

## CHAPTER 2017-12

### Committee Substitute for House Bill No. 221

An act relating to transportation network companies; creating s. 627.748, F.S.; defining terms; providing for construction; providing that a transportation network company (TNC) driver is not required to register certain vehicles as commercial motor vehicles or for-hire vehicles; requiring a TNC to designate and maintain an agent for service of process in this state; providing fare requirements; providing requirements for a TNC's digital network; providing for an electronic receipt, subject to certain requirements; providing automobile insurance requirements for a TNC and a TNC driver; providing requirements for specified proof of coverage for a TNC driver under certain circumstances; providing certain disclosure requirements for a TNC driver in the event of an accident; requiring a TNC to cause its insurer to issue certain payments directly to certain parties; requiring a TNC to make specified disclosures in writing to TNC drivers under certain circumstances; authorizing specified insurers to exclude certain coverage, subject to certain limitations; providing that the right to exclude coverage applies to any coverage included in an automobile insurance policy; providing applicability; providing for construction; providing that specified automobile insurers have a right of contribution against other insurers that provide automobile insurance to the same TNC drivers in satisfaction of certain coverage requirements under certain circumstances; requiring a TNC to provide specified information upon request by certain parties during a claims coverage investigation; requiring certain insurers to disclose specified information upon request by any other insurer involved in the particular claim; providing that TNC drivers are independent contractors if specified conditions are met; requiring a TNC to implement a zero-tolerance policy for drug or alcohol use, subject to certain requirements; providing TNC driver requirements; requiring a TNC to conduct a certain background check for a TNC driver after a specified period; requiring a TNC to submit an examination report prepared by a certified public accountant to the Department of Financial Services to verify certain compliance; requiring the department to impose specified fines for noncompliance; providing for disposition and use of moneys received; authorizing petition for an administrative proceeding; authorizing the department to seek injunctive relief under certain circumstances; authorizing the department to adopt rules; providing construction; prohibiting a TNC driver from accepting certain rides or soliciting or accepting street hails; prohibiting a TNC from altering presentation of information on its digital network to an enforcement official; requiring a TNC to adopt a policy of nondiscrimination with respect to riders and potential riders and to notify TNC drivers of such policy; requiring TNC drivers to comply with the nondiscrimination policy and certain applicable laws regarding nondiscrimination and accommodation of service animals; prohibiting a TNC from imposing additional charges for providing services to persons

who have physical disabilities; requiring a TNC that contracts with a governmental entity to provide paratransit services to comply with certain state and federal laws; requiring a TNC to reevaluate a decision to remove a TNC driver's authorization to access its digital network in certain instances; requiring a TNC to maintain specified records; providing legislative intent; specifying that TNCs, TNC drivers, and TNC vehicles are governed exclusively by state law; prohibiting local governmental entities and subdivisions from taking specified actions; providing applicability; providing an effective date.

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

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

627.748 Transportation network companies.—

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

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

(b) “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 transportation network company, continuing while the TNC driver transports the rider, and ending when the last 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 as defined in s. 341.031, carpool as defined s. 450.28, 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.

(c) “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. A person may use a digital network to request a prearranged ride on behalf of a rider.

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

(e) “Transportation network company” or “TNC” means an entity operating in this state pursuant to this section 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. An individual, corporation, partnership, sole proprietorship, or other entity that arranges medical transportation for individuals qualifying for Medicaid

or Medicare pursuant to a contract with the state or a managed care organization is not a TNC. This section does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare if it meets the requirements of this section.

(f) “Transportation network company driver” or “TNC driver” means an individual who:

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

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

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

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

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

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

(2) NOT OTHER CARRIERS.—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. In addition, a TNC driver is not required to register the vehicle that the TNC driver uses to provide prearranged rides as a commercial motor vehicle or a for-hire vehicle.

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

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

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

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

(a) The origin and destination of the ride;

(b) The total time and distance of the ride; and

(c) The total fare paid.

(7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE REQUIREMENTS.—

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

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

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

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

1. Automobile insurance that provides:

a. A 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;

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

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

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

a. Automobile insurance maintained by the TNC driver;

b. Automobile insurance maintained by the TNC; or

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

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

1. Automobile insurance that provides:

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

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

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

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

a. Automobile insurance maintained by the TNC driver;

b. Automobile insurance maintained by the TNC; or

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

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

(e) 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.

(f) Insurance required under this subsection 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 of the Financial Services Commission.

(g) Insurance satisfying the requirements under this subsection is deemed to satisfy the financial responsibility requirement for a motor vehicle under chapter 324 and the security required under s. 627.733 for any period when the TNC driver is logged onto the digital network or engaged in a prearranged ride.

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

(i) If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its

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

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

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

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

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

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

(b)1. An insurer that provides an automobile liability insurance policy under part XI of chapter 627 may exclude any and all coverage afforded under the policy issued to an owner or operator of a TNC vehicle while driving that 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. Exclusions imposed under this subsection are limited to coverage 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 may apply to any coverage included in an automobile insurance policy, including, but not limited to:

a. Liability coverage for bodily injury and property 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.

2. The exclusions described in subparagraph 1. apply notwithstanding any requirement under chapter 324. These exclusions do not affect or

diminish coverage otherwise available for permissive drivers or resident relatives under the personal automobile insurance policy of the TNC driver or owner of the TNC vehicle who are not occupying the TNC vehicle at the time of loss. This section does not require that a personal automobile insurance policy 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.

3. This section must not be construed to require 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 TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride.

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

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

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

(d) In a claims coverage investigation, a TNC shall immediately provide, upon request by a directly involved party or any insurer of the TNC driver, if applicable, the precise times that the TNC driver logged on and off the digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. An insurer providing coverage under subsection (7) shall disclose, upon request by any other insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (7).

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

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

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

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

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

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

(a) The TNC shall implement a zero-tolerance policy regarding a TNC driver's activities while accessing the TNC's digital network. The zero-tolerance policy must address the use of drugs or alcohol while a TNC driver is providing a prearranged ride or is logged on to the digital network.

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

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

(11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.—

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

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

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

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

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

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

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

(c) The TNC may not authorize an individual to act as a TNC driver on its digital network if the driving history research report conducted when the



individual first seeks access to the digital network reveals that the individual has had more than three moving violations in the prior 3-year period.

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

1. Has been convicted, within the past 5 years, of:
  - a. A felony;
  - b. A misdemeanor for driving under the influence of drugs or alcohol, for reckless driving, for hit and run, or for fleeing or attempting to elude a law enforcement officer; or
  - c. A misdemeanor for a violent offense or sexual battery, or a crime of lewdness or indecent exposure under chapter 800;
2. Has been convicted, within the past 3 years, of driving with a suspended or revoked license;
3. Is a match in the National Sex Offender Public Website maintained by the United States Department of Justice;
4. Does not possess a valid driver license; or
5. Does not possess proof of registration for the motor vehicle used to provide prearranged rides.

(e) No later than January 1 of every other year beginning in 2019, a TNC shall submit to the Department of Financial Services an examination report prepared by an independent certified public accountant for the sole purpose of verifying that the TNC has maintained compliance with subsection (8) and this subsection on a continual basis for either the preceding 2 years or for the timeframe that the TNC has been operating in this state if that timeframe is less than 2 years. The report shall expressly state whether the TNC was compliant or noncompliant. The report must be prepared in accordance with applicable attestation standards established by the American Institute of Certified Public Accountants. The TNC shall bear all costs associated with the preparation and submission of the report.

(f) The Department of Financial Services, within 30 days after receipt of the report required under paragraph (e), shall impose a fine of \$10,000 if the report includes a finding that the TNC has been noncompliant with subsection (8), this subsection, or both. A TNC that has been found to be noncompliant shall submit another examination report prepared by an independent certified public accountant to the department no later than January 1 of the following year. This subsequent report shall evaluate the records of the TNC for the timeframe since the independent certified public

accountant last reviewed the records of the TNC to determine whether the TNC has been compliant with subsection (8), this subsection, or both on a continual basis. The department, within 30 days after receipt of the subsequent report required by this paragraph, shall impose a fine of \$20,000 if the subsequent report includes a finding that the TNC has been noncompliant with subsection (8), this subsection, or both. Failure to timely submit any report required under this paragraph shall result in the imposition of an additional fine of \$10,000 for noncompliance. Any fine imposed by the department shall be payable within 21 days after receipt of notice from the department. The moneys so received may be deposited by the department for use in defraying the expenses of the department in the discharge of its administrative and regulatory duties under this subsection. The payment of the fine shall be stayed by the filing of a petition for an administrative proceeding pursuant to chapter 120 with the department's agency clerk. Failure to timely petition will waive any rights to an administrative hearing. The department may, pursuant to the Florida Rules of Civil Procedure, seek injunctive relief against a TNC that fails to comply with the requirements of paragraph (e) and this paragraph. The department may adopt rules to implement paragraph (e) and this paragraph.

(g) Unless otherwise explicitly provided, this subsection does not extinguish any claim otherwise available under common law or any other statute.

(12) PROHIBITED CONDUCT.—

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

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

(c) A TNC may not alter the presentation of information on its digital network to an enforcement official for the purpose of thwarting or interfering with the official's enforcement or oversight of the TNC.

(13) NONDISCRIMINATION; ACCESSIBILITY.—

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

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

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

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

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

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

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

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

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

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

(15) PREEMPTION.—

(a) It is the intent of the Legislature to provide for uniformity of laws governing TNCs, TNC drivers, and TNC vehicles throughout the state. TNCs, TNC drivers, and 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. A county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision may not:

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

2. Subject a TNC, a TNC driver, or a 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

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

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

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

Approved by the Governor May 9, 2017.

Filed in Office Secretary of State May 9, 2017.