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Sponsored by:

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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

As reported by the Senate Transportation Committee on December 1, 2022, with amendments.



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.

**1[**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.**]1**

**1**4. Section 17 of P.L.2017, c.26 (C.39:5H-17) is amended to read as follows:

17. a. (1) A transportation network company registered as a business in the State or operating in the State prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.) shall have six months from the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.) to have the Attorney General approve the method that a transportation network company, or third party designated by the transportation network company, proposes to use to conduct a criminal background check for an applicant or driver.

If the Attorney General does not approve the method that a transportation network company registered as a business in the State or operating in the State prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.), or third party designated by the transportation network company, proposes to use to conduct a criminal background check within six months of the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.), the transportation network company shall not permit an applicant to log on to its digital network as a driver or provide a prearranged ride as a driver until the applicant submits to a criminal history record background check pursuant to subsection e. of this section and the Division of State Police provides the transportation network company with information concerning the applicant's eligibility to be a driver pursuant to paragraph (3) of subsection e. of this section.

(2) A transportation network company that is not registered as a business in the State or operating in the State prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.) shall not operate in the State prior to:

(a) the Attorney General approving, within six months of submission, the method that the transportation network company, or third party designated by the transportation network company, proposes to use to conduct a criminal background check; or

(b) the transportation network company's applicants submitting to a criminal history record background check pursuant to subsection e. of this section.

b. The Attorney General shall not approve a criminal background check conducted by a transportation network company, or a third party designated by the transportation network company, pursuant to subsection a. of this section unless the check includes **[**a search of**]**:

(1) a search of a multi-state and multi-jurisdictional criminal records locator or other similar commercial nationwide database with validation; **[**and**]**

(2) a search of the United States Department of Justice's Dru Sjodin National Sex Offender Public Website; and

(3) a mechanism by which the transportation network company receives timely notice when any individual who the company allows to log on to the transportation network company's digital network as a transportation network company driver or to provide a prearranged ride as a transportation network company driver is arrested for or convicted of a crime or offense in this State after the initial criminal background check of the individual has been conducted.

c. If the Attorney General approves the method that a transportation network company, or a third party designated by the transportation network company, proposes to use to conduct a criminal background check, the transportation network company, or a third party designated by the transportation network company, shall conduct a criminal background check approved by the Attorney General prior to allowing an applicant to log on to the transportation network company's digital network as a transportation network company driver or to provide a prearranged ride as a transportation network company driver.

d. If the Attorney General approves the method that a transportation network company registered as a business in the State or operating in the State prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.), or a third party designated by the transportation network company, proposes to use to conduct a criminal background check, the transportation network company shall have 30 days from the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.) to conduct, or have a third party designated by the transportation network company conduct, a criminal background check for a driver utilizing the transportation network company's digital network as a driver prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.) using the method approved by the Attorney General, unless the transportation network company, or a third party designated by the transportation network company, conducted a criminal background check for the driver prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.) using the method approved by the Attorney General.

e. (1) If the Attorney General does not approve the method that a transportation network company, or a third party designated by the transportation network company, proposes to use to conduct a criminal background check, an applicant shall provide to the Division of State Police the applicant's name, address, fingerprints, and written consent for a criminal history record background check to be performed by the Division of State Police, in accordance with regulations adopted under chapter 59 of Title 13 of the New Jersey Administrative Code, prior to logging on to a transportation network company's digital network as a driver or providing a prearranged ride as a transportation network company driver. The Division of State Police may exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for the use in determining an applicant's eligibility to be a transportation network company driver pursuant to subsection a. of section 20 of P.L.2017, c.26 (C.39:5H-20) based upon results of the applicant's criminal history record background check.

(2) If the Attorney General does not approve the method that a transportation network company registered as a business in the State or operating in the State prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.), or a third party designated by the transportation network company, proposes to use to conduct a criminal background check, a transportation network company shall require a driver utilizing the transportation network company's digital network as a driver prior to the effective date of P.L.2017, c.26 (C.39:5H-1 et seq.) to provide to the Division of State Police the driver's name, address, fingerprints, and written consent for a criminal history record background check to be performed by the Division of State Police, in accordance with regulations adopted under chapter 59 of Title 13 of the New Jersey Administrative Code. The Division of State Police may exchange fingerprint data with, and receive criminal history record information from, the Federal Bureau of Investigation for the use in determining a driver's eligibility to be a transportation network company driver pursuant to subsection a. of section 20 of P.L.2017, c.26 (C.39:5H-20) based upon results of the driver's criminal history record background check.

(3) The Superintendent of State Police shall inform the transportation network company that an applicant or driver is ineligible to be a transportation network company driver pursuant to subsection a. of section 20 of P.L.2017, c.26 (C.39:5H-20).

(4) The cost of the criminal history record background check conducted pursuant to this subsection, including all costs of administering and processing the criminal history record background check, shall be borne by the applicant or driver, as applicable.**1**

(cf: P.L.2017, c.26, s.17)

5. This act shall take effect immediately.