

By Senator Simmons

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1 A bill to be entitled
2 An act relating to transportation network company
3 insurance; creating s. 627.748, F.S.; providing
4 legislative intent; defining terms; requiring a
5 transportation network company driver or such company
6 on the driver's behalf, or a combination thereof, to
7 maintain primary automobile insurance issued by
8 specified insurers with certain coverages in specified
9 amounts during certain timeframes; requiring a
10 transportation network company driver to maintain
11 primary automobile insurance issued by specified
12 insurers with certain coverages in specified amounts
13 during certain timeframes; requiring the
14 transportation network company to provide automobile
15 insurance in the event insurance maintained by the
16 transportation network company driver lapses or does
17 not provide the required coverage; requiring a
18 transportation network company driver to carry proof
19 of certain insurance coverage at all times during his
20 or her use of a personal vehicle and to disclose
21 specified information in the event of an accident;
22 requiring a transportation network company to make
23 certain disclosures to transportation network company
24 drivers; authorizing insurers to exclude certain
25 coverages during specified periods for policies issued
26 to transportation network company drivers for personal
27 vehicles; requiring a transportation network company
28 and certain insurers to cooperate during a claims
29 investigation to facilitate the exchange of specified
30 information; requiring a transportation network
31 company to determine whether an individual's personal
32 vehicle is subject to a lien before allowing the

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33 individual to act as a driver and, if the vehicle is
34 subject to a lien, to verify that the insurance
35 required by this section provides coverage to the
36 lienholder during specified periods; providing that
37 unless agreed to in a written contract, a
38 transportation network company is not deemed to
39 control, direct, or manage the personal vehicles or
40 transportation network company drivers that connect to
41 its digital network; authorizing the Office of
42 Insurance Regulation to adopt rules; providing for
43 preemption of local laws and regulations pertaining to
44 transportation network company insurance; providing an
45 effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Section 627.748, Florida Statutes, is created to
50 read:

51 627.748 Transportation network company insurance.—

52 (1) It is the intent of the Legislature to provide for
53 statewide uniformity of laws governing the insurance
54 requirements imposed on transportation network companies and
55 transportation network company drivers.

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

57 (a) "Digital network" means an online application,
58 software, website, or system offered or used by a transportation
59 network company which enables the prearrangement of rides with
60 transportation network company drivers.

61 (b) "Personal vehicle" means a vehicle, however titled,

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62 which is used by a transportation network company driver in
63 connection with providing transportation network company service
64 and which:

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

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

69 (c) "Prearranged ride" means the provision of
70 transportation by a driver to or on behalf of a rider, beginning
71 when a driver accepts a request for a ride by a rider through a
72 digital network controlled by a transportation network company,
73 continuing while the driver transports the rider, and ending
74 when the last rider departs from the personal vehicle. A
75 prearranged ride does not include transportation provided using
76 a taxi, jitney, limousine, for-hire vehicle as defined in s.
77 320.01(15), or street hail service.

78 (d) "Transportation network company" or "company" means a
79 corporation, partnership, sole proprietorship, or other entity
80 operating in this state which uses a digital network to connect
81 transportation network company riders to transportation network
82 company drivers who provide prearranged rides. A transportation
83 network company does not include an individual, corporation,
84 partnership, sole proprietorship, or other entity arranging
85 nonemergency medical transportation for individuals qualifying
86 for Medicaid or Medicare pursuant to a contract with the state
87 or a managed care organization.

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

90 1. Receives connections to potential riders and related

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91 services from a transportation network company in exchange for
92 any form of compensation, including payment of a fee to the
93 transportation network company; and

94 2. Uses a personal vehicle to offer or provide a
95 prearranged ride to riders upon connection through a digital
96 network controlled by a transportation network company in return
97 for compensation, including payment of a fee.

98 (f) "Transportation network company rider" or "rider" means
99 an individual who directly or indirectly uses a transportation
100 network company's digital network to connect with a
101 transportation network company driver who provides
102 transportation services to the individual in the driver's
103 personal vehicle.

104 (3) (a) A transportation network company driver, or a
105 transportation network company on the driver's behalf, shall
106 maintain primary automobile insurance that recognizes that the
107 driver is a transportation network company driver or that the
108 driver otherwise uses a personal vehicle to transport riders for
109 compensation. Such primary automobile insurance must cover the
110 driver as required under this section, including while the
111 driver is logged on to the transportation network company's
112 digital network and is engaged in a prearranged ride.

113 (b) The following automobile insurance coverage
114 requirements apply while a transportation network company driver
115 is logged on to the transportation network company's digital
116 network and is available to receive transportation requests, but
117 is not engaged in a prearranged ride:

118 1. Primary automobile liability insurance coverage of at
119 least \$50,000 for death and bodily injury per person, \$100,000

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120 for death and bodily injury per incident, and \$25,000 for
121 property damage; and

122 2. Primary automobile insurance coverage that meets the
123 minimum requirements under ss. 627.730-627.7405.

124 (c) While engaged in a prearranged ride, a transportation
125 network company driver must be covered by primary automobile
126 liability insurance coverage of at least \$1 million for death
127 and bodily injury and \$50,000 for property damage.

128 (d) The coverage requirements of paragraphs (b) and (c) may
129 be satisfied by automobile insurance maintained by the
130 transportation network company driver, by the transportation
131 network company, or by a combination of both.

132 (e) If the insurance maintained by a driver under paragraph
133 (b) or paragraph (c) lapses or does not provide the required
134 coverage, the transportation network company must maintain
135 insurance that provides the coverage required by this section
136 beginning with the first dollar of a claim and must obligate the
137 insurer to defend such a claim in this state.

138 (f) Coverage under an automobile insurance policy
139 maintained by the transportation network company may not be
140 contingent on a denial of a claim under the driver's personal
141 automobile liability insurance policy.

142 (g) Automobile insurance required by this section must be
143 provided by an insurer authorized to do business in this state
144 which is a member of the Florida Insurance Guaranty Association
145 or an eligible surplus lines insurer that is rated "A-" or
146 higher by A.M. Best Company.

147 (h) Automobile insurance that satisfies the requirements of
148 this section is deemed to satisfy the financial responsibility

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149 requirements imposed under chapter 324 and the security
150 requirements imposed under s. 627.733. However, the provision of
151 transportation to persons for compensation that is not covered
152 under this section subjects a vehicle and driver to the
153 requirements of chapters 320 and 324.

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

158 1. The driver shall provide the insurance coverage
159 information to the directly involved parties, automobile
160 insurers, and investigating law enforcement officers. Proof of
161 financial responsibility may be provided through a digital
162 telephone application under s. 316.646 which is controlled by a
163 transportation network company.

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

169 (j) Before a driver may accept a request for a prearranged
170 ride on the transportation network company's digital network,
171 the transportation network company shall disclose in writing to
172 each transportation network company driver:

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

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

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178 3. That the provision of rides for compensation, whether
179 prearranged or otherwise, which is not covered by this section
180 subjects the driver to the coverage requirements imposed by s.
181 324.032(1) and that failure to meet such limits subjects the
182 driver to penalties provided in s. 324.221, up to and including
183 a misdemeanor of the second degree.

184 (k) An insurer that provides personal automobile insurance
185 policies under this part may exclude from coverage under a
186 policy issued to an owner or operator of a personal vehicle any
187 loss or injury that occurs while a driver is logged on to a
188 transportation network company's digital network or while a
189 driver is engaged in a prearranged ride. Such right to exclude
190 coverage applies to any coverage under an automobile insurance
191 policy, including, but not limited to:

192 1. Liability coverage for bodily injury and property
193 damage.

194 2. Personal injury protection coverage.

195 3. Uninsured and underinsured motorist coverage.

196 4. Medical payments coverage.

197 5. Comprehensive physical damage coverage.

198 6. Collision physical damage coverage.

199 (l) The exclusions authorized under paragraph (k) apply
200 notwithstanding any financial responsibility requirements under
201 chapter 324. This section does not require that a personal
202 automobile insurance policy provide coverage while the driver is
203 logged on to the transportation network company's digital
204 network, while the driver is engaged in a prearranged ride, or
205 while the driver otherwise uses a personal vehicle to transport
206 riders for compensation. However, an insurer may elect to

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207 provide coverage by contract or endorsement for such driver's
208 personal vehicle used for such purposes.

209 (m) An insurer that excludes coverage as authorized under
210 paragraph (k):

211 1. Does not have a duty to defend or indemnify an excluded
212 claim. This section does not invalidate or limit an exclusion
213 contained in a policy, including any policy in use or approved
214 for use in this state before July 1, 2016.

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

220 (n) In a claims investigation, a transportation network
221 company and any insurer potentially providing coverage for a
222 claim under this section shall cooperate to facilitate the
223 exchange of relevant information with directly involved parties
224 and insurers of the transportation network company driver, if
225 applicable. Such information must provide:

226 1. The precise times that a driver logged on and off the
227 transportation network company's digital network during the 12-
228 hour period immediately before and immediately after the
229 accident.

230 2. A clear description of the coverage, any exclusions, and
231 the limits provided under automobile insurance maintained under
232 this section.

233 (o) Before allowing an individual to act as a driver on its
234 digital network, a transportation network company shall
235 determine whether the driver's personal vehicle is subject to a

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236 lien. If the personal vehicle is subject to a lien, the
237 transportation network company shall verify that the insurance
238 required by this section provides coverage to the lienholder
239 while the driver is logged into the transportation network
240 company's digital network and while the driver is providing a
241 prearranged ride.

242 (4) Unless agreed to in a written contract, a
243 transportation network company is not deemed to control, direct,
244 or manage the personal vehicles that, or the transportation
245 network company drivers who, connect to its digital network.

246 (5) The office may adopt rules to administer this section.

247 Section 2. PREEMPTION.—Notwithstanding any other law,
248 transportation network company insurance requirements are
249 governed exclusively by this section and any rules adopted by
250 the Department of Financial Services to administer this section.
251 A political subdivision of this state may not adopt any
252 ordinance imposing insurance requirements on a transportation
253 network company or driver. All such ordinances, whether existing
254 or proposed, are preempted and superseded by general law.

255 Section 3. This act shall take effect January 1, 2017.