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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/AD/2R

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04/22/2015 12:10 PM

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Senator Simmons moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 316.646, Florida
Statutes, is amended to read:

316.646 Security required; proof of security and display
thereof.—

(1) Any person required by s. 324.022 to maintain property
damage liability security, required by s. 324.023 to maintain
liability security for bodily injury or death, ~~or~~ required by s.



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12 627.733 to maintain personal injury protection security on a
13 motor vehicle, or required by s. 627.748(2)(d) to maintain
14 insurance shall have in his or her immediate possession at all
15 times while operating such motor vehicle proper proof of
16 maintenance of the required security.

17 (a) Such proof shall be in a uniform paper or electronic
18 format, as prescribed by the department, a valid insurance
19 policy, an insurance policy binder, a certificate of insurance,
20 or such other proof as may be prescribed by the department.

21 (b)1. The act of presenting to a law enforcement officer an
22 electronic device displaying proof of insurance in an electronic
23 format does not constitute consent for the officer to access any
24 information on the device other than the displayed proof of
25 insurance.

26 2. The person who presents the device to the officer
27 assumes the liability for any resulting damage to the device.

28 Section 2. Section 627.716, Florida Statutes, is created to
29 read:

30 627.716 Short-term rental network company insurance.-

31 (1) For purposes of this section, the term:

32 (a) "Application" means an Internet-enabled application or
33 platform or any similar method that is used to provide rental
34 services to a participating renter and that is owned or used by
35 a short-term rental network company.

36 (b) "Participating lessor" means a person who makes a
37 short-term rental property available through an application to
38 participating renters.

39 (c) "Participating renter" means a person who enters into a
40 short-term rental arrangement through an application.



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41 (d) "Short-term rental network company" or "company" means
42 an individual or organization, including, but not limited to, a
43 corporation, limited liability company, partnership, sole
44 proprietorship, or other entity for which participating lessors
45 provide prearranged, short-term rentals for compensation using
46 an application to connect a participating renter with a
47 participating lessor. The term does not include a licensee under
48 chapter 509, an association as defined in s. 719.103, a
49 developer or managing entity as defined in s. 721.05, or other
50 entity that owns, manages, or otherwise controls the short-term
51 rental property of the participating lessor.

52 (e) "Short-term rental network company insurance" means an
53 insurance policy that provides coverage as required by this
54 section at all times during the short-term rental period.

55 (f) "Short-term rental period" means the period beginning
56 at the time the participating renter first uses or occupies the
57 short-term rental property and ending at the time the
58 participating renter vacates the short-term rental property.

59 (g) "Short-term rental property" means the entirety or any
60 portion of a property which is used for residential occupancy
61 purposes. The term includes, but is not limited to, a
62 condominium, an apartment, a multifamily dwelling, a single-
63 family structure, or any other rental unit located in this state
64 which is owned or rented by a participating lessor. The term
65 does not include timeshare property as defined in s. 721.05.

66 (2) (a) During the short-term rental period, a short-term
67 rental network company shall maintain short-term rental network
68 company insurance as excess coverage, except that such coverage
69 shall be primary to the extent that the participating lessor's



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70 insurance does not provide coverage. The short-term rental
71 network insurance must:

72 1. Insure the participating lessor against direct physical
73 loss to the short-term rental property and its contents,
74 exclusive of the property of the participating renter, with
75 limits of at least \$1 million per occurrence with a policy
76 period aggregate limit of \$2 million for each short-term rental
77 property.

78 2. Provide liability coverage for personal injury and
79 property damage with limits of at least \$1 million which covers
80 the acts and omissions of the short-term rental network company,
81 a participating lessor, and all other persons using or occupying
82 the short-term rental property, except for a participating
83 renter, against claims arising out of the use or occupancy of
84 the short-term rental property by a participating renter and
85 which does not contain an exclusion for co-insureds.

86 (b) Short-term rental network company insurance may not
87 require as a prerequisite of coverage that another insurance
88 policy first deny a claim.

89 (3) A short-term rental network company shall disclose in
90 writing to a participating lessor the insurance coverages and
91 limits of liability that the short-term rental network company
92 provides during the short-term rental period. The company shall
93 advise the participating lessor in writing that the
94 participating lessor's personal insurance policy may not provide
95 the insurance coverage required by subsection (2).

96 (4) An insurer that provides short-term rental network
97 company insurance shall defend and indemnify in this state the
98 insured in accordance with the policy's provisions.



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99 (5) (a) During the short-term rental period, the
100 participating lessor's personal insurance policy for the short-
101 term rental property may not:

102 1. Be required to provide primary or excess coverage.

103 2. Provide any coverage to the participating lessor, the
104 participating renter, or a third party unless the policy, with
105 or without a separate charge, provides for such coverage or
106 contains an amendment or endorsement to provide such coverage.

107 3. Have any duty to indemnify or defend for liabilities
108 arising during the short-term rental period unless the policy,
109 with or without a separate charge, provides for such duties or
110 contains an amendment or endorsement to provide for such duties.

111 (b) Before or after the short-term rental period, the
112 participating lessor's personal policy for the short-term rental
113 property may not provide coverage for claims arising from any
114 rental arrangement entered into by a participating renter with
115 the short-term rental company or the participating lessor for
116 the short-term rental property or for acts and omissions related
117 to the rental arrangement unless the policy, with or without a
118 separate charge, provides for such coverage or contains an
119 amendment or endorsement to provide such coverage.

120 (6) In a claims investigation, a short-term rental network
121 company or its insurer shall cooperate with other insurers to
122 facilitate the exchange of information, which must include the
123 number and duration of all short-term rental periods made with
124 respect to the short-term rental property for the 12 months
125 preceding the date of loss.

126 (7) This section does not limit the liability of a short-
127 term rental network company arising out of the use or occupancy



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128 of short-term rental property by a participating renter for an
129 amount that exceeds the limits specified in subsection (2).

130 Section 3. Section 627.748, Florida Statutes, is created to
131 read:

132 627.748 Transportation network company insurance.-

133 (1) For purposes of this section, the term:

134 (a) "Digital network" means an online-enabled application,
135 software, website, or system offered or used by a transportation
136 network company which enables the prearrangement of rides with
137 transportation network company drivers.

138 (b) "Personal vehicle" means a vehicle, however titled,
139 which is used by a transportation network company driver in
140 connection with providing transportation network company service
141 and that:

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

144 2. Is not a taxi, jitney, limousine, or for-hire vehicle as
145 defined in s. 320.01(15).

146 (c) "Prearranged ride" means the provision of
147 transportation by a driver to or on behalf of a rider, beginning
148 when a driver accepts a ride requested by a rider through a
149 digital network controlled by a transportation network company,
150 continuing while the driver transports the rider, and ending
151 when the last rider departs from the personal vehicle. A
152 prearranged ride does not include transportation provided using
153 a taxi, jitney, limousine, for-hire vehicle as defined in s.
154 320.01(15), or street hail services.

155 (d) "Transportation network company" or "company" means a
156 corporation, partnership, sole proprietorship, or other entity



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157 operating in this state which uses a digital network to connect
158 transportation network company riders to transportation network
159 company drivers who provide prearranged rides. A transportation
160 network company may not be deemed to control, direct, or manage
161 the personal vehicles or transportation network company drivers
162 that connect to its digital network, unless agreed to in a
163 written contract. A transportation network company does not
164 include an individual, corporation, partnership, sole
165 proprietorship, or other entity arranging nonemergency medical
166 transportation for individuals qualifying for Medicaid or
167 Medicare pursuant to a contract with the state or a managed care
168 organization.

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

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

175 2. Uses a personal vehicle to offer or provide a
176 prearranged ride to riders upon connection through a digital
177 network controlled by a transportation network company in return
178 for compensation, including payment of a fee.

179 (f) "Transportation network company rider" or "rider" means
180 an individual who directly or indirectly uses a transportation
181 network company's digital network to connect with a
182 transportation network company driver who provides
183 transportation services to such individual in the driver's
184 personal vehicle.

185 (2) (a) A transportation network company driver, or a



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186 transportation network company on the driver's behalf, shall
187 maintain primary automobile insurance that recognizes that the
188 driver is a transportation network company driver or that the
189 driver otherwise uses a personal vehicle to transport riders for
190 compensation. Such primary automobile insurance must cover the
191 driver as required under this section, including while the
192 driver is logged on to the transportation network company's
193 digital network and engaged in a prearranged ride.

194 (b) The following automobile insurance requirements apply
195 while a participating transportation network company driver is
196 logged on to the transportation network company's digital
197 network and is available to receive transportation requests, but
198 is not engaged in a prearranged ride:

199 1. Primary automobile liability insurance of at least
200 \$125,000 for death and bodily injury per person, \$250,000 for
201 death and bodily injury per incident, and \$25,000 for property
202 damage; and

203 2. Primary automobile insurance that provides the minimum
204 coverage requirements under ss. 627.730-627.7405.

205 (c) While a transportation network company driver is
206 engaged in a prearranged ride, the automobile insurance
207 requirements that apply are primary automobile liability
208 insurance of at least \$1 million for death and bodily injury and
209 \$50,000 for property damage.

210 (d) The following automobile insurance requirements apply
211 at all times other than the periods specified in paragraph (b)
212 or paragraph (c) if a driver has an agreement with a
213 transportation network company to provide any form of
214 transportation services to riders:



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215 1. Primary automobile liability insurance of at least
216 \$100,000 for death and bodily injury per person, \$200,000 for
217 death and bodily injury per incident, and \$25,000 for property
218 damage; and

219 2. Primary automobile insurance that provides the minimum
220 coverage requirements under ss. 627.730-627.7405.

221 (e) The coverage requirements of paragraph (d) shall be
222 satisfied by automobile insurance maintained by the
223 transportation network company driver. The coverage requirements
224 of paragraphs (b) and (c) may be satisfied by any of the
225 following:

226 1. Automobile insurance maintained by the transportation
227 network company driver;

228 2. Automobile insurance maintained by the transportation
229 network company; or

230 3. Any combination of subparagraphs 1. and 2.

231 (f) If automobile insurance maintained by a driver under
232 paragraph (b), paragraph (c), or paragraph (d) has lapsed or
233 does not provide the required coverage, automobile insurance
234 maintained by a transportation network company must provide the
235 coverage required by this section beginning with the first
236 dollar of a claim and must require that the insurer have the
237 duty to defend such claim in this state.

238 (g) Coverage under an automobile insurance policy
239 maintained by the transportation network company may not be
240 dependent on a personal automobile liability insurance policy
241 first denying a claim.

242 (h) Automobile insurance required by this section may be
243 provided by an insurer authorized to do business in this state



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244 or an eligible surplus lines insurer.

245 (i) Automobile insurance satisfying the requirements of
246 this section shall be deemed to satisfy the financial
247 responsibility requirements for a motor vehicle under chapter
248 324 and the security required under s. 627.733.

249 (j) A transportation network company driver shall carry
250 proof of insurance coverage satisfying paragraphs (b), (c), and
251 (d) at all times during his or her use of a personal vehicle. In
252 the event of an accident:

253 1. The driver shall provide the insurance coverage
254 information to the directly involved parties, automobile
255 insurers, and investigating police officers. Proof of financial
256 responsibility may be provided through a digital telephone
257 application under s. 316.646 controlled by a transportation
258 network company.

259 2. The driver, upon request, shall disclose to the directly
260 involved parties, automobile insurers, and investigating police
261 officers whether the driver, at the time of the accident, was
262 logged on to the transportation network company's digital
263 network or engaged in prearranged ride.

264 (k) Before a driver may accept a request for a prearranged
265 ride on the transportation network company's digital network,
266 the transportation network company shall disclose in writing to
267 each transportation network company driver each type of:

268 1. Insurance coverage and the limit for each coverage the
269 transportation network company provides; and

270 2. Automobile insurance coverage that the driver must
271 maintain while the driver uses a personal vehicle in connection
272 with the transportation network company.



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273 (1) An insurer that provides personal automobile insurance
274 policies under part XI of chapter 627 may exclude from coverage
275 under a policy issued to an owner or operator of a personal
276 vehicle any loss or injury that occurs while a driver is logged
277 on to a transportation network company's digital network or
278 while a driver is engaged in a prearranged ride. Such right to
279 exclude coverage applies to any coverage under an automobile
280 insurance policy, including, but not limited to:

281 1. Liability coverage for bodily injury and property
282 damage.

283 2. Personal injury protection coverage under s. 627.736.

284 3. Uninsured and underinsured motorist coverage.

285 4. Medical payments coverage.

286 5. Comprehensive physical damage coverage.

287 6. Collision physical damage coverage.

288 (m) The exclusions authorized under paragraph (1) apply
289 notwithstanding any financial responsibility requirements under
290 chapter 324. This section does not require that a personal
291 automobile insurance policy provide coverage while the driver is
292 logged on to the transportation network company's digital
293 network, while the driver is engaged in a prearranged ride, or
294 while the driver otherwise uses a personal vehicle to transport
295 riders for compensation. However, an insurer may voluntarily
296 elect to provide coverage for such driver's personal vehicle by
297 contract or endorsement.

298 (n) An insurer that excludes coverage, as authorized under
299 paragraph (1):

300 1. Does not have a duty to defend or indemnify any claim
301 excluded. This section does not invalidate or limit an exclusion



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302 contained in a policy, including any policy in use or approved
303 for use in this state before July 1, 2015.

304 2. Has a right of contribution against other insurers that
305 provide automobile insurance to the same driver in satisfaction
306 of the coverage requirements of this section at the time of loss
307 if the insurer defends or indemnifies a claim against a driver
308 which is excluded under the terms of its policy.

309 (o) In a claims investigation, a transportation network
310 company and any insurer potentially providing coverage for such
311 claim under this section shall cooperate to facilitate the
312 exchange of relevant information with directly involved parties
313 and insurers of the transportation network company driver, if
314 applicable. Such information must provide:

315 1. The precise times that a driver logged on and off the
316 transportation network company's digital network during the 12-
317 hour period immediately preceding and immediately after the
318 accident.

319 2. A clear description of the coverage, any exclusions, and
320 limits provided under any automobile insurance maintained under
321 this section.

322 (p) Before allowing an individual to act as a driver on its
323 digital network, a transportation network company shall
324 determine whether the driver's personal vehicle is subject to a
325 lien. If the personal vehicle is subject to a lien, the
326 transportation network company shall verify that the insurance
327 required by this section provides coverage to the lienholder
328 while the driver is logged into the transportation network
329 company's digital network and while the driver is providing a
330 prearranged ride.



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331 (3) The office may adopt rules to implement this section.

332 Section 4. This act shall take effect October 1, 2015.

333

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

335 And the title is amended as follows:

336 Delete everything before the enacting clause

337 and insert:

338 A bill to be entitled

339 An act relating to minimum insurance requirements;
340 amending s. 316.646, F.S.; requiring a transportation
341 network company driver to have proof of certain
342 insurance in his or her possession during a specified
343 timeframe; creating s. 627.716, F.S.; defining terms;
344 establishing insurance requirements for short-term
345 rental network companies during certain timeframes;
346 requiring a short-term rental network company to make
347 certain written disclosures to participating lessors;
348 requiring an insurer to defend and indemnify an
349 insured in this state; prohibiting the personal
350 insurance policy of a participating lessor of a short-
351 term rental property from providing specified coverage
352 during certain timeframes except under specified
353 circumstances; requiring a short-term rental network
354 company and its insurer to cooperate with certain
355 claims investigations; providing that the section does
356 not limit the liability of a short-term rental network
357 company under specified circumstances; creating s.
358 627.748, F.S.; defining terms; requiring a
359 transportation network company driver or such company



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360 on the driver's behalf, or a combination thereof, to
361 maintain primary automobile insurance issued by
362 specified insurers with certain coverages in specified
363 amounts during certain timeframes; requiring a
364 transportation network company driver to maintain
365 primary automobile insurance issued by specified
366 insurers with certain coverages in specified amounts
367 during certain timeframes; requiring the
368 transportation network company to provide automobile
369 insurance in the event insurance maintained by the
370 transportation network company driver lapses or does
371 not provide the required coverage; requiring a
372 transportation network company driver to carry proof
373 of certain insurance coverage at all times during his
374 or her use of a personal vehicle and to disclose
375 specified information in the event of an accident;
376 requiring a transportation network company to make
377 certain disclosures to transportation network company
378 drivers; authorizing insurers to exclude certain
379 coverages during specified periods for policies issued
380 to transportation network company drivers for personal
381 vehicles; requiring a transportation network company
382 and certain insurers to cooperate during a claims
383 investigation to facilitate the exchange of specified
384 information; requiring a transportation network
385 company to determine whether an individual's personal
386 vehicle is subject to a lien before allowing the
387 individual to act as a driver and, if the vehicle is
388 subject to a lien, to verify that the insurance



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389 required by this section provides coverage to the
390 lienholder during specified periods; authorizing the
391 Office of Insurance Regulation to adopt rules to
392 implement the section; providing an effective date.