

By the Committees on Judiciary; and Banking and Insurance; and Senators Brandes, Galvano, Simpson, Artiles, Young, and Bracy

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1 A bill to be entitled
2 An act relating to transportation network companies;
3 creating s. 627.748, 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, subject to certain limitations; providing
23 that the right to exclude coverage applies to any
24 coverage included in an automobile insurance policy;
25 providing applicability; providing for construction;
26 providing that specified automobile insurers have a
27 right of contribution against other insurers that
28 provide automobile insurance to the same TNC drivers
29 in satisfaction of certain coverage requirements under

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30 certain circumstances; requiring a TNC to provide
31 specified information upon request by certain parties
32 during a claims coverage investigation; requiring
33 certain insurers to disclose specified information
34 upon request by any other insurer involved in the
35 particular claim; providing that TNC drivers are
36 independent contractors if specified conditions are
37 met; requiring a TNC to implement a zero-tolerance
38 policy for drug or alcohol use, subject to certain
39 requirements; providing TNC driver requirements;
40 requiring a TNC to conduct a certain background check
41 for a TNC driver after a specified period; requiring
42 the Department of Financial Services to direct a TNC
43 to submit to the department an agreed-upon procedures
44 report prepared by a certified public accountant,
45 subject to certain restrictions and requirements;
46 authorizing the department to impose specified fines
47 for violations and repeat violations identified in the
48 report; authorizing the department to direct a TNC to
49 address noncompliance identified in the report within
50 a timeframe prescribed by the department; authorizing
51 injunctive relief under certain circumstances;
52 specifying when a repeat violation occurs; providing
53 applicability; prohibiting a TNC driver from accepting
54 certain rides or soliciting or accepting street hails;
55 requiring a TNC to adopt a policy of nondiscrimination
56 with respect to riders and potential riders and to
57 notify TNC drivers of such policy; requiring TNC
58 drivers to comply with the nondiscrimination policy

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

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. Section 627.748, Florida Statutes, is created to
79 read:

80 627.748 Transportation network companies.—

81 (1) DEFINITIONS.—As used in this section, the term:

82 (a) "Digital network" means any online-enabled technology
83 application service, website, or system offered or used by a
84 transportation network company which enables the prearrangement
85 of rides with transportation network company drivers.

86 (b) "Prearranged ride" means the provision of
87 transportation by a TNC driver to a rider, beginning when a TNC

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88 driver accepts a ride requested by a rider through a digital
89 network controlled by a transportation network company,
90 continuing while the TNC driver transports the rider, and ending
91 when the last rider exits from and is no longer occupying the
92 TNC vehicle. The term does not include a taxicab, for-hire
93 vehicle, or street hail service and does not include ridesharing
94 as defined in s. 341.031, carpool as defined s. 450.28, or any
95 other type of service in which the driver receives a fee that
96 does not exceed the driver's cost to provide the ride.

97 (c) "Rider" means an individual who uses a digital network
98 to connect with a TNC driver in order to obtain a prearranged
99 ride in the TNC driver's TNC vehicle between points chosen by
100 the rider. A person may use a digital network to request a
101 prearranged ride on behalf of a rider.

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

105 (e) "Transportation network company" or "TNC" means an
106 entity operating in this state pursuant to this section using a
107 digital network to connect a rider to a TNC driver, who provides
108 prearranged rides. A TNC is not deemed to own, control, operate,
109 direct, or manage the TNC vehicles or TNC drivers that connect
110 to its digital network, except where agreed to by written
111 contract, and is not a taxicab association or for-hire vehicle
112 owner. An individual, corporation, partnership, sole
113 proprietorship, or other entity that arranges medical
114 transportation for individuals qualifying for Medicaid or
115 Medicare pursuant to a contract with the state or a managed care
116 organization is not a TNC. This section does not prohibit a TNC

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117 from providing prearranged rides to individuals who qualify for
118 Medicaid or Medicare if it meets the requirements of this
119 section.

120 (f) "Transportation network company driver" or "TNC driver"
121 means an individual who:

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

124 2. In return for compensation, uses a TNC vehicle to offer
125 or provide a prearranged ride to a rider upon connection through
126 a digital network.

127 (g) "Transportation network company vehicle" or "TNC
128 vehicle" means a vehicle that is not a taxicab, jitney,
129 limousine, or for-hire vehicle as defined in s. 320.01(15) and
130 that is:

131 1. Used by a TNC driver to offer or provide a prearranged
132 ride; and

133 2. Owned, leased, or otherwise authorized to be used by the
134 TNC driver.

135
136 Notwithstanding any other provision of law, a vehicle that is
137 let or rented to another for consideration may be used as a TNC
138 vehicle.

139 (2) NOT OTHER CARRIERS.—A TNC or TNC driver is not a common
140 carrier, contract carrier, or motor carrier and does not provide
141 taxicab or for-hire vehicle service. In addition, a TNC driver
142 is not required to register the vehicle that the TNC driver uses
143 to provide prearranged rides as a commercial motor vehicle or a
144 for-hire vehicle.

145 (3) AGENT.—A TNC must designate and maintain an agent for

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146 service of process in this state.

147 (4) FARE TRANSPARENCY.—If a fare is collected from a rider,
148 the TNC must disclose to the rider the fare or fare calculation
149 method on its website or within the online-enabled technology
150 application service before the beginning of the prearranged
151 ride. If the fare is not disclosed to the rider before the
152 beginning of the prearranged ride, the rider must have the
153 option to receive an estimated fare before the beginning of the
154 prearranged ride.

155 (5) IDENTIFICATION OF TNC VEHICLES AND DRIVERS.—The TNC's
156 digital network must display a photograph of the TNC driver and
157 the license plate number of the TNC vehicle used for providing
158 the prearranged ride before the rider enters the TNC driver's
159 vehicle.

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

- 163 (a) The origin and destination of the ride;
164 (b) The total time and distance of the ride; and
165 (c) The total fare paid.

166 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE
167 REQUIREMENTS.—

168 (a) Beginning July 1, 2017, a TNC driver or a TNC on behalf
169 of the TNC driver shall maintain primary automobile insurance
170 that:

171 1. Recognizes that the TNC driver is a TNC driver or
172 otherwise uses a vehicle to transport riders for compensation;

173 and

174 2. Covers the TNC driver while the TNC driver is logged on

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175 to the digital network of the TNC or while the TNC driver is
176 engaged in a prearranged ride.

177 (b) The following automobile insurance requirements apply
178 while a participating TNC driver is logged on to the digital
179 network but is not engaged in a prearranged ride:

180 1. Automobile insurance that provides:

181 a. A primary automobile liability coverage of at least
182 \$50,000 for death and bodily injury per person, \$100,000 for
183 death and bodily injury per incident, and \$25,000 for property
184 damage;

185 b. Personal injury protection benefits that meet the
186 minimum coverage amounts required under ss. 627.730-627.7405;
187 and

188 c. Uninsured and underinsured vehicle coverage as required
189 by s. 627.727.

190 2. The coverage requirements of this paragraph may be
191 satisfied by any of the following:

192 a. Automobile insurance maintained by the TNC driver;

193 b. Automobile insurance maintained by the TNC; or

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

195 (c) The following automobile insurance requirements apply
196 while a TNC driver is engaged in a prearranged ride:

197 1. Automobile insurance that provides:

198 a. A primary automobile liability coverage of at least \$1
199 million for death, bodily injury, and property damage;

200 b. Personal injury protection benefits that meet the
201 minimum coverage amounts required of a limousine under ss.
202 627.730-627.7405; and

203 c. Uninsured and underinsured vehicle coverage as required

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204 by s. 627.727.

205 2. The coverage requirements of this paragraph may be
206 satisfied by any of the following:

207 a. Automobile insurance maintained by the TNC driver;

208 b. Automobile insurance maintained by the TNC; or

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

210 (d) If the TNC driver's insurance under paragraph (b) or
211 paragraph (c) has lapsed or does not provide the required
212 coverage, the insurance maintained by the TNC must provide the
213 coverage required under this subsection, beginning with the
214 first dollar of a claim, and have the duty to defend such claim.

215 (e) Coverage under an automobile insurance policy
216 maintained by the TNC must not be dependent on a personal
217 automobile insurer first denying a claim, and a personal
218 automobile insurance policy is not required to first deny a
219 claim.

220 (f) Insurance required under this subsection must be
221 provided by an insurer authorized to do business in this state
222 which is a member of the Florida Insurance Guaranty Association
223 or an eligible surplus lines insurer that has a superior,
224 excellent, exceptional, or equivalent financial strength rating
225 by a rating agency acceptable to the Office of Insurance
226 Regulation of the Financial Services Commission.

227 (g) Insurance satisfying the requirements under this
228 subsection is deemed to satisfy the financial responsibility
229 requirement for a motor vehicle under chapter 324 and the
230 security required under s. 627.733 for any period when the TNC
231 driver is logged onto the digital network or engaged in a
232 prearranged ride.

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233 (h) A TNC driver shall carry proof of coverage satisfying
234 paragraphs (b) and (c) with him or her at all times during his
235 or her use of a TNC vehicle in connection with a digital
236 network. In the event of an accident, a TNC driver shall provide
237 this insurance coverage information to any party directly
238 involved in the accident or the party's designated
239 representative, automobile insurers, and investigating police
240 officers. Proof of financial responsibility may be presented
241 through an electronic device, such as a digital phone
242 application, under s. 316.646. Upon request, a TNC driver shall
243 also disclose to any party directly involved in the accident or
244 the party's designated representative, automobile insurers, and
245 investigating police officers whether he or she was logged on to
246 a digital network or was engaged in a prearranged ride at the
247 time of the accident.

248 (i) If a TNC's insurer makes a payment for a claim covered
249 under comprehensive coverage or collision coverage, the TNC
250 shall cause its insurer to issue the payment directly to the
251 business repairing the vehicle or jointly to the owner of the
252 vehicle and the primary lienholder on the covered vehicle.

253 (8) TRANSPORTATION NETWORK COMPANY AND INSURER; DISCLOSURE;
254 EXCLUSIONS.-

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

258 1. The insurance coverage, including the types of coverage
259 and the limits for each coverage, which the TNC provides while
260 the TNC driver uses a TNC vehicle in connection with the TNC's
261 digital network.

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262 2. That the TNC driver's own automobile insurance policy
263 might not provide any coverage while the TNC driver is logged on
264 to the digital network or is engaged in a prearranged ride,
265 depending on the terms of the TNC driver's own automobile
266 insurance policy.

267 3. That the provision of rides for compensation which are
268 not prearranged rides subjects the driver to the coverage
269 requirements imposed under s. 324.032(1) and that failure to
270 meet such coverage requirements subjects the TNC driver to
271 penalties provided in s. 324.221, up to and including a
272 misdemeanor of the second degree.

273 (b)1. An insurer that provides an automobile liability
274 insurance policy under part XI of chapter 627 may exclude any
275 and all coverage afforded under the policy issued to an owner or
276 operator of a TNC vehicle while driving that vehicle for any
277 loss or injury that occurs while a TNC driver is logged on to a
278 digital network or while a TNC driver provides a prearranged
279 ride. Exclusions imposed under this subsection are limited to
280 coverage while a TNC driver is logged on to a digital network or
281 while a TNC driver provides a prearranged ride. This right to
282 exclude all coverage may apply to any coverage included in an
283 automobile insurance policy, including, but not limited to:

284 a. Liability coverage for bodily injury and property
285 damage;

286 b. Uninsured and underinsured motorist coverage;

287 c. Medical payments coverage;

288 d. Comprehensive physical damage coverage;

289 e. Collision physical damage coverage; and

290 f. Personal injury protection.

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291 2. The exclusions described in subparagraph 1. apply
292 notwithstanding any requirement under chapter 324. These
293 exclusions do not affect or diminish coverage otherwise
294 available for permissive drivers or resident relatives under the
295 personal automobile insurance policy of the TNC driver or owner
296 of the TNC vehicle who are not occupying the TNC vehicle at the
297 time of loss. This section does not require that a personal
298 automobile insurance policy provide coverage while the TNC
299 driver is logged on to a digital network, while the TNC driver
300 is engaged in a prearranged ride, or while the TNC driver
301 otherwise uses a vehicle to transport riders for compensation.

302 3. This section must not be construed to require an insurer
303 to use any particular policy language or reference to this
304 section in order to exclude any and all coverage for any loss or
305 injury that occurs while a TNC driver is logged on to a digital
306 network or while a TNC driver provides a prearranged ride.

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

310 (c)1. An automobile insurer that excludes the coverage
311 described in subparagraph (b)1. does not have a duty to defend
312 or indemnify any claim expressly excluded thereunder. This
313 section does not invalidate or limit an exclusion contained in a
314 policy, including a policy in use or approved for use in this
315 state before July 1, 2017, which excludes coverage for vehicles
316 used to carry persons or property for a charge or available for
317 hire by the public.

318 2. An automobile insurer that defends or indemnifies a
319 claim against a TNC driver which is excluded under the terms of

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320 its policy has a right of contribution against other insurers
321 that provide automobile insurance to the same TNC driver in
322 satisfaction of the coverage requirements of subsection (7) at
323 the time of loss.

324 (d) In a claims coverage investigation, a TNC shall
325 immediately provide, upon request by a directly involved party
326 or any insurer of the TNC driver, if applicable, the precise
327 times that the TNC driver logged on and off the digital network
328 in the 12-hour period immediately preceding and in the 12-hour
329 period immediately following the accident. An insurer providing
330 coverage under subsection (7) shall disclose, upon request by
331 any other insurer involved in the particular claim, the
332 applicable coverages, exclusions, and limits provided under any
333 automobile insurance maintained in order to satisfy the
334 requirements of subsection (7).

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

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

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

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

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

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

348 (a) The TNC shall implement a zero-tolerance policy

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349 regarding a TNC driver's activities while accessing the TNC's
350 digital network. The zero-tolerance policy must address the use
351 of drugs or alcohol while a TNC driver is providing a
352 prearranged ride or is logged on to the digital network.

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

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

363 (11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.—

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

366 1. The individual must submit an application to the TNC
367 which includes information regarding his or her address, age,
368 driver license, motor vehicle registration, and other
369 information required by the TNC;

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

372 a. A search of the Multi-State/Multi-Jurisdiction Criminal
373 Records Locator or other similar commercial nationwide database
374 with validation of any records through primary source search;
375 and

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

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378 3. The TNC must obtain and review, or have a third party
379 obtain and review, a driving history research report for the
380 applicant.

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

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

388 (d) The TNC may not authorize an individual to act as a TNC
389 driver on its digital network if the background check conducted
390 when the individual first seeks access to the digital network or
391 any subsequent background check required under paragraph (b)
392 reveals that the individual:

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

394 a. A felony;

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

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

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

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

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

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

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407 (e) No more often than once every 2 years, the Department
408 of Financial Services shall direct a TNC to submit to the
409 department an agreed-upon procedures report prepared by an
410 independent certified public accountant for the sole purpose of
411 verifying that the TNC is in compliance with this subsection.
412 The report must be prepared in accordance with applicable
413 attestation standards established by the American Institute of
414 Certified Public Accountants. The TNC shall bear all costs
415 associated with the preparation and submission of the report.

416 (f) Upon receipt of the report pursuant to paragraph (e),
417 the Department of Financial Services may impose a fine of up to
418 \$250 for each violation of this subsection identified in the
419 report and \$500 for each repeat violation. The department may
420 also direct a TNC to address any noncompliance with this
421 subsection identified in the report within a timeframe
422 prescribed by the department. The department may, pursuant to
423 the Florida Rules of Civil Procedure, seek injunctive relief
424 against a TNC that fails to comply with the department's
425 direction under this paragraph and that poses an imminent threat
426 to public safety as a result of such noncompliance. For purposes
427 of this subsection, a repeat violation occurs when two
428 consecutive reports prepared for a TNC reveal noncompliance with
429 the same requirement.

430 (g) Unless otherwise explicitly provided, this subsection
431 does not extinguish any claim otherwise available under common
432 law or any other statute.

433 (12) PROHIBITED CONDUCT.—

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

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

437 (13) NONDISCRIMINATION; ACCESSIBILITY.—

438 (a) A TNC shall adopt a policy of nondiscrimination with
439 respect to riders and potential riders and shall notify TNC
440 drivers of such policy.

441 (b) A TNC driver shall comply with the TNC's
442 nondiscrimination policy.

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

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

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

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

453 (g) A TNC shall reevaluate any decision to remove a TNC
454 driver's authorization to access its digital network due to a
455 low quality rating by riders if the TNC driver alleges that the
456 low quality rating was because of a characteristic identified in
457 the company's nondiscrimination policy and there is a plausible
458 basis for such allegation.

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

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

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

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465 (15) PREEMPTION.-

466 (a) It is the intent of the Legislature to provide for
467 uniformity of laws governing TNCs, TNC drivers, and TNC vehicles
468 throughout the state. TNCs, TNC drivers, and TNC vehicles are
469 governed exclusively by state law, including in any locality or
470 other jurisdiction that enacted a law or created rules governing
471 TNCs, TNC drivers, or TNC vehicles before July 1, 2017. A
472 county, municipality, special district, airport authority, port
473 authority, or other local governmental entity or subdivision may
474 not:

475 1. Impose a tax on, or require a license for, a TNC, a TNC
476 driver, or a TNC vehicle if such tax or license relates to
477 providing prearranged rides;

478 2. Subject a TNC, a TNC driver, or a TNC vehicle to any
479 rate, entry, operation, or other requirement of the county,
480 municipality, special district, airport authority, port
481 authority, or other local governmental entity or subdivision; or

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

485 (b) This subsection does not prohibit an airport or seaport
486 from charging reasonable pickup fees consistent with any pickup
487 fees charged to taxicab companies at that airport or seaport for
488 their use of the airport's or seaport's facilities or prohibit
489 the airport or seaport from designating locations for staging,
490 pickup, and other similar operations at the airport or seaport.

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