

By the Committee on Banking and Insurance; and Senator Simmons

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1 A bill to be entitled
2 An act relating to transportation network company
3 insurance; amending s. 316.066, F.S.; requiring a
4 statement in certain crash reports as to whether any
5 driver at the time of the accident was providing a
6 prearranged ride or logged into a digital network of a
7 transportation network company; providing a criminal
8 penalty for a driver who provides a false statement to
9 a law enforcement officer in connection with certain
10 information; creating s. 627.748, F.S.; providing
11 legislative intent; defining terms; requiring a
12 transportation network company driver, or the
13 transportation network company on the driver's behalf,
14 to maintain certain primary automobile insurance under
15 certain circumstances; providing coverage requirements
16 under specified circumstances; requiring a
17 transportation network company to maintain certain
18 insurance and obligate the insurer to defend a certain
19 claim if specified insurance by the driver lapses or
20 does not provide the required coverage; providing that
21 certain coverage may not be contingent on a claim
22 denial; specifying requirements for insurers who
23 provide certain automobile insurance; requiring a
24 transportation network company driver to carry proof
25 of certain insurance coverage at all times during his
26 or her use of a personal vehicle and to disclose
27 specified information in the event of an accident;
28 requiring a transportation network company to make
29 certain disclosures to transportation network company
30 drivers; authorizing insurers to exclude certain
31 coverages during specified periods for policies issued
32 to transportation network company drivers for personal

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33 vehicles; requiring a transportation network company
34 and certain insurers to cooperate during a claims
35 investigation to facilitate the exchange of specified
36 information; requiring a transportation network
37 company to cause its insurer to issue payments for
38 claims directly to specified entities under certain
39 circumstances; providing that unless agreed to in a
40 written contract, a transportation network company is
41 not deemed to control, direct, or manage the personal
42 vehicles or transportation network company drivers
43 that connect to its digital network; authorizing the
44 Financial Services Commission to adopt rules;
45 providing for preemption of local laws and regulations
46 pertaining to transportation network company
47 insurance; providing an effective date.

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

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51 Section 1. Paragraphs (b) and (c) of subsection (1) of
52 section 316.066, Florida Statutes, are amended, and paragraph
53 (e) is added to subsection (3) of that section, to read:

54 316.066 Written reports of crashes.—

55 (1)

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

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

59 2. A description of the vehicles involved.

60 3. The names and addresses of the parties involved,
61 including all drivers and passengers, and the identification of

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62 the vehicle in which each was a driver or a passenger.

63 4. The names and addresses of witnesses.

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

66 6. The names of the insurance companies for the respective
67 parties involved in the crash.

68 7. A statement as to whether, at the time of the accident,
69 any driver was providing a prearranged ride or logged into a
70 digital network of a transportation network company, as those
71 terms are defined in s. 627.748.

72 (c) In any crash for which a Florida Traffic Crash Report,
73 Long Form is not required by this section and which occurs on
74 the public roadways of this state, the law enforcement officer
75 shall complete a short-form crash report or provide a driver
76 exchange-of-information form, to be completed by all drivers and
77 passengers involved in the crash, which requires the
78 identification of each vehicle that the drivers and passengers
79 were in. The short-form report must include:

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

81 2. A description of the vehicles involved.

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

85 4. The names and addresses of witnesses.

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

88 6. The names of the insurance companies for the respective
89 parties involved in the crash.

90 7. A statement as to whether, at the time of the accident,

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91 any driver was providing a prearranged ride or logged into a
92 digital network of a transportation network company, as those
93 terms are defined in s. 627.748.

94 (3)

95 (e) Any driver who provides a false statement to a law
96 enforcement officer in connection with the information that is
97 required to be reported under subparagraph (1)(b)7. or
98 subparagraph (1)(c)7. commits a misdemeanor of the second
99 degree, punishable as provided in s. 775.082 or s. 775.083.

100 Section 2. Section 627.748, Florida Statutes, is created to
101 read:

102 627.748 Transportation network company insurance.—

103 (1) It is the intent of the Legislature to provide for
104 statewide uniformity of laws governing the insurance
105 requirements imposed on transportation network companies and
106 transportation network company drivers.

107 (2) For purposes of this section, the term:

108 (a) "Digital network" means an online application,
109 software, website, or system offered or used by a transportation
110 network company which enables the prearrangement of rides with
111 transportation network company drivers.

112 (b) "Personal vehicle" means a vehicle, however titled,
113 which is used by a transportation network company driver in
114 connection with providing transportation network company service
115 and which:

116 1. Is owned, leased, or otherwise authorized for use by the
117 transportation network company driver; and

118 2. Is not a taxi, jitney, limousine, or for-hire vehicle as
119 that term is defined in s. 320.01(15).

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

(c) "Prearranged ride" means the provision of transportation by a driver to or on behalf of a rider, beginning when a driver accepts a request for a ride by a rider through a digital network controlled by a transportation network company, continuing while the driver transports the rider, and ending when the last rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a taxi, jitney, limousine, for-hire vehicle as defined in s. 320.01(15), or street hail service.

(d) "Transportation network company" or "company" means a corporation, partnership, sole proprietorship, or other entity operating in this state which uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company 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.

(e) "Transportation network company driver" or "driver" means an individual who:

1. Receives connections to potential riders and related services from a transportation network company in exchange for any form of compensation, including payment of a fee to the transportation network company; and

2. Uses a personal vehicle to offer or provide a

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149 prearranged ride to riders upon connection through a digital
150 network controlled by a transportation network company in return
151 for compensation, including payment of a fee.

152 (f) "Transportation network company rider" or "rider" means
153 an individual who directly or indirectly uses a transportation
154 network company's digital network to connect with a
155 transportation network company driver who provides
156 transportation services to the individual in the driver's
157 personal vehicle.

158 (3) (a) A transportation network company driver, or a
159 transportation network company on the driver's behalf, shall
160 maintain primary automobile insurance that recognizes that the
161 driver is a transportation network company driver or that the
162 driver otherwise uses a personal vehicle to transport riders for
163 compensation. Such primary automobile insurance must cover the
164 driver as required under this section, including while the
165 driver is logged on to the transportation network company's
166 digital network but is not engaged in a prearranged ride, and
167 while the driver is engaged in a prearranged ride.

168 (b) The following automobile insurance coverage
169 requirements apply while a transportation network company driver
170 is logged on to the transportation network company's digital
171 network but is not engaged in a prearranged ride, and while the
172 driver is engaged in a prearranged ride:

173 1. Primary automobile liability insurance coverage of at
174 least \$125,000 for death and bodily injury per person, \$250,000
175 for death and bodily injury per incident, and \$50,000 for
176 property damage; and

177 2. Primary automobile insurance coverage that meets the

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178 minimum requirements under ss. 627.730-627.7405.

179 (c) At all times other than the periods specified in
180 paragraph (b), the following automobile insurance requirements
181 apply if a driver has an agreement with a transportation network
182 company to provide any form of transportation service to riders:

183 1. Primary automobile liability insurance coverage of at
184 least \$25,000 for death and bodily injury per person, \$50,000
185 for death and bodily injury per incident, and \$10,000 for
186 property damage; and

187 2. Primary automobile insurance that provides the minimum
188 requirements under ss. 627.730-627.7405.

189 (d) The coverage requirements of paragraphs (b) and (c) may
190 be satisfied by automobile insurance maintained by the
191 transportation network company driver, by the transportation
192 network company, or by a combination of both.

193 (e) If the insurance maintained by a driver under paragraph
194 (b) lapses or does not provide the required coverage, the
195 transportation network company must maintain insurance that
196 provides the coverage required by this section beginning with
197 the first dollar of a claim and must obligate the insurer to
198 defend such a claim in this state.

199 (f) Coverage under an automobile insurance policy
200 maintained by the transportation network company may not be
201 contingent on a denial of a claim under the driver's personal
202 automobile liability insurance policy, nor shall a personal
203 automobile insurer be required to first deny a claim.

204 (g) Automobile insurance required by this section must be
205 provided by an insurer authorized to do business in this state
206 which is a member of the Florida Insurance Guaranty Association

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207 or an eligible surplus lines insurer that has a superior, an
208 excellent, an exceptional, or an equivalent financial strength
209 rating by a rating agency acceptable to the office.

210 (h) Automobile insurance that satisfies the requirements of
211 this section is deemed to satisfy the financial responsibility
212 requirements imposed under chapter 324 and the security
213 requirements imposed under s. 627.733. However, the provision of
214 transportation to persons for compensation that is not covered
215 under this section subjects a vehicle and driver to the
216 requirements of chapters 320 and 324.

217 (i) A transportation network company driver shall carry
218 proof of insurance coverage that meets the requirements of
219 paragraphs (b) and (c) at all times during his or her use of a
220 personal vehicle. In the event of an accident:

221 1. The driver shall provide the insurance coverage
222 information to the directly involved parties, automobile
223 insurers, and investigating law enforcement officers. Proof of
224 financial responsibility may be provided through a digital
225 telephone application under s. 316.646 which is controlled by a
226 transportation network company.

227 2. Upon request, the driver shall disclose to the directly
228 involved parties, automobile insurers, and investigating law
229 enforcement officers whether the driver, at the time of the
230 accident, was logged on to the transportation network company's
231 digital network or engaged in a prearranged ride.

232 (j) Before a driver may accept a request for a prearranged
233 ride on the transportation network company's digital network,
234 the transportation network company shall disclose in writing to
235 each transportation network company driver:

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236 1. The type and limits of insurance coverage provided by
237 the transportation network company;

238 2. The type of automobile insurance coverage that the
239 driver must maintain while the driver uses a personal vehicle in
240 connection with the transportation network company; and

241 3. That the provision of rides for compensation, whether
242 prearranged or otherwise, which is not covered by this section
243 subjects the driver to the coverage requirements imposed by s.
244 324.032(1) and that failure to meet such limits subjects the
245 driver to penalties provided in s. 324.221, up to and including
246 a misdemeanor of the second degree.

247 (k) An insurer that provides personal automobile insurance
248 policies under this part may exclude from coverage under a
249 policy issued to an owner or operator of a personal vehicle any
250 loss or injury that occurs while a driver is logged on to a
251 transportation network company's digital network or while a
252 driver is engaged in a prearranged ride. Such right to exclude
253 coverage applies to any coverage under an automobile insurance
254 policy, including, but not limited to:

255 1. Liability coverage for bodily injury and property
256 damage.

257 2. Personal injury protection coverage.

258 3. Uninsured and underinsured motorist coverage.

259 4. Medical payments coverage.

260 5. Comprehensive physical damage coverage.

261 6. Collision physical damage coverage.

262 (l) The exclusions authorized under paragraph (k) apply
263 notwithstanding any financial responsibility requirements under
264 chapter 324. This section does not require that a personal

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265 automobile insurance policy provide coverage while the driver is
266 logged on to the transportation network company's digital
267 network, while the driver is engaged in a prearranged ride, or
268 while the driver otherwise uses a personal vehicle to transport
269 riders for compensation. However, an insurer may elect to
270 provide coverage by contract or endorsement for such driver's
271 personal vehicle used for such purposes.

272 (m) An insurer that excludes coverage as authorized under
273 paragraph (k):

274 1. Does not have a duty to defend or indemnify an excluded
275 claim. This section does not invalidate or limit an exclusion
276 contained in a policy, including any policy in use or approved
277 for use in this state before July 1, 2017.

278 2. Has a right of contribution against other insurers that
279 provide automobile insurance to the same driver in satisfaction
280 of the coverage requirements of this section at the time of
281 loss, if the insurer defends or indemnifies a claim against a
282 driver which is excluded under the terms of its policy.

283 (n) In a claims investigation, a transportation network
284 company and any insurer providing coverage for a claim under
285 this section shall cooperate to facilitate the exchange of
286 relevant information with directly involved parties and insurers
287 of the transportation network company driver, if applicable.
288 Such information must provide:

289 1. The precise times that a driver logged on and off the
290 transportation network company's digital network during the 12-
291 hour period immediately before and immediately after the
292 accident.

293 2. A clear description of the coverage, any exclusions, and

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294 the limits provided under automobile insurance maintained under
295 this section.

296 (o) If a transportation network company's insurer makes a
297 payment for a claim covered under comprehensive coverage or
298 collision coverage, the transportation network company shall
299 cause its insurer to issue the payment directly to the entity
300 repairing the vehicle or jointly to the owner of the vehicle and
301 the primary lienholder on the covered vehicle.

302 (4) Unless agreed to in a written contract, a
303 transportation network company is not deemed to control, direct,
304 or manage the personal vehicles that, or the transportation
305 network company drivers who, connect to its digital network.

306 (5) The Financial Services Commission may adopt rules to
307 administer this section.

308 Section 3. PREEMPTION.—Notwithstanding any other law,
309 transportation network company insurance requirements are
310 governed exclusively by this section and any rules adopted by
311 the Financial Services Commission to administer this section. A
312 political subdivision of this state may not adopt any ordinance
313 imposing insurance requirements on a transportation network
314 company or driver. All such ordinances, whether existing or
315 proposed, are preempted and superseded by general law.

316 Section 4. This act shall take effect January 1, 2017.