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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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03/10/2016 03:45 PM

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Senator Brandes moved the following:

1 **Senate Substitute for Amendment (647274) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

9 316.066 Written reports of crashes.—

10 (1)

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



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12 include:

- 13 1. The date, time, and location of the crash.
- 14 2. A description of the vehicles involved.
- 15 3. The names and addresses of the parties involved,
16 including all drivers and passengers, and the identification of
17 the vehicle in which each was a driver or a passenger.
- 18 4. The names and addresses of witnesses.
- 19 5. The name, badge number, and law enforcement agency of
20 the officer investigating the crash.
- 21 6. The names of the insurance companies for the respective
22 parties involved in the crash.
- 23 7. A statement as to whether, at the time of the crash, a
24 driver was engaged in the provision of transportation network
25 company service, as defined in s. 316.680, or logged into a
26 transportation network company's digital network.

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

- 35 1. The date, time, and location of the crash.
- 36 2. A description of the vehicles involved.
- 37 3. The names and addresses of the parties involved,
38 including all drivers and passengers, and the identification of
39 the vehicle in which each was a driver or a passenger.
- 40 4. The names and addresses of witnesses.



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

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

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

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

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

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

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

69 (e) A driver who provides a false statement to a law



70 enforcement officer in connection with the information that is
71 required to be reported pursuant to subparagraph (1)(b)7. or
72 subparagraph (1)(c)7. commits a misdemeanor of the second
73 degree, punishable as provided in s. 775.082 or s. 775.083.

74 Section 2. Section 316.680, Florida Statutes, is created to
75 read:

76 316.680 Transportation network companies.-

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

78 (a) "Digital network" means any online-enabled application,
79 software, website, or system offered or used by a transportation
80 network company that enables the prearrangement of rides with
81 transportation network company drivers.

82 (b) "Personal vehicle" means a vehicle that is used by a
83 transportation network company driver in connection with
84 providing transportation network company service and is:

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

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

89
90 Notwithstanding any other provision of law, a vehicle that is
91 let or rented to another for consideration may be used as a
92 personal vehicle.

93 (c) "Transportation network company" or "company" means an
94 entity granted a permit under this section to operate in this
95 state using a digital network or software application service to
96 connect riders to transportation network company service
97 provided by drivers. A company is not deemed to own, control,
98 operate, or manage the vehicles used by drivers; is not deemed



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99 to control or manage drivers; and is not a taxicab association
100 or for-hire vehicle owner. A transportation network company does
101 not include an individual, corporation, partnership, sole
102 proprietorship, or other entity arranging nonemergency medical
103 transportation for individuals qualifying for Medicaid or
104 Medicare pursuant to a contract with the state or a managed care
105 organization.

106 (d) "Transportation network company driver" or "driver"
107 means an individual who:

108 1. Receives connections to potential riders and related
109 services from a transportation network company in exchange for
110 payment of a fee to the transportation network company; and

111 2. Uses a personal vehicle to provide transportation
112 network company service to riders upon connection through a
113 digital network controlled by a transportation network company
114 in return for compensation or payment of a fee.

115 (e) "Transportation network company rider" or "rider" means
116 an individual or person who uses a transportation network
117 company's digital network to connect with a transportation
118 network company driver who provides transportation network
119 company service to the rider in the driver's personal vehicle
120 between points chosen by the rider.

121 (f) "Transportation network company service" means the
122 provision of transportation by a driver to a rider, beginning
123 when a driver accepts a ride requested by a rider through a
124 digital network controlled by a transportation network company,
125 continuing while the driver transports a rider, and ending when
126 the last rider departs from the personal vehicle. The term does
127 not include a taxi, for-hire vehicle, or street hail service and



128 does not include ridesharing as defined in s. 341.031, a carpool
129 service as defined s. 450.28, or any other type of service in
130 which the driver receives a fee that does not exceed the
131 driver's cost to provide the ride.

132 (g) "Trip" means the duration of transportation network
133 company service beginning at a point of origin where the rider
134 enters the driver's vehicle and ending at a point of destination
135 where the rider exits the vehicle.

136 (2) NOT A COMMON CARRIER.—A transportation network company
137 or driver is not a common carrier and does not provide taxi or
138 for-hire vehicle service. In addition, a driver is not required
139 to register the vehicle that the driver uses for transportation
140 network company service as a commercial motor vehicle or a for-
141 hire vehicle.

142 (3) PERMIT REQUIRED.—

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

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

150 (4) AGENT FOR SERVICE OF PROCESS REQUIRED.—A transportation
151 network company must designate and maintain an agent for service
152 of process in this state. If the registered agent of the company
153 cannot, with reasonable diligence, be found or if the company
154 fails to designate or maintain a registered agent in this state,
155 the executive director of the department must be an agent of the
156 transportation network company upon whom any process, notice, or



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157 demand may be served.

158 (5) FARE COLLECTED FOR SERVICES.—A company may collect a
159 fare on behalf of a driver for the services provided to riders;
160 however, if a fare is collected from a rider, the company shall
161 disclose to the rider the fare calculation method on its website
162 or within its software application service. The company shall
163 also provide the rider with the applicable rates being charged
164 and the option to receive an estimated fare before the rider
165 enters the driver's vehicle.

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

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

- 174 (a) The origin and destination of the trip.
175 (b) The total time and distance of the trip.
176 (c) An itemization of the total fare paid.

177 (8) TRANSPORTATION NETWORK COMPANY AND DRIVER INSURANCE
178 REQUIREMENTS.—

179 (a) Beginning March 1, 2017, a transportation network
180 company driver or transportation network company on the driver's
181 behalf shall maintain primary automobile insurance that
182 recognizes that the driver is a transportation network company
183 driver or otherwise uses a vehicle to transport riders for
184 compensation and covers the driver:

185 1. While the driver is logged into the transportation



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186 network company's digital network; or

187 2. While the driver is engaged in transportation network
188 company service.

189 (b) The following automobile insurance requirements apply
190 while a participating driver is logged into the transportation
191 network company's digital network and is available to receive
192 transportation requests but is not engaged in transportation
193 network company service:

194 1. Primary automobile liability insurance in the amount of
195 at least \$50,000 for death and bodily injury per person,
196 \$100,000 for death and bodily injury per incident, and \$25,000
197 for property damage.

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

200 (c) The following automobile insurance requirements apply
201 while a driver is engaged in transportation network company
202 service:

203 1. Primary automobile liability insurance that provides at
204 least \$1 million for death, bodily injury, and property damage;
205 and

206 2. Personal injury protection benefits that provide the
207 minimum coverage amounts where required of a limousine under ss.
208 627.730-627.7405.

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

211 1. Automobile insurance maintained by the driver;

212 2. Automobile insurance maintained by the company; or

213 3. A combination of coverage maintained as provided in
214 subparagraphs 1. and 2.



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215 (e) If insurance maintained by a driver under paragraph (b)
216 or paragraph (c) has lapsed or does not provide the required
217 coverage, insurance maintained by a transportation network
218 company shall provide the coverage required by this section
219 beginning with the first dollar of a claim.

220 (f) Coverage under an automobile insurance policy
221 maintained by the transportation network company is not
222 dependent on the maintenance of a personal automobile insurance
223 policy or on the personal automobile insurer's first denying a
224 claim.

225 (g) Automobile insurance required by this section must be
226 provided by an insurer authorized to do business in this state
227 which is a member of the Florida Insurance Guaranty Association
228 or an eligible surplus lines insurer that has a superior, an
229 excellent, an exceptional, or an equivalent financial strength
230 rating by a rating agency acceptable to the Office of Insurance
231 Regulation.

232 (h) Insurance satisfying the requirements of this section
233 is deemed to satisfy the financial responsibility requirement
234 for a motor vehicle under chapter 324 and the security required
235 under s. 627.733.

236 (i) A driver shall carry proof of coverage satisfying
237 paragraphs (b) and (c) with him or her at all times during his
238 or her use of a vehicle in connection with a transportation
239 network company's digital network. In the event of an accident,
240 the driver shall provide this insurance coverage information to
241 the directly interested parties, automobile insurers, and
242 investigating police officers. Such proof of financial
243 responsibility may be presented through a digital phone



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244 application under s. 316.646 controlled by a transportation
245 network company. Upon such request, the driver shall also
246 disclose to directly interested parties, automobile insurers,
247 and investigating police officers whether he or she was logged
248 into the transportation network company's digital network or
249 engaged in transportation network company service at the time of
250 the accident.

251 (j) If a transportation network company's insurer makes a
252 payment for a claim covered under comprehensive coverage or
253 collision coverage, the transportation network company shall
254 cause its insurer to issue the payment directly to the business
255 repairing the vehicle or jointly to the owner of the vehicle and
256 the primary lienholder on the covered vehicle.

257 (9) TRANSPORTATION NETWORK COMPANY AND INSURER; EXCLUSIONS;
258 DISCLOSURE.—

259 (a) The transportation network company shall disclose the
260 following in writing to drivers before they are allowed to
261 accept a request for transportation network company service on
262 the transportation network company's digital network:

263 1. The insurance coverage, including the types of coverage
264 and the limits for each coverage, that the transportation
265 network company provides while the driver uses a personal
266 vehicle in connection with a transportation network company's
267 digital network.

268 2. That the driver's own automobile insurance policy might
269 not provide any coverage while the driver is logged into the
270 transportation network company's digital network and is
271 available to receive transportation requests or is engaged in
272 transportation network company service depending on its terms.



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273 3. That the provision of rides for compensation, whether
274 prearranged or otherwise, which is not covered by this section
275 subjects the driver to the coverage requirements imposed by s.
276 324.032(1), and that failure to meet such limits subjects the
277 driver to penalties provided in s. 324.221, up to and including
278 a misdemeanor of the second degree.

279 (b)1. An insurer that provides automobile liability
280 insurance policies under part XI of chapter 627 may exclude any
281 and all coverage afforded under the owner's or driver's
282 insurance policy for any loss or injury that occurs while a
283 driver is logged into a transportation network company's digital
284 network or while a driver provides transportation network
285 company service. This right to exclude all coverage may apply to
286 any coverage included in an automobile insurance policy,
287 including, but not limited to:

288 a. Liability coverage for bodily injury and property
289 damage.

290 b. Uninsured and underinsured motorist coverage.

291 c. Medical payments coverage.

292 d. Comprehensive physical damage coverage.

293 e. Collision physical damage coverage.

294 f. Personal injury protection.

295 2. The exclusions described in subparagraph 1. apply
296 notwithstanding any requirement under chapter 324. This section
297 does not require or imply that a personal automobile insurance
298 policy provides coverage while the driver is logged into the
299 transportation network company's digital network, while the
300 driver is engaged in transportation network company service, or
301 while the driver otherwise uses a vehicle to transport riders



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302 for compensation.

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

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

310 2. An automobile insurer that defends or indemnifies a
311 claim against a driver, which is excluded under the terms of its
312 policy, has a right of contribution against other insurers that
313 provide automobile insurance to the same driver in satisfaction
314 of the coverage requirements of subsection (8) at the time of
315 loss.

316 (d) In a claims coverage investigation, transportation
317 network companies and any insurer providing coverage under
318 subsection (8) shall cooperate to facilitate the exchange of
319 relevant information with directly involved parties and any
320 insurer of the driver, if applicable, including the precise
321 times that a driver logged into and off of the transportation
322 network company's digital network during the 12-hour period
323 immediately before and the 12-hour period immediately after the
324 accident and disclose to one another a clear description of the
325 coverage, exclusions, and limits provided under any automobile
326 insurance maintained under subsection (8).

327 (10) DRIVERS AS INDEPENDENT CONTRACTORS.—

328 (a) A driver is an independent contractor and not an
329 employee of the company if all of the following conditions are
330 met:



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331 1. The company does not prescribe specific hours during
332 which the driver must be logged into the company's digital
333 network.

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

336 3. The company does not assign the driver to a particular
337 territory in which transportation network company services are
338 authorized to be provided.

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

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

343 (b) A company operating under this section is not required
344 to provide workers' compensation coverage to a transportation
345 network company driver who is classified as an independent
346 contractor pursuant to this section.

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

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

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

357 (c) Upon receipt of a rider complaint alleging a violation
358 of the zero tolerance policy, the company shall immediately
359 suspend the accused driver's access to the company's digital



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360 network and shall conduct an investigation into the reported
361 incident. The suspension shall last for the duration of the
362 investigation.

363 (12) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

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

367 1. Require the applicant to submit an application to the
368 company, including his or her address, date of birth, social
369 security number, driver license number, driving history, motor
370 vehicle registration, automobile liability insurance, and other
371 information required by the company.

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

374 a. A Multi-State/Multi-Jurisdiction Criminal Records
375 Locator or other similar commercial national database with
376 validation.

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

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

383 4. Obtain and review a driving history research report for
384 the applicant.

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

387 1. Has had more than three moving violations in the
388 preceding 3-year period or one major violation in the preceding



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389 3-year period. A major violation is:
390 a. Fleeing or attempting to elude a law enforcement
391 officer;
392 b. Reckless driving; or
393 c. Driving with a suspended or revoked license;
394 2. Has been convicted, within the past 7 years, of driving
395 under the influence of drugs or alcohol, fraud, sexual offenses,
396 use of a motor vehicle to commit a felony, a crime involving
397 property damage or theft, acts of violence, or acts of terror;
398 3. Has been convicted, within the past 7 years, of any
399 offense listed in the level 2 screening standards in s.
400 435.04(2) or (3), or a substantially similar law of another
401 state or federal law;
402 4. Is a match in the Dru Sjodin National Sex Offender
403 Public Website;
404 5. Does not possess a valid driver license;
405 6. Does not possess proof of registration for the motor
406 vehicle used to provide transportation network company service;
407 7. Does not possess proof of automobile liability insurance
408 for the motor vehicle used to provide transportation network
409 company service; or
410 8. Has not attained the age of 19 years.
411 (13) PROHIBITED CONDUCT.—A driver may not:
412 (a) Accept a rider other than a rider arranged through a
413 digital network or software application service.
414 (b) Solicit or accept street hails.
415 (c) Solicit or accept cash payments from riders. A company
416 shall adopt a policy prohibiting solicitation or acceptance of
417 cash payments from riders and notify drivers of such policy.



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418 Such policy must require a payment for transportation network
419 company service to be made electronically using the company's
420 digital network or software application service.

421 (14) NONDISCRIMINATION; ACCESSIBILITY.-

422 (a) A company may not discriminate against a driver on the
423 basis of race, color, national origin, religious belief or
424 affiliation, sex, disability, age, or sexual orientation. A
425 company shall adopt a policy to assist a driver who reasonably
426 believes that he or she has received a negative rating from a
427 rider because of his or her race, color, national origin,
428 religious belief or affiliation, sex, disability, age, or sexual
429 orientation.

430 (b) A company shall adopt a policy of nondiscrimination on
431 the basis of destination, race, color, national origin,
432 religious belief or affiliation, sex, disability, age, or sexual
433 orientation with respect to riders and potential riders and
434 shall notify drivers of such policy.

435 (c) A driver shall comply with the nondiscrimination
436 policy.

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

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

442 (f) A company shall provide riders an opportunity to
443 indicate whether they require a wheelchair-accessible vehicle.
444 If a company cannot arrange wheelchair-accessible service, it
445 shall direct the rider to an alternate provider of wheelchair-
446 accessible service, if available.



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447 (15) RECORDS.—A company shall maintain:
448 (a) Individual trip records for at least 1 year after the
449 date each trip was provided.
450 (b) Driver records for at least 1 year after the date on
451 which a driver's activation on the company's digital network has
452 ended.
453 (c) The company shall maintain records of written rider
454 complaints received through the company's software application
455 service for at least 2 years after the date such complaint is
456 received by the company.
457 (16) PREEMPTION.—It is the intent of the Legislature to
458 provide for uniformity of laws governing transportation network
459 companies, transportation network company drivers, and vehicles
460 used by transportation network company drivers throughout the
461 state. Transportation network companies, transportation network
462 company drivers, and vehicles used by transportation network
463 company drivers are governed exclusively by state law and any
464 rules adopted by the department. A county, municipality, special
465 district, airport authority, port authority, or other local
466 governmental entity or subdivision may not impose a tax on, or
467 require a license for, a company or a driver, or a vehicle used
468 by a driver, if such tax or license relates to providing
469 transportation network company services, or subjects a company,
470 driver, or vehicle to any rate, entry, operation, or other
471 requirement of the county, municipality, special district,
472 airport authority, port authority, or other local governmental
473 entity or subdivision. This section does not prohibit an airport
474 from charging reasonable fees for use of the airport's
475 facilities or designating locations for staging, pickup, and



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476 other similar operations at the airport.

477 Section 3. Section 324.031, Florida Statutes, is amended to
478 read:

479 324.031 Manner of proving financial responsibility.—The
480 owner or operator of a taxicab, limousine, jitney, any vehicle
481 used in connection with a transportation network company, or any
482 other for-hire passenger transportation vehicle may prove
483 financial responsibility by providing satisfactory evidence of
484 holding a motor vehicle liability policy as defined in s.
485 324.021(8) or s. 324.151, which policy is issued by an insurance
486 carrier which is a member of the Florida Insurance Guaranty
487 Association or an eligible surplus lines insurer. The operator
488 or owner of any other vehicle may prove his or her financial
489 responsibility by:

490 (1) Furnishing satisfactory evidence of holding a motor
491 vehicle liability policy as defined in ss. 324.021(8) and
492 324.151;

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

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

497
498 Any person, including any firm, partnership, association,
499 corporation, or other person, other than a natural person,
500 electing to use the method of proof specified in subsection (2)
501 shall furnish a certificate of deposit equal to the number of
502 vehicles owned times \$30,000, to a maximum of \$120,000; in
503 addition, any such person, other than a natural person, shall
504 maintain insurance providing coverage in excess of limits of



505 \$10,000/20,000/10,000 or \$30,000 combined single limits, and
506 such excess insurance shall provide minimum limits of
507 \$125,000/250,000/50,000 or \$300,000 combined single limits.
508 These increased limits shall not affect the requirements for
509 proving financial responsibility under s. 324.032(1).

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

511
512 ===== T I T L E A M E N D M E N T =====

513 And the title is amended as follows:

514 Delete everything before the enacting clause
515 and insert:

516 A bill to be entitled
517 An act relating to transportation network companies;
518 amending s. 316.066, F.S.; requiring certain
519 information to be included on traffic crash reports;
520 providing penalties; creating s. 316.680, F.S.;
521 providing definitions; providing requirements for a
522 person to obtain a permit as a transportation network
523 company; directing the Department of Highway Safety
524 and Motor Vehicles to issue such permits; providing a
525 permit fee; requiring an agent for service of process;
526 requiring disclosure of a company's fares; requiring
527 display of certain information related to a
528 transportation network company driver; requiring that
529 a company provide an electronic receipt to a rider;
530 providing requirements for automobile insurance and
531 insurance disclosure; providing requirements for
532 drivers to act as independent contractors; requiring a
533 zero tolerance policy for drug and alcohol use;



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534 providing requirements for employment as a
535 transportation network company driver; prohibiting
536 specified conduct; providing certain nondiscrimination
537 and accessibility requirements; requiring a company to
538 maintain certain records; providing for preemption;
539 amending s. 324.031, F.S.; providing for proof of
540 financial responsibility by owners or operators of a
541 vehicle used in connection with a transportation
542 network company; providing an effective date.