

By Senator Simmons

10-00629-16

20161118\_\_

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

10-00629-16

20161118\_\_

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

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

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

51 627.748 Transportation network company insurance.—

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

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

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

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

10-00629-16

20161118\_\_

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

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

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

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

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

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

90 1. Receives connections to potential riders and related

10-00629-16

20161118\_\_

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

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

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

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

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

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

10-00629-16

20161118\_\_

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

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

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

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

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

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

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

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

10-00629-16

20161118\_\_

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

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

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

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

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

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

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

10-00629-16

20161118\_\_

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

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

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

194 2. Personal injury protection coverage.

195 3. Uninsured and underinsured motorist coverage.

196 4. Medical payments coverage.

197 5. Comprehensive physical damage coverage.

198 6. Collision physical damage coverage.

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

10-00629-16

20161118\_\_

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

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

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

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

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

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

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

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

10-00629-16

20161118\_\_

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

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

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

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

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