

ASSEMBLY, No. 6105

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 6, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

Assemblywoman Pinkin

SYNOPSIS

Requires transportation network companies to share information concerning sexual misconduct investigation of driver; authorizes transportation network company to ban drivers from accessing digital network during and following investigation.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/10/2020)

A6105 BENSON, VAINIERI HUTTLE

2

1 AN ACT concerning the safety of transportation network company
2 passengers and amending and supplementing P.L.2017, c.26.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.2017, c.26 (C.39:5H-2) is amended to read
8 as follows:

9 2. As used in P.L.2017, c.26 (C.39:5H-1 et seq.):

10 "Applicant" means a person who applies to a transportation
11 network company to be a transportation network company driver.

12 "Chief Administrator" means the Chief Administrator of the New
13 Jersey Motor Vehicle Commission.

14 "Commission" means the New Jersey Motor Vehicle
15 Commission.

16 "Digital network" means any online-enabled technology
17 application, service, website, or system offered or utilized by a
18 transportation network company that enables the prearrangement of
19 rides between transportation network company riders and
20 transportation network company drivers.

21 "Division" means the Division of Consumer Affairs in the
22 Department of Law and Public Safety.

23 "Machine-readable code or image" means an optical label that
24 can be scanned using a special scanner or a personal mobile device
25 with a built-in camera.

26 "Personal vehicle" means a motor vehicle that is used by a
27 transportation network company driver to provide prearranged rides
28 and is owned, leased, or otherwise authorized for use by the
29 transportation network company driver. A personal vehicle shall
30 not be considered an autocab or taxi as defined in R.S.48:16-1, a
31 limousine as defined in R.S.48:16-13 or section 2 of P.L.1997,
32 c.356 (C.48:16-13.1), an autobus or jitney as defined in R.S.48:16-
33 23, a motor bus as defined in section 1 of P.L.1991, c.154 (C.17:28-
34 1.5), or any other for-hire vehicle. A personal vehicle shall not be
35 considered an automobile as defined in subsection a. of section 2 of
36 P.L.1972, c.70 (C.39:6A-2) while a transportation network
37 company driver is providing a prearranged ride.

38 "Prearranged ride" means the provision of transportation by a
39 transportation network company driver to a transportation network
40 company rider, beginning when a driver accepts a ride requested by
41 a rider through a digital network controlled by a transportation
42 network company, continuing while the driver transports a
43 requesting rider, and ending when the last requesting rider departs
44 from the personal vehicle. A prearranged ride shall not include
45 transportation provided using an autocab, taxi, limousine, autobus,
46 jitney, motor bus, or other for-hire vehicle. A prearranged ride
47 shall not include ridesharing, as defined in R.S.39:1-1.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 “Sexual misconduct” means any verbal, nonverbal, written, or
2 electronic communication, or any other act directed toward or with
3 a rider that is designed to establish a sexual relationship with the
4 rider, including a sexual invitation, dating or soliciting a date,
5 engaging in sexual dialogue, making sexually suggestive comments,
6 self-disclosure or physical exposure of a sexual or erotic nature, and
7 any other sexual, indecent or erotic contact with a rider.

8 "Transportation network company" means a corporation,
9 partnership, sole proprietorship, or other entity that is registered as
10 a business in the State or operates in this State, and uses a digital
11 network to connect a transportation network company rider to a
12 transportation network company driver to provide a prearranged
13 ride. A transportation network company shall not include an
14 individual, corporation, partnership, sole proprietorship, or other
15 entity arranging non-emergency medical transportation for
16 individuals qualifying for Medicaid under P.L.1968, c.413
17 (C.30:4D-1 et seq.) or Medicare under Pub.L.89-97 (42 U.S.C.
18 s.1395 et seq.) pursuant to a contract with the State or a managed
19 care organization, whereby Medicaid or Medicare funding is used to
20 pay for the non-emergency medical transportation services.

21 "Transportation network company driver" or "driver" means a
22 person who receives connections to potential riders and related
23 services from a transportation network company in exchange for
24 payment of a fee to the transportation network company, and uses a
25 personal vehicle to offer or provide a prearranged ride to a rider
26 upon connection through a digital network controlled by a
27 transportation network company in return for compensation or
28 payment of a fee.

29 "Transportation network company rider" or "rider" means a
30 person who uses a transportation network company's digital
31 network to connect with a transportation network company driver to
32 receive a prearranged ride from the driver using the driver's
33 personal vehicle.

34 (cf: P.L.2019, c.128, s.1)

35

36 2. Section 16 of P.L.2017, c.26 (C.39:5H-16) is amended to
37 read as follows:

38 16. a. A transportation network company shall require an
39 applicant, as defined in section 2 of P.L.2017, c.26 (C.39:5H-2), to
40 submit a transportation network company driver application to the
41 transportation network company. The application shall include the
42 applicant's address, age, and social security number, a copy of the
43 applicant's driver's license, motor vehicle registration, and
44 automobile liability insurance, a written statement in accordance
45 with subsection b. of this section, and any other information
46 required by the transportation network company.

47 b. The written statement required pursuant to subsection a. of
48 this section shall include:

1 (1) a list of any transportation network company for which the
2 applicant has ever served as a transportation network company
3 driver;

4 (2) a written statement as to whether the applicant has been the
5 subject of any sexual misconduct investigation in connection with
6 the applicant's work as a transportation network company driver or
7 has ever been disciplined or banned from accessing a digital
8 network by a transportation network company in relation to any
9 sexual misconduct allegation, unless an investigation resulted in a
10 finding that the allegations were false or the alleged incident of
11 sexual misconduct was not substantiated; and

12 (3) a written authorization that consents to and authorizes the
13 disclosure of information and release of related records by any other
14 transportation network companies pursuant to subsection c. of this
15 section and that releases those companies from liability that may
16 otherwise arise from disclosure or release of those records.

17 c. A transportation network company shall conduct a review of
18 any applicant who lists any other transportation network company
19 pursuant to paragraph (1) of subsection b. of this section by
20 contacting those transportation network companies and requesting
21 the following information:

22 (1) the range of dates between which the applicant utilized the
23 company's digital network as a transportation network company
24 driver;

25 (2) a statement as to whether the applicant has ever been the
26 subject of any sexual misconduct investigation in connection with
27 the applicant's work as a transportation network company driver or
28 has ever been disciplined or banned from accessing a digital
29 network by the transportation network company in relation to any
30 sexual misconduct allegation, unless an investigation resulted in a
31 finding that the allegations were false or the alleged incident of
32 sexual misconduct was not substantiated.

33 The review of the applicant's history may be conducted through
34 telephonic, electronic, or written communication. If the review is
35 conducted by telephone, the results of the review shall be
36 documented in writing by the transportation network company
37 conducting the review.

38 d. For the purposes of this section, any investigation into
39 alleged sexual misconduct that is ongoing at the time of the
40 application shall be revealed by a transportation network company
41 to the transportation network company conducting the review
42 required by subsection c. of this section.

43 (cf: P.L.2017, c.26, s.16)

44

45 3. (New section) a. A transportation network company that
46 receives an allegation of sexual misconduct alleged to have been
47 committed by a driver that utilizes the transportation network
48 company's digital network shall notify each registered

1 transportation network company in the State of the allegation, the
2 status of any investigation into the allegation, and the ultimate
3 results or findings of the investigation into the allegation. If the
4 allegation results in the commencement of a criminal investigation
5 and the transportation network company is aware of the criminal
6 investigation, the transportation network company shall also notify
7 each registered transportation network company in the State of that
8 information.

9 b. Each transportation network company may prohibit the
10 driver from utilizing its digital network during the course of any
11 investigation into the allegations. If the investigation is completed
12 and results in a finding that the applicant or driver has engaged in
13 sexual misconduct connected to the applicant's or driver's role as a
14 transportation network company driver, a transportation network
15 company may prohibit the driver from utilizing its digital network.
16 If the investigation results in inconclusive findings or results in a
17 finding that the allegations were false or the alleged incident of
18 sexual misconduct was not substantiated, a transportation network
19 company may consider the totality of the circumstances and elect to
20 prohibit the driver from utilizing its digital network,
21 notwithstanding the results of the investigation.

22
23 4. (New section) Any law enforcement agency that has
24 arrested an individual for sexual misconduct who the law
25 enforcement agency knows or has reason to believe was providing a
26 prearranged ride as a transportation network company driver at the
27 time of the alleged misconduct may provide to each registered
28 transportation network company in the State a record of the arrest,
29 provided that the record is available to the general public. If the
30 individual is ultimately convicted of a crime arising out of the
31 alleged sexual misconduct, the law enforcement agency may notify
32 each registered transportation network company in the State.

33
34 5. This act shall take effect immediately.
35

36

37

38 STATEMENT

39

40 This bill requires applicants to be transportation network
41 company (TNC) drivers to provide information during the
42 application process about other TNCs that the applicant has worked
43 for and a statement on whether the applicant has been the subject of
44 a sexual misconduct investigation in connection with the applicant's
45 work as a TNC driver. The bill authorizes a TNC to ban drivers
46 from accessing a TNC's digital network if the driver is the subject
47 of an ongoing investigation into sexual misconduct allegations
48 arising out of the driver's work as a TNC driver or if an
investigation has been completed and has resulted in a finding that

1 the driver engaged in sexual misconduct connected to the driver's
2 role as a TNC driver. If the investigation results in inconclusive
3 findings or in a finding that the allegations were false or the
4 allegations are not substantiated, the TNC is authorized to consider
5 the totality of the circumstances and to elect to prohibit the driver
6 from utilizing the TNC's digital network, notwithstanding the
7 results of the investigation.

8 A TNC that receives an allegation of sexual misconduct
9 committed by a driver is required to notify each registered TNC in
10 the State of the allegation, the status of any investigation, and the
11 ultimate results or findings of the investigation. If the TNC
12 becomes aware of a criminal investigation regarding the allegations,
13 the TNC is required to notify each registered TNC of that
14 information.

15 The bill authorizes law enforcement agencies that have made an
16 arrest for sexual misconduct of an individual who is believed to be a
17 TNC driver, where the sexual misconduct occurred during a
18 prearranged ride, to provide each registered TNC in the State with a
19 record of the arrest. If the individual is ultimately convicted of a
20 crime arising out of the alleged sexual misconduct, the law
21 enforcement agency is authorized to notify each registered TNC in
22 the State.