

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Government Accountability
2 Committee

3 Representative Sprowls offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 316.68, Florida Statutes, is created to
8 read:

9 316.68 Transportation network companies.-

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

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

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

Amendment No. 1

17 driver accepts a ride requested by a rider through a digital
18 network controlled by a transportation network company,
19 continuing while the TNC driver transports the requesting rider,
20 and ending when the last requesting rider departs from the TNC
21 vehicle. The term does not include a taxicab, for-hire vehicle,
22 or street hail service and does not include ridesharing as
23 defined in s. 341.031, carpool as defined s. 450.28, or any
24 other type of service in which the driver receives a fee that
25 does not exceed the driver's cost to provide the ride.

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

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

33 (e) "Transportation network company" or "TNC" means an
34 entity operating in this state pursuant to this section using a
35 digital network to connect a rider to a TNC driver, who provides
36 prearranged rides. A TNC is not deemed to own, control, operate,
37 direct, or manage the TNC vehicles or TNC drivers that connect
38 to its digital network, except where agreed to by written
39 contract, and is not a taxicab association or for-hire vehicle
40 owner. The term does not include an individual, corporation,
41 partnership, sole proprietorship, or other entity arranging

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Amendment No. 1

42 nonemergency medical transportation for individuals who qualify
43 for Medicaid or Medicare pursuant to a contract with the state
44 or a managed care organization.

45 (f) "Transportation network company driver" or "TNC
46 driver" means an individual who:

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

49 2. In return for compensation, uses a TNC vehicle to offer
50 or provide a prearranged ride to a rider upon connection through
51 a digital network.

52 (g) "Transportation network company vehicle" or "TNC
53 vehicle" means a vehicle that is not a taxicab, jitney,
54 limousine, or for-hire vehicle as defined in s. 320.01(15) and
55 that is:

56 1. Used by a TNC driver to offer or provide a prearranged
57 ride; and

58 2. Owned, leased, or otherwise authorized to be used by
59 the TNC driver.

60
61 Notwithstanding any other provision of law, a vehicle that is
62 let or rented to another for consideration may be used as a TNC
63 vehicle.

64 (2) NOT OTHER CARRIERS.—A TNC or TNC driver is not a
65 common carrier, contract carrier, or motor carrier and does not
66 provide taxicab or for-hire vehicle service. In addition, a TNC

Amendment No. 1

67 driver is not required to register the vehicle that the TNC
68 driver uses to provide prearranged rides as a commercial motor
69 vehicle or a for-hire vehicle.

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

72 (4) FARE TRANSPARENCY.—If a fare is collected from a
73 rider, the TNC must disclose to the rider the fare or fare
74 calculation method on its website or within the online-enabled
75 technology application service before the beginning of the
76 prearranged ride. If the fare is not disclosed to the rider
77 before the beginning of the prearranged ride, the rider must
78 have the option to receive an estimated fare before the
79 beginning of the prearranged ride.

80 (5) IDENTIFICATION OF TNC VEHICLES AND DRIVERS.—The TNC's
81 digital network must display a photograph of the TNC driver and
82 the license plate number of the TNC vehicle used for providing
83 the prearranged ride before the rider enters the TNC driver's
84 vehicle.

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

- 88 (a) The origin and destination of the ride;
89 (b) The total time and distance of the ride; and
90 (c) The total fare paid.

Amendment No. 1

91 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER

92 INSURANCE REQUIREMENTS.—

93 (a) Beginning July 1, 2017, a TNC driver or a TNC on
94 behalf of the TNC driver shall maintain primary automobile
95 insurance that:

96 1. Recognizes that the TNC driver is a TNC driver or
97 otherwise uses a vehicle to transport riders for compensation;
98 and

99 2. Covers the TNC driver while the TNC driver is logged on
100 to the digital network of the TNC or while the TNC driver is
101 engaged in a prearranged ride.

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

105 1. Automobile insurance that provides:

106 a. A primary automobile liability coverage of at least
107 \$50,000 for death and bodily injury per person, \$100,000 for
108 death and bodily injury per incident, and \$25,000 for property
109 damage; and

110 b. Personal injury protection benefits that meet the
111 minimum coverage amounts required under ss. 627.730-627.7405.

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

114 a. Automobile insurance maintained by the TNC driver;

115 b. Automobile insurance maintained by the TNC; or

Amendment No. 1

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

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

119 1. Automobile insurance that provides:

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

122 b. Personal injury protection benefits that meet the
123 minimum coverage amounts required of a limousine under ss.
124 627.730-627.7405.

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

127 a. Automobile insurance maintained by the TNC driver;

128 b. Automobile insurance maintained by the TNC; or

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

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

135 (e) Coverage under an automobile insurance policy
136 maintained by the TNC must not be dependent on a personal
137 automobile insurer first denying a claim, and a personal
138 automobile insurance policy is not required to first deny a
139 claim.

Amendment No. 1

140 (f) Insurance required under this subsection must be
141 provided by an insurer authorized to do business in this state
142 which is a member of the Florida Insurance Guaranty Association
143 or an eligible surplus lines insurer that has a superior,
144 excellent, exceptional, or equivalent financial strength rating
145 by a rating agency acceptable to the Office of Insurance
146 Regulation of the Financial Services Commission.

147 (g) Insurance satisfying the requirements under this
148 subsection is deemed to satisfy the financial responsibility
149 requirement for a motor vehicle under chapter 324 and the
150 security required under s. 627.733.

151 (h) A TNC driver shall carry proof of coverage satisfying
152 paragraphs (b) and (c) with him or her at all times during his
153 or her use of a TNC vehicle in connection with a digital
154 network. In the event of an accident, a TNC driver shall provide
155 this insurance coverage information to any party directly
156 involved in the accident or their designated representative,
157 automobile insurers, and investigating police officers. Proof of
158 financial responsibility may be presented through an electronic
159 device, such as a digital phone application, under s. 316.646.
160 Upon request, a TNC driver shall also disclose to any party
161 directly involved in the accident or their designated
162 representative, automobile insurers, and investigating police
163 officers whether he or she was logged on to a digital network or
164 was engaged in a prearranged ride at the time of the accident.

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Amendment No. 1

165 (i) If a TNC's insurer makes a payment for a claim covered
166 under comprehensive coverage or collision coverage, the TNC
167 shall cause its insurer to issue the payment directly to the
168 business repairing the vehicle or jointly to the owner of the
169 vehicle and the primary lienholder on the covered vehicle.

170 (8) TRANSPORTATION NETWORK COMPANY AND INSURER;
171 DISCLOSURE; EXCLUSIONS.—

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

175 1. The insurance coverage, including the types of coverage
176 and the limits for each coverage, which the TNC provides while
177 the TNC driver uses a TNC vehicle in connection with the TNC's
178 digital network.

179 2. That the TNC driver's own automobile insurance policy
180 might not provide any coverage while the TNC driver is logged on
181 to the digital network or is engaged in a prearranged ride,
182 depending on the terms of the TNC driver's own automobile
183 insurance policy.

184 3. That the provision of rides for compensation which are
185 not prearranged rides subjects the driver to the coverage
186 requirements imposed under s. 324.032(1) and that failure to
187 meet such coverage requirements subjects the TNC driver to
188 penalties provided in s. 324.221, up to and including a
189 misdemeanor of the second degree.

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Amendment No. 1

190 (b)1. An insurer that provides an automobile liability
191 insurance policy under part XI of chapter 627 may exclude any
192 and all coverage afforded under the policy issued to an owner or
193 operator of a TNC vehicle for any loss or injury that occurs
194 while a TNC driver is logged on to a digital network or while a
195 TNC driver provides a prearranged ride. This right to exclude
196 all coverage may apply to any coverage included in an automobile
197 insurance policy, including, but not limited to:

198 a. Liability coverage for bodily injury and property
199 damage;

200 b. Uninsured and underinsured motorist coverage;

201 c. Medical payments coverage;

202 d. Comprehensive physical damage coverage;

203 e. Collision physical damage coverage; and

204 f. Personal injury protection.

205 2. The exclusions described in subparagraph 1. apply
206 notwithstanding any requirement under chapter 324. This section
207 does not require that a personal automobile insurance policy
208 provide coverage while the TNC driver is logged on to a digital
209 network, while the TNC driver is engaged in a prearranged ride,
210 or while the TNC driver otherwise uses a vehicle to transport
211 riders for compensation.

212 3. This section must not be construed to require an
213 insurer to use any particular policy language or reference to
214 this section in order to exclude any and all coverage for any

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Amendment No. 1

215 loss or injury that occurs while a TNC driver is logged on to a
216 digital network or while a TNC driver provides a prearranged
217 ride.

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

221 (c)1. An automobile insurer that excludes the coverage
222 described in subparagraph (b)1. does not have a duty to defend
223 or indemnify any claim expressly excluded thereunder. This
224 section does not invalidate or limit an exclusion contained in a
225 policy, including a policy in use or approved for use in this
226 state before July 1, 2017, which excludes coverage for vehicles
227 used to carry persons or property for a charge or available for
228 hire by the public.

229 2. An automobile insurer that defends or indemnifies a
230 claim against a TNC driver which is excluded under the terms of
231 its policy has a right of contribution against other insurers
232 that provide automobile insurance to the same TNC driver in
233 satisfaction of the coverage requirements of subsection (7) at
234 the time of loss.

235 (d) In a claims coverage investigation, a TNC shall
236 immediately provide, upon request by a directly involved party
237 or any insurer of the TNC driver, if applicable, the precise
238 times that the TNC driver logged on and off the digital network
239 in the 12-hour period immediately preceding and in the 12-hour

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Published On: 2/20/2017 7:38:21 PM

Amendment No. 1

240 period immediately following the accident. An insurer providing
241 coverage under subsection (7) shall disclose, upon request by
242 any other insurer involved in the particular claim, the
243 applicable coverages, exclusions, and limits provided under any
244 automobile insurance maintained in order to satisfy the
245 requirements of subsection (7).

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

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

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

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

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

258
259 This subsection applies retroactively to any TNC driver who has
260 ever operated in this state.

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

262 (a) The TNC shall implement a zero-tolerance policy
263 regarding a TNC driver's activities while accessing the TNC's
264 digital network. The zero-tolerance policy must address the use

Amendment No. 1

265 of drugs or alcohol while a TNC driver is providing a
266 prearranged ride or is logged on to the digital network.

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

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

277 (11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

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

280 1. The individual must submit an application to the TNC
281 which includes information regarding his or her address, age,
282 driver license, motor vehicle registration, and other
283 information required by the TNC;

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

286 a. A search of the Multi-State/Multi-Jurisdiction Criminal
287 Records Locator or other similar commercial nationwide database
288 with validation of any records through primary source search;
289 and

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Published On: 2/20/2017 7:38:21 PM

Amendment No. 1

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

292 3. The TNC must obtain and review, or have a third party
293 obtain and review, a driving history research report for the
294 applicant.

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

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

302 (d) The TNC may not authorize an individual to act as a
303 TNC driver on its digital network if the background check
304 conducted when the individual first seeks access to the digital
305 network or any subsequent background check required under
306 paragraph (b) reveals that the individual:

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

308 a. A felony;

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

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

Amendment No. 1

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

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

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

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

321 (e) No more than once every 3 years, the Department of
322 Financial Services may direct a TNC to submit to the department
323 an agreed-upon procedures report prepared by an independent
324 certified public accountant for the sole purpose of verifying
325 that the TNC is in compliance with this subsection. The report
326 must be prepared in accordance with applicable attestation
327 standards established by the American Institute of Certified
328 Public Accountants. The TNC shall bear all costs associated with
329 the preparation and submission of the report.

330 (f) Upon receipt of the report pursuant to paragraph (e),
331 the Department of Financial Services may direct a TNC to address
332 any noncompliance with this subsection identified in the report
333 within a timeframe prescribed by the department. The department
334 may seek injunctive relief against a TNC that fails to comply
335 with the department's direction under this paragraph and that
336 poses an imminent threat to public safety as a result of such
337 noncompliance.

338 (12) PROHIBITED CONDUCT.—

Amendment No. 1

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

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

342 (13) NONDISCRIMINATION; ACCESSIBILITY.—

343 (a) A TNC shall adopt a policy of nondiscrimination with
344 respect to riders and potential riders and shall notify TNC
345 drivers of such policy.

346 (b) A TNC driver shall comply with the TNC's
347 nondiscrimination policy.

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

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

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

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

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

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Amendment No. 1

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

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

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

370 (15) PREEMPTION.—

371 (a) It is the intent of the Legislature to provide for
372 uniformity of laws governing TNCs, TNC drivers, and TNC vehicles
373 throughout the state. TNCs, TNC drivers, and TNC vehicles are
374 governed exclusively by state law, including in any locality or
375 other jurisdiction that enacted a law or created rules governing
376 TNCs, TNC drivers, or TNC vehicles before July 1, 2017. A
377 county, municipality, special district, airport authority, port
378 authority, or other local governmental entity or subdivision may
379 not:

380 1. Impose a tax on, or require a license for, a TNC, a TNC
381 driver, or a TNC vehicle if such tax or license relates to
382 providing prearranged rides;

383 2. Subject a TNC, a TNC driver, or a TNC vehicle to any
384 rate, entry, operation, or other requirement of the county,
385 municipality, special district, airport authority, port
386 authority, or other local governmental entity or subdivision; or

Amendment No. 1

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

390 (b) This subsection does not prohibit an airport from
391 charging reasonable pickup fees consistent with any pickup fees
392 charged to taxicab companies at that airport for their use of
393 the airport's facilities or prohibit the airport from
394 designating locations for staging, pickup, and other similar
395 operations at the airport.

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

397
398 -----
399 **T I T L E A M E N D M E N T**

400 Remove everything before the enacting clause and insert:

401 A bill to be entitled

402 An act relating to transportation network companies; creating s.
403 316.68, F.S.; defining terms; providing for construction;
404 providing that a transportation network company (TNC) driver is
405 not required to register certain vehicles as commercial motor
406 vehicles or for-hire vehicles; requiring a TNC to designate and
407 maintain an agent for service of process in this state;
408 providing fare requirements; providing requirements for a TNC's
409 digital network; providing for an electronic receipt, subject to
410 certain requirements; providing automobile insurance
411 requirements for a TNC and a TNC driver; providing requirements

Amendment No. 1

412 for specified proof of coverage for a TNC driver under certain
413 circumstances; providing certain disclosure requirements for a
414 TNC driver in the event of an accident; requiring a TNC to cause
415 its insurer to issue certain payments directly to certain
416 parties; requiring a TNC to make specified disclosures in
417 writing to TNC drivers under certain circumstances; authorizing
418 specified insurers to exclude certain coverage; providing that
419 the right to exclude coverage applies to any coverage included
420 in an automobile insurance policy; providing applicability;
421 providing for construction; providing that specified automobile
422 insurers have a right of contribution against other insurers
423 that provide automobile insurance to the same TNC drivers in
424 satisfaction of certain coverage requirements under certain
425 circumstances; requiring a TNC to provide specified information
426 upon request by certain parties during a claims coverage
427 investigation; requiring certain insurers to disclose specified
428 information upon request by any other insurer involved in the
429 particular claim; providing that TNC drivers are independent
430 contractors if specified conditions are met; providing
431 retroactive applicability; requiring a TNC to implement a zero-
432 tolerance policy for drug or alcohol use; providing TNC driver
433 requirements; requiring a TNC to conduct a certain background
434 check for a TNC driver after a specified period; authorizing the
435 Department of Financial Services to require a procedures report
436 prepared by a certified public accountant; authorizing

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Published On: 2/20/2017 7:38:21 PM

Amendment No. 1

437 injunctive relief under certain circumstances; prohibiting a TNC
438 driver from accepting certain rides or soliciting or accepting
439 street hails; requiring a TNC to adopt a policy of
440 nondiscrimination with respect to riders and potential riders
441 and to notify TNC drivers of such policy; requiring TNC drivers
442 to comply with the nondiscrimination policy and certain
443 applicable laws regarding nondiscrimination and accommodation of
444 service animals; prohibiting a TNC from imposing additional
445 charges for providing services to persons who have physical
446 disabilities; requiring a TNC that contracts with a governmental
447 entity to provide paratransit services to comply with certain
448 applicable state and federal laws; requiring a TNC to reevaluate
449 a decision to remove a TNC driver's authorization to access its
450 digital network in certain instances; requiring a TNC to
451 maintain specified records; providing legislative intent;
452 specifying that TNCs, TNC drivers, and TNC vehicles are governed
453 exclusively by state law; prohibiting local governmental
454 entities and subdivisions from taking specified actions;
455 providing construction; providing an effective date.