

By Senator Brandes

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1 A bill to be entitled
2 An act relating to transportation network companies;
3 creating s. 316.68, F.S.; defining terms; providing
4 for construction; providing that a transportation
5 network company (TNC) driver is not required to
6 register certain vehicles as commercial motor vehicles
7 or for-hire vehicles; requiring a TNC to designate and
8 maintain an agent for service of process in this
9 state; providing fare requirements; providing
10 requirements for a TNC's digital network; providing
11 for an electronic receipt, subject to certain
12 requirements; providing automobile insurance
13 requirements for a TNC and a TNC driver; providing
14 requirements for specified proof of coverage for a TNC
15 driver under certain circumstances; providing certain
16 disclosure requirements for a TNC driver in the event
17 of an accident; requiring a TNC to cause its insurer
18 to issue certain payments directly to certain parties;
19 requiring a TNC to make specified disclosures in
20 writing to TNC drivers under certain circumstances;
21 authorizing specified insurers to exclude certain
22 coverage; providing that the right to exclude coverage
23 applies to any coverage included in an automobile
24 insurance policy; providing applicability; providing
25 for construction; providing that specified automobile
26 insurers have a right of contribution against other
27 insurers that provide automobile insurance to the same
28 TNC drivers in satisfaction of certain coverage
29 requirements under certain circumstances; requiring a
30 TNC to provide specified information upon request by
31 certain parties during a claims coverage
32 investigation; requiring certain insurers to disclose

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33 specified information upon request by any other
34 insurer involved in the particular claim; providing
35 that TNC drivers are independent contractors if
36 specified conditions are met; providing retroactive
37 applicability; requiring a TNC to implement a zero-
38 tolerance policy for drug or alcohol use; providing
39 TNC driver requirements; requiring a TNC to conduct a
40 certain background check for a TNC driver after a
41 specified period; prohibiting a TNC driver from
42 accepting certain rides or soliciting or accepting
43 street hails; requiring a TNC to adopt a policy of
44 nondiscrimination with respect to riders and potential
45 riders and to notify TNC drivers of such policy;
46 requiring TNC drivers to comply with the
47 nondiscrimination policy and certain applicable laws
48 regarding nondiscrimination and accommodation of
49 service animals; prohibiting a TNC from imposing
50 additional charges for providing services to persons
51 who have physical disabilities; requiring a TNC to
52 maintain specified records; providing legislative
53 intent; specifying that TNCs, TNC drivers, and TNC
54 vehicles are governed exclusively by state law;
55 prohibiting local governmental entities and
56 subdivisions from taking specified actions; providing
57 construction; providing an effective date.

58
59 Be It Enacted by the Legislature of the State of Florida:

60
61 Section 1. Section 316.68, Florida Statutes, is created to

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62 read:

63 316.68 Transportation network companies.-64 (1) DEFINITIONS.-As used in this section, the term:

65 (a) "Digital network" means any online-enabled technology
66 application service, website, or system offered or used by a
67 transportation network company which enables the prearrangement
68 of rides with transportation network company drivers.

69 (b) "Prearranged ride" means the provision of
70 transportation by a TNC driver to a rider, beginning when a TNC
71 driver accepts a ride requested by a rider through a digital
72 network controlled by a transportation network company,
73 continuing while the TNC driver transports the requesting rider,
74 and ending when the last requesting rider departs from the TNC
75 vehicle. The term does not include a taxicab, for-hire vehicle,
76 or street hail service and does not include ridesharing as
77 defined in s. 341.031, carpool as defined s. 450.28, or any
78 other type of service in which the driver receives a fee that
79 does not exceed the driver's cost to provide the ride.

80 (c) "Rider" means an individual who uses a digital network
81 to connect with a TNC driver in order to obtain a prearranged
82 ride in the TNC driver's TNC vehicle between points chosen by
83 the rider.

84 (d) "Street hail" means an immediate arrangement on a
85 street with a driver by a person using any method other than a
86 digital network to seek immediate transportation.

87 (e) "Transportation network company" or "TNC" means an
88 entity operating in this state pursuant to this section using a
89 digital network to connect a rider to a TNC driver, who provides
90 prearranged rides. A TNC is not deemed to own, control, operate,

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91 direct, or manage the TNC vehicles or TNC drivers that connect
92 to its digital network, except where agreed to by written
93 contract, and is not a taxicab association or for-hire vehicle
94 owner.

95 (f) "Transportation network company driver" or "TNC driver"
96 means an individual who:

97 1. Receives connections to potential riders and related
98 services from a transportation network company; and

99 2. In return for compensation, uses a TNC vehicle to offer
100 or provide a prearranged ride to a rider upon connection through
101 a digital network.

102 (g) "Transportation network company vehicle" or "TNC
103 vehicle" means a vehicle that is not a taxicab, jitney,
104 limousine, or for-hire vehicle as defined in s. 320.01(15) and
105 that is:

106 1. Used by a TNC driver to offer or provide a prearranged
107 ride; and

108 2. Owned, leased, or otherwise authorized to be used by the
109 TNC driver.

110
111 Notwithstanding any other provision of law, a vehicle that is
112 let or rented to another for consideration may be used as a TNC
113 vehicle.

114 (2) NOT OTHER CARRIERS.—A TNC or TNC driver is not a common
115 carrier, contract carrier, or motor carrier and does not provide
116 taxicab or for-hire vehicle service. In addition, a TNC driver
117 is not required to register the vehicle that the TNC driver uses
118 to provide prearranged rides as a commercial motor vehicle or a
119 for-hire vehicle.

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120 (3) AGENT.—A TNC must designate and maintain an agent for
121 service of process in this state.

122 (4) FARE TRANSPARENCY.—If a fare is collected from a rider,
123 the TNC must disclose to the rider the fare or fare calculation
124 method on its website or within the online-enabled technology
125 application service before the beginning of the prearranged
126 ride. If the fare is not disclosed to the rider before the
127 beginning of the prearranged ride, the rider must have the
128 option to receive an estimated fare before the beginning of the
129 prearranged ride.

130 (5) IDENTIFICATION OF TNC VEHICLES AND DRIVERS.—The TNC's
131 digital network must display a photograph of the TNC driver and
132 the license plate number of the TNC vehicle used for providing
133 the prearranged ride before the rider enters the TNC driver's
134 vehicle.

135 (6) ELECTRONIC RECEIPT.—Within a reasonable period after
136 the completion of a ride, the TNC shall transmit an electronic
137 receipt to the rider on behalf of the TNC driver which lists:

- 138 (a) The origin and destination of the ride;
139 (b) The total time and distance of the ride; and
140 (c) The total fare paid.

141 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE
142 REQUIREMENTS.—

143 (a) Beginning July 1, 2017, a TNC driver or a TNC on behalf
144 of the TNC driver shall maintain primary automobile insurance
145 that:

- 146 1. Recognizes that the TNC driver is a TNC driver or
147 otherwise uses a vehicle to transport riders for compensation;
148 and

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149 2. Covers the TNC driver while the TNC driver is logged on
150 to the digital network of the TNC or while the TNC driver is
151 engaged in a prearranged ride.

152 (b) The following automobile insurance requirements apply
153 while a participating TNC driver is logged on to the digital
154 network but is not engaged in a prearranged ride:

155 1. Automobile insurance that provides:

156 a. A primary automobile liability coverage of at least
157 \$50,000 for death and bodily injury per person, \$100,000 for
158 death and bodily injury per incident, and \$25,000 for property
159 damage; and

160 b. Personal injury protection benefits that meet the
161 minimum coverage amounts required under ss. 627.730-627.7405.

162 2. The coverage requirements of this paragraph may be
163 satisfied by any of the following:

164 a. Automobile insurance maintained by the TNC driver;

165 b. Automobile insurance maintained by the TNC; or

166 c. A combination of sub-subparagraphs a. and b.

167 (c) The following automobile insurance requirements apply
168 while a TNC driver is engaged in a prearranged ride:

169 1. Automobile insurance that provides:

170 a. A primary automobile liability coverage of at least \$1
171 million for death, bodily injury, and property damage; and

172 b. Personal injury protection benefits that meet the
173 minimum coverage amounts required of a limousine under ss.
174 627.730-627.7405.

175 2. The coverage requirements of this paragraph may be
176 satisfied by any of the following:

177 a. Automobile insurance maintained by the TNC driver;

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178 b. Automobile insurance maintained by the TNC; or

179 c. A combination of sub-subparagraphs a. and b.

180 (d) If the TNC driver's insurance under paragraph (b) or
181 paragraph (c) has lapsed or does not provide the required
182 coverage, the insurance maintained by the TNC must provide the
183 coverage required under this subsection, beginning with the
184 first dollar of a claim, and have the duty to defend such claim.

185 (e) Coverage under an automobile insurance policy
186 maintained by the TNC must not be dependent on a personal
187 automobile insurer first denying a claim, and a personal
188 automobile insurance policy is not required to first deny a
189 claim.

190 (f) Insurance required under this subsection must be
191 provided by an insurer authorized to do business in this state
192 which is a member of the Florida Insurance Guaranty Association
193 or an eligible surplus lines insurer that has a superior,
194 excellent, exceptional, or equivalent financial strength rating
195 by a rating agency acceptable to the Office of Insurance
196 Regulation of the Financial Services Commission.

197 (g) Insurance satisfying the requirements under this
198 subsection is deemed to satisfy the financial responsibility
199 requirement for a motor vehicle under chapter 324 and the
200 security required under s. 627.733.

201 (h) A TNC driver shall carry proof of coverage satisfying
202 paragraphs (b) and (c) with him or her at all times during his
203 or her use of a TNC vehicle in connection with a digital
204 network. In the event of an accident, a TNC driver shall provide
205 this insurance coverage information to directly interested
206 parties, automobile insurers, and investigating police officers.

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207 Proof of financial responsibility may be presented through an
208 electronic device, such as a digital phone application, under s.
209 316.646. Upon request, a TNC driver shall also disclose to
210 directly interested parties, automobile insurers, and
211 investigating police officers whether he or she was logged on to
212 a digital network or was engaged in a prearranged ride at the
213 time of the accident.

214 (i) If a TNC's insurer makes a payment for a claim covered
215 under comprehensive coverage or collision coverage, the TNC
216 shall cause its insurer to issue the payment directly to the
217 business repairing the vehicle or jointly to the owner of the
218 vehicle and the primary lienholder on the covered vehicle.

219 (8) TRANSPORTATION NETWORK COMPANY AND INSURER; DISCLOSURE;
220 EXCLUSIONS.—

221 (a) Before a TNC driver is allowed to accept a request for
222 a prearranged ride on the digital network, the TNC must disclose
223 in writing to the TNC driver:

224 1. The insurance coverage, including the types of coverage
225 and the limits for each coverage, which the TNC provides while
226 the TNC driver uses a TNC vehicle in connection with the TNC's
227 digital network.

228 2. That the TNC driver's own automobile insurance policy
229 might not provide any coverage while the TNC driver is logged on
230 to the digital network or is engaged in a prearranged ride,
231 depending on the terms of the TNC driver's own automobile
232 insurance policy.

233 3. That the provision of rides for compensation which are
234 not prearranged rides subjects the driver to the coverage
235 requirements imposed under s. 324.032(1) and that failure to

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236 meet such coverage requirements subjects the TNC driver to
237 penalties provided in s. 324.221, up to and including a
238 misdemeanor of the second degree.

239 (b)1. An insurer that provides an automobile liability
240 insurance policy under part XI of chapter 627 may exclude any
241 and all coverage afforded under the policy issued to an owner or
242 operator of a TNC vehicle for any loss or injury that occurs
243 while a TNC driver is logged on to a digital network or while a
244 TNC driver provides a prearranged ride. This right to exclude
245 all coverage may apply to any coverage included in an automobile
246 insurance policy, including, but not limited to:

247 a. Liability coverage for bodily injury and property
248 damage;

249 b. Uninsured and underinsured motorist coverage;

250 c. Medical payments coverage;

251 d. Comprehensive physical damage coverage;

252 e. Collision physical damage coverage; and

253 f. Personal injury protection.

254 2. The exclusions described in subparagraph 1. apply
255 notwithstanding any requirement under chapter 324. This section
256 does not require that a personal automobile insurance policy
257 provide coverage while the TNC driver is logged on to a digital
258 network, while the TNC driver is engaged in a prearranged ride,
259 or while the TNC driver otherwise uses a vehicle to transport
260 riders for compensation.

261 3. This section must not be construed to require an insurer
262 to use any particular policy language or reference to this
263 section in order to exclude any and all coverage for any loss or
264 injury that occurs while a TNC driver is logged on to a digital

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265 network or while a TNC driver provides a prearranged ride.

266 4. This section does not preclude an insurer from providing
267 primary or excess coverage for the TNC driver's vehicle by
268 contract or endorsement.

269 (c)1. An automobile insurer that excludes the coverage
270 described in subparagraph (b)1. does not have a duty to defend
271 or indemnify any claim expressly excluded thereunder. This
272 section does not invalidate or limit an exclusion contained in a
273 policy, including a policy in use or approved for use in this
274 state before July 1, 2017, which excludes coverage for vehicles
275 used to carry persons or property for a charge or available for
276 hire by the public.

277 2. An automobile insurer that defends or indemnifies a
278 claim against a TNC driver which is excluded under the terms of
279 its policy has a right of contribution against other insurers
280 that provide automobile insurance to the same TNC driver in
281 satisfaction of the coverage requirements of subsection (7) at
282 the time of loss.

283 (d) In a claims coverage investigation, a TNC shall
284 immediately provide, upon request by a directly involved party
285 or any insurer of the TNC driver, if applicable, the precise
286 times that the TNC driver logged on and off the digital network
287 in the 12-hour period immediately preceding and in the 12-hour
288 period immediately following the accident. An insurer providing
289 coverage under subsection (7) shall disclose, upon request by
290 any other insurer involved in the particular claim, the
291 applicable coverages, exclusions, and limits provided under any
292 automobile insurance maintained in order to satisfy the
293 requirements of subsection (7).

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294 (9) LIMITATION ON TRANSPORTATION NETWORK COMPANIES.—A TNC
295 driver is an independent contractor and not an employee of the
296 TNC if all of the following conditions are met:

297 (a) The TNC does not unilaterally prescribe specific hours
298 during which the TNC driver must be logged on to the TNC's
299 digital network.

300 (b) The TNC does not prohibit the TNC driver from using
301 digital networks from other TNCs.

302 (c) The TNC does not restrict the TNC driver from engaging
303 in any other occupation or business.

304 (d) The TNC and TNC driver agree in writing that the TNC
305 driver is an independent contractor with respect to the TNC.

306
307 This subsection applies retroactively to any TNC driver who has
308 ever operated in this state.

309 (10) ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.—

310 (a) The TNC shall implement a zero-tolerance policy
311 regarding a TNC driver's activities while accessing the TNC's
312 digital network. The zero-tolerance policy must address the use
313 of drugs or alcohol while a TNC driver is providing a
314 prearranged ride or is logged on to the digital network.

315 (b) The TNC shall provide notice of this policy on its
316 website, as well as procedures to report a complaint about a TNC
317 driver who a rider reasonably suspects was under the influence
318 of drugs or alcohol during the course of the ride.

319 (c) Upon receipt of a rider's complaint alleging a
320 violation of the zero-tolerance policy, the TNC shall suspend a
321 TNC driver's ability to accept any ride request through the
322 TNC's digital network as soon as possible and shall conduct an

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323 investigation into the reported incident. The suspension must
324 last the duration of the investigation.

325 (11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.—

326 (a) Before an individual is authorized to accept a ride
327 request through a digital network:

328 1. The individual must submit an application to the TNC
329 which includes information regarding his or her address, age,
330 driver license, motor vehicle registration, and other
331 information required by the TNC;

332 2. The TNC must conduct, or have a third party conduct, a
333 local and national criminal background check that includes:

334 a. A search of the Multi-State/Multi-Jurisdiction Criminal
335 Records Locator or other similar commercial nationwide database
336 with validation of any records through primary source search;
337 and

338 b. A search of the National Sex Offender Public Website
339 maintained by the United States Department of Justice; and

340 3. The TNC must obtain and review, or have a third party
341 obtain and review, a driving history research report for the
342 applicant.

343 (b) The TNC shall conduct the background check required
344 under paragraph (a) for a TNC driver every 3 years.

345 (c) The TNC may not authorize an individual to act as a TNC
346 driver on its digital network if the driving history research
347 report conducted when the individual first seeks access to the
348 digital network reveals that the individual has had more than
349 three moving violations in the prior 3-year period.

350 (d) The TNC may not authorize an individual to act as a TNC
351 driver on its digital network if the background check conducted

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352 when the individual first seeks access to the digital network or
353 any subsequent background check required under paragraph (b)
354 reveals that the individual:

355 1. Has been convicted, within the past 5 years, of:

356 a. A felony;

357 b. A misdemeanor for driving under the influence of drugs
358 or alcohol, for reckless driving, for hit and run, or for
359 fleeing or attempting to elude a law enforcement officer; or

360 c. A misdemeanor for a violent offense or sexual battery,
361 or a crime of lewdness or indecent exposure under chapter 800;

362 2. Has been convicted, within the past 3 years, of driving
363 with a suspended or revoked license;

364 3. Is a match in the National Sex Offender Public Website
365 maintained by the United States Department of Justice;

366 4. Does not possess a valid driver license; or

367 5. Does not possess proof of registration for the motor
368 vehicle used to provide prearranged rides.

369 (12) PROHIBITED CONDUCT.—

370 (a) A TNC driver may not accept a ride for compensation
371 other than a ride arranged through a digital network.

372 (b) A TNC driver may not solicit or accept street hails.

373 (13) NONDISCRIMINATION; ACCESSIBILITY.—

374 (a) A TNC shall adopt a policy of nondiscrimination with
375 respect to riders and potential riders and shall notify TNC
376 drivers of such policy.

377 (b) A TNC driver shall comply with the TNC's
378 nondiscrimination policy.

379 (c) A TNC driver shall comply with all applicable laws
380 regarding nondiscrimination against riders and potential riders.

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

383 (e) A TNC may not impose additional charges for providing
384 services to a person who has a physical disability because of
385 the person's disability.

386 (14) RECORDS.—A TNC shall maintain the following records:

387 (a) Individual ride records for at least 1 year after the
388 date on which each ride is provided; and

389 (b) Individual records of TNC drivers for at least 1 year
390 after the date on which the TNC driver's relationship with the
391 TNC ends.

392 (15) PREEMPTION.—

393 (a) It is the intent of the Legislature to provide for
394 uniformity of laws governing TNCs, TNC drivers, and TNC vehicles
395 throughout the state. TNCs, TNC drivers, and TNC vehicles are
396 governed exclusively by state law, including in any locality or
397 other jurisdiction that enacted a law or created rules governing
398 TNCs, TNC drivers, or TNC vehicles before July 1, 2017. A
399 county, municipality, special district, airport authority, port
400 authority, or other local governmental entity or subdivision may
401 not:

402 1. Impose a tax on, or require a license for, a TNC, a TNC
403 driver, or a TNC vehicle if such tax or license relates to
404 providing prearranged rides or subject a TNC, a TNC driver, or a
405 TNC vehicle to any rate, entry, operational, or other
406 requirement of the county, municipality, special district,
407 airport authority, port authority, or other local governmental
408 entity or subdivision; or

409 2. Require a TNC or a TNC driver to obtain a business

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410 license or any other type of similar authorization to operate
411 within the local governmental entity's jurisdiction.

412 (b) This subsection does not prohibit an airport from
413 charging reasonable pickup fees consistent with any pickup fees
414 charged to taxicab companies at that airport for their use of
415 the airport's facilities or prohibit the airport from
416 designating locations for staging, pickup, and other similar
417 operations at the airport.

418 Section 2. This act shall take effect July 1, 2017.