

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gaetz offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 253-680 and insert:

5 (g) Automobile insurance required by this section must be
6 provided by an insurer authorized to do business in this state
7 which is a member of the Florida Insurance Guaranty Association
8 or an eligible surplus lines insurer that has a superior, an
9 excellent, an exceptional, or an equivalent financial strength
10 rating by a rating agency acceptable to the Office of Insurance
11 Regulation.

12 (h) Insurance satisfying the requirements of this section
13 is deemed to satisfy the financial responsibility requirement
14 for a motor vehicle under chapter 324 and the security required

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15 under s. 627.733.

16 (i) A driver shall carry proof of coverage satisfying
17 paragraphs (b) and (c) with him or her at all times during his
18 or her use of a vehicle in connection with a transportation
19 network company's digital network. In the event of an accident,
20 the driver shall provide this insurance coverage information to
21 the directly interested parties, automobile insurers, and
22 investigating police officers. Such proof of financial
23 responsibility may be presented through a digital phone
24 application under s. 316.646 controlled by a transportation
25 network company. Upon such request, the driver shall also
26 disclose to directly interested parties, automobile insurers,
27 and investigating police officers whether he or she was logged
28 into the transportation network company's digital network or
29 engaged in transportation network company service at the time of
30 the accident.

31 (j) If a transportation network company's insurer makes a
32 payment for a claim covered under comprehensive coverage or
33 collision coverage, the transportation network company shall
34 cause its insurer to issue the payment directly to the business
35 repairing the vehicle or jointly to the owner of the vehicle and
36 the primary lienholder on the covered vehicle.

37 (9) TRANSPORTATION NETWORK COMPANY AND INSURER;
38 EXCLUSIONS; DISCLOSURE.—

39 (a) The transportation network company shall disclose the
40 following in writing to drivers before they are allowed to

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41 accept a request for transportation network company service on
42 the transportation network company's digital network:

43 1. The insurance coverage, including the types of coverage
44 and the limits for each coverage, that the transportation
45 network company provides while the driver uses a personal
46 vehicle in connection with a transportation network company's
47 digital network.

48 2. That the driver's own automobile insurance policy might
49 not provide any coverage while the driver is logged into the
50 transportation network company's digital network and is
51 available to receive transportation requests or is engaged in
52 transportation network company service depending on its terms.

53 3. That the provision of rides for compensation, whether
54 prearranged or otherwise, which is not covered by this section
55 subjects the driver to the coverage requirements imposed by s.
56 324.032(1), and that failure to meet such limits subjects the
57 driver to penalties provided in s. 324.221, up to and including
58 a misdemeanor of the second degree.

59 (b)1. An insurer that provides automobile liability
60 insurance policies under part XI of chapter 627 may exclude any
61 and all coverage afforded under the owner's or driver's
62 insurance policy for any loss or injury that occurs while a
63 driver is logged into a transportation network company's digital
64 network or while a driver provides transportation network
65 company service. This right to exclude all coverage may apply to
66 any coverage included in an automobile insurance policy,

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67 including, but not limited to:

68 a. Liability coverage for bodily injury and property
69 damage.

70 b. Uninsured and underinsured motorist coverage.

71 c. Medical payments coverage.

72 d. Comprehensive physical damage coverage.

73 e. Collision physical damage coverage.

74 f. Personal injury protection.

75 2. The exclusions described in subparagraph 1. apply
76 notwithstanding any requirement under chapter 324. This section
77 does not require or imply that a personal automobile insurance
78 policy provides coverage while the driver is logged into the
79 transportation network company's digital network, while the
80 driver is engaged in transportation network company service, or
81 while the driver otherwise uses a vehicle to transport riders
82 for compensation.

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

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

91 2. An automobile insurer that defends or indemnifies a
92 claim against a driver, which is excluded under the terms of its

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93 policy, has a right of contribution against other insurers that
94 provide automobile insurance to the same driver in satisfaction
95 of the coverage requirements of subsection (8) at the time of
96 loss.

97 (d) In a claims coverage investigation, transportation
98 network companies and any insurer providing coverage under
99 subsection (8) shall cooperate to facilitate the exchange of
100 relevant information with directly involved parties and any
101 insurer of the driver, if applicable, including the precise
102 times that a driver logged into and off of the transportation
103 network company's digital network during the 12-hour period
104 immediately before and the 12-hour period immediately after the
105 accident and disclose to one another a clear description of the
106 coverage, exclusions, and limits provided under any automobile
107 insurance maintained under subsection (8).

108 (10) DRIVERS AS INDEPENDENT CONTRACTORS.-

109 (a) A driver is an independent contractor and not an
110 employee of the company if all of the following conditions are
111 met:

112 1. The company does not prescribe specific hours during
113 which the driver must be logged into the company's digital
114 network.

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

117 3. The company does not assign the driver to a particular
118 territory in which transportation network company services are

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119 authorized to be provided.

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

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

124 (b) A company operating under this section is not required
125 to provide workers' compensation coverage to a transportation
126 network company driver who is classified as an independent
127 contractor pursuant to this section.

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

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

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

138 (c) Upon receipt of a rider complaint alleging a violation
139 of the zero tolerance policy, the company shall immediately
140 suspend the accused driver's access to the company's digital
141 network and shall conduct an investigation into the reported
142 incident. The suspension shall last for the duration of the
143 investigation.

144 (12) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.—

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

148 1. Require the applicant to submit an application to the
149 company, including his or her address, date of birth, social
150 security number, driver license number, driving history, motor
151 vehicle registration, automobile liability insurance, and other
152 information required by the company.

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

155 a. A Multi-State/Multi-Jurisdiction Criminal Records
156 Locator or other similar commercial national database with
157 validation.

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

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

164 4. Obtain and review a driving history research report for
165 the applicant.

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

168 1. Has had more than three moving violations in the
169 preceding 3-year period or one major violation in the preceding
170 3-year period. A major violation is:

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- 171 a. Fleeing or attempting to elude a law enforcement
172 officer;
- 173 b. Reckless driving; or
174 c. Driving with a suspended or revoked license;
- 175 2. Has been convicted, within the past 7 years, of driving
176 under the influence of drugs or alcohol, fraud, sexual offenses,
177 use of a motor vehicle to commit a felony, a crime involving
178 property damage or theft, acts of violence, or acts of terror;
- 179 3. Has been convicted, within the past 7 years, of any
180 offense listed in the level 2 screening standards in s.
181 435.04(2) or (3), or a substantially similar law of another
182 state or federal law;
- 183 4. Is a match in the Dru Sjodin National Sex Offender
184 Public Website;
- 185 5. Does not possess a valid driver license;
- 186 6. Does not possess proof of registration for the motor
187 vehicle used to provide transportation network company service;
- 188 7. Does not possess proof of automobile liability
189 insurance for the motor vehicle used to provide transportation
190 network company service; or
- 191 8. Has not attained the age of 19 years.
- 192 (13) PROHIBITED CONDUCT.—A driver may not:
- 193 (a) Accept a rider other than a rider arranged through a
194 digital network or software application service.
- 195 (b) Solicit or accept street hails.
- 196 (c) Solicit or accept cash payments from riders. A company

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197 shall adopt a policy prohibiting solicitation or acceptance of
198 cash payments from riders and notify drivers of such policy.
199 Such policy must require a payment for transportation network
200 company service to be made electronically using the company's
201 digital network or software application service.

202 (14) NONDISCRIMINATION; ACCESSIBILITY.—

203 (a) A company may not discriminate against a driver on the
204 basis of race, color, national origin, religious belief or
205 affiliation, sex, disability, age, or sexual orientation. A
206 company shall adopt a policy to assist a driver who reasonably
207 believes that he or she has received a negative rating from a
208 rider because of his or her race, color, national origin,
209 religious belief or affiliation, sex, disability, age, or sexual
210 orientation.

211 (b) A company shall adopt a policy of nondiscrimination on
212 the basis of destination, race, color, national origin,
213 religious belief or affiliation, sex, disability, age, or sexual
214 orientation with respect to riders and potential riders and
215 shall notify drivers of such policy.

216 (c) A driver shall comply with the nondiscrimination
217 policy.

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

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

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223 (f) A company shall provide riders an opportunity to
224 indicate whether they require a wheelchair-accessible vehicle.
225 If a company cannot arrange wheelchair-accessible service, it
226 shall direct the rider to an alternate provider of wheelchair-
227 accessible service, if available.

228 (15) RECORDS.—A company shall maintain:

229 (a) Individual trip records for at least 1 year after the
230 date each trip was provided.

231 (b) Driver records for at least 1 year after the date on
232 which a driver's activation on the company's digital network has
233 ended.

234 (c) The company shall maintain records of written rider
235 complaints received through the company's software application
236 service for at least 2 years after the date such complaint is
237 received by the company.

238 (16) PREEMPTION.—It is the intent of the Legislature to
239 provide for uniformity of laws governing transportation network
240 companies, transportation network company drivers, and vehicles
241 used by transportation network company drivers throughout the
242 state. Transportation network companies, transportation network
243 company drivers, and vehicles used by transportation network
244 company drivers are governed exclusively by state law and any
245 rules adopted by the department. A county, municipality, special
246 district, airport authority, port authority, or other local
247 governmental entity or subdivision may not impose a tax on, or
248 require a license for, a company or a driver, or a vehicle used

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249 by a driver, if such tax or license relates to providing
250 transportation network company services, or subjects a company,
251 driver, or vehicle to any rate, entry, operation, or other
252 requirement of the county, municipality, special district,
253 airport authority, port authority, or other local governmental
254 entity or subdivision. This section does not prohibit an airport
255 from charging an appropriate annual fee, not to exceed \$5,000
256 per transportation network company, for use of the airport's
257 facilities or designating locations for staging, pickup, and
258 other similar operations of the airport.

259 Section 3. Section 324.031, Florida Statutes, is amended
260 to read:

261 324.031 Manner of proving financial responsibility.—The
262 owner or operator of a taxicab, limousine, jitney, any vehicle
263 used in connection with a transportation network company, or
264 any other for-hire passenger transportation vehicle may prove
265 financial responsibility by providing satisfactory evidence of
266 holding a motor vehicle liability policy as defined in s.
267 324.021(8) or s. 324.151, which policy is issued by an insurance
268 carrier which is a member of the Florida Insurance Guaranty
269 Association or an eligible surplus lines insurer. The operator
270 or owner of any other vehicle may prove his or her financial
271 responsibility by:

272 (1) Furnishing satisfactory evidence of holding a motor
273 vehicle liability policy as defined in ss. 324.021(8) and
274 324.151;

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

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

279
280 Any person, including any firm, partnership, association,
281 corporation, or other person, other than a natural person,
282 electing to use the method of proof specified in subsection (2)
283 shall furnish a certificate of deposit equal to the number of
284 vehicles owned times \$30,000, to a maximum of \$120,000; in
285 addition, any such person, other than a natural person, shall
286 maintain insurance providing coverage in excess of limits of
287 \$10,000/20,000/10,000 or \$30,000 combined single limits, and
288 such excess insurance shall provide minimum limits of
289 \$125,000/250,000/50,000 or \$300,000 combined single limits.
290 These increased limits shall not affect the requirements for
291 proving financial responsibility under s. 324.032(1).

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

294 Remove lines 27-29 and insert:
295 network company; providing an
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