

## Transportation Network Company (TNC) Bill Comparison

Issue	SB 1118	HB 509
Intent Language	Includes legislative intent language calling for statewide uniformity of laws governing insurance requirements for TNCs	No intent language
Definitions	Nearly Identical	Nearly Identical Clarifies that TNCs are not taxis, common carriers
Permits	No permit required	Requires a TNC company to obtain an annual permit from the DHSMV (\$5,000)
Insurance	<p><u>Logged into Network (with passengers)<sup>1</sup>:</u>  \$120K for death/injury per person  \$250K per incident  \$50K property damage</p> <p><u>Logged into Network (w/o Passenger):</u>  \$25K for death/injury per person  \$50K per incident  \$10K property damage</p>	<p><u>Logged into Network (without passengers):</u>  \$50K for death/injury per person  \$100K per incident  \$10K property damage</p> <p><u>Logged into Network (with passengers):</u>  \$1 million primary liability for death, bodily injury, and property damage</p>
Insurance Preemption	Preempts existing and proposed local ordinances imposing insurance requirements on TNCs.	Does not include a stand-alone insurance preemption provision (see last issue in column one)
Zero Tolerance		Requires TNCs to impose zero tolerance policy for drug and alcohol use.
TNC Driver Standards		Requires Level I background checks and supplemental criminal background reviews.
Driver Identification		Requires the identification of TNC vehicles and drivers by license plate and picture of the driver
Receipts		Requires an electronic receipt to be provided to TNC riders within a reasonable period of time
State Preemption	Limited to insurance. No other preemptions included.	States that TNCs, TNC drivers and vehicles are governed exclusively by state law. Prohibits local governments, special districts, airports/ports from imposing a tax on, or require a license for, a company or a driver, or a vehicle used by a TNC driver. Permits an airport to charge a fee not in excess of \$5,000 per TNC for use of the airport's facilities for staging and pick up.

<sup>1</sup> Coverage may be satisfied by the driver, the company, or a combination of both.

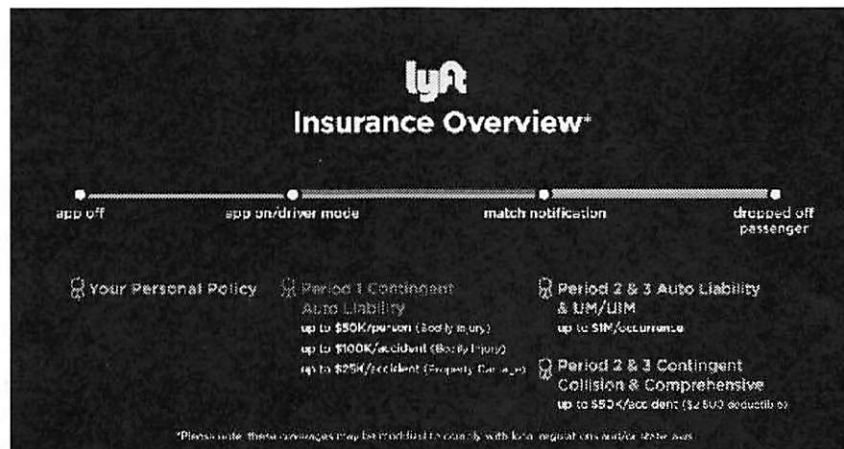
# Insurance Overview

**Insurers across America are moving quickly** to respond to consumer demand and bring new ridesharing insurance products to market. Lyft currently provides insurance coverage at all parts of a ride to ensure a safe trip.

## How Do Lyft's Policies Work?

The subject of insurance can be a complicated one, but it's important to know how and when Lyft's policies respond in the event of an incident. The following is an overview of Lyft's insurance policies. There are four coverages included. Unless otherwise noted, these coverages are in effect from the time a driver accepts a ride request until the time the ride has ended in the app.

- Contingent Liability (coverage only when available to accept a ride request)
- Primary Automobile Liability
- Contingent Comprehensive & Collision
- Uninsured/Underinsured Motorist (UM/UIM)



## How Does Lyft's Liability Coverage Work?

Lyft's liability insurance is designed to act as the primary coverage from the time drivers accept a ride request until the time the ride has ended in the app. *Note: If a driver has commercial insurance or a Transportation Network Company endorsed policy, Lyft's policy remains excess.*

Here's how it works:

- **DRIVER MODE OFF**  
A driver's personal insurance is the insurance policy.
- **DRIVER MODE ON BUT NOT YET ACCEPTED A RIDE**  
Lyft provides Contingent Liability protection if personal insurance doesn't.
- **RIDE REQUEST ACCEPTED THROUGH THE END OF LYFT RIDE**  
Lyft's liability coverage is primary to a driver's personal insurance. It's designed to cover a driver's liability for property damage and bodily injury to passengers and/or third parties.

“The emergence of these new options should serve as a caution to regulators not to get too far ahead of the market when it comes to crafting regulatory solutions to the TNC “problem.”

A draft white paper authored by California Insurance Commissioner Dave Jones ... [is] based on the assumption that personal insurers simply weren't interested in providing coverage... **Even in these early days, the market is quite clearly proving those assumptions dead wrong.**”<sup>1</sup>

— Insurance Journal

### How Does Contingent Liability Coverage\* Work?

Lyft's contingent liability policy is designed to provide coverage **when the app is in Driver Mode before a driver receives a ride request** in the event personal insurance does not respond. The policy has a \$50,000 maximum per person, \$100,000 maximum per accident, and a \$25,000 maximum for property damage. There is **no deductible** under this policy.

*\*Coverage in this period may be modified by city or state specific requirements.*

### How Does Contingent Collision Coverage Work?

Lyft's contingent collision policy is designed to cover physical damage to a driver's vehicle resulting from an accident as long **as a driver has obtained collision coverage on a personal automobile policy**. The policy has a \$2,500 deductible and a \$50,000 maximum for physical damage to the driver's vehicle.

### How Does Contingent Comprehensive Coverage Work?

Similar to Lyft's contingent collision policy, contingent comprehensive coverage is designed to cover physical damage to a driver's vehicle resulting from a non-collision event (for example, a fire, vandalism, a natural disaster, etc.) **as long as the driver has obtained comprehensive coverage on a personal automobile policy**. The policy has a \$2,500 deductible and a \$50,000 maximum for physical damage to the driver's vehicle.

### What Does UM/UIM Mean And How Does This Coverage Work?

UM stands for uninsured motorist and UIM stands for underinsured motorist. In the event of an accident during a Lyft ride with an uninsured or underinsured motorist who is at fault, Lyft's \$1M UM/UIM policy will provide coverage for bodily injury to drivers and passengers. There is no deductible on UM/UIM claims.

### What States Are Covered By These Policies?

Our policy is available in all states in the U.S, except New York state. Some regions may have specific requirements that modify the described coverage.



1. Lehmann, R. (2015, March 11) "Progressive is Rolling Out TNC Coverage in Pennsylvania" Insurance Journal Right Street Blog. Retrieved from <http://www.insurancejournal.com/blogs/right-street/2015/03/11/360170.htm>

# Driver Background Checks

**Every driver who applies to become a part of the Lyft community is screened for criminal offenses and driving incidents.**

**Each background check includes:**



**A social security number trace** — searches against a database of over 400 different sources such as property deeds/mortgages, vehicle registrations, licenses and permits, US Postal Mail Forwarding Service, utility company billing records, and other resources where the individual has used the social security number along with a name and an address. This search generates a history of past and present addresses and a list of names associated with those addresses, including aliases, maiden names, nicknames and names misspelled or variously transliterated across languages.



**An enhanced nationwide criminal search** — searches against hundreds of millions of records collected from all over the country, including state Department of Corrections, most wanted lists, and outstanding warrants as a part of SterlingBackCheck criminal background screening services.



**County court records** — directly searches criminal records from courts within any U.S. counties that the prior searches have identified as linked to the applicant. This search reveals any felony or misdemeanor cases and their final outcome, or current status if the matter is still pending.<sup>1</sup>



**Federal criminal court records** — This search identifies criminal case details and outcomes from any of the 94 U.S. federal district courts.



**U.S. Department of Justice 50-state sex offender registry search** — searches the publicly available Federal Department of Justice (DOJ) Sex Offender Registry which includes real-time listings of registered sex offenders and other violent offenders in all 50 states.<sup>2</sup>



## **Background Check**

Screens for the following crimes as reported by credit reporting agency<sup>1</sup>:

- Violence
- Sexual Offenses in the publicly available sex offender registry
- Felonies
- Drug-related Offenses



## **Driving Record Check**

Screens for the following as reported by credit reporting agency:

- Age 21+ with 1 year or more of driving history<sup>3</sup>
- Valid personal auto insurance that meets or exceeds state requirements
- No more than three minor violations in the past 3 years
- No major or severe violations in the past 3 years (e.g. reckless driving)



<sup>1</sup>Only the most recent 7 years of criminal conviction records are reviewed for convictions recorded in CA, CO, KS, MA, MD, MT, NH, NM, NV, NY, TX, & WA.

except Nevada, which currently has an injunction in place.

19 or older for drivers in NYC

**DRIVER BACKGROUND CHECKS**

FINANCE DEPARTMENT



TO: Matthew Schellenberg, Council Member

FROM: Twane Duckworth, Risk Manager

COPY: Mike Weinstein, Chief Financial Officer  
Ann Willis, Property & Casualty Compliance Administrator

DATE: March 20, 2016

RE: Ridesharing/Transportation Network Company Legislation

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Objective: Discuss fair regulation of technology established “ridesharing”, particularly as it relates to liability and insurance.

Summary: There are two major players in the ridesharing arena: Uber and Lyft. Various lobbying efforts, market success and media attention has prompted national and international coverage of the flourishing industry—now commonly referred to as transportation network companies (“TNC”). Florida’s most recent legislative efforts (SB1118) and (HB509) failed to become law in the 2016 legislative session. Accordingly, for the moment, Florida local authorities are still free to regulate the ridesharing industry as they see fit. However, Florida’s house and senate bills are instructive. Risk Management recommends that an ordinance produced by the City Council, if any, consider the spirit and framework established by the State of Florida’s legislative attempts.

Background: Technology has radically impacted numerous areas of commerce in various ways including the transportation industry. Uber started in approximately 2010 and is often credited for recognizing a gap in the market to satisfy a need for efficient public transportation at a decent cost. Lyft entered the market in approximately 2012 to compete against Uber. Both companies now lead this industry with Uber having an estimated value of over \$60 billion dollars.<sup>i</sup> Lyft has an estimated value of over \$5 billion dollars after recently receiving \$500 million dollars from GM investment.<sup>ii</sup>





Both Uber and Lyft operate by allowing individuals to become TNC operators or drivers as an independent contractor. They both have hiring practices that employ some level of background check, equipment capability standards and overall fitness to deliver transportation service. The service is operated by digital applications that allow the requestor to solicit a ride via their respective applications or website. The closest “on duty” driver is notified and then directed to the requestor to provide the transportation.

**Main Issue:** How to properly regulate TNCs and TNC operators when TNCs are already in operation and have argued they are distinct from other transportation services and therefore not subject to many of the existing transportation regulations?

**Analysis:** TNCs are thriving both domestically and internationally. Accordingly, consumer protections are appropriate and necessary. However, the State of Florida has not yet reached a final conclusion as to the specifics of regulating TNCs. The two most recent efforts by Florida in legislating TNCs – SB1118 and HB509 – provide insight into the policy considerations Florida is applying to the industry. While it remains undetermined, it is very possible Florida will exercise its preemption authority by requiring that no local ordinance conflict with state enacted legislation that regulates TNCs. Accordingly, utilizing the most recent bills as a guidepost to craft a local ordinance is probably sound judgment; hopefully avoiding future conflicts.

Section 2 of HB509 proposed to create a Florida Statute Section 316.680 to regulate TNCs. Further references to this legislation in this memorandum will cite to this proposed statutory number and can be found in the attached HB509. In reviewing HB509, the following represents the most critical areas of concern for Risk Management<sup>iii</sup>:



- 1) Identification: TNC vehicles and drivers must be clearly identified prior to the requestor entering the TNC operator's vehicle. It is critical for the requestor to know they are not entering a random vehicle, rather the vehicle of a TNC. *See 316.680 (6), Fla. Stat.*
- 2) Covering Insurance: TNCs and TNC operators shall have insurance that acknowledges the TNC operations whether the driver is only logged into the TNC application or actually engaged in the service of transportation. TNC operators shall carry proof of this insurance while performing as a TNC operator. *See 316.680(8)(a), (i) Fla. Stat.*
- 3) Coverage Limits (no rider yet, but app engaged): The TNC operator's coverage limits may be lower when no rider is in the vehicle, but shall be no less than \$50,000 per person and \$100,000 per incident for death and bodily injury; \$25,000 for property damage. PIP is also required in accordance with existing Florida statutes. *See 316.680(8)(b), Fla. Stat.*
- 4) Coverage Limits (rider is being transported): The TNC operator's coverage limits for death, bodily injury and property damage must be \$1,000,000. PIP is also required in accordance with existing Florida statutes. *See 316.680(8)(c), Fla. Stat.*
- 5) Coverage Application: The required coverage limits shall be satisfied by either the TNC, TNC operator or a combination of both. The TNC's insurance policy shall provide the required coverage limits from the first dollar of a claim without any limitations or conditions upon the TNC operator's insurance, if any. *See 316.680(8)(d)-(f), Fla. Stat.*
- 6) Carrier Qualifications: The required coverage shall be provided by a financially responsible insurer, recognized by Florida's Insurance Guaranty



Association or as an eligible surplus lines insurer. *See* 316.680(g), *Fla. Stat.* Risk Management recommends A.M. Best rating of no less than A- VII.

- 7) Driver Standards: TNCs shall have policies that recognize the danger of operators being under the influence of drugs or alcohol while acting as a TNC operator. Furthermore, prior to hiring and periodically after hiring a TNC operator, TNCs shall have employment practices that review the TNC operator's driver history and background. Finally, TNC operators can only accept payment and rides via reservation through the TNC's application. *See* 316.680(11)-(13), *Fla. Stat.*
- 8) TNC Employment Practices: TNCs shall employ nondiscriminatory and accessibility practices. Furthermore, TNCs shall maintain records of TNC operator trips. Finally, TNCs shall cooperate with the affected parties of any claim for an incident involving a TNC operator by providing records of the applicable TNC operator's trips. *See* 316.680(9)(d), (14), (15) *Fla. Stat.*

Conclusion: Local legislation that speaks to the issues acknowledged in HB509 is likely to address the main concerns of regulating TNCs. However, the above Risk Management issues are far from the collective voice of all stakeholders. This is simply a fair start to recognizing the concerns voiced in many jurisdictions.

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<sup>i</sup> 12/03/15 - The Wall Street Journal, Markets Section: <http://www.wsj.com/articles/uber-in-fresh-funding-round-that-could-value-company-at-up-to-64-6-billion-1449180409>

<sup>ii</sup> 03/15/16 – TIME, Tech Section: <http://time.com/4258310/lyft-gm-partnership-express-drive/>

<sup>iii</sup> Only HB509 is analyzed in this discussion because SB 1118 is fairly identical.



## Steve Diebenow

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**From:** Steve Diebenow  
**Sent:** Friday, March 18, 2016 9:46 AM  
**To:** Matt Schellenberg - Jacksonville City Council (Matt@coj.net); Matt Schellenberg - Jacksonville City Council (abraman@coj.net)  
**Cc:** Steve Diebenow  
**Subject:** TNCs - trade dress (stickers on cars)  
**Attachments:** Anderson Amendment to 2014-665 Regulating Transport Network Companies (T....docx)

Councilman,

First, please let me apologize. I thought this language had already been inserted into the legislation.

Second, pursuant to your request, here is what could/should be added as an amendment (to the attached Anderson Amendment to Ordinance 2014-665):

ADD new Sec. 220.601 (j) as follows:

(j) For each TNC Vehicle and TNC Operator authorize by a TNC, the TNC shall issue trade dress to the TNC Operator associated with that TNC Vehicle. The trade dress shall be sufficient to identify the TNC with which the TNC Vehicle is affiliated and shall be displayed at all times that a TNC Operator is available to give a ride. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

Thank you for your patience with me. Call me any time with questions.

Regards,

**Steven Diebenow**

**DMP&H**

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