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LEGISLATIVE ACTION

Senate

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House

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Floor: WD

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03/10/2016 12:12 PM

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Senator Brandes moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (94) through (99) are added to
section 316.003, Florida Statutes, to read:

316.003 Definitions.—The following words and phrases, when
used in this chapter, shall have the meanings respectively
ascribed to them in this section, except where the context
otherwise requires:

(94) DIGITAL NETWORK.—An online-enabled application,



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12 website, or system offered or used by a transportation network
13 company that enables the prearrangement of rides with
14 transportation network company drivers.

15 (95) TRANSPORTATION NETWORK COMPANY.—A corporation, a
16 partnership, a sole proprietorship, or any other entity that
17 uses a digital network to connect transportation network company
18 riders to transportation network company drivers who provide
19 prearranged rides. A transportation network company is not
20 deemed to control, direct, or manage the personal vehicles or
21 transportation network company drivers that connect to its
22 digital network, except where agreed to by written contract.

23 (96) PREARRANGED RIDE.—The provision of transportation by a
24 transportation network company driver to a transportation
25 network company rider which:

26 (a) Begins when a transportation network company driver
27 accepts a transportation network company rider's request for a
28 ride through a digital network controlled by the transportation
29 network company;

30 (b) Continues while the transportation network company
31 driver transports the requesting transportation network company
32 rider; and

33 (c) Ends when the last requesting transportation network
34 company rider departs from the personal vehicle.

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36 The term does not include transportation provided through a
37 shared-expense carpool or vanpool arrangement; use of a taxicab,
38 limousine, or other for-hire vehicle; or a regional
39 transportation authority.

40 (97) PERSONAL VEHICLE.—A vehicle that is:



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41 (a) Used by a transportation network company driver to
42 provide a prearranged ride;

43 (b) Owned, leased, or otherwise authorized for use by the
44 transportation network company driver; and

45 (c) Not a taxicab, a limousine, or any other for-hire
46 vehicle.

47
48 Notwithstanding any other law, a vehicle that is let or rented
49 to another for consideration may be used as a personal vehicle.

50 (98) TRANSPORTATION NETWORK COMPANY DRIVER OR DRIVER.—An
51 individual who:

52 (a) Receives connections to potential riders and related
53 services from a transportation network company in exchange for
54 payment of a fee to the transportation network company; and

55 (b) Uses a personal vehicle to offer or provide a
56 prearranged ride to transportation network company riders upon
57 connection through a digital network controlled by a
58 transportation network company and in exchange for compensation
59 or payment of a fee.

60 (99) TRANSPORTATION NETWORK COMPANY RIDER OR RIDER.—An
61 individual or persons who use a transportation network company's
62 digital network to connect with a transportation network company
63 driver who provides a prearranged ride to the rider in the
64 driver's personal vehicle between points chosen by the rider.

65 Section 2. Section 316.68, Florida Statutes, is created to
66 read:

67 316.68 Transportation network company and driver insurance
68 requirements.—

69 (1) Effective July 1, 2016, a transportation network



70 company driver or a transportation network company on the
71 driver's behalf shall maintain primary automobile insurance that
72 meets the following requirements:

73 (a) The insurance must recognize that the driver is a
74 transportation network company driver or otherwise uses a
75 vehicle to transport riders for compensation, and must cover the
76 driver while the driver is logged on to the transportation
77 network company's digital network or while the driver is engaged
78 in a prearranged ride.

79 (b) While the driver is logged into the transportation
80 network company's digital network and is available to receive
81 transportation requests, but is not engaged in a prearranged
82 ride, the driver must be covered for liability in the amount of
83 at least \$50,000 for death and bodily injury per person, at
84 least \$100,000 for death and bodily injury per incident, and at
85 least \$25,000 for property damage and must have coverage that
86 meets the minimum requirements under ss. 627.730-627.7405.

87 (c) While the driver is engaged in a prearranged ride, the
88 driver must be covered in the amount of at least \$1 million for
89 death, bodily injury, and property damage and must have coverage
90 that meets the minimum requirements for a limousine under ss.
91 627.730-627.7405.

92 (d) The coverage requirements of paragraphs (b) and (c) may
93 be satisfied by the driver, by the transportation network
94 company, or by a combination of the driver and the
95 transportation network company. If the driver maintains the
96 coverage and the coverage lapses or does not meet the
97 requirements in this subsection, the transportation network
98 company must provide the required coverage beginning with the



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99 first dollar of a claim and shall have the duty to defend such
100 claim.

101 (2) Coverage under an automobile insurance policy
102 maintained by the transportation network company is not
103 dependent on a personal automobile insurer's first denying a
104 claim, nor is a personal automobile insurance policy required to
105 first deny a claim.

106 (3) Insurance coverage that meets the requirements of this
107 section satisfies the financial responsibility requirement for a
108 motor vehicle under chapter 324 and the security required under
109 s. 627.733.

110 (4) A driver shall carry proof of the coverage under this
111 section at all times while using a vehicle in connection with a
112 transportation network company's digital network. If the driver
113 is involved in an accident while using a vehicle for such
114 purpose, the driver must provide this insurance coverage
115 information to the directly interested parties, automobile
116 insurers, and investigating police officers. Such proof of
117 financial responsibility required under s. 316.646 may be
118 presented through a digital phone application controlled by a
119 transportation network company. Upon request, the driver must
120 also disclose to directly interested parties, automobile
121 insurers, and investigating police officers whether he or she
122 was logged into the transportation network company's digital
123 network or engaged in a prearranged ride at the time of the
124 accident.

125 (5) If a transportation network company's insurer makes a
126 payment for a claim covered under comprehensive coverage or
127 collision coverage, the transportation network company must



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128 direct the insurer to issue the payment directly to the business
129 repairing the vehicle or jointly to the owner of the vehicle and
130 the primary lienholder on the covered vehicle.

131 (6) Insurance required by this section may be placed with
132 an insurer authorized to do business in this state or with a
133 surplus lines insurer eligible under ss. 626.913-626.937.

134 (7) The transportation network company shall disclose in
135 writing to transportation network company drivers the following
136 information before such drivers may accept a request for a
137 prearranged ride on the transportation network company's digital
138 network:

139 (a) The insurance coverage, including types of coverage and
140 the limits for each coverage, that the transportation network
141 company provides while the driver uses a personal vehicle in
142 connection with a digital network; and

143 (b) A notice that the driver's own automobile insurance
144 policy, depending on its terms, might not provide any coverage
145 while the driver is logged on to the transportation network
146 company's digital network and is available to receive
147 transportation requests or is engaged in a prearranged ride.

148 (8) Insurers that write automobile insurance in this state
149 may exclude any coverage afforded under the policy issued to an
150 owner or operator of a personal vehicle for any loss or injury
151 that occurs while a driver is logged on to a transportation
152 network company's digital network or while a driver provides a
153 prearranged ride. This right to exclude coverage applies to any
154 coverage included in an automobile insurance policy, including,
155 but not limited to:

156 (a) Liability coverage for bodily injury and property



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damage;
(b) Uninsured and underinsured motorist coverage;
(c) Medical payments coverage;
(d) Comprehensive physical damage coverage;
(e) Collision physical damage coverage; and
(f) Personal injury protection.

Exclusions under this subsection apply notwithstanding any requirement under chapter 324. This subsection does not require a personal automobile insurance policy to provide coverage while the driver is logged in to the transportation network company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport riders for compensation. Nothing in this subsection requires an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. Nothing in this subsection precludes an insurer from providing primary or excess coverage for the transportation network company driver's vehicle if the insurer chooses to do so by contract or endorsement.

(9) Automobile insurers that exclude the coverage described in this section have no duty to defend or indemnify any claim expressly excluded thereunder. This section does not invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in this state before the effective date of this section, which excludes coverage for vehicles used to carry persons or property for a charge or



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186 available for hire by the public. An automobile insurer that
187 defends or indemnifies a claim against a driver that is excluded
188 under the terms of its policy has a right of contribution
189 against other insurers that provide automobile insurance to the
190 same driver in satisfaction of the coverage requirements of this
191 section at the time of loss.

192 (10) In a claims coverage investigation, transportation
193 network companies shall immediately provide, upon request by
194 directly involved parties or by any insurer of the
195 transportation network company driver, if applicable, the
196 precise times that a driver logged on and off of the
197 transportation network company's digital network in the 12-hour
198 period immediately before and in the 12-hour period immediately
199 after the accident. Insurers providing coverage under this
200 section shall disclose upon request by any other insurer
201 involved in the particular claim the applicable coverages,
202 exclusions, and limits provided under any automobile insurance
203 maintained in order to satisfy the requirements of this section.

204 Section 3. Paragraph (a) of subsection (2) of section
205 324.022, Florida Statutes, is amended to read:

206 324.022 Financial responsibility for property damage.—

207 (2) As used in this section, the term:

208 (a) "Motor vehicle" means any self-propelled vehicle that
209 has four or more wheels and that is of a type designed and
210 required to be licensed for use on the highways of this state,
211 and any trailer or semitrailer designed for use with such
212 vehicle. The term does not include:

213 1. A mobile home.

214 2. A motor vehicle that is used in mass transit and



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215 designed to transport more than five passengers, exclusive of
216 the operator of the motor vehicle, and that is owned by a
217 municipality, transit authority, or political subdivision of the
218 state.

219 3. A school bus as defined in s. 1006.25.

220 4. A vehicle providing for-hire transportation that is
221 subject to the provisions of s. 324.031. A taxicab shall
222 maintain security as required under s. 324.032 ~~s. 324.032(1)~~.

223 Section 4. Section 324.031, Florida Statutes, is amended to
224 read:

225 324.031 Manner of proving financial responsibility.—The
226 owner or operator of a taxicab, a limousine, a jitney, a vehicle
227 used to provide transportation network company services, or any
228 other for-hire passenger transportation vehicle may prove
229 financial responsibility by providing satisfactory evidence of
230 holding a motor vehicle liability policy as defined in s.
231 324.021(8) or s. 324.151, which policy is issued by an insurance
232 carrier that ~~which~~ is a member of the Florida Insurance Guaranty
233 Association or by an eligible surplus lines insurer under s.
234 626.918. The operator or owner of any other vehicle may prove
235 his or her financial responsibility by:

236 (1) Furnishing satisfactory evidence of holding a motor
237 vehicle liability policy as defined in ss. 324.021(8) and
238 324.151;

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

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

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244 Any person, including any firm, partnership, association,
245 corporation, or other person, other than a natural person,
246 electing to use the method of proof specified in subsection (2)
247 shall furnish a certificate of deposit equal to the number of
248 vehicles owned times \$30,000, to a maximum of \$120,000; in
249 addition, any such person, other than a natural person, shall
250 maintain insurance providing coverage in excess of limits of
251 \$10,000/20,000/10,000 or \$30,000 combined single limits, and
252 such excess insurance shall provide minimum limits of
253 \$125,000/250,000/50,000 or \$300,000 combined single limits.
254 These increased limits shall not affect the requirements for
255 proving financial responsibility under s. 324.032 ~~s. 324.032(1)~~.

256 Section 5. Section 324.032, Florida Statutes, is amended to
257 read:

258 324.032 Manner of proving financial responsibility; for-
259 hire passenger transportation vehicles.—Notwithstanding the
260 provisions of s. 324.031:

261 (1) ~~(a)~~ A person who is either the owner or a lessee
262 required to maintain insurance under s. 627.733(1) (b) and who
263 operates one or more taxicabs, limousines, jitneys, or any other
264 for-hire passenger transportation vehicles may prove financial
265 responsibility by furnishing satisfactory evidence of holding a
266 motor vehicle liability policy, but with minimum limits of
267 \$125,000/250,000/50,000.

268 (2) ~~(b)~~ A person who is either the owner or a lessee
269 required to maintain insurance under s. 324.021(9) (b) and who
270 operates limousines, jitneys, or any other for-hire passenger
271 vehicles, other than taxicabs, may prove financial
272 responsibility by furnishing satisfactory evidence of holding a



273 motor vehicle liability policy as defined in s. 324.031.
274 ~~(2) An owner or a lessee who is required to maintain~~
275 ~~insurance under s. 324.021(9)(b) and who operates at least 300~~
276 ~~taxicabs, limousines, jitneys, or any other for-hire passenger~~
277 ~~transportation vehicles may provide financial responsibility by~~
278 ~~complying with the provisions of s. 324.171, such compliance to~~
279 ~~be demonstrated by maintaining at its principal place of~~
280 ~~business an audited financial statement, prepared in accordance~~
281 ~~with generally accepted accounting principles, and providing to~~
282 ~~the department a certification issued by a certified public~~
283 ~~accountant that the applicant's net worth is at least equal to~~
284 ~~the requirements of s. 324.171 as determined by the Office of~~
285 ~~Insurance Regulation of the Financial Services Commission,~~
286 ~~including claims liabilities in an amount certified as adequate~~
287 ~~by a Fellow of the Casualty Actuarial Society.~~
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289 ~~Upon request by the department, the applicant must provide the~~
290 ~~department at the applicant's principal place of business in~~
291 ~~this state access to the applicant's underlying financial~~
292 ~~information and financial statements that provide the basis of~~
293 ~~the certified public accountant's certification. The applicant~~
294 ~~shall reimburse the requesting department for all reasonable~~
295 ~~costs incurred by it in reviewing the supporting information.~~
296 ~~The maximum amount of self-insurance permissible under this~~
297 ~~subsection is \$300,000 and must be stated on a per-occurrence~~
298 ~~basis, and the applicant shall maintain adequate excess~~
299 ~~insurance issued by an authorized or eligible insurer licensed~~
300 ~~or approved by the Office of Insurance Regulation. All risks~~
301 ~~self-insured shall remain with the owner or lessee providing it,~~



302 ~~and the risks are not transferable to any other person, unless a~~
303 ~~policy complying with subsection (1) is obtained.~~

304 Section 6. Paragraph (b) of subsection (1) of section
305 627.733, Florida Statutes, is amended to read:

306 627.733 Required security.—

307 (1)

308 (b) Every owner or registrant of a motor vehicle used as a
309 taxicab shall not be governed by paragraph (1)(a) but shall
310 maintain security as required under s. 324.032 ~~s. 324.032(1)~~,
311 and s. 627.737 shall not apply to any motor vehicle used as a
312 taxicab.

313 Section 7. Section 627.747, Florida Statutes, is created to
314 read:

315 627.747 Coverage for part-time commercial uses of a
316 personal vehicle.—An insurer may offer a policy or an
317 endorsement to an existing personal automobile policy covering a
318 personal vehicle that is used part time for commercial purposes.
319 Such part-time commercial uses include, but are not limited to,
320 prearranged rides as defined in s. 316.003.

321 Section 8. This act shall take effect July 1, 2016.

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

323 And the title is amended as follows:

324 Delete everything before the enacting clause
325 and insert:

326 A bill to be entitled
327 An act relating to transportation network company
328 insurance; amending s. 316.003, F.S.; providing
329 definitions; creating s. 316.68, F.S.; providing
330 primary automobile insurance requirements for



331 transportation network companies and transportation
332 network company drivers; specifying coverage
333 requirements under certain circumstances; providing
334 requirements for insurance maintained by a
335 transportation network company on a driver's behalf;
336 providing for construction; requiring a driver to
337 carry proof of coverage at all times and provide
338 certain information to specified parties in the event
339 of an accident; requiring a transportation network
340 company to direct its insurer to issue payments to
341 specified entities under certain circumstances;
342 providing requirements for an insurer that provides
343 the required insurance; requiring a transportation
344 network company to provide a specified disclosure to
345 its drivers; authorizing an insurer to exclude
346 coverage for certain loss or injury; providing for
347 construction; requiring transportation network
348 companies and insurers to provide specified
349 information during a claims coverage investigation;
350 amending s. 324.022, F.S.; conforming a cross-
351 reference; amending s. 324.031, F.S.; adding a vehicle
352 used to provide transportation network company
353 services to a list of vehicles that may prove
354 financial responsibility in a specified manner; adding
355 the holding of a motor vehicle liability policy issued
356 by an eligible surplus lines insurer as satisfactory
357 evidence of financial responsibility; conforming a
358 cross-reference; amending s. 324.032, F.S.; deleting a
359 provision that authorizes a manner of proving



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360 financial responsibility for certain owners or lessees
361 operating for-hire vehicles; amending s. 627.733,
362 F.S.; conforming a cross-reference; creating s.
363 627.747, F.S.; authorizing an insurer to provide
364 certain coverage for part-time commercial uses of a
365 personal vehicle; providing an effective date.