ASSEMBLY, No. 1371



STATE OF NEW JERSEY

219th LEGISLATURE



PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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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

Introduced Pending Technical Review by Legislative Counsel.



An Act concerning the safety of transportation network company passengers and amending and supplementing P.L.2017, c.26.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

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

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

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

"Commission" means the New Jersey Motor Vehicle Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. (New section) a. A transportation network company that receives an allegation of sexual misconduct alleged to have been committed by a driver that utilizes the transportation network company’s digital network shall notify each registered transportation network company in the State of the allegation, the status of any investigation into the allegation, and the ultimate results or findings of the investigation into the allegation. If the allegation results in the commencement of a criminal investigation and the transportation network company is aware of the criminal investigation, the transportation network company shall also notify each registered transportation network company in the State of that information.

b. Each transportation network company may prohibit the driver from utilizing its digital network during the course of any investigation into the allegations. If the investigation is completed and results in a finding that the applicant or driver has engaged in sexual misconduct connected to the applicant’s or driver’s role as a transportation network company driver, a transportation network company may prohibit the driver from utilizing its digital network. If the investigation results in inconclusive findings or results in a finding that the allegations were false or the alleged incident of sexual misconduct was not substantiated, a transportation network company may consider the totality of the circumstances and elect to prohibit the driver from utilizing its digital network, notwithstanding the results of the investigation.

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

5. This act shall take effect immediately.

STATEMENT

This bill requires applicants to be transportation network company (TNC) drivers to provide information during the application process about other TNCs that the applicant has worked for and a statement on whether the applicant has been the subject of a sexual misconduct investigation in connection with the applicant’s work as a TNC driver. The bill authorizes a TNC to ban drivers from accessing a TNC’s digital network if the driver is the subject of an ongoing investigation into sexual misconduct allegations 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 the driver engaged in sexual misconduct connected to the driver’s role as a TNC driver. If the investigation results in inconclusive findings or in a finding that the allegations were false or the allegations are not substantiated, the TNC is authorized to consider the totality of the circumstances and to elect to prohibit the driver from utilizing the TNC’s digital network, notwithstanding the results of the investigation.

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

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