

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 340

INTRODUCER: Banking and Insurance Committee and Senator Brandes and others

SUBJECT: Transportation Network Companies

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 340 creates statewide requirements for transportation network companies (TNCs). TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. This bill provides that TNCs will be governed exclusively by state law. The bill provides minimum insurance requirements for TNCs and TNC drivers. When a TNC driver is logged on the digital network but not engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage; Personal injury protection (PIP) benefits that meet the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law; and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

When a TNC driver is engaged in a prearranged ride, the following insurance requirements apply:

- PIP coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine under Florida Motor Vehicle No-Fault Law; and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

The coverage requirements of this bill may be satisfied by automobile insurance maintained by the TNC driver, by the TNC, or by a combination of the two.

The bill establishes certain TNC driver requirements including background and driving record checks. It prohibits persons from being a TNC driver if they have been convicted of certain crimes or a certain number of moving violations. It provides a procedure for the Department of Financial Services to verify and enforce the background check provisions of the bill.

The bill prohibits local governments from imposing taxes or licensing requirements on TNCs, TNC drivers, or TNC vehicles. It also prohibits local governments from requiring TNCs or TNC drivers to obtain business licenses or similar authorization to operate within a jurisdiction.

In addition, the bill:

- Provides that a TNC is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service;
- Requires a TNC to maintain an agent for service of process;
- Requires a TNC to disclose certain information related to the collection of fares;
- Requires a TNC's digital network to display a photograph of the TNC driver and the license plate number of the TNC vehicle;
- Provides that TNC drivers are independent contractors if certain conditions are met;
- Requires TNCs to implement a zero tolerance policy regarding the use of drugs and alcohol by its drivers;
- Prohibits TNC drivers from accepting rides for compensation outside of the TNC's digital network and from soliciting or accepting street hail;
- Requires TNCs to adopt and TNC drivers to comply with policies related to nondiscrimination and disability access; and
- Requires TNCs to maintain certain records relating to riders and TNC drivers.

II. Present Situation:

Technological advances have led to new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, and email and text messages. Ridesharing companies, such as Lyft, Uber, and SideCar, describe themselves as "transportation network companies" (TNCs), rather than as vehicles for hire.

Transportation Network Companies

TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. A driver logs onto a phone application and indicates the driver is ready to accept passengers. Potential passengers log on, learn which drivers are nearby, see photographs, receive a fare estimate, and decide whether to accept a ride. If the passenger accepts a ride, the driver is notified and proceeds to pick up the passenger. Once at the destination, payment is made through the phone application. Some state and local governments have taken steps to recognize and regulate companies using these new technologies. Over forty states have enacted legislation regarding transportation network companies.¹

¹ <http://viewer.zmags.com/publication/60841263#/60841263/1> (last accessed March 8, 2017).

Insurance Requirements

Drivers generally use their personal vehicles and most personal automobile policies contain a “livery” exclusion that excludes coverage if the vehicle is carrying passengers for hire.² Consequently, most personal automobile insurance policies do not cover damage or loss when a car is being used for commercial ridesharing. Some ridesharing companies provide insurance for portions of the time when the driver is transporting passengers but such insurance is not required. This could lead to situations where drivers and passengers are involved in accidents and there is no insurance coverage. In 2015, stakeholders agreed to model legislation called the TNC Insurance Compromise Model Bill and have sought passage of model legislation throughout the country.³ Taxis and limousines must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per incident for bodily injury, and \$50,000 for property damage.⁴

Background Checks

There are different kinds of background checks to determine criminal history. The Florida Department of Law Enforcement (FDLE) conducts “criminal history checks” or “criminal history records checks.” These background checks may include a search of the following databases:

- The Florida Computerized Criminal History Central Repository for Florida arrests for state checks;
- The Florida Computerized Criminal History Central Repository for Florida arrests and the national criminal history database at the FBI for federal arrests and arrests from other states for state and national checks; and
- The Florida Crime Information Center for warrants and domestic violence injunctions.⁵

National criminal history record checks, as well as state checks, are based on the submission of fingerprints.⁶ A check of the national criminal history at the FBI must go through an appropriate state agency (the FDLE in Florida) and requires fingerprinting.⁷

Chapter 435, F.S., deals with employment screening for government agencies. It provides for Level 1 screening which can include a search of criminal history databases, the National Sex Offender Public Website,⁸ and local criminal history checks through local law enforcement agencies. Level 1 screening does not require fingerprinting.⁹ Level 2 screening includes fingerprinting for statewide criminal history records checks through the FDLE and national

² The exclusion in Florida law is mentioned in s. 627.041(8), F.S.

³ http://www.naic.org/documents/committees_c_sharing_econ_wg_related_tnc_insurance_compromise_bill_package.pdf (last accessed March 8, 2017).

⁴ s. 324.032(1), F.S.

⁵ http://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks_FAQ.aspx (last accessed March 9, 2017).

⁶ *Id.*

⁷ See http://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks_FAQ.aspx (last accessed March 9, 2017) and Florida Department of Law Enforcement, *Analysis of SB 340* (January 19, 2017).

⁸ <https://www.nsopw.gov/> (last accessed March 9, 2017). The site contains information from sex offender registries for all 50 states, the District of Columbia, U.S. territories, and Indian Country.

⁹ s. 435.03, F.S.

criminal history records checks through the Federal Bureau of Investigation. It may include local criminal records checks through local law enforcement agencies.¹⁰

Private entities also perform background checks. These entities search available public records throughout the country and compile information from those sources to provide criminal history information. These searches are generally conducted without fingerprinting.

Local Regulation of TNCs

Florida does not regulate TNCs. Some local jurisdictions have enacted local ordinances with different requirements in different jurisdictions¹¹ and other Florida counties and cities have considered local ordinances. Representatives of TNCs have expressed concern that differing regulations in different jurisdictions can lead to confusion among drivers and riders.

III. Effect of Proposed Changes:

SB 340 creates s. 316.68, F.S., relating to transportation network companies. This bill defines a TNC as an entity that uses a digital network¹² to connect a rider¹³ to a TNC drivers¹⁴ who provide prearranged rides. The bill provides that a TNC is “deemed not to own, control, operate, direct, or manage the TNC vehicles or TNC drivers except where agreed to by written contract.” The bill defines “prearranged ride” as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports the rider, and ending when the last rider exits from and is no longer occupying the TNC vehicle.¹⁵

The bill provides that an entity that arranges medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or a managed care organization is not a TNC. The bill does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare.

Insurance Requirements

The bill provides uniform statewide minimum insurance requirements for TNCs and TNC drivers. Many of the provisions of this bill are found in the National Association of Insurance

¹⁰ s. 435.04, F.S.

¹¹ For example, a Broward County ordinance requires vehicle inspections. A ordinance in Miami Dade County contains insurance requirements.

¹² The bill defines “digital network” as any online-enabled technology application service, website, or system offered or used by a TNC which enables the prearrangement of rides with TNC drivers.

¹³ The bill defines rider as means an individual who uses a digital network to connect with a TNC driver in order to obtain a prearranged ride in the TNC driver’s TNC vehicle between points chosen by the rider.

¹⁴ The bill defines a TNC driver as an individual who receives connections to potential riders and related services from a TNC and uses a TNC vehicle to offer or provide prearranged rides for compensation to riders upon connection to a digital network.

¹⁵ The term does not include a taxicab, for-hire vehicle, or street hail service and does not include ridesharing as defined in s. 341.031, F.S., carpool as defined s. 450.28, F.S., or any other type of service in which the driver receives a fee that does not exceed the driver’s cost to provide the ride.

Commissioners TNC Insurance Compromise Model Bill.¹⁶ This bill requires a TNC or TNC driver to maintain primary automobile insurance that:

- Recognizes that the TNC driver is a TNC driver or otherwise uses a vehicle to transport riders for compensation; and
- Covers the TNC driver while the TNC driver is logged on to the digital network of the TNC or while the TNC driver is engaged in a prearranged ride.

It requires a TNC driver or TNC on behalf of the driver to maintain primary automobile insurance that covers the TNC driver while logged on the digital network or while engaged in a prearranged ride.

When a TNC driver is logged on the digital network but not engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
- PIP benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;¹⁷ and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.¹⁸

When a TNC driver is engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405, F.S.; and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

Coverage providing personal injury protection benefits are not required of limousines¹⁹ so the effect of this provision is to require no PIP coverage when a driver is engaged in a prearranged ride.

The coverage requirements of this bill may be satisfied by any of the following:

- Automobile insurance maintained by the TNC driver;
- Automobile insurance maintained by the TNC; or
- A combination of insurance maintained by the TNC and insurance maintained by the TNC driver.

¹⁶ http://www.naic.org/documents/committees_c_sharing_econ_wg_related_tnc_insurance_compromise_bill_package.pdf (last accessed March 7, 2017).

¹⁷ These provisions are known as the No-Fault Law. It requires coverage for personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.

¹⁸ Section 627.727, F.S.. requires uninsured motor vehicle coverage is required if a policy provides bodily injury coverage unless it is specifically rejected.

¹⁹ s. 627.733, F.S.

If the TNC driver's insurance has lapsed or does not provide the required coverage, the insurance maintained by the TNC must provide the coverage required by the bill, beginning with the first dollar of a claim, and have the duty to defend such claim. Coverage under an automobile insurance policy maintained by the TNC must not be dependent on a personal automobile insurer first denying a claim, and a personal automobile insurance policy is not required to first deny a claim. An insurer authorized to do business in Florida that is a member of the Florida Insurance Guaranty Association or an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation must provide the insurance required by the bill. The bill provides that insurance required by the bill satisfies financial responsibility and security requirements for any period when the TNC driver is logged onto the digital network or engaged in a prearranged ride.

The bill requires a TNC driver to carry proof of insurance²⁰ and to provide coverage information to parties directly involved in the accident, automobile insurers, and investigating police officer in the event of an accident. The TNC driver must disclose to the same parties whether he or she was logged on the application or engaged in a prearranged ride at the time of the accident.

If a TNC's insurer makes a payment for a claim covered under comprehensive or collision coverage, the insurer must make payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder.

Insurance Disclosures

The TNC must disclose to the TNC driver:

- The insurance coverage, including the types of coverage and the limits for each coverage, which the TNC provides while the TNC driver uses a TNC vehicle in connection with the TNC's digital network;
- That the TNC driver's own automobile insurance policy might not provide any coverage while the TNC driver is logged on to the digital network or is engaged in a prearranged ride, depending on the terms of the TNC driver's own automobile insurance policy; and
- That the provision of rides for compensation which are not prearranged rides subjects the driver to the coverage requirements imposed under s. 324.032(1), F.S., and that failure to meet such coverage requirements subjects the TNC driver to criminal penalties.

These disclosures must be made before the TNC driver accepts a request for a prearranged ride.

Insurance Exclusions

An insurer that provides a personal automobile liability insurance policy may exclude any coverage afforded under the policy issued to an owner or operator of a TNC vehicle for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride. Exclusions may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage;
- Uninsured and underinsured motorist coverage;

²⁰ The proof of insurance may be presented through an electronic device such as a phone application.

- Medical payments coverage;
- Comprehensive physical damage coverage;
- Collision physical damage coverage; and
- Personal injury protection.

The exclusions are limited to coverage while a TNC driver is logged on to a digital network or while the TNC driver provides a prearranged ride. The exclusions do not affect or diminish coverage otherwise available for permissive drivers or resident relatives under the personal automobile policy of the TNC driver or owner who are not occupying the TNC vehicle at the time of the loss.

The bill does not require that a personal automobile insurance policy provide coverage while the TNC driver is logged on to a digital network, while the TNC driver is engaged in a prearranged ride, or while the TNC driver otherwise uses a vehicle to transport riders for compensation. However, an insurer may provide primary or excess coverage for the TNC driver's vehicle by contract or endorsement.

If an automobile insurer excludes coverage when a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride, the insurer does not have a duty to defend or indemnify any claim expressly excluded. The bill does not invalidate or limit an exclusion contained in a policy, including a policy in use or approved for use in this state before July 1, 2017, which excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public. If an automobile insurer defends or indemnifies a claim against a TNC driver which is excluded under the terms of its policy, the insurer has a right of contribution against other insurers that provide automobile insurance to the same TNC driver in satisfaction of the coverage requirements at the time of loss.

In a claims coverage investigation, a TNC must immediately provide, upon request by a directly involved party or any insurer of the TNC driver, the precise times that the TNC driver logged on and off the digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. An insurer must disclose, upon request by any other insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of the bill.

TNC Driver is an Independent Contractor

The bill provides that a TNC driver is an independent contractor and not an employee of the TNC if all of the following conditions are met:

- The TNC does not unilaterally prescribe specific hours during which the TNC driver must be logged on to the TNC's digital network;
- The TNC does not prohibit the TNC driver from using digital networks from other TNCs;
- The TNC does not restrict the TNC driver from engaging in any other occupation or business; and
- The TNC and TNC driver agree in writing that the TNC driver is an independent contractor with respect to the TNC.

Whether a person is an employee or an independent contractor can be significant in different circumstances. For example, the general rule is that an employer is liable for the torts of its employees but not liable for the torts of independent contractors. This rule is subject to exceptions.²¹ Independent contractor status is important in unemployment compensation cases²² and workers compensation cases.²³ The bill does not address issues such as tort liability, workers compensation, or unemployment compensation.

Zero Tolerance for Drug and Alcohol Use

The bill requires a TNC to implement a zero-tolerance policy regarding a TNC driver's activities while accessing the TNC's digital network. The zero-tolerance policy must address the use of drugs or alcohol while a TNC driver is providing a prearranged ride or is logged on to the digital network. The bill requires the TNC to provide notice of the policy on its website, as well as procedures to report a complaint about a TNC driver who a rider reasonably suspects was under the influence of drugs or alcohol during the course of the ride. Upon receipt of a rider's complaint alleging a violation of the zero-tolerance policy, the TNC must suspend a TNC driver's ability to accept any ride request through the TNC's digital network as soon as possible and shall conduct an investigation into the reported incident. The suspension must last the duration of the investigation.

TNC Driver Background Check Requirements

The bill places certain requirements on TNC drivers and requires the TNC to do a criminal background check. The bill provides that before an individual is authorized to accept a ride request through a digital network:

- The individual must submit an application to the TNC which includes information regarding his or her address, age, driver license, motor vehicle registration, and other information required by the TNC; and
- The TNC must conduct, or have a third party conduct, a local and national criminal background check.

The local and national criminal background check must include:

- A search of the Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation of any records through primary source search; and
- A search of the National Sex Offender Public Website maintained by the United States Department of Justice.

The TNC must conduct the required background check every 3 years. The background check requires by this bill does not require fingerprinting. The bill allows the TNC or a third party to conduct a background check through private companies and does not require that the FDLE conduct the background check. Accordingly, the background check will not access the national criminal history records held by the FBI.

²¹ *McCall v. Alabama Bruno's Inc.*, 647 So.2d 175 (Fla. 1st DCA 1994).

²² *McGillis v. Dept. of Econ. Opportunity*, Case No. 3D15-2758 (Fla. 3d DCA February 1, 2017) (holding that a TNC driver is not an employee for purposes of ch. 443, F.S.).

²³ s. 440.02(15), F.S.

In addition, the bill requires the TNC must obtain and review, or have a third party obtain and review, a driving history research report for the applicant. The TNC may not authorize an individual to act as a TNC driver on its digital network if the driving history research report conducted when the individual first seeks access to the digital network reveals that the individual has had more than three moving violations in the prior 3-year period. The bill does not require the TNC to obtain additional driving history research reports after the initial one.

The TNC may not authorize an individual to act as a TNC driver on its digital network if the background check conducted when the individual first seeks access to the digital network or any subsequent background check reveals that the individual has been convicted, within the past 5 years, of:

- A felony;
- A misdemeanor for driving under the influence of drugs or alcohol, for reckless driving, for hit and run, or for fleeing or attempting to elude a law enforcement officer;
- A misdemeanor for a violent offense²⁴ or sexual battery;²⁵ or
- A crime of lewdness or indecent exposure under chapter 800.

The TNC may not authorize an individual to act as a TNC driver on its digital network if the background check conducted when the individual first seeks access to the digital network or any subsequent background check reveals that the individual has been convicted, within the past 3 years, of driving with a suspended or revoked license.

The TNC may not authorize an individual to act as a TNC driver on its digital network if the background check conducted when the individual first seeks access to the digital network or any subsequent background check reveals that the individual:

- Is a match in the National Sex Offender Public Website maintained by the United States Department of Justice;
- Does not possess a valid driver license; or
- Does not possess proof of registration for the motor vehicle used to provide prearranged rides.

The bill provides that no more often than once every 2 years, the Department of Financial Services (DFS) shall direct a TNC to submit to the DFS an agreed-upon procedures report prepared by an independent certified public accountant for the sole purpose of verifying that the TNC is in compliance with the background check provisions of the bill. The report must be prepared in accordance with applicable attestation standards established by the American Institute of Certified Public Accountants. The TNC shall bear all costs associated with the preparation and submission of the report.

Upon receipt of the report, the DFS may impose a fine of up to \$250 for each violation of the background provisions of the bill and \$500 for each repeat violation. The DFS may direct a TNC to address any noncompliance with the background provisions of the bill identified in the report within a specified timeframe. The DFS may seek injunctive relief against a TNC that fails to comply with the DFS's direction and that poses an imminent threat to public safety as a result of

²⁴ The bill does not specify which misdemeanors would qualify as "violent offenses."

²⁵ There does not appear to be a misdemeanor for sexual battery in Florida law. Other states might have such a crime.

noncompliance. The bill does not extinguish any claim otherwise available under common law or any other statute.

Preemption

The bill provides that it is the intent of the Legislature to provide for uniformity of laws governing TNCs, TNC drivers, and TNC vehicles. It provides that TNCs, TNC drivers, and TNC vehicles are governed exclusively by state law, including jurisdictions that enacted a law or created rules governing TNCs, TNC drivers, or TNC vehicles before July 1, 2017.

The bill specifically provides that a county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision may not:

- Impose a tax on, or require a license for, a TNC, a TNC driver, or a TNC vehicle if such tax or license relates to providing prearranged rides or subject a TNC, a TNC driver, or a TNC vehicle to any rate, entry, operational, or other requirement; or
- Require a TNC or a TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.

The bill does not prohibit an airport from charging reasonable pickup fees consistent with any pickup fees charged to taxicab companies at that airport for their use of the airport's facilities or prohibit the airport from designating locations for staging, pickup, and other similar operations at the airport.

Other Provisions of the Bill

The bill provides that a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service. A TNC driver is not required to register the vehicle that the driver uses to provide prearranged rides as a commercial motor vehicle or a for-hire vehicle.

The bill requires a TNC to designate and maintain an agent for service of process.

The bill requires the TNC to disclose to the rider the fare or fare calculation method on its website or within the online-enabled technology application service before the beginning of the prearranged ride. If the fare is not disclosed to the rider before the beginning of the prearranged ride, the bill requires that the rider must have the option to receive an estimated fare before the beginning of the prearranged ride.

The bill requires that a TNC's digital network must display a photograph of the TNC driver and the license plate number of the TNC vehicle used for providing the prearranged ride before the rider enters the TNC driver's vehicle.

Within a reasonable period after the completion of a ride, the bill requires the TNC to transmit an electronic receipt to the rider on behalf of the TNC driver which lists:

- The origin and destination of the ride;
- The total time and distance of the ride; and
- The total fare paid.

The bill prohibits a TNC driver may not accept a ride for compensation other than a ride arranged through a digital network and may not solicit or accept street hails.

The bill requires a TNC to adopt a policy of nondiscrimination with respect to riders and potential riders and shall notify TNC drivers of such policy. The TNC driver must comply with all applicable laws against riders and potential riders and must comply with the TNC's nondiscrimination policy. The TNC driver must also comply with all applicable laws relating to accommodation of service animals.

The bill provides that a TNC may not impose additional charges for providing services to a person who has a physical disability because of the person's disability. A TNC that contracts with a governmental entity to provide paratransit services must comply with all applicable state and federal laws related to individuals with disabilities.

The bill requires a TNC reevaluate any decision to remove a TNC driver's authorization to access to its digital network due to a low quality rating by riders if the TNC driver alleges the low rating was because of a characteristic identified in the nondiscrimination policy and there is a plausible basis for the allegation.

The bill requires the TNC to maintain individual ride records for at least 1 year after the date on which each ride is provided; and individual records of TNC drivers for at least 1 year after the date on which the TNC driver's relationship with the TNC ends.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will create uniform statewide requirements for TNCs. TNCs might see reductions in costs incurred from complying with different ordinances in different jurisdictions.

C. Government Sector Impact:

The fiscal impact on the DFS is indeterminate. It is not known how many TNCs will be required to submit procedures reports and it is not known how many TNCs will be noncompliant such that court action will be required. Pursuant to Florida Rule of Civil Procedure 1.610(b), the DFS could be required to post a bond if it sought injunctive relief that could damage a TNC. Such a bond could be significant. If the DFS is not required to post a bond, it could be liable for damages to a TNC if courts ultimately determine the injunction should not have been issued.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 316.68 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 14, 2017:

The CS:

- Authorizes seaports to collect pickup fees as long as they do not exceed what a seaport charges taxis;
- Requires TNCs to contract with an independent auditor to review their background check process. The DFS is established as the enforcement mechanism for compliance with the insurance and background screening requirements of the bill;
- Strikes retroactivity of the independent contractor language;
- Modifies the definition of prearranged ride in a way that will extend insurance coverage to any time that any rider is in the vehicle and not limited to the person who requested the ride;
- Requires uninsured or underinsured vehicle coverage as required by s. 627.727, F.S.;

²⁶ Department of Financial Services, *Analysis of CS/SB 340* (March 14, 2017).

- Provides coverage for other insureds and resident relatives under a TNC driver's personal auto policy are unaffected by exclusions for TNC use; and
- Provides that TNCs are not granted immunity from civil liability through compliance with background check requirements.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
