

Florida's Volunteers: The Driving Force for Senior Mobility

Identifying Barriers And Enabling Change

KEY ISSUES:

- Many older Floridians are outliving their ability to drive safely.
- Current public transportation options don't adequately address the needs of non-drivers.
- Conflicting Florida statutes, and the resulting lack of liability protection, impede volunteerism.
- Current insurance trends in Florida prevent available and affordable automobile liability insurance options for volunteers and non-profit organizations.
- Viable community alternatives face start-up barriers because many new volunteer-driver programs rely on some shared costs from riders, which can increase insurance premiums.

In record numbers, seniors are living longer, staying engaged in their communities and choosing to reside in their homes versus congregate living situations. Access to social events, shopping (groceries and other personal purchases) and medical services is key to successful livable communities. Such activity within the community decreases as seniors' ability to drive safely decreases. Older non-drivers make 15 percent fewer trips to the doctor than older drivers, and they make 65 percent fewer trips for social, shopping, family and religious purposes.¹

Clearly, some seniors are outliving their ability to safely operate an automobile. A 2002 National Institute on Aging study reports that men outlive their ability to drive by six years, while women face this "transportation gap" for about ten years.² Additionally, Florida Department of Highway Safety and Motor Vehicles data indicates that 47 percent of drivers over age 80, or 68,114 persons, whose licenses came up for renewal in 2004, did not renew their licenses. Many aging Floridians are finding themselves without transportation options for the first time.

Community transportation programs have existed for nearly 100 years, filling the deficits in local transportation systems as needs arise. Volunteer driver programs are alternatives that allow communities to maintain the social and economic levels that contribute to their prosperity. However, as times change, needs change. Current traditional programs will likely not be able to keep pace with the emerging needs of aging Floridians and may need to make way for more innovative programs. In order to offset the costs of providing more comprehensive services, some new programs rely on shared costs. In Florida, accepting fees is considered compensation, even in a cost-sharing situation. The transportation program then falls into the same "for-hire" category as taxi companies. This affects the availability and affordability of liability insurance for both the volunteer driver and the organization.

Older Adult Drivers: The Statistics

Among Florida's 4.1 million seniors 60 years or older, 89 percent have Florida drivers' licenses (23.8 percent of the

total driving population in our state). As of January 1, 2005, there were 96,951 licensed drivers age 80 or above. These statistics suggest that seniors are holding fast to what may be their final assertion of autonomy, despite the potential decline in driving ability.

On average, older drivers travel fewer miles than younger drivers, and drivers 75 years of age and older are involved in only three percent of all crashes. Yet, their fatality rates are much higher.³ A huge factor in this increased mortality rate is that as we age we also become more fragile, and therefore more susceptible to injuries that may cause death in automobile crashes. Motor vehicle injuries are the leading cause of injury-related deaths among 65 to 74-year-olds and are the second leading cause (after falls) in the 75 years and older age group.⁴ Drivers age 85 and older are nine times more likely to be killed in a car crash than drivers in the 25-69 age group for each mile driven.⁵

Most seniors who need a ride rely on friends, family and neighbors for transportation. *The 2001 National Household Travel Survey*, by the U.S. Department of Transportation (DOT), found that 21 percent of Americans 65 years of age or older who were interviewed had decided to stop driving all together.⁶ In Florida, of the 3.1 million citizens who are 65 or older, almost 670,000 individuals must rely on alternate forms of transportation.⁷

Nationally, over half of non-drivers at least 65 years of age just stay home.⁸ A subsequent drop in mobility and physical function can lead to activity restriction, dependence, disability and social isolation resulting in decreased quality of life. Isolation can be linked to a decline in health and the onset of medical complications.⁹ As a result, seniors frequently move out of their homes and into congregate living facilities primarily because of the availability of transportation services.

Lack of mobility reduces both seniors' participation in, and their contributions to, the community. Non-drivers 65 and over make 59 percent fewer shopping trips and visits to restaurants, resulting



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in lost revenues for Florida businesses.¹⁰ If solutions are not established at the community level, there may be an increasingly negative impact on Florida's economy.

Public Transportation Issues

Seniors face many barriers when it comes to using public transit services. Research shows that the same medical conditions, such as vision, cognitive or physical changes, which may indicate the need for an individual to stop driving, are also likely to limit their success at using public transit. Nationally, only half of Americans 65 and older have access to public transportation to meet their daily needs.¹¹ A 2002 AARP study found that less than half of households in suburban areas are located within a half mile of a public transportation stop or station. Lack of access is particularly critical in rural areas, where less than one in eight households is located near public transportation.¹²

Of over 17 million Floridians, nearly 14 million live within the service area of a fixed route transportation service.¹³ Yet, nearly 90 percent of all trips made by Floridians are by automobile as drivers or passengers. Floridians utilize public transit for only about one percent of trips, half the average for the rest of the country.¹⁴ Population density, concentration of businesses and various other factors have resulted in minimal public transit use in Florida.¹⁵

The Transportation Disadvantaged Program in Florida was created "to insure the availability of efficient, cost-effective, and quality transportation services for transportation disadvantaged persons." The elderly population accounts for approximately 35 percent of all passenger trips.¹⁶ In 2005, Florida's Transportation Disadvantaged Program provided an impressive 53 million trips for 841,190 unduplicated clients.¹⁷ However, it does not serve the needs of people without eligible disabilities, even if their condition restricts the use of public transit. This includes an overwhelming number of seniors who do not meet the income and disability eligibility requirements. Data

from the 2005 Florida Commission for the Transportation Disadvantaged Annual Report indicates that in this same year, there were 749,308 unmet trip requests from all client types, resulting from lack of funding, lack of vehicular availability, extensive waiting lists and ineligibility.¹⁸ The same situation of ineligibility and long wait lists occurs with other non-profit transportation programs.

The demand for community programs to supplement existing transportation services has reached new heights. Volunteer driver programs could become even more a part of that service network. As seniors reach the point where driving is no longer an option, reliance upon community resources to provide transportation will require innovative types of services. These services may include those which are dependent upon volunteer drivers and shared revenue streams to cover the costs of transportation services. Such programs will make the most of the charitable intentions of the community at large and enable seniors to stay mobile and connected.

Supporting Community-Based Volunteer Driver Programs

Community-based transportation programs are not a new idea. A nationwide study of nearly 300 supplemental transportation programs for seniors showed that a few had been in existence since the early 20th century and more than half were established by the mid-1980s.¹⁹ These programs arose from the inaccessibility of traditional forms of public transportation. While each program operates in a different manner, they each focus on the five A's of senior-friendly transportation: availability, accessibility, acceptability, affordability and adaptability.

In addition to the community programs, many seniors rely on friends and family for transportation. However, a growing number are uncomfortable repeatedly asking for rides. One benefit of volunteer-driver programs is enabling seniors to maintain their mobility without sacrificing their autonomy. Another is that many of these volunteer driver programs are

offered at an affordable rate. According to the STAR Search Program (Senior Transportation Action Response Search), 57 percent do not charge a fee, 21 percent charge a flat rate fee, 11 percent charge a mileage fee and eight percent charge a sliding fee.²⁰

One example of a shared cost program is the Independent Transportation Network (ITN). The ITN model of service is based on a membership organization, where riding members establish a personal transportation account and receive transportation within a defined service area. Riders' fees are set at approximately 50 percent of the cost, with the balance dependent upon donations from the community. Members can request rides 24 hours a day, seven days a week, and they are driven in automobiles by either volunteers or paid drivers. Service is provided without restriction to destinations within a defined service area. In its first ten years, ITNPortland, Maine, the first implementation of ITN, has provided more than one hundred and sixty thousand rides to its senior and visually impaired members throughout the Portland area. As a result of its success, ITN is expanding to help seniors in communities throughout the country, including Orlando, Florida.

Current Limitations to Volunteer-Based Programs

A critical barrier for non-profit organizations dedicated to providing transportation alternatives by using volunteer drivers is the affordability and accessibility of insurance to cover them. Forty percent of the programs surveyed nationwide reported they experience problems specifically with insurance.²¹ Statistics from the original ITNPortland program show volunteer drivers providing approximately 60 percent of the rides. Although volunteer drivers in Maine rely on their personal auto insurance policies as coverage for liability, there are state to state variations in available volunteer-driver protections (see Figure 1). This disparity is causing volunteer driver programs in Florida to face start-up barriers.

Figure 1: Summary of Selected Public Policy Solutions from Other States

STATE	PUBLIC POLICY SOLUTIONS RELATING TO VOLUNTEER DRIVERS
California	<p>Insurance Code Section 11580.1</p> <p>No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation</p> <p>Source: http://www.leginfo.ca.gov/calaw.html Click Insurance Code check box on right hand side about half way down. Put 11580.1 in the search box and click on the link that says: Insurance Code Section 11580-11589.5</p>
Hawaii	<p>Senate Resolution 22</p> <p>Requesting the Department of Transportation and the Executive Office on Aging to collaborate on providing transportation to seniors and visually impaired persons, and expressing the legislature's support for federal legislation to provide funding for ITNAmerica for a five-year national rollout and grants.</p> <p>Source: http://www.capitol.hawaii.gov/session2006/Bills/SR22_.htm</p>
Maine	<p>Code 2902-F Volunteer Drivers</p> <p>An insurer may not refuse to issue motor vehicle liability insurance to an applicant solely because the applicant is a volunteer driver. An insurer may not impose a surcharge or otherwise increase the rate for a motor vehicle policy solely on the basis that the named insured, a member of the insured's household or a person who customarily operates the insured's vehicle is a volunteer driver. For purposes of this section, "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation above expenses to a nonprofit agency or charitable organization ... This section does not prohibit an insurer from refusing to renew, imposing a surcharge or otherwise raising the rate for a motor vehicle liability insurance policy based upon factors other than the volunteer status of the insured driver.</p> <p>Source: http://janus.state.me.us/legis/statutes/24-a/title24-asec2902-f.html</p>
Maine	<p>Code 951 Licensing Dealers</p> <p>Dealers must be licensed. A person may not engage in the business of buying, selling, exchanging, offering to negotiate, negotiating or advertising a sale of vehicles unless that person has been issued a license under this subchapter.</p> <p>Any public or nonprofit organization whose sole or primary purpose is to provide transportation for persons 65 years of age or older that accepts donated vehicles for the purpose of providing that transportation or accepts in trade for transportation services the vehicles belonging to persons 65 years of age or older who use those transportation services is exempt from the requirements of this section.</p> <p>Source: http://janus.state.me.us/legis/statutes/29-a/title29-asec951.html</p>
Michigan	<p>Insurance Code 500.2118</p> <p>An insurer shall not refuse to insure, refuse to continue to insure or limit coverage available to an eligible person for automobile insurance...underwriting rules that an insurer may establish for automobile insurance shall be based only on the following...(f) use of vehicle...for transportation of passengers for hire...Rules under this subdivision shall not be based on the use of a vehicle for volunteer or charitable purposes or for which reimbursement of normal operating expense is received.</p> <p>Source: http://www.legislature.mi.gov/(S(4x3wbbbluqktpb2v4olnok55))/mileg.aspx?page=getObject&objectName=mcl-500-2118</p>
New York	<p>Section 223 of title 1 of article 3</p> <p>The program would provide an on demand transit service for seniors that would use automobiles driven by volunteer and paid drivers to transport seniors to where they need and want to go. After a period of five years, the program would no longer be eligible for state funding and would be completely self-sustaining, relying on consumer fares and voluntary community support to remain operational.</p> <p>Source: http://public.leginfo.state.ny.us, Click Laws of New York at the bottom of the page. Scroll down and click ELD Elder, Click Title 1, Scroll down and click 223</p>
Rhode Island	<p>Senate Resolution 2690</p> <p>Requesting the Department of Elderly Affairs and the Advisory Commission on Aging to study all aspects of the Independent Transportation Network.</p> <p>Source: http://www.rilin.state.ri.us/publiclaws/law06/res06/res06117.htm</p>
South Carolina	<p>Silver Haired Legislature</p> <p>Be it resolved by the South Carolina Silver Haired Legislature that the General Assembly enact and the Governor sign legislation to guarantee that any licensed driver, operating a currently insured vehicle to transport seniors or persons with disabilities, shall not be liable beyond the coverage of his/her insurance, except in the case of gross negligence.</p> <p>Source: http://www.state.sc.us/lrgov/aging/docs/SHL2006Resolutions.pdf</p>
Washington	<p>Insurance Commissioner Fact Sheet: Auto Coverage for Volunteers January, 1997</p> <p>Washington home health care workers, family members and volunteers caring for older persons and others with similar needs, sometimes need to provide non-emergency transportation for their charges. This practice has raised questions about how these activities might affect their auto insurance coverage...The opinion of the Washington State Insurance Commissioner's Agency was that these workers and volunteers should be covered under their personal auto insurance policies...volunteers have been advised by insurance agents that mileage reimbursement for driving people constituted commercial use of a vehicle. They have been warned that they either need to sign up for much more expensive commercial policies or run the risk of not being covered in the event of an accident...The Office of the Insurance Commissioner review showed that, generally, mileage reimbursement for incidental use does not constitute commercial use.</p> <p>Source: www.wsdot.wa.gov/transit/vdg/attachments/2e.doc</p>

Figure 2: Florida Statutes

s. 768.1355, F.S., the Florida Volunteer Protection Act states:

(1) Any person who volunteers to perform any service for any nonprofit organization, including an officer or director of such organization, without compensation, except reimbursement for actual expenses, shall be considered an agent of such nonprofit when acting within the scope of any official duties performed under such volunteer services. Such person shall incur no civil liability for any act or omission by such person which results in personal injury or property damage if:

- (a) Such person was acting in good faith within the scope of any official duties performed under such volunteer service and such person was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and
- (b) The injury or damage was not caused by any wanton or willful misconduct on the part of such person in the performance of such duties.²²

s. 320.01 (15)(1), F.S. states:

“For-hire vehicle” means any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a “share-expense” basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is “for hire.” The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire.”

Source: The Florida Legislature, 2006 Statutes

ITN is a stand-alone, non-profit organization model. ITNOrlando, the first Florida replication of ITN, is a non-profit affiliate of ITNAmerica. It does not have a parent organization to rely on for funding or insurance. Services are made possible by the donation of personal cars from members of the community in exchange for “ride-credit,” the availability of gift certificates to cover rider fees and philanthropic donations to offset the non-profit organization’s operating costs. Financial contributions from riders as well as volunteers as drivers are essential. But these very components become the basis for the barriers.

The reliance on some shared costs from riders can increase insurance premiums. Accepting fees for service, even in a cost-share situation, is considered compensation. According to Florida Statute 320.01(15)(a), (see Figure 2), any vehicle transporting goods or people for

compensation is considered a “for-hire” vehicle. Once an organization is placed into this for-hire category, its vehicles face the same insurance premiums as taxi companies.

Additional liability coverage, to include volunteer drivers, is not readily available. Many insurance companies will not write policies for programs which involve volunteers and/or volunteer drivers. Existing insurance programs which do cover volunteers (Volunteer Insurance Service offered by The CIMA Company, Inc., for example) do not write policies for programs that collect partial fees from clients. Organizations have been advised by insurance companies that they should obtain “non-owned auto liability insurance.” Of the many insurance companies surveyed in the Orlando and the Tallahassee areas, only one affirmed it may have the ability to write an additional liability policy. In this instance,

a commercial policy that includes at least one vehicle must be purchased and then “non-owned” liability could be added to cover volunteers at the cost of up to \$5,000 per year.²² But, few companies will underwrite this type of coverage. Some agents suggest this coverage can be added to the organization’s general liability policy. However, ITNOrlando was advised by its insurance agent that this coverage was not available as part of either its automobile policy or its general liability policy.

Attempts were made to present the perspective of the insurance industry for this report. The message from the insurance industry is that volunteer drivers present a higher risk, therefore greater exposure. The insurance industry may, in fact, present other arguments against making legislative changes and judicial action.

Not only is availability of liability insurance a barrier to volunteer driving programs, but potential increases in a volunteer drivers’ insurance premiums present a significant barrier to recruitment.²³ By virtue of their volunteer activity, individuals could be driving more miles than normal, which, with some policies, would require adjusting their mileage category and their premiums upward. Some volunteers in Florida applying for the new ITNOrlando program have been advised by their insurance companies to obtain “business use” coverage which is more expensive than personal insurance. In some cases, volunteers could be facing additional premiums of up to \$800 per year if they choose to volunteer their time and services.

Insurance companies are also considering volunteers who drive one to three hours per month in the same “business” as a full-time, compensated driver.²⁴ In a survey of six insurance companies and two insurance agencies (that cover eight insurance companies combined), four representatives responded that an insured person who volunteered to drive people as part of a senior transportation program should purchase “business-use insurance.” However, the filed and

approved guidelines from three national insurance companies define “business-use” of an automobile as required by or involved in the driver’s “occupation, profession, or business.” Two insurance companies strongly advised volunteers to increase their liability coverage. Either situation would result in additional personal insurance costs for the volunteer driver, thus limiting the ability to recruit volunteers. Of the final two insurance companies surveyed, one said that volunteering to drive older adults a few hours per week would *not* increase their insurance rate while the other said if a person wanted to become a volunteer driver, he or she would lose insurance coverage.

Additionally, the Florida Office of Insurance Regulation (OIR) attested that volunteer drivers do not fall into the business category. The staff members at OIR responded, “Most personal auto policies have exclusion for vehicles while they are used to carry persons or property for a fee. However, this exclusion is intended to exclude coverage only when it is obvious that the insured is using an auto in a business capacity as a true ‘public or livery conveyance’. While volunteer transportation is not incidental use but actual regular use, there is no company that I know of that has an approved filing allowing an additional charge for this use. Further, none of the reasons advanced for making such a charge using existing filings seems to have a solid foundation.”²⁵

The need for volunteer drivers is escalating, but insurance barriers can limit volunteer availability and limit the ability of organizations to manage the excessive liability risk. ***Finding a way to resolve the liability issue is crucial to Florida’s success in meeting the transportation needs of senior residents.***

Current Florida Law Affecting Volunteer Drivers

Florida law provides protections for people who perform an act of good will. The most prevalent protections fall under the Good Samaritan Act and the Florida

Volunteer Protection Act. The Good Samaritan Act, s.768.13, F.S., provides immunity from civil liability in the event that any person offers emergency care to a person in need. However, this act does not protect volunteer drivers. Protections for volunteers are primarily provided through the Volunteer Protection Act.

Some protections are included in s. 768.1355, F.S., of the Florida Volunteer Protection Act (see Figure 2). It states that a volunteer who is performing a service for a non-profit organization is not responsible for liability for damages. This is only true if all of the following conditions are met: 1) the person was performing specified duties as a volunteer, 2) he or she acted as any prudent person would in the same situation and 3) there was no malicious intent.²⁶

Except as otherwise provided by law, if a volunteer is held to be not liable by meeting the requirements of volunteer status, the nonprofit organization for which the volunteer was performing services when the damages occurred will be liable for such damages to the same extent as the nonprofit organization would have been liable if the liability statutory limitation had not been provided.²⁷ The clear intent of the Volunteer Protection Act is not to *immunize* volunteers from liability but rather to *shift* liability from the volunteer to the nonprofit organization only where the volunteer is exercising reasonable care and meets the other statutory criteria.²⁸

The Florida Statute defining motor vehicles states that any vehicle transporting a person for compensation is considered a “for-hire” vehicle (see Figure 2). Insurance companies categorize a non-profit organization which accepts client fees as partial payment for services as “for-hire” as if it were a taxi company. This can affect a volunteer driving program in two ways. First, it becomes difficult for the organization to obtain liability insurance for volunteer drivers and second, it can significantly increase the personal insurance premiums of the volunteer drivers.

Because statutory protections for volunteer liability are unclear, legislative or regulatory intervention or judicial action might help clarify the issue. For example, the definition of “for-hire” vehicles could be clarified to exclude volunteers performing a charitable service for a nonprofit organization.

Senior Transportation Receives National Attention

The 1,200 delegates to the 2005 White House Conference on Aging rated *Ensure Older Americans Have Transportation Options to Retain Their Mobility and Independence* as the third priority of the Top 50 Recommended Resolutions, right behind *Develop a Coordinated, Comprehensive Long-Term Care Strategy* and ahead of *Strengthen and Improve the Medicaid Program for Seniors*.

One of the six implementation strategies suggested by committee members of the White House Conference on Aging specifies:

- Local and state governments need to work with insurance companies to develop (and fund) policies that cover volunteer drivers for door-to-door and door-through-door transportation services.
- Mandate insurance liability for volunteer drivers (no fault) to encourage volunteer driver programs.
- Promote community-based volunteer transportation options and protect volunteer drivers from unreasonable insurance premiums.
- Fund development of volunteer-based transportation for older adults including liability protection for volunteers.²⁹

On October 16, 2006 President Bush signed the Older Americans Act (OAA) reauthorization bill. Prior to the 2000 amendments to the OAA, cost sharing was statutorily prohibited for transportation services (as distinct from state-funded programs). The 2000 OAA amendments and the 2006 OAA reauthorization

permit states to establish cost sharing/fee-for-service systems. Fee revenues and voluntary contributions can be used only to provide services funded under the Act, which include “developing innovative approaches for improving access by older individuals to transportation services, including volunteer driving programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services.” The reauthorization gives the Florida Area Agencies on Aging the authority to allocate dollars to programs that allow cost-sharing. However, the OAA only applies to programs that receive federal funding directly or indirectly through the state.

Breaking Down Barriers for Volunteer-Driver Programs

Volunteer-dependent transportation programs might have an easier time of succeeding if:

- Language in the Florida Volunteer Protection Act were clarified to explicitly protect volunteer drivers in the event of an automobile accident
- Florida followed the initiative of Maine, California, Michigan and other states to protect volunteers from increased insurance premiums by virtue of their status as a volunteer (see Figure 1)
- Volunteer drivers were excluded from the “for-hire vehicle” category in Florida statute s. 320.01(15)(b), F.S. (see Figure 2)³⁰
- A public auto insurance pool was created to provide affordable protection for volunteer drivers and non-profit programs providing transportation alternatives to seniors

Conclusion

At the federal, state and local levels, the aging network is aligning itself to provide services which help seniors remain in their own homes for as long as possible. Florida is committed to helping seniors age in place and transportation is a critical component. Transportation availability has a direct effect on an individual’s longevity, connection to community and economic contributions. Constrained public resources are unlikely to be able to meet the increasing need for senior transportation options as the older population continues to grow. Florida’s local communities must be positioned to develop and sustain new solutions. Volunteer driver programs can be the linchpin to the array of services offered to older adults by communities across Florida. They are an efficient, flexible, and economical way to provide transportation assistance.

Unfortunately, people are discouraged from volunteering by legal liabilities and the real possibility of increased vehicle insurance costs. Non-profit organizations are challenged to find companies who are willing to write policies for volunteer driver programs. But these obstacles can be overcome. The number of Floridians older than age 60 exceeds four million, there is a heightened awareness throughout the country and successful precedents have been set in other states. It is a good time to consider solutions which are available, affordable and accessible and bring better opportunities for our seniors to remain active, vibrant and productive Floridians.

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