

FLORIDA HOUSE OF REPRESENTATIVES

HB 817

2015

1 A bill to be entitled
2 An act relating to transportation network companies;
3 creating s. 316.680, F.S.; providing definitions;
4 providing requirements for a person to obtain a permit
5 as a transportation network company; providing a
6 permit fee; requiring an agent for service of process;
7 requiring disclosure of a company's fares; requiring
8 display of certain information related to a
9 transportation network company driver; requiring that
10 a company provide an electronic receipt to a
11 passenger; providing requirements for automobile
12 liability insurance and insurance disclosure;
13 requiring that a company implement a zero tolerance
14 policy for drug and alcohol use; providing
15 requirements for employment as a transportation
16 network company driver; requiring that motor vehicles
17 used by a transportation network company meet certain
18 safety and emissions requirements; prohibiting
19 specified conduct; requiring a company to adopt a
20 nondiscrimination policy and meet certain requirements
21 for accessibility; requiring a company to maintain
22 specified records; prohibiting a company from
23 disclosing specified information; providing for
24 preemption; authorizing rulemaking; providing an
25 effective date.
26

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 Be It Enacted by the Legislature of the State of Florida:

28

29 Section 1. Section 316.680, Florida Statutes, is created
30 to read:

31 316.680 Transportation network companies.—

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

33 (a) "Transportation network company" or "company" means an
34 entity granted a permit under this section to operate in this
35 state using a digital network or software application service to
36 connect passengers to transportation network company service
37 provided by drivers. A company is not deemed to own, control,
38 operate, or manage the vehicles used by drivers and is not a
39 taxicab association or for-hire vehicle owner.

40 (b) "Transportation network company driver" or "driver"
41 means an individual who operates a motor vehicle that is:

42 1. Owned, leased, or otherwise authorized for use by the
43 individual.

44 2. Not a taxi, jitney, limousine, or for-hire vehicle as
45 defined in s. 320.01(15).

46 3. Used to provide transportation network company service.

47 (c) "Transportation network company service" means the
48 transportation of a passenger between points chosen by the
49 passenger and prearranged with a driver through the use of a
50 company digital network or software application service. Service
51 begins when a driver accepts a request for transportation
52 received through the company's digital network or software

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53 application service, continues while the driver transports the
 54 passenger in the driver's vehicle, and ends when the passenger
 55 exits the driver's vehicle. The term does not include a taxi,
 56 for-hire vehicle, or street hail service.

57 (d) "Trip" means the duration of transportation network
 58 company service beginning at a point of origin where the
 59 passenger enters the driver's vehicle and ending at a point of
 60 destination where the passenger exits the vehicle.

61 (2) NOT COMMON CARRIERS.—A transportation network company
 62 or transportation network company driver is not a common carrier
 63 and does not provide taxi or for-hire vehicle service.

64 (3) PERMIT REQUIRED.—

65 (a) A person must obtain a permit from the department to
 66 operate a transportation network company in this state.

67 (b) The department shall issue a permit to each applicant
 68 that meets the requirements for a transportation network company
 69 pursuant to this section and pays an annual permit fee of \$5,000
 70 to the department.

71 (4) AGENT FOR SERVICE OF PROCESS REQUIRED.—A
 72 transportation network company must designate and maintain an
 73 agent for service of process in this state.

74 (5) FARE CHARGED FOR TRANSPORTATION NETWORK COMPANY
 75 SERVICE.—A transportation network company may charge a fare for
 76 the transportation network company service provided to
 77 passengers. If the company charges a fare, the company must
 78 disclose the fare calculation method on its website or within

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79 | the digital network software application service. Before the
 80 | passenger enters the driver's vehicle, the company shall provide
 81 | the passenger with the applicable rates being charged and the
 82 | option to receive an estimated fare.

83 | (6) IDENTIFICATION OF VEHICLES AND DRIVERS.—The company's
 84 | software application service or website shall display a picture
 85 | of the driver and the license plate number of the motor vehicle
 86 | used to provide transportation network company service before
 87 | the passenger enters the driver's vehicle.

88 | (7) ELECTRONIC RECEIPT.—Within a reasonable period of
 89 | time, to be determined by the department, after completion of a
 90 | trip, the company shall provide an electronic receipt to the
 91 | passenger which lists:

- 92 | (a) The origin and destination of the trip.
- 93 | (b) The total time and distance of the trip.
- 94 | (c) An itemization of the total fare paid.

95 | (8) TRANSPORTATION NETWORK COMPANY AND DRIVER INSURANCE
 96 | REQUIREMENTS.—

97 | (a) Beginning October 1, 2015, companies and
 98 | transportation network company drivers must comply with
 99 | automobile liability insurance requirements under this
 100 | subsection.

101 | (b)1. When a driver is logged into the company's digital
 102 | network and is available to receive requests for transportation,
 103 | but is not providing transportation network company service, the
 104 | following automobile liability insurance requirements shall

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105 apply:

106 a. Automobile liability insurance that meets at least the
 107 minimum coverage requirements under s. 324.021(7) (a)-(c).

108 b. Automobile liability insurance that provides the
 109 minimum personal injury protection coverage requirements under
 110 s. 627.736.

111 2. A company shall maintain automobile liability insurance
 112 in the amount required in sub-subparagraph 1.a. and shall
 113 provide coverage in the event a participating driver's own
 114 automobile liability policy excludes coverage according to its
 115 policy terms or does not provide coverage of the minimum
 116 requirements in sub-subparagraph 1.b.

117 (c) When a driver is providing transportation network
 118 company service, the following automobile liability insurance
 119 requirements shall apply:

120 1. Automobile liability insurance that recognizes the
 121 driver's provision of transportation network company service.

122 2. Automobile liability insurance of at least \$1 million
 123 for death, personal injury, and property damage.

124 3. Automobile liability insurance that provides the
 125 minimum personal injury protection coverage requirements as
 126 required by s. 627.736.

127 (d) The coverage requirements of paragraph (c) may be
 128 satisfied by:

129 1. Automobile liability insurance maintained by the
 130 driver;

131 2. Automobile liability insurance maintained by the
 132 company; or

133 3. A combination of coverage maintained as provided in
 134 subparagraphs 1. and 2.

135 (e) If insurance maintained by a driver under this section
 136 has lapsed, failed to provide the required coverage, denied a
 137 claim for the required coverage, or otherwise ceased to exist,
 138 insurance maintained by the company shall provide the coverage
 139 required by this section beginning with the first dollar of a
 140 claim.

141 (f) Insurance required by this section may be placed with
 142 an insurer authorized to do business in the state or with a
 143 surplus lines insurer eligible under the Surplus Lines Law under
 144 ss. 626.913-626.937.

145 (g) A company or driver may prove financial responsibility
 146 under chapter 324 and s. 627.733 by providing satisfactory
 147 evidence of holding an automobile liability policy pursuant to
 148 this subsection.

149 (9) TRANSPORTATION NETWORK COMPANY AND INSURER DISCLOSURE
 150 REQUIREMENTS.—

151 (a) The company shall disclose in writing to drivers
 152 before the drivers are allowed to accept a request for
 153 transportation network company service on the company's digital
 154 network the following:

155 1. The insurance coverage and limits of liability that the
 156 company provides while the driver uses a personal vehicle in

157 connection with a company's digital network.

158 2. That the driver's personal insurance policy may not
 159 provide coverage while the driver uses a vehicle in connection
 160 with a company's digital network.

161 (b) An insurer that provides automobile liability
 162 insurance policies under part XI of chapter 627 may:

163 1. Exclude any and all coverage and the duty to defend
 164 afforded under the owner's insurance policy for a loss or injury
 165 that occurs while an insured vehicle provides or is available to
 166 provide transportation network company service, if such
 167 exclusion is expressly set forth in the policy and approved for
 168 sale in the state. This right to exclude coverage and the duty
 169 to indemnify and defend applies to any coverage included in an
 170 automobile liability insurance policy, including, but not
 171 limited to:

172 a. Liability coverage for bodily injury and property
 173 damage.

174 b. Uninsured and underinsured motorist coverage.

175 c. Medical payments coverage.

176 d. Comprehensive physical damage coverage.

177 e. Collision physical damage coverage.

178 f. Personal injury protection.

179 2. The insurer must notify the insured within 30 days
 180 after receiving a notice of loss that the insurer has no duty to
 181 defend or indemnify any person or organization for liability for
 182 a loss that is properly excluded pursuant to the terms of the

183 applicable primary or excess insurance policy.

184 (c) An insurer that provides automobile liability
 185 insurance in the state must disclose in a prominent place on its
 186 application for insurance whether the insurance policy provides
 187 coverage for an insured vehicle providing or available to
 188 provide transportation network company service. If an automobile
 189 liability insurance policy contains an exclusion for such
 190 service, the insurer or its agent must disclose in writing the
 191 exact language of such exclusion to the applicant during the
 192 application process.

193 (d) In a claims coverage investigation, companies and any
 194 insurer providing coverage under this section shall cooperate to
 195 facilitate the exchange of information, including the precise
 196 times that a driver logged on and off of the company's digital
 197 network in the 24-hour period immediately preceding the accident
 198 and disclose to one another a clear description of the coverage,
 199 exclusions, and limits provided under the insurance policy each
 200 party issued or maintained.

201 (10) ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.-

202 (a) A company shall implement a zero tolerance policy on
 203 use of drugs or alcohol by a driver who is providing
 204 transportation network company service or who is logged into the
 205 company's digital network but is not providing service.

206 (b) A company shall provide notice on its website of a
 207 zero tolerance policy under paragraph (a) and shall provide
 208 procedures for a passenger to file a complaint about a driver

209 who the passenger reasonably suspects was under the influence of
 210 drugs or alcohol during the course of a trip.

211 (c) Upon receipt of a passenger complaint alleging a
 212 violation of the zero tolerance policy, the company shall
 213 immediately suspend the accused driver's access to the company's
 214 digital platform and shall conduct an investigation into the
 215 reported incident. The suspension shall last for the duration of
 216 the investigation.

217 (d) The company shall maintain records of a passenger
 218 complaint for a period of at least 2 years after the date such
 219 complaint is received by the company.

220 (11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

221 (a) Before allowing a person to act as a driver on its
 222 digital platform, the company shall:

223 1. Require the person to submit an application to the
 224 company, including his or her address, date of birth, driver
 225 license number, driving history, motor vehicle registration,
 226 automobile liability insurance, and other information required
 227 by the company.

228 2. Conduct, or have a third party conduct, a state and
 229 national criminal background check for each applicant to
 230 include:

231 a. The Multi-State/Multi-Jurisdiction Criminal Records
 232 Locator or other similar commercial national database with
 233 validation.

234 b. The Dru Sjodin National Sex Offender Public Website.

235 3. Obtain and review a driving history research report for
 236 such person.

237 (b) The company shall prohibit a person to act as a driver
 238 on its digital platform if the person:

239 1. Has had more than three moving violations in the
 240 preceding 3-year period or one major violation in the preceding
 241 3-year period. A major violation includes, but is not limited
 242 to, fleeing or attempting to elude a law enforcement officer,
 243 reckless driving, or driving with a suspended or revoked
 244 license;

245 2. Has been convicted, within the past 7 years, of driving
 246 under the influence of drugs or alcohol, fraud, sexual offenses,
 247 use of a motor vehicle to commit a felony, a crime involving
 248 property damage or theft, acts of violence, or acts of terror;

249 3. Is a match in the Dru Sjodin National Sex Offender
 250 Public Website;

251 4. Does not possess a valid driver license;

252 5. Does not possess proof of registration for the motor
 253 vehicle used to provide transportation network company service;

254 6. Does not possess proof of automobile liability
 255 insurance for the motor vehicle used to provide transportation
 256 network company service; or

257 7. Has not attained the age of 19 years.

258 (12) VEHICLE SAFETY AND EMISSIONS.—A company shall require
 259 that a motor vehicle used by a driver to provide transportation
 260 network company service meets the vehicle safety and emissions

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261 requirements for a private motor vehicle of the state in which
262 the vehicle is registered.

263 (13) PROHIBITED CONDUCT.—A driver may not:

264 (a) Accept a ride other than a ride arranged through a
265 company's digital network or software application service.

266 (b) Solicit or accept street hails.

267 (c) Solicit or accept cash payments from passengers. A
268 company shall adopt a policy prohibiting solicitation or
269 acceptance of cash payments from passengers and notify drivers
270 of such policy. Such policy must require a payment for
271 transportation network company service to be made electronically
272 using the company's digital network or software application
273 service.

274 (14) NONDISCRIMINATION; ACCESSIBILITY.—

275 (a) A company shall adopt a policy of nondiscrimination on
276 the basis of destination, race, color, national origin,
277 religious belief or affiliation, sex, disability, age, sexual
278 orientation, or gender identity with respect to passengers and
279 potential passengers and shall notify drivers of such policy.

280 (b) A driver shall comply with the nondiscrimination
281 policy.

282 (c) A driver shall comply with all applicable laws
283 relating to accommodation of service animals.

284 (d) A company may not impose additional charges for
285 providing transportation network company service to persons with
286 physical disabilities because of those disabilities.

287 (e) A company shall provide passengers an opportunity to
 288 indicate whether they require a wheelchair-accessible vehicle.
 289 If a company cannot arrange wheelchair-accessible service, it
 290 shall direct the passenger to an alternate provider of
 291 wheelchair-accessible service, if available.

292 (15) RECORDS.—A company shall maintain:

293 (a) Individual trip records for at least 1 year after the
 294 date each trip was provided.

295 (b) Driver records for at least 1 year after the date on
 296 which a driver's activation on the company's digital network has
 297 ended.

298 (16) PERSONAL IDENTIFYING INFORMATION.—

299 (a) A company shall only disclose a passenger's personal
 300 identifying information to a third party if:

- 301 1. The passenger consents;
- 302 2. Disclosure is required by a legal obligation; or
- 303 3. Disclosure is required to protect or defend the terms
 304 of use of the transportation network company service or to
 305 investigate violations of those terms.

306 (b) Notwithstanding paragraph (a), a company may share a
 307 passenger's name and telephone number with the driver providing
 308 transportation network company service to such passenger to
 309 facilitate correct identification of the passenger by the driver
 310 or to facilitate communication between the passenger and the
 311 driver.

312 (17) PREEMPTION.—Notwithstanding any other provision of

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313 law, companies and drivers are governed exclusively by this
 314 section and any rules adopted by the department to administer
 315 this section. A municipality or other local governmental entity
 316 may not impose a tax on, or require a license for, a company or
 317 a driver or subject a company to the municipality's or other
 318 local governmental entity's rate, entry, operational, or other
 319 requirements.

320 (18) RULEMAKING.—The department may adopt rules to
 321 administer this section.

322 Section 2. This act shall take effect July 1, 2015.