard, the license of each operator and all
 578 | registrations of the owner of the vehicles operated by such
 579 | operator whether or not involved in such crash and, in the case
 580 | of a nonresident owner or operator, shall suspend such
 581 | nonresident's operating privilege in this state, unless such
 582 | operator or owner shall, prior to the expiration of such 30
 583 | days, be found by the department to be exempt from the operation
 584 | of this chapter, based upon evidence satisfactory to the
 585 | department that:

586 | 1. The motor vehicle was legally parked at the time of
 587 | such crash.

588 | 2. The motor vehicle was owned by the United States
 589 | Government, this state, or any political subdivision of this
 590 | state or any municipality therein.

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

595 | 4. Such operator or owner has deposited with the
 596 | department security to conform with s. 324.061 when applicable
 597 | and has complied with ~~one of the provisions of~~ s. 324.031.

598 | 5. One year has elapsed since such owner or operator was

599 | suspended pursuant to subsection (3), the owner or operator has
 600 | complied with ~~one of the provisions of~~ s. 324.031, and no bill
 601 | of complaint of which the department has notice has been filed
 602 | in a court of competent jurisdiction.

603 |
 604 | No such policy or bond shall be effective under this subsection
 605 | unless it contains limits of not less than those specified in s.
 606 | 324.021(7).

607 | Section 7. Section 324.071, Florida Statutes, is amended
 608 | to read:

609 | 324.071 Reinstatement; renewal of license; reinstatement
 610 | fee.—Any operator or owner whose license or registration has
 611 | been suspended pursuant to s. 324.051(2), s. 324.072, s.
 612 | 324.081, or s. 324.121 may effect its reinstatement upon
 613 | compliance with the provisions of s. 324.051(2)(a)3. or 4., or
 614 | s. 324.081(2) and (3), as the case may be, and with ~~one of the~~
 615 | ~~provisions of~~ s. 324.031 and upon payment to the department of a
 616 | nonrefundable reinstatement fee of \$15. Only one such fee shall
 617 | be paid by any one person irrespective of the number of licenses
 618 | and registrations to be then reinstated or issued to such
 619 | person. All such fees shall be deposited to a department trust
 620 | fund. When the reinstatement of any license or registration is
 621 | effected by compliance with s. 324.051(2)(a)3. or 4., the
 622 | department shall not renew the license or registration within a
 623 | period of 3 years from such reinstatement, nor shall any other
 624 | license or registration be issued in the name of such person,

625 unless the operator is continuing to comply with ~~one of the~~
 626 ~~provisions of~~ s. 324.031.

627 Section 8. Subsection (1) of section 324.151, Florida
 628 Statutes, is amended to read:

629 324.151 Motor vehicle liability policies; required
 630 provisions.—

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

634 (a) An owner's liability insurance policy shall designate
 635 by explicit description or by appropriate reference all motor
 636 vehicles with respect to which coverage is thereby granted and
 637 shall insure the owner named therein and any other person as
 638 operator using such motor vehicle or motor vehicles with the
 639 express or implied permission of such owner against loss from
 640 the liability imposed by law for damage arising out of the
 641 ownership, maintenance, or use of such motor vehicle or motor
 642 vehicles within the United States or the Dominion of Canada,
 643 subject to limits, exclusive of interest and costs with respect
 644 to each such motor vehicle as is provided for under s.

645 324.021(7). Insurers may make available, with respect to
 646 property damage liability coverage, a deductible amount not to
 647 exceed \$500. In the event of a property damage loss covered by a
 648 policy containing a property damage deductible provision, the
 649 insurer shall pay to the third-party claimant the amount of any
 650 property damage liability settlement or judgment, subject to

651 policy limits, as if no deductible existed.

652 (b) An operator's motor vehicle liability policy of
 653 insurance shall insure the person named therein against loss
 654 from the liability imposed upon him or her by law for damages
 655 arising out of the use by the person of any motor vehicle not
 656 owned by him or her, with the same territorial limits and
 657 subject to the same limits of liability as referred to above
 658 with respect to an owner's policy of liability insurance.

659 (c) All such motor vehicle liability policies shall state
 660 the name and address of the named insured, the coverage afforded
 661 by the policy, the premium charged therefor, the policy period,
 662 the limits of liability, and shall contain an agreement or be
 663 endorsed that insurance is provided in accordance with the
 664 coverage defined in this chapter as respects bodily injury and
 665 death or property damage or both and is subject to all
 666 provisions of this chapter. Said policies shall also contain a
 667 provision that the satisfaction by an insured of a judgment for
 668 such injury or damage shall not be a condition precedent to the
 669 right or duty of the insurance carrier to make payment on
 670 account of such injury or damage, and shall also contain a
 671 provision that bankruptcy or insolvency of the insured or of the
 672 insured's estate shall not relieve the insurance carrier of any
 673 of its obligations under said policy.

674 Section 9. Paragraph (b) of subsection (1) and paragraph
 675 (b) of subsection (3) of section 627.733, Florida Statutes, are
 676 amended to read:

677 627.733 Required security.—

678 (1)

679 (b) Every owner or registrant of a motor vehicle used as a
680 taxicab shall not be governed by paragraph (1)(a) but shall
681 maintain security as required under s. 324.032 ~~324.032(1)~~, and
682 s. 627.737 shall not apply to any motor vehicle used as a
683 taxicab.

684 (3) Such security shall be provided:

685 (b) By any other method authorized by s. 324.031
686 ~~324.031(2) or (3)~~ and approved by the Department of Highway
687 Safety and Motor Vehicles as affording security equivalent to
688 that afforded by a policy of insurance or by self-insuring as
689 authorized by s. 768.28(16). The person filing such security
690 shall have all of the obligations and rights of an insurer under
691 ss. 627.730-627.7405.

692 Section 10. 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: Highway & Waterway Safety
 2 Subcommittee
 3 Representative Gaetz offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and
7 insert:

8 Section 1. Section 316.680, Florida Statutes, is created
9 to read:

10 316.680 Transportation network companies.-

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

12 (a) "Digital network" means any online-enabled application,
 13 software, website, or system offered or used by a transportation
 14 network company that enables the prearrangement of rides with
 15 transportation network company drivers.

16 (b) "Personal vehicle" means a vehicle that is used by a
 17 transportation network company driver in connection with



Amendment No. 1.

18 providing transportation network company service and is:

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

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

23 (c) "Transportation network company" or "company" means an
24 entity granted a permit under this section to operate in this
25 state using a digital network or software application service to
26 connect riders to transportation network company service
27 provided by drivers. A company is not deemed to own, control,
28 operate, or manage the vehicles used by drivers; is not deemed
29 to control or manage drivers; and is not a taxicab association
30 or for-hire vehicle owner. A transportation network company does
31 not include an individual, corporation, partnership, sole
32 proprietorship, or other entity arranging nonemergency medical
33 transportation for individuals qualifying for Medicaid or
34 Medicare pursuant to a contract with the state or a managed care
35 organization.

36 (d) "Transportation network company driver" or "driver"
37 means an individual who:

38 1. Receives connections to potential riders and related
39 services from a transportation network company in exchange for
40 payment of a fee to the transportation network company; and

41 2. Uses a personal vehicle to provide transportation
42 network company service to riders upon connection through a
43 digital network controlled by a transportation network company



Amendment No. 1.

44 in return for compensation or payment of a fee.

45 (e) "Transportation network company rider" or "rider"
46 means an individual or person who uses a transportation network
47 company's digital network to connect with a transportation
48 network company driver who provides transportation network
49 company service to the rider in the driver's personal vehicle
50 between points chosen by the rider.

51 (f) "Transportation network company service" means the
52 provision of transportation by a driver to a rider, beginning
53 when a driver accepts a ride requested by a rider through a
54 digital network controlled by a transportation network company,
55 continuing while the driver transports a rider, and ending when
56 the last rider departs from the personal vehicle. The term does
57 not include a taxi, for-hire vehicle, or street hail service and
58 it does not include ridesharing, as defined in s. 341.031, a
59 carpool service, as defined s. 450.28, or any other type of
60 service in which the driver receives a fee that does not exceed
61 the driver's cost to provide the ride.

62 (g) "Trip" means the duration of transportation network
63 company service beginning at a point of origin where the rider
64 enters the driver's vehicle and ending at a point of destination
65 where the rider exits the vehicle.

66 (2) NOT A COMMON CARRIER.--A transportation network company
67 or driver is not a common carrier and does not provide taxi or
68 for-hire vehicle service. In addition, a driver is not required
69 to register the vehicle that the driver uses for transportation



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70 network company service as a commercial motor vehicle or a for-
71 hire vehicle.

72 (3) PERMIT REQUIRED.-

73 (a) A company must obtain a permit from the department to
74 operate a transportation network company in this state.

75 (b) The department shall issue a permit to each company
76 that meets the requirements for a transportation network company
77 pursuant to this section and pays an annual permit fee of \$5,000
78 to the department to be deposited into the Highway Safety
79 Operating Trust Fund.

80 (4) AGENT FOR SERVICE OF PROCESS REQUIRED.-A

81 transportation network company must designate and maintain an
82 agent for service of process in this state. If the registered
83 agent of the company cannot, with reasonable diligence, be found
84 or if the company fails to designate or maintain a registered
85 agent in this state, the executive director of the department
86 must be an agent of the transportation network company upon whom
87 any process, notice, or demand may be served.

88 (5) FARE COLLECTED FOR SERVICES.-A company may collect a
89 fare on behalf of a driver for the services provided to riders;
90 however, if a fare is collected from a rider, the company shall
91 disclose to the rider the fare calculation method on its website
92 or within its software application service. The company shall
93 also provide the rider with the applicable rates being charged
94 and the option to receive an estimated fare before the rider
95 enters the driver's vehicle.



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

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

104 (a) The origin and destination of the trip.

105 (b) The total time and distance of the trip.

106 (c) An itemization of the total fare paid.

107 (8) TRANSPORTATION NETWORK COMPANY AND DRIVER INSURANCE
108 REQUIREMENTS.—

109 (a) Beginning March 1, 2017, a transportation network
110 company driver or transportation network company on the driver's
111 behalf shall maintain primary automobile insurance that
112 recognizes that the driver is a transportation network company
113 driver or otherwise uses a vehicle to transport riders for
114 compensation and covers the driver:

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

117 2. While the driver is engaged in transportation network
118 company service.

119 (b) The following automobile insurance requirements apply
120 while a participating driver is logged into the transportation
121 network company's digital network and is available to receive



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122 transportation requests but is not engaged in transportation
123 network company service:

124 1. Primary automobile liability insurance in the amount of
125 at least \$50,000 for death and bodily injury per person,
126 \$100,000 for death and bodily injury per incident, and \$25,000
127 for property damage.

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

130 (c) The following automobile insurance requirements apply
131 while a driver is engaged in transportation network company
132 service:

133 1. Primary automobile liability insurance that provides at
134 least \$1 million for death, bodily injury, and property damage;
135 and

136 2. Personal injury protection benefits that provide the
137 minimum coverage amounts where required of a limousine under ss.
138 627.730-627.7405.

139 (d) The coverage requirements of paragraphs (b) and (c)
140 may be satisfied by:

141 1. Automobile insurance maintained by the driver;

142 2. Automobile insurance maintained by the company; or

143 3. A combination of coverage maintained as provided in
144 subparagraphs 1. and 2.

145 (e) If insurance maintained by a driver under paragraph
146 (b) or paragraph (c) has lapsed or does not provide the required
147 coverage, insurance maintained by a transportation network



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148 company shall provide the coverage required by this section
149 beginning with the first dollar of a claim.

150 (f) Coverage under an automobile insurance policy
151 maintained by the transportation network company is not
152 dependent on a personal automobile insurer's first denying a
153 claim nor is a personal automobile insurance policy required to
154 first deny a claim.

155 (g) Insurance required by this section may be placed with
156 an insurer authorized to do business in the state or with a
157 surplus lines insurer eligible under the Surplus Lines Law under
158 ss. 626.913-626.937.

159 (h) Insurance satisfying the requirements of this section
160 is deemed to satisfy the financial responsibility requirement
161 for a motor vehicle under chapter 324 and the security required
162 under s. 627.733.

163 (i) A driver shall carry proof of coverage satisfying
164 paragraphs (b) and (c) with him or her at all times during his
165 or her use of a vehicle in connection with a transportation
166 network company's digital network. In the event of an accident,
167 the driver shall provide this insurance coverage information to
168 the directly interested parties, automobile insurers, and
169 investigating police officers. Such proof of financial
170 responsibility may be presented through a digital phone
171 application under s. 316.646 controlled by a transportation
172 network company. Upon such request, the driver shall also
173 disclose to directly interested parties, automobile insurers,



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174 and investigating police officers whether he or she was logged
175 into the transportation network company's digital network or
176 engaged in transportation network company service at the time of
177 the accident.

178 (j) If a transportation network company's insurer makes a
179 payment for a claim covered under comprehensive coverage or
180 collision coverage, the transportation network company shall
181 cause its insurer to issue the payment directly to the business
182 repairing the vehicle or jointly to the owner of the vehicle and
183 the primary lienholder on the covered vehicle.

184 (9) TRANSPORTATION NETWORK COMPANY AND INSURER;
185 EXCLUSIONS; DISCLOSURE.-

186 (a) The transportation network company shall disclose the
187 following in writing to drivers before they are allowed to
188 accept a request for transportation network company service on
189 the transportation network company's digital network:

190 1. The insurance coverage, including the types of coverage
191 and the limits for each coverage, that the transportation
192 network company provides while the driver uses a personal
193 vehicle in connection with a transportation network company's
194 digital network.

195 2. That the driver's own automobile insurance policy might
196 not provide any coverage while the driver is logged into the
197 transportation network company's digital network and is
198 available to receive transportation requests or is engaged in
199 transportation network company service depending on its terms.



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200 3. That the provision of rides for compensation, whether
201 prearranged or otherwise, which is not covered by this section
202 subjects the driver to the coverage requirements imposed by s.
203 324.032(1), and that failure to meet such limits subjects the
204 driver to penalties provided in s. 324.221, up to and including
205 a misdemeanor of the second degree.

206 (b)1. An insurer that provides automobile liability
207 insurance policies under part XI of chapter 627 may exclude any
208 and all coverage afforded under the owner's or driver's
209 insurance policy for any loss or injury that occurs while a
210 driver is logged into a transportation network company's digital
211 network or while a driver provides transportation network
212 company service. This right to exclude all coverage may apply to
213 any coverage included in an automobile insurance policy,
214 including, but not limited to:

215 a. Liability coverage for bodily injury and property
216 damage.

217 b. Uninsured and underinsured motorist coverage.

218 c. Medical payments coverage.

219 d. Comprehensive physical damage coverage.

220 e. Collision physical damage coverage.

221 f. Personal injury protection.

222 2. The exclusions described in subparagraph 1. apply
223 notwithstanding any requirement under chapter 324. This section
224 does not require or imply that a personal automobile insurance
225 policy provides coverage while the driver is logged into the



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226 transportation network company's digital network, while the
227 driver is engaged in transportation network company service, or
228 while the driver otherwise uses a vehicle to transport riders
229 for compensation.

230 3. This section does not preclude an insurer from
231 providing coverage by contract or endorsement for the driver's
232 vehicle.

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

238 2. An automobile insurer that defends or indemnifies a
239 claim against a driver, which is excluded under the terms of its
240 policy, has a right of contribution against other insurers that
241 provide automobile insurance to the same driver in satisfaction
242 of the coverage requirements of subsection (8) at the time of
243 loss.

244 (d) In a claims coverage investigation, transportation
245 network companies and any insurer providing coverage under
246 subsection (8) shall cooperate to facilitate the exchange of
247 relevant information with directly involved parties and any
248 insurer of the driver, if applicable, including the precise
249 times that a driver logged into and off of the transportation
250 network company's digital network during the 12-hour period
251 immediately before and the 12-hour period immediately after the



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252 accident and disclose to one another a clear description of the
253 coverage, exclusions, and limits provided under any automobile
254 insurance maintained under subsection (8).

255 (10) DRIVERS AS INDEPENDENT CONTRACTORS.—

256 (a) A driver is an independent contractor and not an
257 employee of the company if all of the following conditions are
258 met:

259 1. The company does not prescribe specific hours during
260 which the driver must be logged into the company's digital
261 network.

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

264 3. The company does not assign the driver to a particular
265 territory in which transportation network company services are
266 authorized to be provided.

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

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

271 (b) A company operating under this section is not required
272 to provide workers' compensation coverage to a transportation
273 network company driver who is classified as an independent
274 contractor pursuant to this section.

275 (11) ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.—

276 (a) A company shall implement a zero tolerance policy on
277 use of illegal drugs or alcohol by a driver who is providing



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278 transportation network company service or who is logged into the
279 company's digital network but is not providing service.

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

285 (c) Upon receipt of a rider complaint alleging a violation
286 of the zero tolerance policy, the company shall immediately
287 suspend the accused driver's access to the company's digital
288 network and shall conduct an investigation into the reported
289 incident. The suspension shall last for the duration of the
290 investigation.

291 (12) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

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

295 1. Require the applicant to submit an application to the
296 company, including his or her address, date of birth, social
297 security number, driver license number, driving history, motor
298 vehicle registration, automobile liability insurance, and other
299 information required by the company.

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

302 a. A Multi-State/Multi-Jurisdiction Criminal Records
303 Locator or other similar commercial national database with



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304 validation.

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

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

311 4. Obtain and review a driving history research report for
312 such applicant.

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

315 1. Has had more than three moving violations in the
316 preceding 3-year period or one major violation in the preceding
317 3-year period. A major violation is: fleeing or attempting to
318 elude a law enforcement officer, reckless driving, or driving
319 with a suspended or revoked license;

320 2. Has been convicted, within the past 7 years, of driving
321 under the influence of drugs or alcohol, fraud, sexual offenses,
322 use of a motor vehicle to commit a felony, a crime involving
323 property damage or theft, acts of violence, or acts of terror;

324 3. Has been convicted, within the past 7 years of any
325 offense listed in the level 2 screening standards set forth in
326 s. 435.04(2) or (3), or a substantially similar law of another
327 state or federal law;

328 4. Is a match in the Dru Sjodin National Sex Offender
329 Public Website;



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- 330 5. Does not possess a valid driver license;
- 331 6. Does not possess proof of registration for the motor
332 vehicle used to provide transportation network company service;
- 333 7. Does not possess proof of automobile liability
334 insurance for the motor vehicle used to provide transportation
335 network company service; or
- 336 8. Has not attained the age of 19 years.
- 337 (13) PROHIBITED CONDUCT.—A driver may not:
- 338 (a) Accept a rider other than a rider arranged through a
339 digital network or software application service.
- 340 (b) Solicit or accept street hails.
- 341 (c) Solicit or accept cash payments from riders. A company
342 shall adopt a policy prohibiting solicitation or acceptance of
343 cash payments from riders and notify drivers of such policy.
344 Such policy must require a payment for transportation network
345 company service to be made electronically using the company's
346 digital network or software application service.
- 347 (14) NONDISCRIMINATION; ACCESSIBILITY.—
- 348 (a) A company may not discriminate against a driver on the
349 basis of race, color, national origin, religious belief or
350 affiliation, sex, disability, age, or sexual orientation. A
351 company shall adopt a policy to assist a driver who reasonably
352 believes that he or she has received a negative rating from a
353 rider because of his or her race, color, national origin,
354 religious belief or affiliation, sex, disability, age, or sexual
355 orientation.



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356 (b) A company shall adopt a policy of nondiscrimination on
357 the basis of destination, race, color, national origin,
358 religious belief or affiliation, sex, disability, age, or sexual
359 orientation with respect to riders and potential riders and
360 shall notify drivers of such policy.

361 (c) A driver shall comply with the nondiscrimination
362 policy.

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

365 (e) A company may not impose additional charges for
366 providing transportation network company service to persons with
367 physical disabilities because of those disabilities.

368 (f) A company shall provide riders an opportunity to
369 indicate whether they require a wheelchair-accessible vehicle.
370 If a company cannot arrange wheelchair-accessible service, it
371 shall direct the rider to an alternate provider of wheelchair-
372 accessible service, if available.

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

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

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

379 (c) The company shall maintain records of written rider
380 complaints received through the company's software application
381 service for at least 2 years after the date such complaint is



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382 received by the company.

383 (16) PREEMPTION.—It is the intent of the Legislature to
384 provide for uniformity of laws governing transportation network
385 companies, transportation network company drivers, and vehicles
386 used by transportation network company drivers throughout the
387 state. Transportation network companies, transportation network
388 company drivers, and vehicles used by transportation network
389 company drivers are governed exclusively by state law and any
390 rules adopted by the department. A county, municipality, special
391 district, airport authority, port authority, or other local
392 governmental entity or subdivision may not impose a tax on, or
393 require a license for, a company or a driver, or a vehicle used
394 by a driver, if such tax or license relates to providing
395 transportation network company services, or subjects a company,
396 driver, or vehicle to any rate, entry, operation, or other
397 requirement of the county, municipality, special district,
398 airport authority, port authority, or other local governmental
399 entity or subdivision. This section does not prohibit an airport
400 from charging an appropriate annual fee, not to exceed \$5,000
401 per transportation network company, for use of the airport's
402 facilities or designating locations for staging, pickup, and
403 other similar operations of the airport.

404 Section 2. Section 324.031, Florida Statutes, is amended
405 to read:

406 324.031 Manner of proving financial responsibility.—The
407 owner or operator of a taxicab, limousine, jitney, any vehicle



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408 used in connection with a transportation network company or any
409 other for-hire passenger transportation vehicle may prove
410 financial responsibility by providing satisfactory evidence of
411 holding a motor vehicle liability policy as defined in s.
412 324.021(8) or s. 324.151, which policy is issued by an insurance
413 carrier which is a member of the Florida Insurance Guaranty
414 Association or an eligible surplus lines insurer under s.
415 626.918 that is rated "A-" or higher by A. M. Best Company. The
416 operator or owner of any other vehicle may prove his or her
417 financial responsibility by:

418 (1) furnishing satisfactory evidence of holding a motor
419 vehicle liability policy as defined in ss. 324.021(8) and
420 324.151.~~†~~

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

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

425
426 Any person, including any firm, partnership, association,
427 corporation, or other person, other than a natural person,
428 electing to use the method of proof specified in subsection (2)
429 shall furnish a certificate of deposit equal to the number of
430 vehicles owned times \$30,000, to a maximum of \$120,000; in
431 addition, any such person, other than a natural person, shall
432 maintain insurance providing coverage in excess of limits of
433 \$10,000/20,000/10,000 or \$30,000 combined single limits, and



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434 such excess insurance shall provide minimum limits of
435 \$125,000/250,000/50,000 or \$300,000 combined single limits.
436 These increased limits shall not affect the requirements for
437 proving financial responsibility under s. 324.032(1).

438 Section 3. Section 324.023, Florida Statutes, is amended
439 to read:

440 324.023 Financial responsibility for bodily injury or
441 death.—In addition to any other financial responsibility
442 required by law, every owner or operator of a motor vehicle that
443 is required to be registered in this state, or that is located
444 within this state, and who, regardless of adjudication of guilt,
445 has been found guilty of or entered a plea of guilty or nolo
446 contendere to a charge of driving under the influence under s.
447 316.193 after October 1, 2007, shall, by ~~one of~~ the methods
448 established in s. 324.031 ~~324.031(1) or (2)~~, establish and
449 maintain the ability to respond in damages for liability on
450 account of accidents arising out of the use of a motor vehicle
451 in the amount of \$100,000 because of bodily injury to, or death
452 of, one person in any one crash and, subject to such limits for
453 one person, in the amount of \$300,000 because of bodily injury
454 to, or death of, two or more persons in any one crash and in the
455 amount of \$50,000 because of property damage in any one crash.
456 If the owner or operator chooses to establish and maintain such
457 ability by furnishing a certificate of deposit ~~pursuant to s.~~
458 ~~324.031(2)~~, such certificate of deposit must be at least
459 \$350,000. Such higher limits must be carried for a minimum



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460 period of 3 years. If the owner or operator has not been
461 convicted of driving under the influence or a felony traffic
462 offense for a period of 3 years after ~~from~~ the date of
463 reinstatement of driving privileges for a violation of s.
464 316.193, the owner or operator shall be exempt from this
465 section.

466 Section 4. Paragraph (a) of subsection (2) of section
467 324.051, Florida Statutes, is amended to read:

468 324.051 Reports of crashes; suspensions of licenses and
469 registrations.—

470 (2)(a) Thirty days after receipt of notice of any accident
471 described in paragraph (1)(a) involving a motor vehicle within
472 this state, the department shall suspend, after due notice and
473 opportunity to be heard, the license of each operator and all
474 registrations of the owner of the vehicles operated by such
475 operator whether or not involved in such crash and, in the case
476 of a nonresident owner or operator, shall suspend such
477 nonresident's operating privilege in this state, unless such
478 operator or owner shall, prior to the expiration of such 30
479 days, be found by the department to be exempt from the operation
480 of this chapter, based upon evidence satisfactory to the
481 department that:

482 1. The motor vehicle was legally parked at the time of
483 such crash.

484 2. The motor vehicle was owned by the United States
485 Government, this state, or any political subdivision of this



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486 state or any municipality therein.

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

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

494 5. One year has elapsed since such owner or operator was
495 suspended pursuant to subsection (3), the owner or operator has
496 complied with ~~one of the provisions of~~ s. 324.031, and no bill
497 of complaint of which the department has notice has been filed
498 in a court of competent jurisdiction.

499
500 No such policy or bond shall be effective under this subsection
501 unless it contains limits of not less than those specified in s.
502 324.021(7).

503 Section 5. Section 324.071, Florida Statutes, is amended
504 to read:

505 324.071 Reinstatement; renewal of license; reinstatement
506 fee.—Any operator or owner whose license or registration has
507 been suspended pursuant to s. 324.051(2), s. 324.072, s.
508 324.081, or s. 324.121 may effect its reinstatement upon
509 compliance with the provisions of s. 324.051(2)(a)3. or 4., or
510 s. 324.081(2) and (3), as the case may be, and with ~~one of the~~
511 ~~provisions of~~ s. 324.031 and upon payment to the department of a



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512 nonrefundable reinstatement fee of \$15. Only one such fee shall
513 be paid by any one person irrespective of the number of licenses
514 and registrations to be then reinstated or issued to such
515 person. All such fees shall be deposited to a department trust
516 fund. When the reinstatement of any license or registration is
517 effected by compliance with s. 324.051(2)(a)3. or 4., the
518 department shall not renew the license or registration within a
519 period of 3 years from such reinstatement, nor shall any other
520 license or registration be issued in the name of such person,
521 unless the operator is continuing to comply with ~~one of the~~
522 ~~provisions of~~ s. 324.031.

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

525 324.151 Motor vehicle liability policies; required
526 provisions.-

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

530 (a) An owner's liability insurance policy shall designate
531 by explicit description or by appropriate reference all motor
532 vehicles with respect to which coverage is thereby granted and
533 shall insure the owner named therein and any other person as
534 operator using such motor vehicle or motor vehicles with the
535 express or implied permission of such owner against loss from
536 the liability imposed by law for damage arising out of the
537 ownership, maintenance, or use of such motor vehicle or motor



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538 vehicles within the United States or the Dominion of Canada,
539 subject to limits, exclusive of interest and costs with respect
540 to each such motor vehicle as is provided for under s.
541 324.021(7). Insurers may make available, with respect to
542 property damage liability coverage, a deductible amount not to
543 exceed \$500. In the event of a property damage loss covered by a
544 policy containing a property damage deductible provision, the
545 insurer shall pay to the third-party claimant the amount of any
546 property damage liability settlement or judgment, subject to
547 policy limits, as if no deductible existed.

548 (b) An operator's motor vehicle liability policy of
549 insurance shall insure the person named therein against loss
550 from the liability imposed upon him or her by law for damages
551 arising out of the use by the person of any motor vehicle not
552 owned by him or her, with the same territorial limits and
553 subject to the same limits of liability as referred to above
554 with respect to an owner's policy of liability insurance.

555 (c) All such motor vehicle liability policies shall state
556 the name and address of the named insured, the coverage afforded
557 by the policy, the premium charged therefor, the policy period,
558 the limits of liability, and shall contain an agreement or be
559 endorsed that insurance is provided in accordance with the
560 coverage defined in this chapter as respects bodily injury and
561 death or property damage or both and is subject to all
562 provisions of this chapter. Said policies shall also contain a
563 provision that the satisfaction by an insured of a judgment for



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564 such injury or damage shall not be a condition precedent to the
565 right or duty of the insurance carrier to make payment on
566 account of such injury or damage, and shall also contain a
567 provision that bankruptcy or insolvency of the insured or of the
568 insured's estate shall not relieve the insurance carrier of any
569 of its obligations under said policy.

570 Section 7. Paragraph (b) of subsection (3) of section
571 627.733, Florida Statutes, is amended to read:

572 627.733 Required security.—

573 (3) Such security shall be provided:

574 (b) By any other method authorized by s. 324.031~~(2) or (3)~~
575 and approved by the Department of Highway Safety and Motor
576 Vehicles as affording security equivalent to that afforded by a
577 policy of insurance or by self-insuring as authorized by s.
578 768.28(16). The person filing such security shall have all of
579 the obligations and rights of an insurer under ss. 627.730-
580 627.7405.

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

582

583

584

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

585
586 Remove everything before the enacting clause and insert:
587 An act relating to transportation network companies; creating s.
588 316.680, F.S.; providing definitions; providing requirements for
589 a person to obtain a permit as a transportation network company;



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590 directing the Department of Highway Safety and Motor Vehicles to
591 issue such permits; providing a permit fee; requiring an agent
592 for service of process; requiring disclosure of a company's
593 fares; requiring display of certain information related to a
594 transportation network company driver; requiring that a company
595 provide an electronic receipt to a rider; providing requirements
596 for automobile insurance and insurance disclosure; providing
597 requirements for drivers to act as independent contractors;
598 requiring a zero tolerance policy for drug and alcohol use;
599 providing requirements for employment as a transportation
600 network company driver; prohibiting specified conduct; providing
601 certain nondiscrimination and accessibility requirements;
602 requiring a company to maintain certain records; providing for
603 preemption; amending ss. 324.031 providing for proof of
604 financial responsibility by owners or operators of a vehicle
605 used in connection with a transportation network company;
606 amending ss. 324.023, 324.051, 324.071, 324.151, and 627.733,
607 F.S.; conforming provisions to changes made by the act;
608 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HWSS 16-01 At-Risk Vessel
SPONSOR(S): Highway & Waterway Safety Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Highway & Waterway Safety Subcommittee		Whittaker	Smith <i>MS</i>

SUMMARY ANALYSIS

Under current law, the Fish and Wildlife Conservation Commission (FWCC) does not have the authority to require vessel owners to maintain their vessels or otherwise regulate the condition of vessels that occupy the waters of the state, unless the vessel is a hazard to navigation, discharges contaminants, is derelict (wrecked, junked, or substantially dismantled), or is in violation of other vessel safety laws. Additionally, a vessel owner has no duty to maintain their vessel, and can allow a vessel occupying waters of the state to deteriorate until it reaches a derelict condition. Once a vessel is deemed derelict FWCC can remove or relocate the vessel, but it can become much more difficult and expensive once a vessel has deteriorated to the point that it meets the definition of a derelict vessel.

The bill provides the following regulations for vessels that are at risk of becoming derelict on the waters of this state:

- Prohibits a vessel that is at risk of becoming derelict to anchor on, moor on, or occupy the waters of this state.
- Authorizes an officer of the FWCC or law enforcement agency to determine that a vessel is at risk of becoming a derelict vessel if any of the following conditions exist:
 - The vessel is taking on or has taken on water without an effective means to dewater.
 - Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time.
 - The vessel has broken loose or is in danger of breaking loose from its anchor.
 - The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
- Provides that a person who anchors or moors a vessel that is at risk of becoming derelict on the waters of this state or allows such a vessel to occupy the waters of this state commits a noncriminal infraction in which civil penalties may be assessed.
- Provides that a civil penalty for a violation of a vessel that is at risk of becoming derelict is in addition to other penalties provided by law.
- Provides that the bill would not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.
- Provides that a uniform boating citation may be mailed to the registered owner of an unattended vessel that is at risk of becoming derelict, which is anchored, aground, or moored on the waters of this state.
- Provides the following civil penalties for a violation of vessel laws relating to a vessel that is at risk of becoming derelict on waters of this state:
 - For a first offense, \$50;
 - For a second offense occurring 30 days or more after a first offense, \$100;
 - For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

The bill may have an indeterminate positive fiscal impact on state and local government revenues by establishing a new noncriminal infraction relating to vessels at risk of becoming derelict on waters of this state, and may have a negative impact on the private sector resulting from the assessment of these new civil penalties.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb01.HWSS.DOCX

DATE: 11/16/2015

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Background

Current law does not limit the length of time that a properly maintained vessel¹ may occupy waters of this state.² Current law also does not authorize the Fish and Wildlife Conservation Commission (FWCC) to require vessel owners to maintain their vessels or otherwise regulate the condition of vessels that occupy the waters of the state, unless the vessel is a hazard to navigation, discharges contaminants, is derelict (wrecked, junked, or substantially dismantled), or is in violation of other vessel safety laws. Additionally, a vessel owner has no duty to maintain their vessel, and can allow a vessel occupying waters of the state to deteriorate until it reaches a wrecked, junked, or substantially dismantled condition. Once a vessel is deemed derelict FWCC can remove or relocate the vessel, but it can become much more difficult and expensive once a vessel has deteriorated to the point that it meets the definition of a derelict vessel.

Local governments are authorized to enact and enforce regulations regarding the mooring or anchoring of vessels that are located within marked boundaries of a mooring field³ within their jurisdiction.⁴ However, local governments are prohibited from regulating the anchoring of vessels, other than live-aboard vessels,⁵ that are located outside of mooring fields.⁶

The unregulated anchoring and mooring of vessels outside of mooring fields has created issues regarding:

- Vessels being left unattended or unsupervised;
- Vessels that have broken free or are in danger of breaking free; and

¹ A “vessel” is defined in s. 327.02(43), F.S., to be synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

² “Waters of this state” is defined in s. 327.02(44), F.S., to mean any navigable waters of the United States within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, and canals under the jurisdiction of this state.

³ Mooring fields are permitted by the FWCC, under ch. 327, F.S. A mooring field is an area of waters of this state set aside for the mooring of vessels to mooring buoys. The area must have delineated boundaries that are marked with uniform waterway markers as provided in s. 327.40, F.S., and must have mooring buoys installed in a planned array, taking into consideration the following factors: vessel lengths and swing radii; vessel drafts and available water depths; vessel sizes, weights, and wind-loading characteristics; buoy sizes and types; anchor sizes and types; and holding characteristics of the bottom. *See Anchoring and Mooring Pilot Program Questionnaire* (Oct. 14, 2009), available at http://myfwc.com/media/106689/Boat_Anchoring_FieldQuestions.pdf. (Last visited November 10, 2015)

⁴ Section 327.60(3), F.S.

⁵ A “live-aboard vessel” is defined in s. 327.02(19), F.S., as a vessel that is used solely as a residence and not for navigation, represented as a place of business or a professional or other commercial enterprise, or for which a declaration of domicile has been filed pursuant to s. 222.17, F.S. A commercial fishing boat is expressly excluded from the term “live-aboard vessel.”

⁶ Section 327.60(3), F.S.

- Vessels that are not properly maintained, are listing, or taking on water, but are not to the point of deterioration that they can be deemed derelict.⁷

Derelict Vessels

A derelict vessel is defined in s. 823.11(1)(b), F.S., as a vessel that is left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.
- At a port in this state without the consent of the agency having jurisdiction thereof.
- Docked, grounded, or beached upon the property of another without the consent of the property owner.

It is unlawful for a person, firm, or corporation to store, leave, or abandon any derelict vessel in this state.⁸ The FWCC, officers of the FWCC, and any law enforcement agency or officer specified in s. 327.70, F.S.,⁹ are authorized and empowered to relocate, remove, or cause to be relocated or removed a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.¹⁰ Additionally, the FWCC and other officers acting under s. 823.11(3), F.S., are held harmless for all damages to the derelict vessel resulting from the relocation or removal unless the damage results from gross negligence or willful misconduct.¹¹ All costs, including costs owed to a third party, incurred by the FWCC or other law enforcement agency in the relocation or removal of a derelict vessel are recoverable against the vessel owner.¹² A person who neglects or refuses to pay such costs may not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until such costs have been paid.¹³

Additionally, a person, firm, or corporation violating s. 823.11, F.S., commits a first degree misdemeanor.¹⁴ Further, a conviction under s. 823.11, F.S., does not bar the assessment and collection of civil penalties provided in s. 376.16, F.S.¹⁵

The removal of a derelict vessel costs an average of \$350 to \$450 per foot of vessel length.¹⁶ However, there are many variables that affect the costs of removing a vessel.¹⁷ Sunken vessels require professional divers and specialized equipment, resulting in costs in excess of the average.¹⁸ On the other hand, a floating vessel may be towed to a boat ramp or hoist and pulled from the water at much lower cost.¹⁹ Relocation may have no cost if a law enforcement officer is able to tow the vessel to a

⁷ *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>. (Last visited November 10, 2015); FWCC 2015 Agency Bill Analysis for SB 1548, on file with staff.

⁸ Section 823.11(2), F.S.

⁹ Section 327.70, F.S., identifies the Division of Law Enforcement of the FWCC and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S.; Section 943.10(1), F.S., defines a "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁰ Section 823.11(3), F.S.

¹¹ *Id.*

¹² Section 823.11(3)(b), F.S.

¹³ Sections 823.11(3)(b) and 705.103(4), F.S.

¹⁴ Section 823.11(5), F.S.; A first degree misdemeanor is punishable by a term of imprisonment not to exceed one year pursuant to s. 775.082(4)(a), F.S., and may be fined \$1,000 pursuant to s. 775.083(1)(d), F.S.

¹⁵ Section 376.16, F.S., provides penalties for discharges of pollutants, such as gasoline or diesel.

¹⁶ FWCC 2014 Agency Bill Analysis for HB 1363, on file with staff.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

suitable location.²⁰ If professional towing services are called upon, costs in the neighborhood of \$200 per hour with a one-hour minimum, beginning from the time the tow boat leaves the dock to the time it returns, are standard.²¹ According to the At-Risk Vessel Statewide Database, a known total of 92 derelict vessels were removed in 2013 by local governments.²² Those local governments spent approximately \$325,000 on the removal of derelict vessels, resulting in an average of \$3,533 per vessel.²³

Navigational Hazard

Section 327.44, F.S., authorizes law enforcement officials to relocate, remove, or cause to be relocated or removed any vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. A violation of s. 327.44, F.S., is a noncriminal infraction, punishable by a civil penalty of \$50.²⁴ If the vessel is unattended, a uniform boating citation may be mailed to the registered owner of the vessel.²⁵

Noncriminal Infractions for Violations of Vessel Laws

Section 327.73(1), F.S., provides that a person who violates certain vessel laws of the state commits a noncriminal infraction, will be cited for the infraction, and be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in the section. A person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the vessel laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S.²⁶ or s. 775.083, F.S.²⁷ A written warning to this effect will be provided at the time such uniform boating citation is issued.

Effect of proposed changes

The bill creates s. 327.4107, F.S., regarding vessels at risk of becoming derelict on the waters of this state, as follows:

- Provides that a vessel that is at risk of becoming derelict may not anchor on, moor on, or occupy the waters of this state.
- Authorizes an officer of the FWCC or law enforcement agency to determine that a vessel is at risk of becoming a derelict vessel if any of the following conditions exist:
 - The vessel is taking on or has taken on water without an effective means to dewater.
 - Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time.
 - The vessel has broken loose or is in danger of breaking loose from its anchor.
 - The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
- Provides that a person who anchors or moors a vessel at risk of becoming derelict on the waters of this state or allows such a vessel to occupy waters of this state commits a noncriminal infraction for which civil penalties may be assessed.
- Provides that a civil penalty for a violation of a vessel at risk of becoming derelict is in addition to other penalties provided by law.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Section 327.73(1)(j), F.S.

²⁵ Section 327.70(2)(a)2., F.S.

²⁶ Section 775.082, F.S., provides that a second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days.

²⁷ Section 775.083, F.S. provides that a second degree misdemeanor is punishable by a fine not to exceed \$500.

- Provides that the bill would not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.

The bill amends s. 327.70, F.S., regarding enforcement, to provide that a uniform boating citation may be mailed to the registered owner of an unattended vessel that is anchored, aground, or moored on the waters of this state that is at risk of becoming derelict.

The bill amends s. 327.73, F.S., regarding noncriminal infractions, to provide for the following graduated civil penalties for vessels at risk of becoming derelict, which anchor on, moor on, or occupy the waters of this state:

- For a first offense, \$50;
- For a second offense occurring 30 days or more after a first offense, \$100;
- For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

B. SECTION DIRECTORY:

Section 1 Creates s. 327.4107, F.S., relating to vessels at risk of becoming derelict on the waters of this state.

Section 2 Amends s. 327.70, F.S., providing for a uniform boating citation to be issued for a violation relating to vessels at risk of becoming derelict on the waters of this state.

Section 3 Amends s. 327.73, F.S., providing for tiered civil penalties for a violation relating to vessels at risk of becoming derelict on the waters of this state.

Section 4 Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments below

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a potentially negative impact on persons who are subject to the civil penalties created by this bill.

D. FISCAL COMMENTS:

The bill appears to have an indeterminate positive fiscal impact on state and local government revenues by establishing a new noncriminal infraction relating to vessels at risk of becoming derelict on the waters of this state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to at-risk vessels; creating s.
327.4107, F.S.; prohibiting a vessel that is at risk
of becoming derelict from anchoring on, mooring on, or
occupying the waters of this state; authorizing an
officer of the Fish and Wildlife Conservation
Commission or of specified law enforcement agencies to
determine that a vessel is at risk of becoming
derelict if certain conditions exist; providing that a
person who anchors or moors or allows such a vessel to
occupy waters of this state commits a noncriminal
violation; providing penalties; providing
applicability; amending s. 327.70, F.S.; providing for
enforcement of such violations by citation mailed to
the owner of the vessel; amending s. 327.73, F.S.;
providing civil penalties for such violations;
providing an effective date.

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

Section 1. Section 327.4107, Florida Statutes, is created
to read:

327.4107 Vessels at risk of becoming derelict on waters of
this state.-

(1) To prevent vessels in neglected or deteriorating
condition from reaching a likely and foreseeable state of

27 | disrepair, a vessel that is at risk of becoming derelict
 28 | pursuant to subsection (2) may not anchor on, moor on, or occupy
 29 | the waters of this state.

30 | (2) An officer of the commission or of a law enforcement
 31 | agency specified in s. 327.70 may determine that a vessel is at
 32 | risk of becoming derelict if any of the following conditions
 33 | exist:

34 | (a) The vessel is taking on or has taken on water without
 35 | an effective means to dewater.

36 | (b) Spaces on the vessel that are designed to be enclosed
 37 | are incapable of being sealed off or remain open to the elements
 38 | for extended periods of time.

39 | (c) The vessel has broken loose or is in danger of
 40 | breaking loose from its anchor.

41 | (d) The vessel is left or stored aground unattended in
 42 | such a state that would prevent the vessel from getting
 43 | underway, is listing due to water intrusion, or is sunk or
 44 | partially sunk.

45 | (3) A person who anchors or moors a vessel at risk of
 46 | becoming derelict on the waters of this state or allows such a
 47 | vessel to occupy such waters commits a noncriminal infraction,
 48 | punishable as provided in s. 327.73.

49 | (4) The penalty under this section is in addition to other
 50 | penalties provided by law.

51 | (5) This section does not apply to a vessel that is moored
 52 | to a private dock or wet slip with the consent of the owner for

53 the purpose of receiving repairs.

54 Section 2. Paragraph (a) of subsection (2) of section
55 327.70, Florida Statutes, is amended to read:

56 327.70 Enforcement of this chapter and chapter 328.—

57 (2)(a) Noncriminal violations of the following statutes
58 may be enforced by a uniform boating citation mailed to the
59 registered owner of an unattended vessel anchored, aground, or
60 moored on the waters of this state:

61 1. Section 327.33(3)(b), relating to navigation rules.

62 2. Section 327.44, relating to interference with
63 navigation.

64 3. Section 327.50(2), relating to required lights and
65 shapes.

66 4. Section 327.53, relating to marine sanitation.

67 5. Section 328.48(5), relating to display of decal.

68 6. Section 328.52(2), relating to display of number.

69 7. Section 327.4107, relating to vessels at risk of
70 becoming derelict.

71 Section 3. Paragraph (y) is added to subsection (1) of
72 section 327.73, Florida Statutes, to read:

73 327.73 Noncriminal infractions.—

74 (1) Violations of the following provisions of the vessel
75 laws of this state are noncriminal infractions:

76 (y) Section 327.4107, relating to vessels at risk of
77 becoming derelict on waters of this state, for which the civil
78 penalty is:

- 79 1. For a first offense, \$50.
 80 2. For a second offense occurring 30 days or more after a
 81 first offense, \$100.
 82 3. For a third or subsequent offense occurring 30 days or
 83 more after a previous offense, \$250.

84
 85 Any person cited for a violation of any provision of this
 86 subsection shall be deemed to be charged with a noncriminal
 87 infraction, shall be cited for such an infraction, and shall be
 88 cited to appear before the county court. The civil penalty for
 89 any such infraction is \$50, except as otherwise provided in this
 90 section. Any person who fails to appear or otherwise properly
 91 respond to a uniform boating citation shall, in addition to the
 92 charge relating to the violation of the boating laws of this
 93 state, be charged with the offense of failing to respond to such
 94 citation and, upon conviction, be guilty of a misdemeanor of the
 95 second degree, punishable as provided in s. 775.082 or s.
 96 775.083. A written warning to this effect shall be provided at
 97 the time such uniform boating citation is issued.

98 Section 4. This act shall take effect July 1, 2016.