

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 1352

INTRODUCER: Rules Committee; Innovation, Industry, and Technology Committee; and Senator Brandes

SUBJECT: Transportation Companies

DATE: March 3, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<u>Favorable</u>
2.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
3.	<u>Price</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1352 establishes a regulatory framework for digital advertising on transportation network company vehicles and for luxury ground transportation network company vehicles, preempting such regulation to the state.

To the extent that local governments currently collect revenue from regulation of digital advertising on vehicles, or fees from regulation of limousines and luxury sedans, that revenue will be negatively impacted. However, the extent of any impact is indeterminate.

The bill takes effect upon becoming law.

II. Present Situation:

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

TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. A driver logs onto a phone application and indicates the driver is ready to accept

passengers. Potential passengers log on, learn which drivers are nearby, see photographs, receive a fare estimate, and decide whether to accept a ride. If the passenger accepts a ride, the driver is notified and drives to pick up the passenger. Once at the destination, payment is made through the phone application.

Florida law currently contains a number of provisions relating to TNCs.

Definitions

Section 627.748(1), F.S. provides a number of relevant definitions:

- “Transportation network company” or “TNC” means an entity operating in this state using a digital network to connect a rider to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association or for-hire vehicle owner.¹
- “Prearranged ride” means the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider exits from and is no longer occupying the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail service and does not include ridesharing, carpool, or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.
- “Rider” means an individual who uses a digital network to connect with a TNC driver in order to obtain a prearranged ride in the TNC driver’s TNC vehicle between points chosen by the rider.
- “Transportation network company driver” or “TNC driver” means an individual who receives connections to potential riders and related services from a TNC and, in return for compensation, uses a TNC vehicle to offer or provide a prearranged ride to a rider upon connection through a digital network.
- “Transportation network company vehicle” or “TNC vehicle” means a vehicle that is *not* a taxicab, jitney, limousine,² or for-hire vehicle,³ that is used by a TNC driver to offer or

¹ The term does not include entities arranging nonemergency medical transportation for individuals who qualify for Medicaid or Medicare pursuant to a contract with the state or a managed care organization, but does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare if it meets the requirements of s. 627.748, F.S.

² The terms “taxicab,” “jitney,” and “limousine” are not defined in the Florida Statutes.

³ Section 320.01(15), F.S., defines the term “for-hire vehicle” as any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a “share-expense” basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is “for hire.” The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire.” The following are not included a for-hire vehicle: a motor vehicle used for transporting school children to and from school under contract with school officials; a hearse or ambulance when operated by a licensed embalmer or mortician or his or her agent or employee in this state; a motor vehicle used in the transportation of agricultural or horticultural products or in transporting agricultural or horticultural supplies direct to growers or the consumers of such supplies or to associations of such growers or consumers; a motor vehicle temporarily used by a farmer for the transportation of agricultural or horticultural products from any farm or grove to a packinghouse or to a point of shipment by a transportation company; or a motor vehicle not exceeding

provide a prearranged ride and owned, leased, or otherwise authorized to be used by the TNC driver.

- “Digital network” means any online-enabled technology application service, website, or system offered or used by a TNC which enables the prearrangement of rides with TNC drivers.

A vehicle that is let or rented to another for consideration may be used as a TNC vehicle.⁴

Preemption

Current law also recites the Legislature’s intent to provide for uniformity of laws governing TNCs, TNC drivers, and TNC vehicles throughout the state. “TNC vehicles are governed exclusively by state law, including in any locality or other jurisdiction that enacted a law or created rules governing TNCs, TNC drivers, or TNC vehicles before July 1, 2017.”⁵ A county, municipality, special district, airport authority, port authority, or other local government entity or subdivision is prohibited from:

- Imposing a tax on or requiring a license for a TNC, TNC driver, or TNC vehicle if such tax or license relates to providing prearranged rides;
- Subjecting a TNC, TNC driver, or TNC vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or
- Requiring a TNC or TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.

Insurance Requirements for TNCs and TNC Drivers

Section 627.748(7), F.S., addresses insurance requirements for TNCs and TNC drivers. A TNC driver, or a TNC on behalf of the TNC driver, must maintain primary automobile insurance that:

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

When a TNC driver is logged on to the digital network but is not engaged in a prearranged ride, the TNC or TNC driver must have automobile insurance that provides:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
- Personal injury protection (PIP) benefits that meet the minimum coverage amounts required of a limousine under the Florida Motor Vehicle No-Fault Law (which requires every owner and registrant of a motor vehicle in this state to maintain PIP coverage, which compensates persons injured in accidents regardless of fault);⁶ and

1.5 tons under contract with the Government of the United States to carry United States mail, provided such vehicle is not used for commercial purposes

⁴ Section 627.748(g), F.S.

⁵ Section 627.748(15), F.S.

⁶ Sections 627.730-627.7405, F.S. However, s. 627.733(1), F.S., exempts limousines from the Florida Motor Vehicle No-Fault Law. As a result, when logged on to the digital network but not engaged in a prearranged ride, the TNC or TNC driver is not required to have PIP coverage.

- Uninsured and underinsured vehicle coverage.⁷

When a TNC driver is engaged in a prearranged ride, the automobile insurance must provide:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine under the Florida Motor Vehicle No-Fault Law,⁸ and
- Uninsured and under insured vehicle coverage.

The coverage requirements may be satisfied by automobile insurance maintained by the TNC driver, an automobile insurance policy maintained by the TNC, or a combination of automobile insurance policies maintained by the TNC driver and the TNC.

If the TNC driver's insurance policy has lapsed or does not provide the required coverage, the insurance maintained by the TNC must provide the required coverage, beginning with the first dollar of a claim, and have the duty to defend such claim.⁹ Coverage under an automobile insurance policy maintained by the TNC must not be dependent on a personal automobile insurer first denying a claim, and a personal automobile insurance policy is not required to first deny a claim.¹⁰ The required insurance must be provided by an insurer authorized to do business in this state, which is a member of the Florida Insurance Guaranty Association or an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation.¹¹ Insurance satisfying the above requirements is deemed to satisfy the financial responsibility requirement for a motor vehicle under the Financial Responsibility Law of 1955¹² and the security required under the Florida Motor Vehicle No-Fault Law.¹³

An insurer that provides an automobile liability insurance policy under part XI of Ch. 627, F.S.,¹⁴ may exclude any and all coverage afforded under the policy issued to an owner or operator of a TNC vehicle for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride. This right to exclude all coverage

⁷ Generally, uninsured and underinsured vehicle coverage provides the policyholder with benefits even if the injured person is at fault in an accident. This vehicle coverage is required by s. 627.727, F.S.

⁸ As a result of the exemption of limousines from the Florida Motor Vehicle No-Fault Law, when a TNC driver is engaged in a prearranged ride, the TNC or TNC driver is not required to have PIP coverage.

⁹ Section 627.748(7)(d), F.S.

¹⁰ Section 627.748(7)(e), F.S.

¹¹ Section 627.748(f), F.S. The Florida Insurance Guaranty Association, which was created by legislation, handles the claims of insolvent property and casualty insurance companies. Its membership is composed of all Florida direct writers of property and casualty insurance. For more information on the association, see FIGA, available at <https://figafacts.com/> (last visited February 4, 2020).

¹² For private passenger vehicles, the minimum proof of financial responsibility is coverage in the amount of \$10,000 for bodily injury to or death of one person in any crash, \$20,000 for bodily injury or death of two or more persons in any one crash, and \$10,000 for property damage. Section 324.021, F.S. Commercial motor vehicle proof requires coverage by weight, ranging from \$50,000 per occurrence to \$100,000 per occurrence. Section 627.7415, F.S. Nonpublic sector bus proof requires \$100,000/\$300,000/\$50,000 or a combined policy in the amount of \$300,000. Section 627.7415, F.S.

¹³ *Supra* note 8.

¹⁴ Part XI relates to motor vehicle and casualty insurance contracts and sets out, among others, the provisions discussed herein relating to the Financial Responsibility Law, the No-Fault Law, and TNC insurance requirements.

may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage;
- Uninsured and underinsured motorist coverage;
- Medical payments coverage;
- Comprehensive physical damage coverage;
- Collision physical damage coverage; and
- Personal injury protection.¹⁵

The exclusions described above apply notwithstanding any requirement under the Financial Responsibility Law. A personal automobile insurance policy is not required to provide coverage while the TNC driver is logged on to a digital network, while the TNC driver is engaged in a prearranged ride, or while the TNC driver otherwise uses a vehicle to transport riders for compensation. Insurers are not precluded from providing primary or excess coverage for the TNC driver's vehicle by contract or endorsement. An automobile insurer that excludes the coverage described above does not have a duty to defend or indemnify any claim expressly excluded thereunder.¹⁶

An exclusion contained in a policy for vehicles used to carry persons or property for a charge or available for hire by the public, including a policy in use or approved for use in this state before July 1, 2017, is not invalidated or limited. An automobile insurer that defends or indemnifies a claim against a TNC driver, which is excluded under the terms of the policy, has a right of contribution against other insurers that provide automobile insurance to the same TNC driver in satisfaction of the above TNC coverage requirements at the time of loss.¹⁷

Other TNC-Related Provisions

Under current law, a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does *not* provide taxicab or for-hire vehicle service. Additionally, a TNC driver is not required to register the vehicle the TNC driver uses to provide prearranged rides as a commercial motor vehicle or a for-hire vehicle.¹⁸ Other provisions require a TNC to designate and maintain

¹⁵ Section 627.748(8)(b), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 627.748(2), F.S. Section 320.0(15), F.S., defines the term "for-hire vehicle," for vehicle registration purposes, to mean any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a "share-expense" basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is "for hire." The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation "for hire." The term does not include "a motor vehicle used for transporting school children to and from school under contract with school officials; a hearse or ambulance when operated by a licensed embalmer or mortician or his or her agent or employee in this state; a motor vehicle used in the transportation of agricultural or horticultural products or in transporting agricultural or horticultural supplies direct to growers or the consumers of such supplies or to associations of such growers or consumers; a motor vehicle temporarily used by a farmer for the transportation of agricultural or horticultural products from any farm or grove to a packinghouse or to a point of shipment by a

an agent for service of process in this state,¹⁹ to disclose information relating to fare transparency,²⁰ to display a photograph of the TNC driver and the license plate number of the TNC vehicle used to provide a prearranged ride,²¹ and to transmit electronic receipts to riders within a reasonable period after completion of a ride.²²

Additional requirements and related provisions in current law:

- Provide for disclosure of insurance-related information by TNC drivers and TNCs,²³
- Deem a TNC driver to be an independent contractor,²⁴
- Require a TNC to implement a zero-tolerance policy for drug or alcohol use,²⁵
- Set out background-check and driving history research provisions with related reporting requirements and penalties,²⁶
- List conduct prohibited by a TNC driver or a TNC,²⁷
- Require a TNC to adopt a policy of nondiscrimination and provide requirements for accessibility for individuals with disabilities,²⁸ and
- Address maintenance of records by a TNC.²⁹

For-Hire Vehicle Insurance and Registration Requirements

Section 324.032, F.S., generally provides that for-hire passenger transportation vehicles (taxicabs, limousines, jitneys, or any other for-hire transportation vehicle) may prove financial responsibility by furnishing evidence of holding a liability policy with limits of \$125,000/\$250,000 for bodily injury and \$50,000 for property damage. However, the owner or a lessee required to maintain insurance under s. 324.021(9)(b), F.S.,³⁰ who operates for-hire vehicles, *other than taxicabs*, may prove financial responsibility by providing evidence of holding a liability policy with limits of \$10,000/\$20,000/\$10,000.³¹ Further, the owner or a lessee required to maintain insurance under s. 324.021(9)(b), F.S., and who operates at least 300 taxicabs, limousines, jitneys, or any other for-hire vehicle may prove financial responsibility under s. 324.171, F.S., which allows and provides requirements for self-insurance.³²

transportation company; or a motor vehicle not exceeding 11/2 tons under contract with the Government of the United States to carry United States mail, provided such vehicle is not used for commercial purposes.

¹⁹ Section 627.748(3), F.S.

²⁰ Section 627.748(4), F.S.

²¹ Section 627.748(5), F.S.

²² Section 627.748(6), F.S.

²³ Section 627.748(7)(g) and (h), F.S.

²⁴ Section 627.748(9), F.S.,

²⁵ Section 627.748(10), F.S.

²⁶ Section 627.748(11), F.S.

²⁷ Section 627.748(12), F.S.

²⁸ Section 627.748(13), F.S.

²⁹ Section 627.748(14)

³⁰ That section provides that a lessor, under an agreement to rent or lease a motor vehicle for one year or longer that requires the lessee to obtain insurance, must provide coverage of \$100,000/\$300,000 for bodily injury and \$50,000 for property damage, and is not deemed the owner of the vehicle for purposes of financial responsibility. Also, a lessor, under an agreement to rent or lease a motor vehicle for less than one year, is deemed the owner for purposes of liability for operation of the vehicle up to \$100,000/\$300,000 for bodily injury and up to \$50,000 for property damage.

³¹ See ss. 324.032(1)(b), 324.031, and 324.021(8), F.S.

³² Section 324.032(2), F.S. A self-insurance certificate may be obtained from the DHSMV if a person, including any firm, partnership, association, corporation, or other person other than a natural person has a net unencumbered worth of at least

Section 320.08(6), F.S., imposes a \$17 flat fee plus \$1.50 per cwt³³ for registration of for-hire motor vehicles carrying under nine passengers, and a \$17 flat fee plus \$2.50 per cwt for such vehicles carrying nine passengers and more.

Local Regulation of Taxis, Limousines, and Other For-Hire Transportation Services

Florida law provides some requirements relating to taxis, limousines, and other for-hire transportation services; for example, minimum insurance and registration requirements (discussed below). Any additional regulation of these services may be established at the local level.

For counties, to the extent not inconsistent with general or special law, the legislative and governing body of a county has the power to carry on county government, including, but not restricted to, the power to license and regulate taxis, jitneys, and limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county.³⁴ As an example, Miami-Dade County regulates for-hire limousines on a countywide basis under Chapter 31, Article VI of the County Code.³⁵ The County Code contains requirements such as pre-arranging service at least one hour in advance of the transportation to be provided, requiring drivers to have a for-hire chauffeur registration; and requiring vehicle inspections and operating permits.³⁶

Municipalities have broad home rule powers authorizing them to enact legislation concerning any subject matter upon which the state Legislature may act, except:

- The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;
- Any subject expressly prohibited by the constitution;
- Any subject expressly preempted to state or county government by the constitution or by general law; or
- Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.³⁷

As noted, regulation of TNCs, TNC drivers, and TNC vehicles is already preempted to the state.

\$40,000 for the first motor vehicle and \$20,000 for each additional vehicle; or maintain sufficient net worth, as determined annually by the DHSMV, to be financially responsible for potential losses. Section 324.171, F.S.

³³ CWT is a unit of measurement called “hundredweight,” and is equal to 100 pounds. See Investopedia available at <https://www.investopedia.com/terms/h/hundredweight.asp> (last visited January 24, 2020).

³⁴ Section 125.01(1)(n), F.S.

³⁵ See the referenced part of the County Code available at https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH31VEHI_ARTVILIREFREL1 (last visited January 24, 2020).

³⁶ For additional detail, see Miami-Dade County, *Limousine Service License*, available at https://www8.miamidade.gov/global/license.page?Mduid_license=lic1499972486380630 (last visited January 24, 2020).

³⁷ Section 166.021(3), F.S.

Local Regulation of Advertising on Vehicles

Some local governments currently regulate advertising on vehicles in some fashion.³⁸ However, the details and extent of such regulation is unknown.

Prohibition Against Certain Lights

Section 316.2397, F.S., provides that a person may not drive any vehicle or equipment upon any highway in this state with any lamp or device thereon showing or displaying a red, red and white, or blue light visible from directly in front of the vehicle, except for certain exceptions, such as fire department vehicles and road maintenance equipment. That section expressly prohibits any vehicle or equipment, except police vehicles, from showing or displaying blue lights, except for Department of Corrections vehicles or county correctional agency vehicles when responding to emergencies. Flashing lights are prohibited on vehicles except:

- As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;
- When a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so; and
- Flashing lamps authorized under that section; s. 316.2065, F.S. (bicycle riders); and s. 316.235(6), F.S., relating to deceleration lighting systems on buses.

III. Effect of Proposed Changes:

The bill establishes a regulatory framework for TNC digital advertising on TNC Vehicles and for Luxury Ground TNCs.

TNC Digital Advertising

The bill amends s. 627.748(1), F.S., to define the term “transportation network company digital advertising device” or “TNC digital advertising device” to mean a device no larger than 20 inches tall and 54 inches long, which is fixed to the roof of a TNC vehicle and which displays advertisements on a digital screen only while the TNC vehicle is turned on.

The bill creates s. 627.748(11), F.S., authorizing a TNC driver or his or her designee to contract with a company to install a TNC digital advertising device (DAD) on a TNC vehicle. The bill:

- Allows a TNC DAD to be enabled with cellular or WiFi-enabled data transmission and equipped with GPS;
- Limits a TNC DAD to displaying advertisements only when the TNC vehicle is turned on;
- Requires a TNC DAD to follow the lighting requirements of s. 316.2397, F.S.; and
- Prohibits any portion of a TNC DAD from extending beyond the front or rear windshield of the vehicle or from impacting the TNC driver's vision.

The bill requires a TNC DAD to display advertisements only to the sides of the vehicle and not to the front or rear of the vehicle.³⁹ This appears to be consistent with the provision in

³⁸ For example, see Sec. 19-15.12 of the Miami-Dade County Code available at https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH19REPROWMEAC_S19-15.12PRDIVESAADDE (last visited January 24, 2020).

³⁹ The bill provides that identification of the provider does not constitute advertising.

s. 316.2397, F.S., that prohibits showing or displaying red, red and white, or blue light visible from directly in front of the vehicle.

A TNC DAD must, at a minimum, meet the requirements of the MIL-STD-810G standard⁴⁰ or other reasonable environmental and safety industry standard, as determined through independent safety and durability testing under the review of a licensed professional engineer, before being installed on a TNC vehicle.

A TNC DAD may not display advertisements for illegal products or services or advertisements that include nudity or violent images. See “Other Constitutional Issues” below.

All advertisements displayed on a TNC DAD are subject to the Florida Deceptive and Unfair Trade Practices Act (FDUTPA). A TNC driver or TNC vehicle owner, or an owner or operator of a TNC DAD that displays or disseminates an advertisement on behalf of another, is immune from liability for the display of an advertisement that violates this section or the FDUTPA unless the TNC driver, TNC vehicle owner, or an owner or operator of the TNC DAD has actual knowledge that the advertisement constitutes a violation. A TNC that is not the owner or operator of a TNC DAD that displays an advertisement that is in violation of this section or the FDUTPA is immune from liability under this section and the FDUTPA for the violation, unless the advertisement is displayed on behalf of the TNC. The bill provides that for purposes of ch. 627, F.S., a TNC DAD is deemed part of a TNC vehicle.

The bill exempts a TNC from liability by reason of owning, operating, or maintaining the digital network accessed by a TNC driver or rider, or by being the TNC affiliated with a TNC driver, for harm to persons or property that results or arises out of the use, operation, or possession of a motor vehicle operating as a TNC vehicle while the driver is logged on to the digital network if:

- There is no negligence or criminal wrongdoing on the part of the TNC;
- The TNC has fulfilled all of its obligations under this section with respect to the TNC driver; and
- The TNC is not the owner or bailee of the motor vehicle that caused harm to persons or property.

Luxury Ground TNCs

The bill excludes a TNC vehicle and a motor vehicle compliant with the Americans with Disabilities Act which is owned and used by a company that uses a digital network to facilitate prearranged rides to persons with disabilities for compensation from the definition of “for-hire vehicle” in s. 320.01, F.S. It includes a for-hire vehicle in the definitions of the definitions of the terms “prearranged ride” and “transportation network company” or “TNC” in s. 627.748, F.S.

The bill also allows a motor vehicle compliant with the Americans with Disabilities Act which is owned and used by a company that uses a digital network to facilitate prearranged rides to persons with disabilities for compensation to be used as a TNC vehicle.

⁴⁰ The standard is a Department of Defense test method for considering the influences that environmental stresses have on material throughout all phases of its service life. See EverySpec for additional information, available at http://everyspec.com/MIL-STD/MIL-STD-0800-0899/MIL-STD-810G_12306/ (last visited February 4, 2020).

The bill creates s. 627.748(16), F.S., defining the term “luxury ground transportation network company” or “luxury ground TNC” to mean a company that:

- Meets the requirements relating to electing to be regulated as a luxury ground TNC, and
- Uses its digital network to connect riders exclusively to drivers who operate for-hire vehicles, including limousines and luxury sedans and excluding taxicabs.

The bill authorizes an entity to elect, upon written notification to the Department of Financial Services (department), to be regulated as a luxury ground TNC. The bill requires a luxury ground TNC to:

- Comply with all of the requirements of s. 627.748, F.S., applicable to TNCs which do not conflict with insurance coverage requirements or which prohibit the company from connecting riders to drivers who operate for-hire vehicles, including limousines and luxury sedans and excluding taxicabs; and
- Maintain at all times insurance coverage at the levels at least equal to the greater of those required in this section and those required of for-hire vehicles, regardless of whether the driver is operating as a for-hire vehicle driver of luxury ground TNC driver.

However, a prospective luxury ground TNC that satisfies minimum financial responsibility at the time of written notification to the department through compliance by using self-insurance may continue to use self-insurance to satisfy the requirements of this subparagraph.

When a TNC driver is logged on to the digital network but is *not* engaged in a prearranged ride, the required coverage is primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage, plus PIP benefits (excluding limousines) and uninsured and underinsured motorist coverage. When a TNC driver *is* engaged in a prearranged ride, the vehicle insurance must provide primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage, plus PIP benefits (excluding limousines) and uninsured and underinsured motorist coverage. For-hire passenger transportation vehicles are generally required to carry coverage with limits of \$125,000/\$250,000 for bodily injury and \$50,000 for property damage.

Lastly, the bill includes luxury ground TNCs, luxury ground TNC drivers, and luxury ground TNC vehicles in the existing provisions relating to preemption to the state of regulation of TNCs, TNC drivers, and TNC vehicles. Regulation of luxury ground TNCs, luxury ground TNC drivers, and luxury ground TNC vehicles are preempted to the state.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection (b) of section 18 of the Florida Constitution provides that, except upon approval of each house of the Legislature by two-thirds of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. As noted, some

local governments are currently regulating for-hire vehicles and are collecting revenues for items such as business licenses or operating permits, driver registrations, and vehicle inspections. The extent of such regulation and the reduction of revenue collection in the aggregate is indeterminate. If the mandate restriction applies, the bill would need approval of the Legislature by a two-thirds vote of its membership.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The prohibition against display of advertisements on a TNC DAD for advertisements that, for example, include nudity or violent images could raise First Amendment issues, as the prohibition regulates the content of advertising. However, the outcome of any such claim is unknown.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

To the extent that local governments currently collect revenue from regulation of digital advertising on vehicles, or fees from regulation of limousines and luxury sedans, that revenue will be negatively impacted. However, the extent of any impact is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.748 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Rules on March 2, 2020:

The committee substitute:

- Revises and expands the liability exemptions (to a TNC vehicle owner, or an owner or operator of a TNC DAD that displays or disseminates an advertisement on behalf of another) for the display of advertisements on a TNC DAD.
- Makes technical revisions to the provisions relating to TNC liability by reason of owning, operating, or maintaining the digital network accessed by a TNC driver or rider, or by being the TNC affiliated with a TNC driver.

CS by Innovation, Industry, and Technology on February 10, 2020:

The committee substitute:

- Exempts a Transportation Network Company (TNC) vehicle from the definition of “for-hire vehicle” in s. 320.01, F.S.;
- Limits the height of a digital advertising device to twenty inches total, not twenty exclusive of the attachment device;
- Allows a motor vehicle compliant with the ADA owned by a digital network company to be used as a TNC;
- Allows the TNC vehicle owner to provide automobile insurance;
- Changes the standard for the device from “must meet the requirements of the MIL-STD-810G standard” to “at a minimum, meet the requirements of the MIL-STD-810G standard or other reasonable environmental and safety industry standard;”
- Subjects all advertisements displayed on a TNC digital advertising device to the Florida Deceptive and Unfair Trade Practices Act, with a TNC driver immune from liability for the display of an advertisement that violates this section or the Florida Deceptive and Unfair Trade Practices Act unless the TNC driver is the advertiser, and with the owner or operator of a TNC digital advertising device that displays an advertisement that is in violation of this section or the Florida Deceptive and Unfair Trade Practices Act immune from liability for the violation if the advertisement was displayed in good faith and without actual knowledge of the violation, unless the advertiser is the same person as the owner or operator;
- Deletes the requirement that the company operating TNC digital advertising device allocate 10 percent of all advertising to government, not-for-profit, or charitable organizations at no cost;
- Changes the insurance requirement from the greater of those required in s. 627.748, F.S., and those required of for-hire vehicles, to that required in s. 627.748, F.S.; and
- Exempts a TNC from liability for harm to persons or property that results or arises out of the use, operation, or possession of a motor vehicle operating as a TNC vehicle while the driver is logged on to the digital network under specified circumstances.

B. Amendments:

None.

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