SB262

174006-4

By Senators Shelnutt and Whatley

RFD: Banking and Insurance

First Read: 17-FEB-16
SB262

ENROLLED, An Act,

Relating to transportation; to provide certain insurance requirements for a transportation network company that operates in the state; and to require certain disclosures regarding insurance coverage and limits of liability.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms shall have the following meanings:

(1) DIGITAL NETWORK. Any online-enabled application, software, website, or system offered or utilized by a TNC that enables the prearrangement of a ride with a TNC driver.

(2) PERSONAL VEHICLE. A vehicle that meets both of the following criteria:

a. Is used by a TNC driver to provide a prearranged ride.

b. Is owned, leased, or otherwise authorized for use by a TNC driver.

(3) PREARRANGED RIDE. The provision of transportation by a TNC driver to a TNC rider, beginning when a TNC driver accepts a ride requested by a TNC rider through a digital network controlled by a TNC, continuing while the TNC driver transports the requesting TNC rider, and ending when
the last requesting TNC rider departs from the personal
vehicle of the TNC driver. A prearranged ride does not include
transportation provided by any of the following pursuant to
the Alabama Motor Carrier Act, Chapter 3, Title 37, Code of
Alabama 1975:

   a. A shared expense carpool or vanpool arrangement.
   b. A regional transportation company or licensed
   motor carrier.

(4) TNC. A transportation network company that is a
corporation, partnership, sole proprietorship, or other entity
licensed and operating in this state that uses a digital
network to connect a TNC rider to a TNC driver who provides a
prearranged ride. A TNC may not control, direct, or manage the
personal vehicle or the TNC driver who connects to its digital
network, except where agreed to by written contract.

(5) TNC DRIVER. An individual who meets both of the
following criteria:

   a. Receives connections to potential riders and
   related services from a TNC in exchange for payment of a fee
to the TNC.
   b. Uses a personal vehicle to offer or provide a
   prearranged ride to a TNC rider upon connection through a
digital network controlled by a TNC and in exchange for
   compensation or payment of a fee.
(6) TNC RIDER. An individual who uses the digital network of a TNC to connect with a TNC driver who provides a prearranged ride to the TNC rider in the personal vehicle of the TNC driver between points chosen by the TNC rider.

Section 2. (a) On or before 90 days after the effective date of this act, and thereafter, a TNC driver or a TNC on the behalf of the TNC driver shall maintain primary automobile insurance that recognizes that the driver is a TNC driver or otherwise uses a vehicle to transport riders for compensation and covers the driver under both of the following circumstances:

(1) While the TNC driver is logged onto the digital network of a TNC.

(2) While the TNC driver is engaged in a prearranged ride.

(b)(1) The following automobile insurance requirements shall apply while a participating TNC driver is logged on to the digital network of a TNC and is available to receive transportation requests but is not engaged in a prearranged ride:

a. Primary automobile liability insurance in the amount of at least fifty thousand dollars ($50,000) for death and bodily injury per person, one hundred thousand dollars ($100,000) for death and bodily injury per incident, and twenty-five thousand dollars ($25,000) for property damage.
b. All other state mandated coverage for motor vehicles, including the requirements under the Motor Vehicle Safety-Responsibility Act, Chapter 7, Title 32, Code of Alabama 1975.

(2) The coverage requirements of this subsection may be satisfied by any of the following:

   a. Automobile insurance maintained by the TNC driver.

   b. Automobile insurance maintained by the TNC.

   c. Any combination of a. and b.

(c)(1) The following automobile insurance requirements shall apply while a TNC driver is engaged in a prearranged ride:

   a. Primary automobile liability insurance that provides at least one million dollars ($1,000,000) for death, bodily injury, and property damage.

   b. All other state mandated coverage for motor vehicles, including the requirements under the Motor Vehicle Safety-Responsibility Act, Chapter 7, Title 32, Code of Alabama 1975.

(2) The coverage requirements of this subsection may be satisfied by any of the following:

   a. Automobile insurance maintained by the TNC driver.

   b. Automobile insurance maintained by the TNC.
c. Any combination of a. and b.

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

(e) Coverage under an automobile insurance policy maintained by a TNC may not be made dependent on a personal automobile insurer first denying a claim and a personal automobile insurance policy may not be required to first deny a claim.

(f) Insurance required by this act may be placed with an insurer licensed under state law or with a surplus lines insurer eligible under state law that has a credit rating of no less than A- from A.M. Best or A from Demotech or a similar rating from another rating agency recognized by the Department of Insurance.

(g) (1) Insurance satisfying the requirements of this act shall satisfy the financial responsibility requirement for a motor vehicle under the Motor Vehicle Safety-Responsibility Act, Chapter 7, Title 32, Code of Alabama 1975.

(2) Nothing in this act shall relieve a TNC driver not logged onto the digital network of a TNC or not engaged in a prearranged ride from the financial responsibility

(h)(1) A TNC driver shall carry proof of coverage satisfying this act with him or her at all times during his or her use of a vehicle in connection with the use of a digital network of a TNC.

(2) In the event of an accident, a TNC driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and investigating police officers.

(3) Upon request, a TNC driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the digital network of a TNC or on a prearranged ride at the time of an accident.

(i) This act shall have no effect or limitation on the rights of a TNC rider to coverage that may be available for underinsured or uninsured motorist coverages pursuant to Section 32-7-23 of the Code of Alabama 1975, as an additional recovery beyond any insurance coverage available to the TNC rider under this act.

(j) No contract between a TNC and a TNC driver or TNC rider shall diminish the automobile insurance requirements under this act.
Section 3. The TNC shall disclose in writing to a TNC driver before the TNC driver is allowed to accept a request for a prearranged ride on the digital network of the TNC both of the following:

(1) The insurance coverage, including the types of coverage and the limits for each coverage, that the TNC provides while the TNC driver uses a personal vehicle in connection with the use of the digital network of a TNC.

(2) That the automobile insurance policy of the TNC driver may not provide any coverage while the TNC driver is logged on to the digital network of a TNC and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

Section 4. (a) Insurers that write automobile insurance in this state may exclude any and all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a TNC driver is logged on to the digital network of a TNC or while a TNC driver provides a prearranged ride.

(b) The right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to, any of the following:

(1) Liability coverage for bodily injury and property damage.
(2) Personal injury protection coverage as defined by state law.

(3) Uninsured and underinsured motorist coverage.

(4) Medical payments coverage.

(5) Comprehensive physical damage coverage.

(6) Collision physical damage coverage.

(c) The exclusions under this section shall apply notwithstanding any requirements under the Motor Vehicle Safety-Responsibility Act, Chapter 7, Title 32, Code of Alabama 1975.

(d) Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the TNC driver is logged on to the digital network of a TNC, while the TNC driver is engaged in a prearranged ride, or while the TNC driver otherwise uses a vehicle to transport passengers for compensation.

(e) Nothing in this act shall 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 driver is logged on to the digital network of a TNC or while a TNC driver provides a prearranged ride.

(f) Nothing shall preclude an insurer from providing primary or excessive coverage for the personal vehicle of a
TNC driver, if it so chooses to do so by contract or by endorsement.

(g)(1) Automobile insurers that exclude the coverage described in this act shall have no duty to defend or indemnify any claim expressly excluded.

(2) Nothing in this act shall invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in this state prior to the enactment of this act that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(h) An automobile insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same TNC driver in satisfaction of the coverage requirements of this act at the time of loss.

(i) In a claims coverage investigation, a TNC, upon the request of a directly involved party or any insurer or lienholder of the TNC driver, if applicable, shall provide the precise times that a TNC driver logged on and off of the digital network of a TNC in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident.
(j) Insurers potentially providing coverage as set forth in this act 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 this act.

(k)(1) A lender or a secured party of the motor vehicle of a TNC driver may require the TNC driver to maintain comprehensive damage coverage, collision damage coverage, or both, for the motor vehicle of a TNC driver, and may require the TNC driver to show evidence of the coverage to the lender or the secured party that would cover both the period when the TNC driver is logged onto the digital network of a TNC but is not engaged in a prearranged ride and when the TNC driver is engaged in a prearranged ride.

(2) If a TNC driver fails to maintain the required comprehensive or collision damage coverage or fails to show evidence to the lender or the secured party pursuant to this subsection, the lender or the secured party may obtain the coverage at the expense of the TNC driver without limiting or affecting any other rights or remedies of the lender or the secured party.

(l) If a lender or a secured party has a secured interest in the motor vehicle of a TNC driver and an insurer of a TNC makes a payment for a claim for damage to the motor
vehicle of a TNC driver that is covered under comprehensive or 
collision damage coverage held by the TNC, the TNC shall then 
cause its insurer to issue the payment either directly to the 
vehicle repair shop or jointly to the owner of the motor 
vehicle and the primary lender or the secured party on the 
covered motor vehicle.

(m)(1) A TNC shall make the following disclosures to 
a prospective TNC driver in the terms of service of the 
prospective TNC driver:

a. If the vehicle that you plan to use to provide 
TNC services has a lien against it your usage may violate the 
terms of your contract with the lienholder.

b. You must notify the lienholder that you will be 
using the vehicle for transportation services.

(2) The disclosure required by this subsection shall 
be placed prominently in the written terms of service of the 
prospective TNC driver or on a separate disclosure, and the 
prospective TNC driver must acknowledge the terms of service 
or the separate disclosure electronically or by signature.

Section 5. This act shall become effective on the 
first day of the third month following its passage and 
approval by the Governor, or its otherwise becoming law.
President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB262

Senate 19-APR-16
I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Amended and passed 04-MAY-16

Senate concurred in House amendment 04-MAY-16

By: Senator Shelnutt