

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
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; authorizing the Department of
42 | Financial Services to require a procedures report
43 | prepared by a certified public accountant; authorizing
44 | injunctive relief under certain circumstances;
45 | prohibiting a TNC driver from accepting certain rides
46 | or soliciting or accepting street hails; requiring a
47 | TNC to adopt a policy of nondiscrimination with
48 | respect to riders and potential riders and to notify
49 | TNC drivers of such policy; requiring TNC drivers to
50 | comply with the nondiscrimination policy and certain

51 applicable laws regarding nondiscrimination and
 52 accommodation of service animals; prohibiting a TNC
 53 from imposing additional charges for providing
 54 services to persons who have physical disabilities;
 55 requiring a TNC that contracts with a governmental
 56 entity to provide paratransit services to comply with
 57 certain state and federal laws; requiring a TNC to
 58 reevaluate a decision to remove a TNC driver's
 59 authorization to access its digital network in certain
 60 instances; requiring a TNC to maintain specified
 61 records; providing legislative intent; specifying that
 62 TNCs, TNC drivers, and TNC vehicles are governed
 63 exclusively by state law; prohibiting local
 64 governmental entities and subdivisions from taking
 65 specified actions; providing construction; providing
 66 an effective date.

67
 68 Be It Enacted by the Legislature of the State of Florida:

69
 70 Section 1. Section 316.68, Florida Statutes, is created to
 71 read:

72 316.68 Transportation network companies.-

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

74 (a) "Digital network" means any online-enabled technology
 75 application service, website, or system offered or used by a

76 transportation network company which enables the prearrangement
77 of rides with transportation network company drivers.

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

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

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

96 (e) "Transportation network company" or "TNC" means an
97 entity operating in this state pursuant to this section using a
98 digital network to connect a rider to a TNC driver, who provides
99 prearranged rides. A TNC is not deemed to own, control, operate,
100 direct, or manage the TNC vehicles or TNC drivers that connect

101 to its digital network, except where agreed to by written
102 contract, and is not a taxicab association or for-hire vehicle
103 owner. The term does not include an individual, corporation,
104 partnership, sole proprietorship, or other entity arranging
105 nonemergency medical transportation for individuals who qualify
106 for Medicaid or Medicare pursuant to a contract with the state
107 or a managed care organization.

108 (f) "Transportation network company driver" or "TNC
109 driver" means an individual who:

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

112 2. In return for compensation, uses a TNC vehicle to offer
113 or provide a prearranged ride to a rider upon connection through
114 a digital network.

115 (g) "Transportation network company vehicle" or "TNC
116 vehicle" means a vehicle that is not a taxicab, jitney,
117 limousine, or for-hire vehicle as defined in s. 320.01(15) and
118 that is:

119 1. Used by a TNC driver to offer or provide a prearranged
120 ride; and

121 2. Owned, leased, or otherwise authorized to be used by
122 the TNC driver.

123
124 Notwithstanding any other provision of law, a vehicle that is
125 let or rented to another for consideration may be used as a TNC

126 vehicle.

127 (2) NOT OTHER CARRIERS.—A TNC or TNC driver is not a
128 common carrier, contract carrier, or motor carrier and does not
129 provide taxicab or for-hire vehicle service. In addition, a TNC
130 driver is not required to register the vehicle that the TNC
131 driver uses to provide prearranged rides as a commercial motor
132 vehicle or a for-hire vehicle.

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

135 (4) FARE TRANSPARENCY.—If a fare is collected from a
136 rider, the TNC must disclose to the rider the fare or fare
137 calculation method on its website or within the online-enabled
138 technology application service before the beginning of the
139 prearranged ride. If the fare is not disclosed to the rider
140 before the beginning of the prearranged ride, the rider must
141 have the option to receive an estimated fare before the
142 beginning of the prearranged ride.

143 (5) IDENTIFICATION OF TNC VEHICLES AND DRIVERS.—The TNC's
144 digital network must display a photograph of the TNC driver and
145 the license plate number of the TNC vehicle used for providing
146 the prearranged ride before the rider enters the TNC driver's
147 vehicle.

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

- 151 (a) The origin and destination of the ride;
152 (b) The total time and distance of the ride; and
153 (c) The total fare paid.
- 154 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER
155 INSURANCE REQUIREMENTS.—
- 156 (a) Beginning July 1, 2017, a TNC driver or a TNC on
157 behalf of the TNC driver shall maintain primary automobile
158 insurance that:
- 159 1. Recognizes that the TNC driver is a TNC driver or
160 otherwise uses a vehicle to transport riders for compensation;
161 and
- 162 2. Covers the TNC driver while the TNC driver is logged on
163 to the digital network of the TNC or while the TNC driver is
164 engaged in a prearranged ride.
- 165 (b) The following automobile insurance requirements apply
166 while a participating TNC driver is logged on to the digital
167 network but is not engaged in a prearranged ride:
- 168 1. Automobile insurance that provides:
- 169 a. A primary automobile liability coverage of at least
170 \$50,000 for death and bodily injury per person, \$100,000 for
171 death and bodily injury per incident, and \$25,000 for property
172 damage; and
- 173 b. Personal injury protection benefits that meet the
174 minimum coverage amounts required under ss. 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;

178 b. Automobile insurance maintained by the TNC; or

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

180 (c) The following automobile insurance requirements apply

181 while a TNC driver is engaged in a prearranged ride:

182 1. Automobile insurance that provides:

183 a. A primary automobile liability coverage of at least \$1

184 million for death, bodily injury, and property damage; and

185 b. Personal injury protection benefits that meet the

186 minimum coverage amounts required of a limousine under ss.

187 627.730-627.7405.

188 2. The coverage requirements of this paragraph may be

189 satisfied by any of the following:

190 a. Automobile insurance maintained by the TNC driver;

191 b. Automobile insurance maintained by the TNC; or

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

193 (d) If the TNC driver's insurance under paragraph (b) or

194 paragraph (c) has lapsed or does not provide the required

195 coverage, the insurance maintained by the TNC must provide the

196 coverage required under this subsection, beginning with the

197 first dollar of a claim, and have the duty to defend such claim.

198 (e) Coverage under an automobile insurance policy

199 maintained by the TNC must not be dependent on a personal

200 automobile insurer first denying a claim, and a personal

201 automobile insurance policy is not required to first deny a
202 claim.

203 (f) Insurance required under this subsection must be
204 provided by an insurer authorized to do business in this state
205 which is a member of the Florida Insurance Guaranty Association
206 or an eligible surplus lines insurer that has a superior,
207 excellent, exceptional, or equivalent financial strength rating
208 by a rating agency acceptable to the Office of Insurance
209 Regulation of the Financial Services Commission.

210 (g) Insurance satisfying the requirements under this
211 subsection is deemed to satisfy the financial responsibility
212 requirement for a motor vehicle under chapter 324 and the
213 security required under s. 627.733.

214 (h) A TNC driver shall carry proof of coverage satisfying
215 paragraphs (b) and (c) with him or her at all times during his
216 or her use of a TNC vehicle in connection with a digital
217 network. In the event of an accident, a TNC driver shall provide
218 this insurance coverage information to any party directly
219 involved in the accident or the party's designated
220 representative, automobile insurers, and investigating police
221 officers. Proof of financial responsibility may be presented
222 through an electronic device, such as a digital phone
223 application, under s. 316.646. Upon request, a TNC driver shall
224 also disclose to any party directly involved in the accident or
225 the party's designated representative, automobile insurers, and

226 investigating police officers whether he or she was logged on to
227 a digital network or was engaged in a prearranged ride at the
228 time of the accident.

229 (i) If a TNC's insurer makes a payment for a claim covered
230 under comprehensive coverage or collision coverage, the TNC
231 shall cause its insurer to issue the payment directly to the
232 business repairing the vehicle or jointly to the owner of the
233 vehicle and the primary lienholder on the covered vehicle.

234 (8) TRANSPORTATION NETWORK COMPANY AND INSURER;

235 DISCLOSURE; EXCLUSIONS.—

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

239 1. The insurance coverage, including the types of coverage
240 and the limits for each coverage, which the TNC provides while
241 the TNC driver uses a TNC vehicle in connection with the TNC's
242 digital network.

243 2. That the TNC driver's own automobile insurance policy
244 might not provide any coverage while the TNC driver is logged on
245 to the digital network or is engaged in a prearranged ride,
246 depending on the terms of the TNC driver's own automobile
247 insurance policy.

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

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

254 (b)1. An insurer that provides an automobile liability
255 insurance policy under part XI of chapter 627 may exclude any
256 and all coverage afforded under the policy issued to an owner or
257 operator of a TNC vehicle for any loss or injury that occurs
258 while a TNC driver is logged on to a digital network or while a
259 TNC driver provides a prearranged ride. This right to exclude
260 all coverage may apply to any coverage included in an automobile
261 insurance policy, including, but not limited to:

262 a. Liability coverage for bodily injury and property
263 damage;
264 b. Uninsured and underinsured motorist coverage;
265 c. Medical payments coverage;
266 d. Comprehensive physical damage coverage;
267 e. Collision physical damage coverage; and
268 f. Personal injury protection.

269 2. The exclusions described in subparagraph 1. apply
270 notwithstanding any requirement under chapter 324. This section
271 does not require that a personal automobile insurance policy
272 provide coverage while the TNC driver is logged on to a digital
273 network, while the TNC driver is engaged in a prearranged ride,
274 or while the TNC driver otherwise uses a vehicle to transport
275 riders for compensation.

276 3. This section must not be construed to require an
277 insurer to use any particular policy language or reference to
278 this section in order to exclude any and all coverage for any
279 loss or injury that occurs while a TNC driver is logged on to a
280 digital network or while a TNC driver provides a prearranged
281 ride.

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

285 (c)1. An automobile insurer that excludes the coverage
286 described in subparagraph (b)1. does not have a duty to defend
287 or indemnify any claim expressly excluded thereunder. This
288 section does not invalidate or limit an exclusion contained in a
289 policy, including a policy in use or approved for use in this
290 state before July 1, 2017, which excludes coverage for vehicles
291 used to carry persons or property for a charge or available for
292 hire by the public.

293 2. An automobile insurer that defends or indemnifies a
294 claim against a TNC driver which is excluded under the terms of
295 its policy has a right of contribution against other insurers
296 that provide automobile insurance to the same TNC driver in
297 satisfaction of the coverage requirements of subsection (7) at
298 the time of loss.

299 (d) In a claims coverage investigation, a TNC shall
300 immediately provide, upon request by a directly involved party

301 or any insurer of the TNC driver, if applicable, the precise
302 times that the TNC driver logged on and off the digital network
303 in the 12-hour period immediately preceding and in the 12-hour
304 period immediately following the accident. An insurer providing
305 coverage under subsection (7) shall disclose, upon request by
306 any other insurer involved in the particular claim, the
307 applicable coverages, exclusions, and limits provided under any
308 automobile insurance maintained in order to satisfy the
309 requirements of subsection (7).

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

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

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

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

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

322
323 This subsection applies retroactively to any TNC driver who has
324 ever operated in this state.

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

326 (a) The TNC shall implement a zero-tolerance policy
 327 regarding a TNC driver's activities while accessing the TNC's
 328 digital network. The zero-tolerance policy must address the use
 329 of drugs or alcohol while a TNC driver is providing a
 330 prearranged ride or is logged on to the digital network.

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

335 (c) Upon receipt of a rider's complaint alleging a
 336 violation of the zero-tolerance policy, the TNC shall suspend a
 337 TNC driver's ability to accept any ride request through the
 338 TNC's digital network as soon as possible and shall conduct an
 339 investigation into the reported incident. The suspension must
 340 last the duration of the investigation.

341 (11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

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

344 1. The individual must submit an application to the TNC
 345 which includes information regarding his or her address, age,
 346 driver license, motor vehicle registration, and other
 347 information required by the TNC;

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

350 a. A search of the Multi-State/Multi-Jurisdiction Criminal

351 Records Locator or other similar commercial nationwide database
352 with validation of any records through primary source search;
353 and

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

356 3. The TNC must obtain and review, or have a third party
357 obtain and review, a driving history research report for the
358 applicant.

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

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

366 (d) The TNC may not authorize an individual to act as a
367 TNC driver on its digital network if the background check
368 conducted when the individual first seeks access to the digital
369 network or any subsequent background check required under
370 paragraph (b) reveals that the individual:

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

372 a. A felony;

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

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

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

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

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

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

385 (e) No more than once every 3 years, the Department of
386 Financial Services may direct a TNC to submit to the department
387 an agreed-upon procedures report prepared by an independent
388 certified public accountant for the sole purpose of verifying
389 that the TNC is in compliance with this subsection. The report
390 must be prepared in accordance with applicable attestation
391 standards established by the American Institute of Certified
392 Public Accountants. The TNC shall bear all costs associated with
393 the preparation and submission of the report.

394 (f) Upon receipt of the report pursuant to paragraph (e),
395 the Department of Financial Services may direct a TNC to address
396 any noncompliance with this subsection identified in the report
397 within a timeframe prescribed by the department. The department
398 may seek injunctive relief against a TNC that fails to comply
399 with the department's direction under this paragraph and that
400 poses an imminent threat to public safety as a result of such

401 noncompliance.

402 (12) PROHIBITED CONDUCT.—

403 (a) A TNC driver may not accept a ride for compensation
404 other than by a rider arranged through a digital network.

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

406 (13) NONDISCRIMINATION; ACCESSIBILITY.—

407 (a) A TNC shall adopt a policy of nondiscrimination with
408 respect to riders and potential riders and shall notify TNC
409 drivers of such policy.

410 (b) A TNC driver shall comply with the TNC's
411 nondiscrimination policy.

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

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

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

419 (f) A TNC that contracts with a governmental entity to
420 provide paratransit services must comply with all applicable
421 state and federal laws related to individuals with disabilities.

422 (g) A TNC shall reevaluate any decision to remove a TNC
423 driver's authorization to access its digital network due to a
424 low quality rating by riders if the TNC driver alleges that the
425 low quality rating was because of a characteristic identified in

426 the company's nondiscrimination policy and there is a plausible
427 basis for such allegation.

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

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

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

434 (15) PREEMPTION.—

435 (a) It is the intent of the Legislature to provide for
436 uniformity of laws governing TNCs, TNC drivers, and TNC vehicles
437 throughout the state. TNCs, TNC drivers, and TNC vehicles are
438 governed exclusively by state law, including in any locality or
439 other jurisdiction that enacted a law or created rules governing
440 TNCs, TNC drivers, or TNC vehicles before July 1, 2017. A
441 county, municipality, special district, airport authority, port
442 authority, or other local governmental entity or subdivision may
443 not:

444 1. Impose a tax on, or require a license for, a TNC, a TNC
445 driver, or a TNC vehicle if such tax or license relates to
446 providing prearranged rides;

447 2. Subject a TNC, a TNC driver, or a TNC vehicle to any
448 rate, entry, operation, or other requirement of the county,
449 municipality, special district, airport authority, port
450 authority, or other local governmental entity or subdivision; or

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451 3. Require a TNC or a TNC driver to obtain a business
452 license or any other type of similar authorization to operate
453 within the local governmental entity's jurisdiction.

454 (b) This subsection does not prohibit an airport from
455 charging reasonable pickup fees consistent with any pickup fees
456 charged to taxicab companies at that airport for their use of
457 the airport's facilities or prohibit the airport from
458 designating locations for staging, pickup, and other similar
459 operations at the airport.

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