

Amendment No. 2.

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WITHDRAWN	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	<u> </u>	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
 2 Representative Gaetz offered the following:

Amendment

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 316.680, Florida Statutes, is created
 7 to read:

8 316.680 Transportation network companies.—

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

10 (a) "Digital network" means any online-enabled application,
 11 software, website or system offered or utilized by a
 12 transportation network company that enables the prearrangement
 13 of rides with transportation network company drivers.

14 (b) "Personal vehicle" means a vehicle that is used by a
 15 transportation network company driver in connection with
 16 providing transportation network company service and is:

Amendment No. 2.

17 1. Owned, leased, or otherwise authorized for use by a
18 transportation network company driver;

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

21 (c) "Transportation network company" or "company" means an
22 entity granted a permit under this section to operate in this
23 state using a digital network or software application service to
24 connect passengers to transportation network company service
25 provided by drivers. A company is not deemed to own, control,
26 operate, or manage the vehicles used by drivers; is not deemed
27 to control or manage drivers; and is not a taxicab association
28 or for-hire vehicle owner. A transportation network company does
29 not include an individual, corporation, partnership, sole
30 proprietorship, or other entity arranging nonemergency medical
31 transportation for individuals qualifying for Medicaid or
32 Medicare pursuant to a contract with the state or a managed care
33 organization.

34 (c) "Transportation network company driver" or "driver"
35 means an individual who:

36 1. Receives connections to potential passengers and related
37 services from a transportation network company in exchange for
38 payment of a fee to the transportation network company; and

39 2. Uses a personal vehicle to provide transportation
40 network company service to passengers upon connection through a
41 digital network controlled by a transportation network company
42 in return for compensation or payment of a fee.

Amendment No. 2.

43 (d) "Transportation network company rider" or "rider" means
44 an individual or persons who use a transportation network
45 company's digital network to connect with a transportation
46 network company driver who provides transportation network
47 company service to the rider in the driver's personal vehicle
48 between points chosen by the rider.

49 (e) "Transportation network company service" means the
50 provision of transportation by a driver to a rider, beginning
51 when a driver accepts a ride requested by a rider through a
52 digital network controlled by a transportation network company,
53 continuing while the driver transports a rider, and ending when
54 the last rider departs from the personal vehicle. The term does
55 not include a taxi, for-hire vehicle, or street hail service.

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

60 (2) NOT COMMON CARRIERS.—A transportation network company
61 or driver is not a common carrier and does not provide taxi or
62 for-hire vehicle service. In addition, a driver is not required
63 to register the vehicle that the driver uses for transportation
64 network company service as a commercial vehicle or a for-hire
65 vehicle.

66 (3) PERMIT REQUIRED.—

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

Amendment No. 2.

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

73 (4) AGENT FOR SERVICE OF PROCESS REQUIRED.—A
74 transportation network company must designate and maintain an
75 agent for service of process in this state. If the registered
76 agent of the company cannot, with reasonable diligence, be found
77 or if the company fails to designate or maintain a registered
78 agent in this state, the executive director of the department
79 must be an agent of the transportation network company upon whom
80 any process, notice, or demand may be served.

81 (5) FARE COLLECTED FOR SERVICES.—A company may collect a
82 fare on behalf of a driver for the services provided to
83 passengers; however, if a fare is collected from a passenger,
84 the company shall disclose to the passenger the fare calculation
85 method on its website or within its software application. The
86 company shall also provide the passenger with the applicable
87 rates being charged and the option to receive an estimated fare
88 before the passenger enters the driver's vehicle.

89 (6) IDENTIFICATION OF VEHICLES AND DRIVERS.—The company's
90 software application service or website shall display a picture
91 of the driver and the license plate number of the motor vehicle
92 used to provide transportation network company service before
93 the passenger enters the driver's vehicle.

Amendment No. 2.

94 (7) ELECTRONIC RECEIPT.—Within a reasonable period of
95 time, to be determined by rule of the department, after
96 completion of a trip, the company shall provide an electronic
97 receipt to the passenger which lists:

98 (a) The origin and destination of the trip.

99 (b) The total time and distance of the trip.

100 (c) An itemization of the total fare paid.

101 (8) TRANSPORTATION NETWORK COMPANY AND DRIVER INSURANCE
102 REQUIREMENTS.—

103 (a) Beginning March 1, 2016, a transportation network
104 company driver or transportation network company on the driver's
105 behalf shall maintain primary automobile insurance that
106 recognizes that the driver is a transportation network company
107 driver or otherwise uses a vehicle to transport passengers for
108 compensation and covers the driver:

109 1. While the driver is logged on to the transportation
110 network company's digital network; or

111 2. While the driver is engaged in transportation network
112 company service.

113 (b) The following automobile insurance requirements shall
114 apply while a participating driver is logged on to the
115 transportation network company's digital network and is
116 available to receive transportation requests but is not engaged
117 in transportation network company service:

118 1. Primary automobile liability insurance in the amount of
119 at least \$50,000 for death and bodily injury per person,

Amendment No. 2.

120 \$100,000 for death and bodily injury per incident, and \$25,000
121 for property damage.

122 2. Primary automobile liability insurance that provides
123 the minimum coverage requirements under ss. 627.730-627.7405.

124 (c) The following automobile insurance requirements shall
125 apply while a driver is engaged in transportation network
126 company service:

127 1. Primary automobile liability insurance that provides
128 at least \$1,000,000 for death, bodily injury and property
129 damage;

130 2. Primary automobile liability insurance that provides
131 the minimum coverage requirements where required of a limousine
132 under ss. 627.730-627.7405.

133 (d) The coverage requirements of subsections (b) and (c)
134 may be satisfied by:

135 1. Automobile liability insurance maintained by the
136 driver;

137 2. Automobile liability insurance maintained by the
138 company; or

139 3. A combination of coverage maintained as provided in
140 subparagraphs 1. and 2.

141 (e) If insurance maintained by a driver under paragraphs
142 (b) or (c) of this subsection has lapsed or does not provide the
143 required coverage, insurance maintained by a transportation
144 network company shall provide the coverage required by this
145 section beginning with the first dollar of a claim.

Amendment No. 2.

146 (f) Coverage under an automobile insurance policy
147 maintained by the transportation network company shall not be
148 dependent on a personal automobile insurer first denying a claim
149 nor shall a personal automobile insurance policy be required to
150 first deny a claim.

151 (g) Insurance required by this section may be placed with
152 an insurer authorized to do business in the state or with a
153 surplus lines insurer eligible under the Surplus Lines Law under
154 ss. 626.913-626.937.

155 (h) Insurance satisfying the requirements of this section
156 shall be deemed to satisfy the financial responsibility
157 requirement for a motor vehicle under chapter 324 and the
158 security required under s. 627.733.

159 (i) A driver shall carry proof of coverage satisfying
160 paragraphs (b) and (c) of this subsection with him or her at all
161 times during his or her use of a vehicle in connection with a
162 transportation network company's digital network. In the event
163 of an accident, a driver shall provide this insurance coverage
164 information to the directly interested parties, automobile
165 insurers and investigating police officers. Such proof of
166 financial responsibility may be presented through a digital
167 phone application under s. 316.646 controlled by a
168 transportation network company. Upon such request, a driver
169 shall also disclose to directly interested parties, automobile
170 insurers, and investigating police officers, whether he or she
171 was logged on to the transportation network company's digital

Amendment No. 2.

172 network or engaged in transportation network company service at
173 the time of an accident.

174 (9) TRANSPORTATION NETWORK COMPANY AND INSURER DISCLOSURE
175 REQUIREMENTS.—

176 (a) The transportation network company shall disclose in
177 writing to drivers the following before they are allowed to
178 accept a request for transportation network company service on
179 the transportation network company's digital network:

180 1. The insurance coverage, including the types of coverage
181 and the limits for each coverage, that the transportation
182 network company provides while the driver uses a personal
183 vehicle in connection with a transportation network company's
184 digital network; and

185 2. That the driver's own automobile insurance policy
186 might not provide any coverage while the driver is logged on to
187 the transportation network company's digital network and is
188 available to receive transportation requests or is engaged in
189 transportation network company service depending on its terms.

190 (b)1. An insurer that provides automobile liability
191 insurance policies under part XI of chapter 627 may exclude any
192 and all coverage afforded under the owner's insurance policy for
193 any loss or injury that occurs while a driver is logged onto a
194 transportation network company's digital network or while a
195 driver provides transportation network company service. This
196 right to exclude all coverage may apply to any coverage included

Amendment No. 2.

197 in an automobile insurance policy, including, but not limited
198 to:

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

201 b. Uninsured and underinsured motorist coverage;

202 c. Medical payments coverage;

203 d. Comprehensive physical damage coverage;

204 e. Collision physical damage coverage; and

205 f. Personal injury protection.

206 2. The exclusions described under subparagraph (b) (1) of
207 this subsection shall apply notwithstanding any requirement
208 under chapter 324. Nothing in this section implies or requires
209 that a personal automobile insurance policy provides coverage
210 while the driver is logged onto the transportation network
211 company's digital network, while the driver is engaged in
212 transportation network company service or while the driver
213 otherwise uses a vehicle to transport passengers for
214 compensation.

215 3. Nothing shall be deemed to preclude an insurer from
216 providing coverage by contract or endorsement for the driver's
217 vehicle.

218 (c)1. An insurer that excludes the coverage described in
219 subparagraph (b) (1) of this subsection shall have no duty to
220 defend or indemnify any claim expressly excluded thereunder.
221 Nothing in this section shall be deemed to invalidate or limit
222 an exclusion contained in a policy, including any policy in use

Amendment No. 2.

223 or approved for use in Florida prior to the enactment of this
224 section.

225 2. An automobile insurer that defends or indemnifies a
226 claim against a driver that is excluded under the terms of its
227 policy, shall have a right of contribution against other
228 insurers that provide automobile insurance to the same driver in
229 satisfaction of the coverage requirements of subsection (8) at
230 the time of loss.

231 (d) In a claims coverage investigation, transportation
232 network companies and any insurer potentially providing coverage
233 under subsection (8) shall cooperate to facilitate the exchange
234 of relevant information with directly involved parties and any
235 insurer of the driver, if applicable, including the precise
236 times that a driver logged on and off of the transportation
237 network company's digital network in the twelve hour period
238 immediately preceding and in the twelve hour period immediately
239 following the accident and disclose to one another a clear
240 description of the coverage, exclusions, and limits provided
241 under any automobile insurance maintained under subsection (8).

242 (10) DRIVERS AS INDEPENDENT CONTRACTORS.—A driver is an
243 independent contractor and not an employee of the company if all
244 of the following conditions are met:

245 (a) The company does not prescribe specific hours during
246 which the driver must be logged into the company's digital
247 network.

Amendment No. 2.

248 (b) The company does not impose restrictions on the
249 driver's ability to use digital networks from other companies.

250 (c) The company does not assign the driver to a particular
251 territory in which transportation network company services are
252 authorized to be provided.

253 (d) The company does not restrict the driver from engaging
254 in any other occupation or business.

255 (e) The company and the driver agree in writing that the
256 driver is an independent contractor of the company.

257 (11) ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.-

258 (a) A company shall implement a zero tolerance policy on
259 use of illegal drugs or alcohol by a driver who is providing
260 transportation network company service or who is logged into the
261 company's digital network but is not providing service.

262 (b) A company shall provide notice on its website of a
263 zero tolerance policy under paragraph (a) and shall provide
264 procedures for a passenger to file a complaint about a driver
265 who the passenger reasonably suspects was under the influence of
266 drugs or alcohol during the course of a trip.

267 (c) Upon receipt of a passenger complaint alleging a
268 violation of the zero tolerance policy, the company shall
269 immediately suspend the accused driver's access to the company's
270 digital network and shall conduct an investigation into the
271 reported incident. The suspension shall last for the duration of
272 the investigation.

273 (12) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

Amendment No. 2.

274 (a) Before allowing a person to act as a driver on its
275 digital network, and at least once every two years thereafter,
276 the company shall:

277 1. Require the person to submit an application to the
278 company, including his or her address, date of birth, driver
279 license number, driving history, motor vehicle registration,
280 automobile liability insurance, and other information required
281 by the company.

282 2. Conduct, or have a third party conduct, a criminal
283 background check for each applicant to include:

284 a. A Level 1 screening pursuant to chapter 435 at least
285 once every other year.

286 1. Obtain and review a driving history research report for
287 such person.

288 (a) The company shall prohibit a person to act as a driver
289 on its digital network if the person:

290 1. Has had more than three moving violations in the
291 preceding 3-year period or one major violation in the preceding
292 3-year period. A major violation includes, but is not limited
293 to, fleeing or attempting to elude a law enforcement officer,
294 reckless driving, or driving with a suspended or revoked
295 license;

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

Amendment No. 2.

300 3. Is a match in the Dru Sjodin National Sex Offender
301 Public Website;

302 4. Does not possess a valid driver license;

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

305 6. Does not possess proof of automobile liability
306 insurance for the motor vehicle used to provide transportation
307 network company service; or

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

309 (13) VEHICLE SAFETY AND EMISSIONS.—A company shall require
310 that a personal vehicle used by a driver to provide
311 transportation network company service meets the vehicle safety
312 and emissions requirements for a private motor vehicle of the
313 state in which the vehicle is registered.

314 (14) PROHIBITED CONDUCT.—A driver may not:

315 (a) Accept a ride other than a ride arranged through a
316 digital network or software application service.

317 (b) Solicit or accept street hails.

318 (c) Solicit or accept cash payments from passengers. A
319 company shall adopt a policy prohibiting solicitation or
320 acceptance of cash payments from passengers and notify drivers
321 of such policy. Such policy must require a payment for
322 transportation network company service to be made electronically
323 using the company's digital network or software application
324 service.

325 (15) NONDISCRIMINATION; ACCESSIBILITY.—

Amendment No. 2.

326 (a) A company shall adopt a policy of nondiscrimination on
327 the basis of destination, race, color, national origin,
328 religious belief or affiliation, sex, disability, age, or sexual
329 orientation with respect to passengers and potential passengers
330 and shall notify drivers of such policy.

331 (b) A driver shall comply with the nondiscrimination
332 policy.

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

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

338 (e) A company shall provide passengers an opportunity to
339 indicate whether they require a wheelchair-accessible vehicle.
340 If a company cannot arrange wheelchair-accessible service, it
341 shall direct the passenger to an alternate provider of
342 wheelchair-accessible service, if available.

343 (16) RECORDS.—A company shall maintain:

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

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

349 (c) The company shall maintain records of a passenger
350 complaint for a period of at least 2 years after the date such
351 complaint is received by the company.

Amendment No. 2.

352 (17) PREEMPTION.—It is the intent of the Legislature to
353 provide for uniformity of laws governing transportation network
354 companies and transportation network company drivers throughout
355 the state. Notwithstanding any other provision of law,
356 transportation network companies and drivers are governed
357 exclusively by this section and any rules adopted by the
358 department to administer this section. A county, municipality,
359 special district, or other local governmental entity or
360 subdivision may not impose a tax on, or require a license for, a
361 company or a driver, or a vehicle used by a driver, if such tax
362 or license relates to providing transportation network company
363 services, or subject a company to any rate, entry, operational,
364 or other requirements of the county, municipality, special
365 district, or other local governmental entity or subdivision.
366 Nothing in this section shall be construed as prohibiting an
367 airport from charging any appropriate fee for the utilization of
368 the airport's facilities or designating locations for staging,
369 pick-ups, and other similar operations at the airport.

370 (18) RULEMAKING.—The department may adopt rules to
371 administer this section.

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